BRITISH COLUMBIA.

V. R.

PROCLAMATION.

No. 4, A. D. 1862.

By His Excellency JAMES DOUGLAS, Companion of the Most Honorable Order of the Bath, Governor and Commander-in-Chief of British Columbia and its Dependencies, Vice-Admiral of the same, &c., &c.

WHEREAS, under and by virtue of an Act of Parliament made and passed in the Session of Parliament held in the 21st and 22nd years of the Reign of Her Majesty Queen Victoria, intituled "An Act to provide for the Government of British Columbia," and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, I, JAMES DOUGLAS, have been appointed Governor of the said Colony, and have been authorized by Proclamation under the Public Seal of the said Colony, to make laws, institutions, and ordinances for the peace, order, and good Government of the same. 21st and 22nd Vict.

And, whereas, petitions have been received from the inhabitants of Lytton, Yale, and the neighbouring districts, praying for the formation of a road from Lytton to the Northern Agricultural and Mining Districts of the Colony, and that advances should be made by Government and Tolls imposed to defray the expense of constructing, maintaining, and improving such a continuous line of communication from Lytton with the interior.

And, whereas, by an agreement, dated the sixteenth day of August, A. D. one thousand eight hundred and sixty-two, and made between Richard Clement Moody, a Colonel in the Royal Engineers, Chief Commissioner of Lands and Works, acting on behalf of the Government of the Colony of British Columbia, of the first part, and Charles Oppenheimer and Walter Moberly, of Lytton, in the said Colony, of the other part; the said Charles Oppenheimer and Walter Moberly contracted to construct a certain Waggon Road, from a certain point at or near Lytton, on the Fraser River, along a certain route to a point to be fixed on the same river at or near Alexandria, upon and subject to the several terms, payments, conditions, and stipulations in the said agreement, and hereinafter more particularly set forth; and by the said agreement it was among other things provided that, on the completion of a certain portion of the said waggon road, Tolls should be imposed on goods, chattels and cattle using any part of the said road in manner hereinafter mentioned, and that during the construction of the said waggon road the said Government should make advances to the said Charles Oppenheimer and Walter Moberly, by way of loan repayable out of Tolls, and at the rate, in the manner, and subject as in the said agreement is more particularly mentioned.

And, whereas, the first twelve miles from Lytton of the said road have been duly completed, and the sum of Four thousand pounds has already been paid by the said Richard Clement Moody to the said Charles Oppenheimer and Walter Moberly on account of advances as aforesaid thereon.

And, whereas, it is expedient for the cheaper transport of merchandise and provisions, and for facilitating the operations of commerce, and the development of the country, that such reproductive expenditure should be incurred, and that the proposed road from Lytton to Alexandria should be executed as speedily as possible.

NOW KNOW YE, that I do hereby declare, proclaim, and enact as follows:

Creation of Toll of one half-penny per lb. on goods, and one shilling a head on cattle.

I. From and after the first day of September, One thousand eight hundred and sixty-two, there shall be levied, assessed, and collected, from all persons whatsoever, the sums following: (that is to say) for every pound avoirdupois of goods, merchandise, stores, productions, and chattels, other than those belonging to or employed in the service of the Government of British Columbia, taken or carried along (but not across) any part of the said road between Lytton and Alexandria, the sum of One half-penny sterling; and for every head of cattle of every description passing on or along (but not across) any part of the said road, the sum of one shilling sterling.

Exemptions.

II. Provided that such Tolls shall not be demandable on goods, chattels, or cattle, simply carried or passing across any part of the said road, or belonging to or employed in the service of the said Government, or BONA FIDE used in the construction of the said road upon proof satisfactory to the person for the time being collecting the said tolls of such use, or on manure or machinery passing or carried along any part of the said road, or on goods, chattels, or cattle passing or carried along any part of the said road, within a circle of two miles, to be defined by the said Chief Commissioner, around any existent or future town on or immediately adjoining the line of the same road.

Toll on articles not by weight.

III. Provided nevertheless that such goods, chattels, articles, and things not hereinbefore exempted as, from their construction or otherwise, cannot be estimated by weight, shall be subjected to such Tolls, to be collected and recoverable with the same penalties as Tolls under this Act, as shall from time to time be prescribed by notice in that behalf.

Power to Chief Commissioner to regulate weight on carriages and width of tire.

IV. Provided also that it shall be lawful for the said Chief Commissioner of Lands and Works by notice at any time or times hereafter to regulate the weight which shall be allowed on any carts, waggons, carriages, or other vehicles using any part of the said road, having regard to the width of the tire, and to regulate the width of the tire to be used on the said road.

Power to reduce and vary Tolls with consent of Contractors.

V. It shall be lawful for the said Chief Commissioner of Lands and Works, with the consent in writing of the said Charles Oppenheimer and Walter Moberly, their executors, administrators, or assigns, until redemption or forfeiture hereinafter referred to, and afterwards without such consent, by any notice from time to time or at any time to reduce, vary, or re-establish all or any of the said Tolls to any sums not exceeding the said rates, and for such periods as shall for the time being or from time to time be specified in that behalf in any such notice.

Collection of Tolls.

VI. Until the lien of the said Government on the said Tolls is fully paid and satisfied, all Tolls levied under the provisions of this Act shall be collected by such person or persons, and with and in such forms and manner subject to the provisions of this Act as the Chief Commissioner of Lands and Works for the time being of the said Colony shall from time to time in that behalf direct.

Until repayment of Government advances.

Three-fourths of Tolls to go to repayment of Government advances.

VII. Until the Government lien aforesaid is fully paid and satisfied by the said Charles Oppenheimer and Walter Moberly, their executors, administrators, or assigns, whether by collection of Tolls, repayment of advances, redemption, resumption, or forfeiture, three-fourth parts of all such Tolls, less the cost of collecting the same, shall be retained by the said Chief Commissioner, and paid and applied to and for the uses, and in the manner, in the said agreement of the 16th day of August A.D. one thousand eight hundred and sixty-two, in that behalf provided.

The remaining one-fourth part of all the said Tolls, less the cost of collecting the same, shall by the Chief Commissioner of Lands and Works, or his agent, be paid to the said Charles Oppenheimer and Walter Moberly, their executors, administrators, or assigns, by regular monthly payments, on the first day of every month, during the period of five years, from the date hereof, or until the redemption or forfeiture of the said Road and Tolls, under the provisions in that behalf, hereinafter contained, subject nevertheless, to the deduction and expenditure thereout of such portion thereof for such repairs, deviations, inspections, and improvements of the said road, by the said Charles Oppenheimer and Walter Moberly, their executors, administrators, or assigns, as the Chief Commissioner of Lands and Works, for the time being of the said Colony, shall from time to time by any writing under his hand in that behalf direct.

The remaining one-fourth to be paid to Contractor, subject to payment of outgoings of road.

VIII. When and so soon as the whole charge of the said Government upon the said Tolls, whether for advances, loans, or otherwise have been fully paid and satisfied from Tolls collected, repayment of advances, redemption, resumption, or forfeiture, the whole of the Tolls to be thenceforth levied, assessed, and collected under the provisions of this Act, shall be levied, assessed, and collected by and for the benefit of the said Charles Oppenheimer and Walter Moberly, their executors, administrators, and assigns, for such portion of the said term of five years, from the first day of September A.D. one thousand eight hundred and sixty-two, as shall then be subsisting, and undetermined under any of the provisions and conditions of this Act or of the said agreement of the 16th day of August A.D. one thousand eight hundred and sixty-two, including the condition for forfeiture in default, subject nevertheless to the payment thereout by the said Charles Oppenheimer and Walter Moberly, their executors, administrators, or assigns, and when and so often as the same shall be required by the said Chief Commissioner, of the cost of all repairs, deviations, inspections, and improvements herein mentioned or referred to.

After repayment of advances, &c., all tolls to be paid to Contractor for his own use, subject to repairs and outgoings.

IX. Provided always, and notwithstanding anything hereinbefore contained, that it shall be lawful for the said Government, at any time within two years from the 1st day of September, A.D. one thousand eight hundred and sixty-two, to redeem the said road and the privileges hereby conferred, or to be conferred, at a price to be fixed by such one arbitrator as shall be mutually agreed upon by the said Charles Oppenheimer and Walter Moberly, their executors, administrators, or assigns, and the said Chief Commissioner of Lands and Works for the time being, within one calendar month after the publication of any notice by the said Chief Commissioner of Lands and Works, and in case they cannot agree upon such single arbitrator, or in case from any cause whatsoever, and whether before or after the appointment of such single arbitrator, at any time during the progress of the proposed arbitration or preliminaries thereto, there shall appear to the said Chief Commissioner to be any delay or difficulty in carrying on the same, then at such price as the said Chief Commissioner shall for the time being, within three calendar months after the said notice, specify by any other notice, such decision to be final in all respects, at law and in equity, and the amount or price so fixed, less the amount then remaining due and unpaid to the said Government on account of the advances, loans, and expenses aforesaid, shall, within two calendar months next after such decision, be paid over by the said Chief Commissioner of the said Colony, upon demand at the Office of Lands and Works, New Westminster, to the said Charles Oppenheimer and Walter Moberly their executors, administrators, or assigns; and such payment, or in default of such demand, a tender of such sum shall be deemed a discharge in full of all demands by the said Charles Oppenheimer and Walter Moberly, their executors, administrators, or assigns, and the loans so guaranteed by Government, and advances then still due from the said Charles Oppenheimer and Walter Moberly, their executors, administrators, or assigns, shall be then considered as paid and cancelled as between him or them and the said Government, and any liability then connected therewith shall be borne by the Government.

Power of redemption.

Saving of certain rights.

X. Nothing herein contained shall be construed in any way to entitle the said Charles Oppenheimer and Walter Moberly, their executors, administrators, or assigns, to infringe any existing private rights, or any existing or future public rights.

Evasion of Tolls penal.

XI. Any person, directly or indirectly, evading or attempting to evade the payment of any of the duties or Tolls hereby imposed, shall for every such offence be fined treble the amount of Toll, or any sum not exceeding one hundred pounds, with or without imprisonment, for any term not exceeding three months, at the discretion of the Magistrate.

Penalty how recoverable.

XII. Any penalty under this Act may be recovered before any Magistrate in British Columbia, in a summary way, and such fines shall be paid into the Treasury of the said Colony as part of the general Revenue.

Toll permit,

XIII. Every person liable to the payment of Tolls under the provisions of this Act shall obtain a Toll permit from the person to whom such Tolls shall be payable, and who is hereby directed to issue the same in such forms as the said Chief Commissioner shall from time to time in that behalf direct.

Production of permit.

XIV. Every such permit shall be produced to any person for the time being authorized by the Government to collect Tolls on any part of the said road, and shall contain a true statement of names of owners or consignees, and address, and destination, number, marks, weights, and contents of every package containing goods or merchandise, liable hereunder to the payment of Toll, and similar particulars so far as practicable as to cattle and other dutiable articles.

Notice.

XV. Every notice under the hand of the Chief Commissioner of Lands and Works for the said Colony, or other officer appointed for the time being in that behalf by the said Governor, and published in the Government Gazette, or in any newspaper circulating in the said Colony, shall in every case where notice is required under the provisions of this Act, be deemed to be good and sufficient notice for all purposes whatsoever.

Short Title.

XVI. This Act may be cited for all purposes as "The Lytton-Alexandria Road Toll Act, one thousand eight hundred and sixty-two."

L. S.

Issued under the Public Seal of the said Colony, at Victoria, Vancouver Island, this 18th day of August, in the year of our Lord one thousand eight hundred and sixty-two, and in the twenty-sixth year of Her Majesty's reign, by me,

JAMES DOUGLAS.

By His Excellency's Command,

WILLIAM A. G. YOUNG.

GOD SAVE THE QUEEN.