

The Provincial Statutes of Lower-Canada, Being the fourth session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, fourteenth day of February, 1839. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1839.

2 Victoria – Chapter 7 (Session 4)

An Ordinance to amend the Act passed in the thirty-sixth, year of the Reign of King George the Third, chapter nine, commonly called the Road Act.

Whereas it is expedient to amend a certain Act, passed in the thirty-sixth year of the Reign of King George the Third, chapter nine, intituled, “An Act for making, preparing, and altering the Highways and Bridges within this Province, and for other purposes:” —Be it therefore Ordained and Enacted, by His Excellency the Governor of the Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said Province, constituted and assembled by virtue of 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, “Act to make temporary provision for the Government of Lower Canada;” and it is hereby Ordained and Enacted by the authority of the same, that from and after the passing of this Ordinance, it shall be lawful for the Grand Voyers of the several Districts of this Province respectively, to appoint one or more Deputy or Deputies, and him or them to remove and appoint another or others, in their or his stead, as need may be; provided that such appointment or removal be publicly announced in one of the Newspapers published in, or if there be none, then in one of the Newspapers circulating in the District in which such appointment or removal shall be made.

II. And be it further Ordained and Enacted by the authority aforesaid, that it shall also be lawful for the Grand Voyer of each District to appoint more than one, but not more than three Surveyors of Roads in each Parish, Seigniorie [Seigneurie], or Township, the extent of which, or the number of Roads in which may in his judgment render such augmentation necessary, and also to increase to fifteen the number of Overseers, and Overseer's Districts in each such Parish, Seigniorie or Township; and it shall be lawful for such Grand Voyer forthwith to appoint such number of Overseers therein as may be requisite to complete the number of fifteen, and to appoint one Surveyor or two Surveyors therein, to serve until the next election of Road Officers for the place, and the persons so appointed shall be bound to serve as such, as if they had been elected and appointed under the authority of the Act hereinbefore cited.

III. And be it further Ordained and Enacted by the authority aforesaid, that during the continuance of this Ordinance, each Surveyor of Roads and Bridges, shall in the month of October, in the last year during which he is to serve, cause Overseers to be appointed for the two following years; and he shall do this in the place and stead of the Captain of Militia and in the manner prescribed by the Act last above cited, and shall make a return of his doings in this behalf to the Grand Voyer, during the fifteen days next after such election, and that if

such election and such return be not made as hereby required, such Surveyor shall be bound without any judgment being necessary to that effect, to continue in office during the two years next following.

IV. And be it further Ordained and Enacted by the authority aforesaid, that the Grand Voyer, or his Deputy or Deputies, shall make his or their tour of inspection, as provided by the thirtieth section of the before-mentioned Act, twice in each year, instead of once as in the said section is provided, viz:—between the fifteenth day of April and the first day of June, and the first day of October and the fifteenth day of November, in each and every year.

V. And be it further Ordained and Enacted by the authority aforesaid, that the general biennial appointment of Surveyor of Roads, shall be made by the Grand Voyer, or his Deputy, in the course of the month of November.

VI. And be it further Ordained and Enacted by the authority aforesaid, that the Grand Voyer or his Deputy shall, before making his tours of inspection, give notice in writing to each Surveyor, at least eight days before the time of such tour, of the day and hour at which he will make the same, instead of giving notice thereof in the Quebec Gazette, as by the Act hereinbefore cited, he was required to do.

VII. And whereas it frequently happens that two Parishes are under the charge of one Priest, or Rector, and that Divine Service is performed only once in a fortnight in each of them, or that there is no place of Worship in certain Townships, or extra parochial places: Be it therefore further Ordained and Enacted by the authority aforesaid, that the publication of Notices, required under the Act hereinbefore cited, or under this Ordinance, shall be valid, if made by or in the presence of a Surveyor or Overseer of Roads, for the place to which they relate in any Parish in which Divine Service shall be celebrated by the Priest having charge of the Parish in which such place is situate,—a notice in writing having also been posted by such Surveyor on the Church door of the Parish or Township interested, or in default of a Church, at the most public place in such Parish, Township, or extra parochial place.

VIII. And be it further Declared, Ordained and Enacted by the authority aforesaid, that such proces verbaux only of the Grand Voyers, as relate to the objects mentioned in the ninth section of the said Act hereinbefore cited, that is to say: to the opening of a new road, or to changing the place of an old one; to establishing a new bridge, or changing the place of an old one, shall be subject: to the formalities required by the twentieth section of the said Act, and that in all other cases where the Grand Voyer, or his Deputy, shall draw up a proces verbal under any other requirement of the said Act, he shall be bound to enter the same in his Register, and to furnish an authenticated copy thereof to the Road Surveyor of the place, who shall publish it or cause it to be published, immediately after Divine Service, in the forenoon, on the Sunday of holiday next after he shall have received it, in the manner provided in the seventh clause, after which such proces verbal shall be binding, and have full force and effect in Law, according to the tenor thereof; Provided always, that whenever the

Grand Voyer shall be called upon to abolish an old road, or bye-road, which may have become useless or burthensome to the public, the proces verbal which he shall draw up for that purpose, shall be subjected to all the formalities required by the twentieth section of the Act aforesaid. Provided ah ways, that it shall and may be lawful for the Deputy or Deputies of the Grand Voyer in any County, consisting chiefly of Townships, to prosecute the homologation of proces verbaux before the three senior acting magistrates, residing within the said County, on any day and hour certain, not less than eight days after notice shall have been given by handbills, posted in the most public places in the Township or Townships, interested in such proces verbal, and stating the name and residence of the person or persons with whom a copy or copies of such proces verbal has been deposited for public inspection, and the names of the magistrates before whom the homologation of the proces verbal is to be prosecuted, and the place of their sitting: Provided also, that the senior of the three Justices of the Peace, before whom any such proces verbal shall have been homologated, shall deliver the same to the Grand Voyer or Deputy Grand Voyer, by whom it shall have been prosecuted, with a copy of the judgment homologating the same, attested by him; and such proces verbal shall be enregistered by the Grand Voyer or his Deputy, and then transmitted by him, with a Certificate of such enregistration, to the Clerk of the Peace for the District in which such proces verbal is to be carried into effect, to be by him filed and kept among the records of his office.

IX. And whereas the Act hereinbefore cited, does not determine the manner in which repartions are to be made, and that great diversity has consequently prevailed in the manner of making the same, and great injustice has sometimes been done thereby: Be it therefore Ordained and Enacted by the authority aforesaid, that all public work, the cost of the ground taken, and of the proces verbal, shall be apportioned by the majority of the Overseers, in proportion to the extent of front of the lands held by the proprietors or occupants mentioned in such proces verbal; and that in any villages, each building lot shall be assessed as one-third of a lot of land, of three arpents in front, if there be any lands out of such village to be assessed in the same repartition, or according to the extent of front of each building lot, if there be no such lands to be so assessed.

X. And be it further Ordained and Enacted by the authority aforesaid, that whenever the Overseers shall be themselves unable to make any repartition required by Law, it shall be lawful for them to employ a Clerk to prepare the same, and to add to the sum to be assessed the costs of such repartition, which costs shall be taxed by the nearest Justice of the Peace.

XI. And whereas by law the work on Roads and Bridges, for which lands which have been abandoned were liable, are required to be performed by the proprietors or occupants of and in the Parish, Seigniory or Township to whom such work is most advantageous, but who are frequently the poorest settlers, possessing lands in the most remote portions of such Parish, Seigniory or Township; Be it therefore further Ordained and Enacted by the authority aforesaid, that in any such case, it shall be lawful for the Surveyor or Overseer for the place, to cause to be taken from any land so abandoned, any timber requisite for any fence, bridge or causeway, for which such land is liable, and also to sell or cause to be sold as much

timber, stone or other material, from off such land, as may be necessary to defray the expense of making, repairing, or keeping up the roads and bridges, and to pay the contribution in money, to which such land may be liable.

XII. And be it further Ordained and Enacted by the authority aforesaid, that the persons, who shall have addressed a Petition to the Grand Voyer of any District or to his Deputy, for the purpose of obtaining a proces verbal of any kind, shall be bound to pay into the hands of the Clerk of the Peace for the District, on the day of the return of the proces verbal, the amount affixed by the Tariff as the costs due to such Clerk which shall be afterwards repaid to them, (after deducting the portion for which they are liable) by the Road Surveyor, when the Overseers shall have paid over to him the amount assessed, for all the costs of the said proces verbal.

XIII. And whereas the said Act hereinbefore cited, provides only for the construction of Wooden Bridges, eighteen feet in width: Be it therefore further Ordained and Enacted by the authority aforesaid, that the Grand Voyer or his Deputy, whenever he shall deem it more advantageous to the public, may order bridges to be constructed of Stone or Brick, or Bridges on Trussels, of which he shall determine the dimensions.

XIV. And be it further Ordained and Enacted by the authority aforesaid, that the streets in the several Villages in this Province, shall be considered as the front Roads of the proprietors or occupants of lands or lots bounded by such streets, and such proprietors or occupants shall, with regard to the opening, keeping up, repairing, draining and levelling of Roads, the construction, repairing, and keeping up of Bridgss, and to all obstructions and encroachments on the public highways, be subject to the orders, pains and penalties, and to the jurisdiction of the Justices of the Peace, and of the Grand Voyer, to which the proprietors or occupants of lands in the country parts are liable, or subject, for their front Roads or Bye-Roads.

XV. And be it further Ordained and Enacted by the authority aforesaid, that it shall and may be lawful for the Road Surveyors, or the majority of them in any Parish, Township or extra Parochial place, to cause any portion of a Winter Road under their direction, to be beaten, after every fall of snow, for the width of twelve feet at least.

XVI. And be it further Ordained and Enacted by the authority aforesaid, that the Grand Voyers and their Deputies shall have power to lay out or alter, conforming as far as it may be practicable to the laws now in force, any Roads or Bridges on any lands or lots, as they may deem necessary for the public advantage, and to cause the same to pass through or along or upon any land or lots, as they may deem the most advantageous for making such Roads and Bridges: Provided always, that when any Road shall occupy more than double the front of any such land or lots, the proprietor or occupant thereof shall not be held to the furnishing the ground, or the expense of performing the work necessary for the said Road, beyond the extent of the said proportion, but the same shall be purchased and the work performed at the expense of the persons who may be held thereto by proces verbal; Provided also that no

Road, so altered or laid out in virtue of the foregoing section, shall pass so as to injure any dwelling house or occupied building, or through any garden or orchard enclosed or cultivated as such for and during the preceding two years, without the consent of the owner or occupier thereof.

XVII. And be it further Ordained and Enacted by the authority aforesaid, that it shall and may be lawful for the Road Surveyor of any Parish, Township, or xtra Parochial place, to call by a sufficient notice, published at least eight days before a meeting of all persons in such Parish, Township or place, held to contribute materials, or perform any labour on any route, or bye-road, or bridge, at which meeting such Road Surveyor shall preside, and take the determination of the said meeting, whether the contribution or labour to which they may be held by proces verbal, or by Law, on such route or bridge, shall for the season then ensuing, be publicly put up and adjudged on a day, hour and place certain to be then fixed, to the lowest and best bidder, engaging to contribute and perforin all that is required in respect to the said routes or bridges; and to be liable to all the penalties which may be incurred during the period of the said engagement, for default of the performance of the contribution or work to which the persons entrusted were liable, and from which they shall be and are hereby discharged during the term of such engagement, and the amount of the payments to be made to the person engaging as aforesaid, and the necessary expenses resulting therefrom, shall be apportioned among those held to the contribution or work to be done, according to the proces verbal relating to such route or bridge, and the Law.

XVIII. And be it further Ordained and Enacted by the authority aforesaid, that Pilots, regularly licenced as such according to Law, and continuing to act as Pilots, shall be exempt from service as Road Officers, as well in the capacity of Surveyors as of Overseers.

XIX. And be it further Ordained and Enacted by the authority aforesaid, that the Town and Banlieue of Three Rivers [Trois-Rivières], shall be and they are hereby withdrawn from the control of the Grand Voyer, and placed under the immediate control of the Justices of the Peace resident therein, who shall appoint one or more Surveyors and Overseers for the Banlieue, for the Fief Ste. Marguerite, and for the district between the Town and the Ferry across the River St. Maurice, and the said Banlieue, Fief and District, shall continue to be governed by the Act hereinbefore cited, as amended by this Ordinance, but under the control and direction of the said Justices of the Peace; and all matters and things relative to the opening, widening, repairing, and keeping up the Streets, Lanes, Drains, Watercourses, Bridges, Aqueducts, Wharves, Squares and public places within the said Town, shall be subject to the Rules and Regulations, which shall be made by such Justices of the Peace, and sanctioned by the Court of King's Bench for the District of Three Rivers, in the Superior Term thereof, and published by the Town Crier, at the usual places, and in the usual manner: Provided always, that no such new street shall be opened or established, which shall not be at least thirty French feet in width.

XX. And whereas, by the said Act hereinbefore cited, it is, in the second and fourth section thereof, Enacted, that there shall be made a ditch three feet wide, on each side of each and

every front road, or bye-road, without distinction, and it frequently happens either that a narrower ditch would be sufficient, or that no ditch whatever is requisite, as in places where the road runs over sandy hills; Be it therefore further Ordained and Enacted by the authority aforesaid, that the Grand Voyer shall, in his proces verbal, determine in what places ditches shall be deemed necessary, and what their dimensions shall be.

XXI. And whereas by the fifth section of the Act hereinbefore cited, it is enacted that whenever any new bye-road shall be opened, the value of the cleared land, only shall be paid to the proprietor, and it may happen that such bye-road may be opened through woodlands of great value, or on which the trees are reserved for the making of sugar;—Be it therefore further Ordained and Enacted by the authority aforesaid that whenever any bye-road shall be opened across any land, either wholly or partially covered with wood, the uncleared portion of such land, taken for such bye-road, shall be paid for, as provided in the fifth section.

XXII. And be it further Declared, Ordained, and Enacted by the authority aforesaid, that it shall be lawful for the Grand Voyer or his Deputy to order that, in places where the nature of the ground requires it, the Road shall be raised in the middle, so as to give a fall on each side, whereby the water may be the more readily runoff, and that the surface of the Roads between the Ditches, or throughout the whole breadth thereof, shall be made and kept smooth as often as may be deemed necessary.

XXIII. And be it further Ordained and Enacted by the authority aforesaid, that a sufficient number of copies of the present Ordinance shall be printed and delivered to the Grand Voyers of the several Districts, to be by them forwarded to the Road Surveyors of the Parishes, Townships, or extra parochial places within their Districts respectively, by such Road Surveyors to be preserved and transferred to their successors in office.

XXIV. And be it further Ordained and Enacted by the authority aforesaid, that each and every person, who shall in any way offend against the provisions of this Ordinance, or shall disobey any order of the Grand Voyer or other Road Officer; lawfully made under the authority thereof, or any Road Officer who shall refuse or neglect to comply with the requirements of this Ordinance, shall thereby incur the penalty attached to a like offence, disobedience, refusal or neglect, by the Act herein before cited and amended, and to be recovered, paid and accounted, for in the manner provided, with regard to similar penalties, by the said Act.

XXV. And be it further Ordained and Enacted by the authority aforesaid, that this Ordinance shall be and remain in force, until the first day of November, one thousand eight hundred and forty-two, and no longer.

J. COLBORNE.

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 second day of March, in the second 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 thirty-nine.

By His Excellency's Command,
W. B. LINDSAY,
Clerk Special Council.