

Ordained and Enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House, in the City of Montreal, the Twenty-seventh day of January, in the Fourth year of the Reign of Our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of Our Lord one thousand eight hundred and forty-one.

By His Excellency's Command,

W. B. LINDSAY.

Clerk Special Council.

C A P. XVII.

An Ordinance to provide for the improvement of certain Roads in the neighbourhood of, and leading to the City of Quebec, and to raise a fund for that purpose.

Preamble.

WHEREAS the state of the Roads hereinafter mentioned, in the neighbourhood of, and leading to the City of Quebec, is such as to render their improvement an object of immediate and urgent necessity, and it is therefore expedient to provide means for effecting such improvement, and to create a fund for defraying the expense thereof, and the expenses necessary for keeping the said Roads in permanent repair:—Be it therefore Ordained and Enacted by His Excellency the Governor of this Province of Lower-Canada, by and with the advice and consent of the Special Council for the affairs of this Province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, "*An Act to make temporary provision for the Government of Lower-Canada,*" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the second and third years of the Reign of Her present Majesty, intituled, "*An Act to amend an Act of the last Session of Parlia-*"
ment,

"*ment, for making temporary provision for the Government of Lower-Canada ;*" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the third and fourth years of the Reign of Her present Majesty, intituled, "*An Act to Re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada ;*" and it is hereby Ordained and Enacted by the authority of the said Acts of Parliament, that it shall and may be lawful for the Governor of the said Province, by Letters Patent under the Great Seal of the Province, at any time after the passing of this Ordinance, to appoint not less than five, nor more than nine persons to be, and who and their successors, to be appointed in the manner hereinafter provided, shall be Trustees for the purpose of opening, making and keeping in repair the Roads hereinafter specified.

The Governor may appoint Trustees for opening, making and keeping in repair certain roads leading to Quebec.

In case of the death &c. of any of the Trustees, the Governor to appoint others in their place.

II. And be it further Ordained and Enacted, that in case of the death, absence for more than three months from the Province, misconduct, inability, or neglect to act, or resignation of any one or more of the Trustees so to be appointed, the Governor of the said Province may declare a vacancy in the said Trust, and supply and fill such vacancy by the appointment by Letters Patent, of other one or more Trustees as the case may require ; and until such appointment, the remaining Trustee or Trustees and the majority of them, shall continue to do and perform all and every the acts, matters and things necessary for and appertaining to their Trust and the purposes of this Ordinance.]

Trustees may sue and be sued &c. and may acquire property and estate.

May improve, widen, repair &c. the said roads, and the bridges thereon, in the manner they may deem fit.

III. And be it further Ordained and Enacted, that the said Trustees, for all the purposes of this Ordinance, may by the name of "*The Trustees of the Quebec Turnpike Roads,*" sue and be sued, and answer and be answered unto in all Courts of Justice and other places, and may acquire property and estate, moveable and immoveable, which being so acquired shall be vested in Her Majesty for the public uses of the Province, subject to the management of the said Trustees, for the purposes of this Ordinance ; and may in the manner which they shall deem fit, cause the said Roads and each of them and the Bridges thereupon, to be improved and widened, repaired and made anew, and may change the direction of the said Roads, or of any or either of them, and may cause to be repaired and made anew and maintained, all drains and other passages which they may deem necessary either within or without the fences on the sides of the said Roads or of any of them, or in or through any lands or premises whatsoever, and may for the purposes aforesaid, or for any of them, by themselves, their agents and servants, go into and enter upon, and take any land or real property whatsoever, or take therefrom any earth, stone or other materials which they may deem necessary.

May erect toll-bars, gates, turnpikes &c, may employ a Surveyor and other persons, and grant them a compensation.

cessary for the purposes of this Ordinance; and may cause to be erected gates, toll-bars, turnpikes, turnpike-houses, and other buildings, and may from time to time appoint and employ a Surveyor, and all such officers and persons under them as they may deem necessary for the purposes of this Ordinance, and may remove such Surveyor and other officers and persons, or any of them, and appoint others in their stead, and may cause to be given by and take and receive from such officers and persons respectively, security for the due performance of their respective duties, and may pay to such Surveyor, officers and persons, such reasonable compensation as the said Trustees shall deem meet, and may generally do and perform all such matters and things as may be necessary for carrying this Ordinance into effect according to the true intent, meaning and object thereof; any law, statute, or usage to the contrary notwithstanding.

Trustees before acquiring any land from proprietors to pay them the value of such land, and compensation for damages suffered.

if the party entitled to such value &c. be not satisfied with the sum offered, the sum to be decided by a jury.

Proviso.

IV. And be it further Ordained and Enacted, that the said Trustees, before acquiring any land for the purposes of the said Trust (except in the case provided in the seventh section of this Ordinance) shall pay to the proprietor or proprietors thereof, the just and reasonable value of such land, and they shall make reasonable satisfaction to each and every person, body politic or corporate, who shall have suffered damage by reason of any thing done by them in carrying this Ordinance into effect, beyond the amount of such damage as the party might have been bound to suffer without compensation, before the passing of this Ordinance, by the laws of this Province; and if the party entitled to such value or compensation shall not be satisfied with the sum offered by the said Trustees, the same shall be decided by a Jury to be empannelled and sworn for that purpose, at any sitting of the Court of Quarter Sessions for the present District of Quebec, or for the District in which the city of Quebec shall be situate, at the suit of the party sustaining such damage, and if the damages awarded by the verdict of such Jury shall exceed the compensation offered, the Trustees shall pay the costs of suit, which shall otherwise be paid by the party who shall have brought the same: Provided always, that the said Trustees shall in no case be bound to make or maintain any fence between any part of the roads they are hereby authorized to make, and the lands through which the same shall pass; but if any proprietor of any land shall, by reason of this enactment sustain any loss, or become subject to any expense which he would not have been bound by the laws now in force to bear without compensation, if the said Roads had been directed to be made by any *Procès Verbal* of the Grand Voyer duly homologated, then compensation shall be made to such proprietor by the said Trustees for such loss or expense, and the amount

amount thereof shall be ascertained in the manner herein provided with regard to other damages sustained by any party by reason of any thing done under the authority of this Ordinance.

The amount of compensation for land may also be estimated by appraisers.

V. And to prevent delay in the formation and perfecting the Roads mentioned in this Ordinance, be it further Ordained and Enacted, that in case any party entitled to receive value or compensation for land required for the purposes of the said Trust, shall not be satisfied with and shall refuse to receive the sum or sums of money offered therefor by the said Trustees, it shall be lawful for the said Trustees to appoint an Appraiser or *Expert*, and to require the party dissatisfied to appoint another Appraiser or *Expert*, and to notify to the said Trustees or their Secretary in writing of such appointment; and the two Appraisers or *Experts* so appointed, shall estimate and report to the said Trustees the value or compensation to be paid to the said dissatisfied party; and in case of disagreement between the said Appraisers or *Experts*, or in case the party dissatisfied shall refuse or neglect to appoint an Appraiser or *Expert* within twenty-four hours after written notice from the said Trustees or their Secretary, shall have been left at the domicile or at the usual place of business of the said dissatisfied party, or in case the Appraiser or *Expert* of the said dissatisfied party shall refuse or neglect to act within three days after such appointment shall have been notified to him, any one of the Justices of any one of Her Majesty's Court of Law, having superior jurisdiction in the said District of Quebec, or in the District in which the City of Quebec shall be situated, upon the summary petition of the Trustees, and proof upon the oath of one credible witness, of either of the refusals or neglects aforesaid, forthwith appoint an Appraiser or *Expert* to act on behalf of the said dissatisfied party; and the Appraisers or *Experts* appointed as aforesaid, shall estimate the value or compensation to be paid by the Trustees, and shall report the same to them, in writing; and in case of disagreement between the Appraisers or *Experts*, they the said Appraisers or *Experts* shall appoint an Umpire, or if they cannot agree on the appointment of an Umpire, one of the Justices aforesaid shall, without loss of time, on the summary petition of the said Appraisers or *Experts* or of the Trustees, appoint an Umpire; and the report of any two of the said Appraisers or *Experts* and Umpire, shall have equal effect, as if the same had been or were made by the two Appraisers or *Experts* concurrently, and upon the amount of such estimated and reported value or compensation being duly Tendered by the Trustees to the dissatisfied party, either personally or at his domicile, or at his usual place of business, it shall be lawful for the said Trustees, whether such tender be refused or accepted, immediately to enter
into

When the trustees may enter into and use the said lands.

Neither party prevented from requiring the decision of a jury as to the amount of compensation

into and upon the land required for the purposes of the said Trust, the value or compensation whereof shall have been tendered as aforesaid, without awaiting the impannelling, swearing in and decision of a jury, as is required by the fourth section of this Ordinance, any thing in this Ordinance to the contrary notwithstanding; Provided always, that nothing herein contained, shall be construed to prevent any proprietor of land, required for the purposes of the said Trust, the value or compensation whereof shall have been estimated and tendered as aforesaid, or to prevent the Trustees, if they the said Trustees shall be dissatisfied with the estimated and reported value, from requiring the impannelling, swearing in, and decision of a jury, for the purposes and in the manner specified in the said fourth section of this Ordinance, saving always the right of the said Trustees to enter into and use the land from and after the time of such tender as aforesaid.

In case of a doubtful title the amount to be paid to the Prothonotary at Quebec, and the Trustees to take possession of the land.

VI. And as in certain cases it may be doubtful to whom the compensation ascertained by the award of a jury empannelled for that purpose, or in any other lawful manner, to be payable by the said Trustees, for any land or real property taken or damage done to any party in the exercise of the powers vested in them by this Ordinance, shall be paid; be it therefore further ordained and enacted by the authority aforesaid, that it shall be lawful for the said Trustees in all such cases of doubtful title, to cause the amount of such compensation to be lodged in the hands of the Prothonotary of the Court having superior original civil jurisdiction in the District of Quebec, or in the Territorial Division in which the City of Quebec shall be situate, to await the distribution of the said Court to the party or among the parties lawfully entitled to such compensation or to any part thereof, and thereupon immediately to enter upon and take possession of the premises for which such compensation shall have been so awarded.

An annual rent to be paid for property acquired from persons who cannot in common course of law sell them

VII. And be it further Ordained and Enacted, that if the said Trustees in the execution of their trust and for the purposes of this Ordinance shall as they are hereby authorized to do, acquire and hold any lands or grounds belonging to or in possession of any body politic, community, corporation, or person or persons whomsoever, who cannot in common course of law sell or alienate any such lands or grounds, an annual rent to be fixed by agreement or by arbitration, and not a principal sum, shall be paid as an equivalent; and in case the said parties shall not agree upon the amount of such rent, or upon arbitration to fix the same, the said rent shall be settled and determined by the judgment of any Court of competent jurisdiction, to be rendered in an action or actions to be instituted for that purpose by the parties concerned against the said Trustees; Provided always, that if the amount at which the said annual rent shall be settled by such judgment, shall not exceed

The tolls to be levied chargeable for all annual rents.

exceed any sum which the said Trustees may have tendered previously to the institution of such action, the parties instituting the same shall pay all costs of suit; but if otherwise, the said Trustees shall pay all costs of suit; and for the payment of the said annual rent, and every other annual rent agreed upon, or ascertained, for the purchase of any lands or grounds, the tolls to be levied and collected under this Ordinance, shall be, and are hereby made liable and chargeable in preference to all other claims whatsoever.

The trustees may appoint one of their number to be manager of their trust.

Provisions.

VIII. And be it further Ordained and Enacted, that the said Trustees, or a majority of them may, by an instrument in writing signed by them, appoint one of their number to be manager of the said trust; and any and all acts, matters and things by him done and performed in and about the said trust, and for the purposes of this Ordinance, and any and all writings and documents whatsoever relating to or connected with the said trust and the purposes of this Ordinance, signed by him and countersigned by two of the other Trustees in case they be five in number, or by three of the other Trustees in case they be more than five in number, shall be held to be good and valid to all intents and purposes whatsoever: Provided always, that the said Trustees, or a majority of them, may, by an instrument under their hands, revoke such appointment, and appoint in like manner any other of their number, manager as aforesaid; And Provided also that nothing herein contained shall prevent, or be construed to prevent the Trustees, or the majority of them, from acting collectively for all the purposes of their trust and of this Ordinance, without appointing a manager as aforesaid: Provided also, that any majority of the said Trustees or of such of them as shall then be within this Province, shall have all the powers hereby vested in the said Trustees; and service of any summons, process, notice or document at the usual office of the said Trustees, shall be held in law to be a sufficient service of the same.

Roads over which the powers of the trustees shall extend.

IX. And be it further Ordained and Enacted, that the Roads to and over which the provisions of this Ordinance and the powers of the said Trustees shall extend are:—

Firstly—The Cove or Beach Road between the Cliff and the River St. Lawrence, from the Boundary of the City and Town of Quebec, to the south west extremity of Sillery Cove.

Secondly—

Secondly—The Road called St. Louis Road, or "*La Grande Allée*," and the continuation of the same, from the Boundary of the said City and Town to the north-eastern extremity of the Bridge over the Cap Rouge River, and of the works appertaining to the same; and also the public cross road now open at the place commonly called New Kilmarnock, and leading from the said St. Louis Road to the said Cove or Beach Road.

Thirdly—The Road called St. Foy Road, from the Boundary of the said City and Town to a point one hundred yards beyond the place where it is intersected by the Road next hereinafter mentioned.

Fourthly—The Road commonly called "*La Suède*," from the point where it intersects the road last mentioned, to the foot of the Hill commonly called "*La Côte de Champigny*."

Fifthly.—The Road which joins the last mentioned near the said "*Côte de Champigny*," from the said point of junction to the south-western side of the land known as Hough's farm, a short distance beyond the point where the said road is intersected by the Road crossing it nearly at right angles and leading downwards towards the Cap Rouge Mill, and upwards towards the place commonly called the "*Grand Désert*."

Sixthly.—The main Road from the boundary of the said City and Town in the St. Vallier's Suburbs, (near the Road leading to the General Hospital) along the south bank of the River St. Charles, across the stream commonly called the little River, and to the point where the said Road is intersected by the road leading to the Bridge over the said River St. Charles commonly called the "*Red Bridge or Commissioners Bridge*."

Seventhly.—The road from the boundary of the said City and Town near the north end of the Bridge over the River St. Charles, commonly called Dorchester Bridge, to the Bridge over the River Montmorency near the great Fall on the said River;

Provided always that the word "*Road*" in this section shall be construed to mean as well front Roads as *Routes* or *By-Roads*, and any new road or part of a road, within the said limits respectively, to be made by the said Trustees, as well as the now existing roads or portions of roads within such limits, and all bridges, or other public works upon such roads within the said limits respectively.

Meaning of
the word
"road."

Trustees may exact and receive tolls on each of the said roads.

Rates to be exacted on the St. Louis road.

X. And be it further ordained and enacted, that the said Trustees may, and shall demand, levy, exact and receive, on each of the said roads, at the turnpike-gates and toll-houses to be thereon established, under and by virtue of this Ordinance, from all and every person and persons who shall pass upon or use the said roads, or either of them, the certain tolls and rates hereby designated and established, that is to say : upon that one of the said roads in the ninth section of this Ordinance, secondly mentioned, known as the St. Louis Road or " La Grande Allée," from the boundary of the said City and Town to the bridge over the Cap Rouge river, the tolls and rates following, namely :—For every waggon, wain, cart, or other wheel carriage for the transportation of loads, the wheels whereof have tires or tracks of the breadth of five inches or upwards, English measure, drawn by one or two horses or other beasts, if the same be loaded, in whole or in part, the sum of six-pence, currency; and if the same be not loaded, the sum of four pence, currency; and for every such waggon, wain or cart, with wheels, the tires or tracks whereof shall have a breadth less than five and not less than two and a quarter inches, English measure, drawn as aforesaid, if loaded in whole or in part, the sum of eight pence, currency, and if not loaded the sum of six pence, currency; and for every such waggon, wain or cart with wheels, the tires or tracks whereof shall have a breadth less than two and a quarter inches, drawn as aforesaid, if loaded in whole or in part, the sum of one shilling, currency; and if not loaded the sum of eight pence, currency; and for every additional horse or other beast to any such waggon, wain or cart hereinbefore mentioned, the further sum of four pence, currency; For every coach, stage-coach, gig, caleche, dennet, spring cart, or other wheel carriage (other than waggons wains and carts, of the description hereinbefore mentioned) having wheels with tires of the breadth of two and a quarter inches or upwards English measure, drawn by one horse or other beast the sum of eight pence, currency; and for every such coach, stage-coach, gig, caleche, dennet, spring-cart, or other wheel carriage, (other than waggons, wains and carts of the description hereinbefore mentioned) having wheels with tires or tracks, less than two and a quarter inches, English measure, in breadth, drawn as aforesaid the sum of one shilling, currency; and for every additional horse to such stage-coach, gig, caleche, dennet, spring cart or other wheel carriage, the further sum of four pence, currency; For every sleigh, traine, drag, berline, carriole, or other winter vehicle whatsoever, drawn by one horse or other beast the sum of four pence, currency; and for every additional horse the further sum of two pence, currency; For every horse, mare or gelding with a rider, the sum of four pence, currency; For every horse, mare, gelding, ass, mule, ox, cow, and head of other neat cattle, not drawing, the sum of two pence, currency;

How the rates on the other roads are to be regulated and governed.

currency ; For sheep, hogs or swine, at the rate of five pence, currency, for every score : and upon all the several roads, in the said ninth section of this Ordinance described other than the said St. Louis road or " La Grande Allée," the tolls and rates to be so demanded, levied, exacted and received, as aforesaid, for every wagon, wain, cart, or other wheel carriage, for the transportation of loads, and for every coach, stage-coach, gig, caleche, dennet, spring cart, or other wheel-carriage, and for every winter vehicle, and for every, horse, mare and gelding, with or without a rider, and every ass, mule, ox, cow, and other head of neat cattle, and every sheep, lamb, hog or swine, passing on or using the said several Roads, other than the said St. Louis Road, shall be regulated and governed in amount, by the said tolls and rates herein-before established and authorised to be taken upon the said St. Louis road, according to the proportion which the said several roads, respectively, bear in length to the said St. Louis road, subject in all respects to the rules, classifications, scale and degrees herein-before provided, for in relation to the said St. Louis road, and the tolls and rates to be thereon taken, that is to say, the tolls and rates to be demanded, levied, exacted and received by the said Trustees upon each of the said several roads other than the said St. Louis road shall bear the same proportion in amount to the said tolls and rates herein-before specified as the length of such road bears to the length of the said St. Louis road from the said boundary of the said city and town to the said Cap Rouge Bridge, unless in ascertaining such proportion in reference to any of the said several roads, the result shall exhibit a fractional part of a halfpenny, in which case such fractional part of a halfpenny shall be deducted, and the sum remaining after such deduction shall be the rate and toll upon such road; and the said Trustees may, and they are hereby authorized and empowered to make and establish the regulations under which such tolls or rates shall be so levied and collected, and with the consent of the Governor, may from time to time as they shall see fit, alter and change and modify the said rates and tolls, and the said regulations, either with regard to the tolls to be taken at all the Turnpike-gates or Toll-bars, or with regard to those to be taken at any one or more Turnpike-gates or Toll-bars, and may and shall prevent the passing through any Turnpike-gate or Toll-bar by any person, vehicle, animal or thing from or on which any rate or toll shall be payable, until such rate or toll be paid ; and the said Trustees shall affix in a conspicuous place at each Turnpike-gate, and Toll-bar, whereat any rate or toll is payable, a table of the tolls to be taken thereat, and the regulations under which such tolls are to be levied plainly and legibly printed. Provided always, that nothing herein contained shall entitle the said Trustees at any time to establish, demand, levy, exact, or receive any rates or tolls upon the said roads, or any of them, exceeding

Trustees to make regulations for the collection of the tolls, and may alter said tolls with the consent of the Governor.

A table of the tolls to be affixed at each turnpike gate &c.

Provido.

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Penalty on
gate-keepers
&c. for certain
offences.

ing the rates and tolls herein before authorized to be exacted and received : and that every gate-keeper or toll gatherer who at any toll-gate to be erected under the authority of this Ordinance, shall unwarrantably hinder or delay any traveller or passenger liable to the payment of toll, or shall demand from any person more toll than by this Ordinance he is authorised to collect, shall for every such offence forfeit a sum not exceeding twenty shillings, currency, to the person so aggrieved.

When there is
more than one
turnpike-gate
&c. on the
same road the
rates to be di-
vided.

XI. Provided always, and be it further Ordained and Enacted, that the rates of toll mentioned in the tenth section shall be the rates to be taken on the said roads respectively, when there is only one Turnpike-gate or toll-bar on the roads on which they shall be levied, but if there be more than one turnpike-gate or toll-bar on such road, then the said rates shall be divided by the number of such turnpike-gates or toll-bars, and the tolls taken at any one of them shall not exceed the quotient produced by such division ; and all the roads and works mentioned in the same paragraph or division of the ninth section of this Ordinance shall, for the purposes of this Ordinance, be considered to be one road.

How frac-
tions are to
be reckoned in
dividing the
said rates.

XII. Provided also, and be it further Ordained and Enacted, that if in dividing the rates of toll in the manner prescribed in the section next preceding this section, there shall be in the quotient any fraction of a penny greater than one farthing, it shall be considered as one half penny and added to the quotient and form part of the toll to be taken, but if such fraction be less than one farthing, it shall be deducted from the toll to be taken.

Certain ex-
emptions from
the payment of
more than one
full toll in any
one day.

XIII. Provided always, and be it further Ordained and Enacted, that no more than one full toll in any one day (to be computed from twelve of the clock at night to twelve of the clock in the next succeeding night) shall be demanded or taken on any road for or in respect of the same horse or horses, or other beast or beasts, or cattle, drawing the same waggon, wain, cart, coach, gig, calcche, dennet, spring-cart or other wheel carriage or winter carriage, or for or in respect of the same horse, mule, ass, or other beast or cattle, laden or unladen or not drawing, or for or in respect of the same oxen or ox, neat cattle, calves, swine, sheep or lambs for passing and repassing through the same Turnpike-gate or Toll-bar.

Provided

Description of carriages &c. to pay every time of passing.

Provided always, that the tolls hereby made payable for or in respect of any stage-coach, diligence, van, caravan, stage, waggon, or other stage, carriage, or any cart conveying passengers or goods for pay or reward, or conveying stones, and for and in respect of any horse or horses, beast or beasts drawing the same, shall be payable and paid every time of passing or re-passing.

When the tolls may be levied by the trustees.

XIV. And be it further Ordained and Enacted, that the said tolls may be levied by the said Trustees on the said roads, or on any of them, or on any part of them or of any of them, from and after the day when the said Trustees shall have assumed the control and management of such roads, or road, or part of a road, in the manner herein provided, and not before; but the time of such assumption shall be at the discretion of the said Trustees, and shall not depend upon the completion or non-completion of the improvements on the roads, road, or part of a road, of which the control and management shall be so assumed.

Certain exemptions from toll.

XV. Provided always, and be it further Ordained and Enacted, that Her Majesty's Mail and persons, animals and carriages employed in the conveyance thereof, Her Majesty's officers and soldiers travelling on Her Majesty's service, and in proper staff or regimental or military uniform, dress or undress, and their horses, (but not when passing in a hired or private vehicle) and all carriages, and horses belonging to Her Majesty or employed in her service, when conveying persons on her service or returning therefrom, and all recruits marching by route, and all persons, animals and carriages attending funerals, shall pass toll free through any Turnpike and Toll-gate to be erected under the authority of this Ordinance; and if any person or persons shall claim or take the benefit of any of the exemptions aforesaid, not being entitled to the same, every such person shall, for every such offence forfeit any pay any sum not exceeding five pounds, and in all cases the proof of exemption shall lie upon the person claiming the same.

Penalty upon persons taking the benefit of exemption not entitled to the same.

Trustees may commute the tolls with any person.

XVI. And be it further Ordained and Enacted, that the said Trustees may, if they think proper, commute the tolls on any road or portion thereof, with any person or persons, by taking a certain sum either monthly or yearly in lieu of such tolls.

XVII.

The tolls may be let by auction for one year.

Trustees &c. not to become lessees or principal or surety or any contract or work on said road.

XVII. Provided always, and be it further Ordained and Enacted, that the said Trustees may, from time to time, if they shall deem it advantageous to the public, let or farm the tolls to be levied on any of the said roads, by public auction to the highest and best bidder, for a time not exceeding one year in any case, taking good and sufficient security from the farmer or lessee; but no such lease of the tolls on any of the said roads shall be made until the expiration of one year from the time when the said Trustees shall have assumed the control of and begun to take toll on the road, the tolls on which are to be so leased; nor shall any Trustee, or any servant or officer of the said Trustees become a farmer or lessee of any such tolls, or become or be a party, either directly or indirectly, as principal or as surety, to any contract for making, improving or repairing, or for supplying materials for making, improving, or repairing any of the said roads, or for any work or works belonging thereto; and every such Trustee, servant or other officer so offending shall, for every such offence, forfeit and pay the sum of fifty pounds to Her Majesty for the public uses of the Province, or to any person who shall sue for the same; to be recovered with full costs of suit in any of Her Majesty's Courts of Record, having original civil jurisdiction to the amount, by information or by action on the case.

Under whose exclusive management the roads are to be, and how the tolls are to be applied.

When the powers vested in the magistrates, grand voyers or other road officers or in any district council

XVIII. And be it further Ordained and Enacted, that the said roads shall respectively, from and after the time hereinafter mentioned, be and remain under the exclusive management, charge and control of the said Trustees, and the tolls thereon shall be applied solely to the necessary expenses of the management, making and repairing of the said roads, and the payment of the interest on and principal of the debentures hereinafter mentioned; and all powers, authorities, jurisdiction and control over or with regard to the said roads, or any of them, heretofore vested in any Magistrates, Grand Voyer, overseer of roads or road surveyor, or other road officer, by a certain Act passed in the thirty-sixth year of the Reign of King George the Third, intituled, "An Act for making, repairing and altering the highways and bridges in this Province, and for other purposes," or by any other Act or Ordinance or Law whatever, or in any District Council, shall cease and determine from and after the time when the said Trustees shall assume the management, charge and control aforesaid, in the manner hereinafter mentioned; but all and every the powers, authorities, jurisdiction, and control over or with regard to the several roads in this Ordinance mentioned, or any or either of them, heretofore and before the passing of this Ordinance, vested in any Grand Voyer, Magistrates, Overseer of Roads, Road Surveyor, or other road officer, or in any District Council, by the said Act of the Parliament of this Province,

over the said
roads shall
cease.

Province, or by any other Act or Ordinance, or Law of this Province whatever, shall be and continue to be in full force and virtue until the said Trustees shall, in writing, notify such District Council, Grand Voyer, Magistrates, Overseer of Roads, Road Surveyor, or other road officer, that they, the said Trustees, have assumed and taken upon themselves, or will on a certain day assume and take upon themselves, for the purposes of the trust in them vested, the control and management of the said Roads, or of any or either of them, or of any specified section or portions of the said Roads or of any of them.

Persons bound
by law to per-
form any la-
bour on any of
the said roads
must commute
by the pay-
ment of an
annual sum.

XIX. And be it further Ordained and Enacted, that from and after the time when the Trustees shall have assumed the control and management of any road or any part of any road mentioned in the ninth section of this Ordinance, each and every person and persons, body or bodies politic or corporate, who may be bound by any law of this Province, or any *procès verbal* duly homologated, (and all such laws and *procès verbaux*, shall remain in full force, except in so far as they are hereby expressly derogated from) to repair or keep up, or to perform any service or labour, on or with regard to any portion of such road, or part of a road, shall and are hereby required to commute all such obligations with the said Trustees for such sum of money as may be agreed upon by such parties respectively, and the said Trustees; and such commutation money shall be payable annually, on the first day of May in each year; and if any such party shall neglect or refuse to pay the sum so agreed upon when due, the said Trustees may sue for and recover the same with costs in any Court having jurisdiction to the amount: Provided always that if no such agreement or commutation shall be effected in any case, the said Trustees may sue the party neglecting or refusing to make such agreement, for the sum which, in their estimation, such party ought then to pay for such commutation, in any Court having jurisdiction to the amount so sued for, and may recover the same or such less sum as the Court shall award; and the rate determined by the judgment shall be the rate to be thereafter paid for such commutation by the party defendant, or such party as may be liable to the commutation, of the same obligations; Provided also, that costs shall be awarded to any such party who shall, before the commencement of such suit, have legally tendered to the said Trustees at their office, or to the manager in person, a sum equal to that for which judgment shall in such suit be given.

The trustees
may be com-
missioners for
Ord. 4. Vic.

XX. Provided always, and be it further Ordained and Enacted, that it shall be lawful for the Governor of this Province, at any time and whenever he shall deem it expedient, to appoint all the said Trustees to be also Commissioners for carrying

C 21. regulat-
ing the tolls on
the Cap Rouge
Bridge.

ing into effect a certain Ordinance passed in the present year of Her Majesty's Reign, and intituled, "An Ordinance to declare and regulate the tolls to be taken " on the Bridge over Cap Rouge River, and for other purposes relative to the said " Bridge," notwithstanding any thing in the said Ordinance limiting the number of such Commissioners to three; and during the time the said Trustees shall be such Commissioners, the said Bridge shall be held to be part of the Roads and Bridges under the control and management of the said Trustees, as if it had been mentioned in the ninth section of this Ordinance, and the tolls authorized by the said Ordinance to be levied and taken from persons using the said Bridge and collected during the said time, shall form part of the funds hereby placed at the disposal of the said Trustees, and shall and may be applied by them in the same manner as the tolls levied under the authority of this Ordinance.

Trustees may
raise £25,000
by loan.

XXI. And be it further Ordained and Enacted, that it shall be lawful for the said Trustees as soon after the passing of this Ordinance as may be expedient, to raise by way of loan, on the credit and security of the tolls hereby authorized to be imposed, and of other monies which may come into the possession and be at the disposal of the said Trustees under and by virtue of this Ordinance, and not to be paid out of or be chargeable against the general revenue of this Province, any sum or sums of money not exceeding in the whole twenty-five thousand pounds currency; and out of the monies so raised, as well as out of the monies which shall come into their hands, and which are not hereby directed to be applied solely to one special purpose, it shall be lawful for the said Trustees to defray any expenses they are hereby authorized to incur for the purposes of this Ordinance.

Debentures to
be issued for
said loan.

XXII. And be it further Ordained and Enacted, that it shall be lawful for the said Trustees to cause to be made out for such sum or sums of money, as they may raise by loan as aforesaid, debentures in the form contained in the Schedule A, to this Ordinance annexed, redeemable at such time or times (subject to the provisions herein made,) as the said Trustees shall think most safe and convenient; which said debentures shall be signed in the manner above provided for the written acts relating to the said trust, and shall be transferable by delivery.

And to bear in-
terest.

XXIII. And be it further Ordained and Enacted, that such debentures shall respectively bear interest at the rate therein mentioned; and such interest shall be made payable semi-annually, and may at the discretion of the Trustees, and with the express approval and sanction of the Governor of this Province, and not otherwise, exceed the rate of six per centum per annum, any law to the contrary notwithstanding, and shall be the lowest rate at which the said sum or sums to be loaned

loaned on any such debentures shall be offered or can be obtained by the said Trustees ; such interest to be paid out of the tolls upon the said Roads, or out of any other monies at the disposal of the Trustees for the purposes of this Ordinance.

When the interest shall cease to accrue.

XXIV. And be it further ordained and enacted, that if at any time after the said debentures or any of them shall have become due and redeemable according to the terms thereof, notice shall be inserted three several times, at intervals of not less than one month apart, in the Quebec Gazette published by authority, and in some other newspaper published in the City of Quebec, requiring all holders of such debentures to present the same for payment, at a place or places in the said notice mentioned, all interest upon any debenture then redeemable, which shall remain out more than six months from the first insertion, shall cease to accrue from the end of the said six months.

Debentures may be redeemed before the time they are made redeemable.

XXV. And be it further Ordained and Enacted, that nothing herein contained shall prevent the said Trustees from voluntarily redeeming any debentures, with the consent of the lawful holder thereof, at any time before such debenture shall be made redeemable, if the state of the funds of the said Trustees shall be such as to warrant such redemption, and if the said Trustees shall obtain the approval of the Governor to such redemption.

The Governor may purchase for the public uses of the Province debentures to the amount of £10,000.

XXVI. And be it further Ordained and Enacted, that it shall be lawful for the Governor for the time being, if he shall deem it expedient, at any time within three years from the passing of this Ordinance, and not afterwards, to purchase for the public uses of this Province, and from the said Trustees, debentures to an amount not exceeding ten thousand pounds, currency, and by warrant under his hand to authorize the Receiver General to pay to the said Trustees, out of any unappropriated public monies in his hands, the sum secured by such debentures ; the interest and principal of and on which shall be paid to the Receiver General by the said Trustees, in the same manner and under the same provisions as are provided with regard to such payments, to any lawful holder of such debentures, and being so paid, shall remain in the hands of the Receiver General, at the disposal of the Legislative authority of the Province for the time being.

XXVII.

All arrears of interest to be paid before any part of the principal sum, and the Governor may advance money to pay such arrears.

XXVII. And be it further Ordained and Enacted, that if at any time it shall happen that the monies then in the hands of the said Trustees shall be insufficient to enable the Trustees to make any payment required or authorized to be made by this Ordinance, all arrears of interest due on any debentures issued under the authority of this Ordinance, shall be paid by the said Trustees, before any part of the principal sum then due upon and secured by any such debenture shall be so paid; and if the deficiency be such that the funds then at the disposal of the Trustees shall not be sufficient to pay such arrears of interest, it shall be lawful for the Governor for the time being, by warrant under his hand, to authorize the Receiver General to advance to the said Trustees, out of any unappropriated monies in his hands, such sum of money as may, with the funds then at the disposal of the Trustees, be sufficient to pay such arrears of interest as aforesaid; and the amount so advanced shall be repaid by the said Trustees to the Receiver General out of the sums so to be commuted, levied and collected as aforesaid, and being so repaid shall remain in the hands of the Receiver General at the disposal of the Legislative authority of the Province.

The Trustees may raise for the purpose of paying off the principal of any loan becoming due at a certain time, under the same provisions as the previous loans.

XXVIII. And be it further Ordained and Enacted, that over and above the sums which the said Trustees are authorized by the preceding sections of this Ordinance to raise by way of loan, it shall be lawful for the said Trustees, at any time and as often as occasion may require, to raise in like manner such further sum or sums as may be necessary to enable them to pay off the principal of any loan which they have bound themselves to repay at any certain time, and which the funds in their hands, or which will probably be in their hands at such time and applicable to such repayment, shall appear insufficient to enable them to repay: Provided always that any sum or sums raised under the authority of this section shall be applied solely to the purpose herein mentioned, that no such sum shall be borrowed without the approval of the Governor of this Province, and that the whole sum due by the said trustees under the debentures then unredeemed and issued under the authority of this Ordinance, shall in no case exceed thirty five thousand pounds currency; and all the provisions of this Ordinance touching the terms on which any sum shall be borrowed under the authority thereof by the Trustees, the rate of interest payable thereon, the payment of such interest, the advance by the Receiver General of the sums necessary to enable the Trustees to pay such interest, and the repayment of the sums so advanced shall be extended to any sum or sums borrowed under the authority of this section.

XXIX.

Application of
the monies to
be accounted
for.

XXIX. And be it further Ordained and Enacted, that due application of all public monies whereof the expenditure or receipt is authorised by the preceding sections, shall be accounted for to Her Majesty, her heirs, and successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, her heirs and successors shall be pleased to direct.

Persons coun-
terfeiting de-
bentures, or
attempting to
pass any,
knowing them
to be counter-
feit to be guilty
of felony.

XXX. And be it further Ordained and Enacted, that if any person or persons shall forge or counterfeit any such debenture as aforesaid, or any signature, indorsement or writing thereon, or therein, or tender in payment any such debenture, or any debenture with such counterfeit signature, indorsement or writing, thereon or therein, or shall demand the payment of any sum of money thereby secured, or of any interest thereon, knowing such debenture, or the signature, indorsement or writing thereon or therein, to be forged or counterfeited, with intent to defraud the said Trustees or any of them, or any other person or persons, body or bodies politic or corporate, such person or persons so offending shall be guilty of felony.

Persons wil-
fully injuring
any turnpike
gate &c. to be
guilty of a
misdemeanor.

XXXI. And be it further Ordained and Enacted, that if any person or persons shall cut, break down, destroy or wilfully injure any bridge, turnpike-gate, toll-bar, toll-house, embankment, drain or any work of any kind whatever erected or made under the authority of this Ordinance, or hereby placed under the control and management of the said Trustees, such person or persons so offending shall be guilty of a misdemeanor, and being thereof lawfully convicted before any court of competent jurisdiction, may be punished by fine and imprisonment: Provided always, that nothing in this section contained shall prevent any person committing any offence herein mentioned from being indicted and punished as a felon, if the offence committed by such person shall in law amount to felony.

Penalty on any
person ob-
structing any
of said roads.

XXXII. And be it further Ordained and Enacted, that no person shall leave any waggon, cart, or other carriage, nor shall lay or leave any matter or thing creating any obstruction of any kind in or upon any of the said bridges or of the said roads, or the ditches or drains thereof, or those made by or by order of the said Trustees, under a penalty not exceeding twenty shillings currency for each offence.

XXXIII.

Penalty on persons attempting to evade payment of toll.

XXXIII. And be it further Ordained and Enacted, that if any person or persons shall, after proceeding upon any of the said roads (whether in the winter season or in any other season) with any carriages, animals or things, liable to toll, turn out of the same into any other road, so as to evade payment of toll at any turnpike-gate or toll-bar, such person or persons shall for each such offence, incur a penalty not exceeding ten shillings currency: and the said Trustees shall and may place turnpike-gates and toll-bars on and across the entrance of any passage or way leading into or from any of the said roads, in order to prevent such evasion of toll; and if any person shall forcibly pass or attempt to pass any such turnpike-gate or toll-bar as aforesaid, with any carriage, animal or thing on which toll shall be due, without having first paid such toll, such person or persons shall thereby incur a penalty not exceeding forty shillings currency, over and above such other punishment or penalty as might be lawfully awarded or imposed according to the nature of the offence if this Ordinance had not been passed; and shall moreover remain liable for the payment of such toll.

Penalty on persons permitting others to pass through their lands so as to evade paying toll, and also on those permitted to avoid such payment.

XXXIV. And be it further Ordained and Enacted, that if any person or persons, body politic or corporate, occupying or possessing any inclosed lands near any of the said roads shall, (whether in the winter or at any other season) knowingly permit or suffer any person or persons to pass through such lands or through any gate, passage or way thereon, with any carriage, animal or thing liable to the payment of toll on such road, for the purpose of avoiding and so as to avoid the payment thereof, such person or persons so offending, and and the person or persons so unlawfully permitted to avoid such payment, shall each and severally incur a penalty not exceeding ten shillings currency, for each offence, and shall moreover become jointly and severally liable to the payment of the tolls whereof the payment shall have been avoided.

Penalties not exceeding 40s. how to be recovered and disposed of.

XXXV. And be it further Ordained and Enacted, that all penalties imposed by this Ordinance, and not exceeding forty shillings for each offence, may be sued for and recovered with costs, on the oath of one competent witness, before any Justice of the Peace, for the District of Quebec or for the Territorial Division of Quebec, or for any minor local division within which the offence shall have been committed; and such Justice of the Peace may, on conviction, commit the offender to the Common Gaol of the District, for a period not exceeding two weeks for each offence, or until such penalty and costs be paid; and one moiety of all such penalties shall belong to the informer and the other moiety to the said Trustees, for the purposes of this Ordinance: Provided always, that any Trustee or any officer or servant of the Trustees shall be a competent witness, if he be not the informer, or if he be such informer and renounce all claim to any portion of the penalty,

Provisoes respecting the competency of certain persons as witnesses.

penalty, which shall in such case belong wholly to the said Trustees for the purposes of this Ordinance. Provided also, that no person shall be deemed incompetent to give evidence, or be disqualified from giving testimony or evidence in any action, suit, prosecution or other legal proceedings to be brought or had in any court of law, or before any Justice or Justices of the Peace under or by virtue of this Ordinance, by reason of his or her being one of the said Trustees or their creditor, or of his or her having any privileged claim on the tolls collected under the authority hereof or on any funds in the hands of the said Trustees, or a farmer, lessee or collector of such tolls, or a clerk or surveyor, or other officers of the said Trustees, nor shall such testimony or evidence for any of the reasons aforesaid, be rejected or liable to be questioned or set aside, provided such person have no other and more immediate and direct interest in the penalty sued for, or in the event of the suit, action, trial, prosecution or proceeding in which his or her evidence shall be given or offered.

Persons committing offences also to be liable for damages.

XXXVI. Provided always and be it further Ordained and Enacted, that each and every person committing any offence against the provisions of this Ordinance shall, in addition to any penalty hereby imposed for such offence, be liable to the said Trustees for all damages they may have sustained by reason of such offence.

Trustees to furnish detailed accounts of their proceedings and publish the same.

XXXVII. And be it further Ordained and Enacted, that the said Trustees shall lay detailed accounts of all monies by them received and expended under the authority of this Ordinance, supported by proper vouchers, and also detailed reports of all their doings and proceedings under the said authority before such officer, at such times, and in such manner and form, and shall publish the same in such way, at the expense of the said Trustees, as the Governor shall be pleased to direct.

The word "Governor" defined.

XXXVIII. And be it further Ordained and Enacted, that the word "Governor," is to be understood as comprehending and meaning the Governor, the Lieutenant Governor, or person administering the Government of the said Province.

This Ordinance to be a public one.

XXXIX. And be it further Ordained and Enacted, that this Ordinance shall be a public Ordinance, and as such shall be taken notice of, held and allowed in all Courts and elsewhere, and by all Judges, Justices, and persons whomsoever without being specially pleaded.

And is made permanent.

XL. And be it further Ordained and Enacted, that this Ordinance shall be a permanent Ordinance, and shall be in force until repealed or altered by competent authority.

SCHEDULE

SCHEDULE, A.
ROAD LOAN.

CERTIFICATE, No. }
Currency. } QUEBEC, 18 .

We Certify, that under the authority of the Provincial Ordinance of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, " An Ordinance to provide for the improvement of certain " Roads in the neighbourhood of, and leading to the City of Quebec, " and to raise a Fund for that purpose," there has been borrowed and received from the sum of

bearing interest from the date hereof, at the rate of Pounds currency, per cent. and on the day of which sum is reimbursable to the said day of or bearer hereof on the day of in the manner provided for by the Provincial Ordinance aforesaid.

REGISTERED BY _____ Trustees.

Certificate No. ;

Currency.

Int. at 18 per cent.

INTEREST

On this Certificate

PAID.

Receipt No.

To Jan. 18 —
July — —
Jan. 18 — —
July — —
Jan. 18 — —
July — —
Jan. 18 — —
July — —
Jan. 18 — —

SYDENHAM.

Ordnained

Ordained and Enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House, in the City of Montreal, the Thirtieth day of January, in the Fourth year of the Reign of Our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of Our Lord one thousand eight hundred and forty-one.

By His Excellency's Command,

W. B. LINDSAY,

Clerk Special Council.

C A P. XVIII.

An Ordinance to amend An Act of the Provincial Parliament of this Province, intituled, "An Act for making a Rail-road from Lake Champlain to the River Saint Lawrence."

Preamble.

WHEREAS it is expedient to amend certain parts of an Act of the Provincial Parliament of this Province of Lower Canada, passed in the second year of the reign of His late Majesty William the Fourth, intituled, "An Act for making a Rail-Road from Lake Champlain to the River St. Lawrence:" Be it therefore Ordained and Enacted by His Excellency the Governor of the said Province of Lower-Canada, by and with the advice and consent of the Special Council for the affairs of this Province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, "*An Act to make temporary provision for the Government of Lower-Canada,*" and also by virtue and under the authority of a certain other Act of the same Parliament passed in the Session held in the second and third years of the Reign of Her present Majesty, intituled, "*An Act to amend an Act of the last Session of Parliament, for making temporary provision for the Government of Lower Canada,*" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the third and fourth years of the Reign of