

The Provincial Statutes of Lower-Canada, Being the sixth session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, fifth day of November, 1840, and ending the ninth day of February, 1841. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1841.

4 Victoria – Chapter 11 (Session 6)

An Ordinance to provide for the construction of a Turnpike-Road from the River Richelieu, opposite the Town of Dorchester, commonly called St. John's, to the Village of Granby.

Whereas the construction of a Turnpike-road from the River Richelieu, opposite the Town of Dorchester, commonly called St. John's, to the Village of Granby, would conduce to the public advantage, and it is expedient to incorporate a Company for that purpose:—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 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 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 same, and by virtue of the powers in them vested by the said Acts of Parliament, that Charles William Grant, Robert Jones, Francois Marchand, William Macrae, Louis Marchand, Curtis Pattee, Nelson Mott, Virgil Titus, William Dobie Lindsay, Asa Willet, James E. Mott, William Plenderleath Christie, John Piche), John Jones, James E. Watson; Ambroise Bourgeois, Harmon Titus, Edouard Bourgeois, Horace Wheeler, William Gorman, George McDonald, Charles Mongeon the younger, Joseph Ouimet, Edward C. Macdonald, William McGinnis, George Scoy and Jason C. Pierce, together with such persons as shall under the provisions of this Ordinance become proprietors of any share in the Road hereby authorized to be made and their several and respective heirs, assigns, and legal representatives, being proprietors of any share in the said Road, are and shall be united into a Company for making and maintaining a Turnpike-Road to be called "The St. John's and Granby Turnpike-Road," and shall for that purpose be: a body politic and corporate by the name of "The Company of Proprietors of the St. John's and Granby Turnpike-Road," and by that name shall have perpetual succession and a common seal, and may sue and be sued, and also may purchase and hold lands, tenements and hereditaments from any and all persons, communities and bodies politic and corporate for the use of the said undertaking without Her Majesty's Lettres d'Amortissement, and may sell any of the said lands, tenements, and hereditaments purchased for the purposes aforesaid and others in their stead acquire; and generally shall have all the powers and

capacities, which bodies corporate by law have, subject to the provisions hereinafter contained: Provided always, that save and except for the purposes of receiving subscriptions for the capital stock of the said Company, and payments thereupon in the manner hereinafter provided, the capacities, powers or authority hereby conferred shall not be in force or in any manner operative or available to the said Company or to any person or persons whomsoever, until the entire amount of the said capital stock shall be subscribed for and taken up, nor until a sum equal to at least ten pounds, upon every hundred pounds of the said capital stock be actually paid in.

II. And be it further Ordained and Enacted, that it shall be lawful for the said Company of Proprietors, and their successors, to raise and contribute among them-selves, a sum of money not exceeding ten thousand pounds currency, which shall constitute and be the capital stock of the said Company for the purposes of this Ordinance, and shall be divided into four hundred shares of twenty-five pounds currency each share; and in case the said sum of ten thousand pounds shall be found insufficient for the making, completing and maintaining the said Road, it shall be lawful for the said Company to raise and contribute among themselves in the manner and form aforesaid, or by the admission of new subscribers, a further sum of money not exceeding the sum of five thousand pounds currency, which shall be divided into shares of twenty-five pounds currency each, in like manner as is provided with respect to the said sum often thousand pounds; and any person subscribing for and taking any shares in the said additional capital stock of five thousand pounds shall have the same rights and be subject to the same rules and liabilities as the original subscribers and members of the said Company.

III. And be it further Ordained and Enacted, that it shall be lawful for the Company of Proprietors of the Champlain and Saint Lawrence Rail-road to subscribe for take and hold of the Capital Stock of the said Company of Proprietors of the St. John's and Granby Turnpike-Road, an amount not exceeding fifty shares, and the same to sell and dispose of, and again to purchase, acquire and hold other shares in the said capital stock, (not exceeding the number aforesaid at any one time) for the benefit of the said Company of Proprietors of the Champlain and Saint Lawrence Rail-road, at such time and times and in such manner as to them shall seem fit and expedient.

IV. And whereas divers persons in contemplation of the passing of this Ordinance, have subscribed and promised to advance Certain sums of money to and for the purposes thereof; be it therefore further Ordained and Enacted, that all such subscriptions and promises to advance money shall be taken and held to be subscriptions for and towards the capital stock of the said Company, and the persons who have so subscribed and promised shall be entitled to the same rights, and be held, bound and liable in the same manner as the persons who shall hereafter subscribe for and towards the said capital stock or any portion thereof, and shall, in all respects and to all intents and purposes whatsoever be considered members of the said Company.

V. And be it further Ordained and Enacted, that Curtis Pattee, Jason C. Pierce, Robert Jones, William McGinnis, Louis Guerout, Horace Lyman, John E. Mills, Charles H. Castle, John Boston and William D. Lindsay, shall be a Committee for opening a subscription book and receiving subscriptions for the said capital stock and payments for and on account thereof; and so soon as the entire amount of the said capital stock shall have been subscribed for and taken up, and the sum of one thousand pounds actually paid in, the said committee shall call a meeting of the said company at some convenient place in the Town of Dorchester, commonly called St. John's, by notice to be inserted in two of the Newspapers published in the city of Montreal, at least two weeks previous to the time fixed for the said meeting, and the subscribers then present or their proxies, shall elect by a majority of votes to be given by ballot, nine Stockholders to be Directors of the said Company for the year then next ensuing: and the said committee shall thereupon immediately deliver to the said Directors the subscription books and pay over to such Directors the monies received by them on account of the said subscriptions for the capital stock of the said company, and shall also deliver to the said Directors all papers, vouchers, and other things which may be in their possession belonging to the said Company.

VI. And be it further Ordained and Enacted, that an election for directors shall thereafter be annually held at such place as may be appointed by the by-laws of the company on the same day of the same month on which the first election shall have been held as aforesaid; or if such day be a Sunday or Holiday, then on the day next thereafter not being a Sunday or Holiday: Provided always that if such election by reason of any matter or thing, shall not be had upon such day, the said corporation shall not lapse or be dissolved, but the said election shall be held on some early day to be appointed by the Directors then in office, who shall give notice thereof in the manner required with respect to the first election, and who after the day on which such election ought to have been held, shall be incapacitated from doing any act as Directors except such as may be necessary for giving effect to the election so to be appointed.

VII. And be it further Ordained and Enacted, that at every general meeting of the company, one of the stockholders shall be appointed chairman, and all questions, matters and things of the said company shall be decided by a majority of votes. Provided always, that in case the votes be equally divided the chairman shall be entitled to a double or casting vote.

VIII. And be it further Ordained and Enacted, that each Stockholder in person or by proxy shall be entitled on the shares held by him to one vote for each share to the number of five, making five votes for five shares; and for every five shares above that number to one additional vote; and every Stockholder of the said company may vote by proxy, provided that such proxy shall produce from his constituent an appointment in writing, but no one person shall act as proxy for absent Stockholders for more than fifty shares.

IX. And be it further Ordained and Enacted, that no Stockholder who shall not be a natural born subject of Her Majesty, or a subject of Her Majesty naturalized by act of the British

Parliament, or by act of the Parliament of Lower Canada, or of Upper Canada, or of the Province of Canada, shall be elected President or Director of the said Company.

X. And be it further Ordained and Enacted, that any five or more of the Directors shall form a quorum of the board for the transaction of business, and the acts of a majority of such quorum shall bind the Company.

XI. And be it further Ordained and Enacted, that the Board of Directors shall at their first meeting elect by ballot out of their number a President and Vice President of the said Company, which said President shall preside at all meetings of the Board when present; and in his absence the Vice President shall preside if present, and in the absence of the President and Vice President, one of the Directors shall be appointed by the Board to preside; and the person so presiding shall, in all cases of equality of votes at any meeting of the said Board, have a double or casting vote; and the said Board shall by an election to be made as aforesaid, supply every vacancy that may occur in the office of President, Vice President or Director from death, sickness, absence from the Province of more than three months or from any other cause whatsoever; and the person chosen to fill such vacancy shall hold his office until the next annual election.

XII. And be it further Ordained and Enacted, that the said Board of Directors shall have power, and it shall be their duty:—

To meet from time to time at such place as they may deem expedient:

To make by-laws for the regulation of the affairs of the Company:

To appoint such subordinate officers, artists and workmen as they shall deem necessary to execute the business of the Company, and to require from such officers whenever they may deem expedient, such security for the due performance of their respective duties, as the said Board in their discretion may think proper:

To demand at such time and in such proportion as they shall see fit, but after public notice to be given in two Newspapers published in the city of Montreal, during at least thirty days, from the respective Stockholders, the sums of money due on their respective shares under pain of forfeiture of such shares, and of all previous payments thereon to the Company, or at their option to recover the said sums of money by action at law:

To declare by a by-law in what manner and under what restrictions, special meetings of the said Company shall be called:

To declare by a by-law in what manner and under what restrictions the shares of their capital stock shall be transferable:

To lay out, construct, complete and keep in constant, repair the said Road, with all the necessary buildings and appurtenances; and for that purpose to purchase lands, materials and other necessary things:

To keep an account of all tolls received and of all monies disbursed, and, deducting costs and charges, to make and declare a dividend of the clear profits and income of the Road among the Stockholders, on such day in every year as may be appointed by the by-laws:

To publish a notice of each dividend in one or more of the public Newspapers printed in the city of Montreal, and of the time and place of the payment thereof, and to pay the same accordingly:

To report to the Governor of this Province within six months after the said Road shall be completed an account of the expenses of the construction thereof, and to exhibit annually to the said Governor an account of the sums arising from the tolls, and of the disbursements and dividends actually made within the year:

To establish the tolls to be demanded upon the said Road for each year, beginning from the day of the general meeting of Proprietors, such tolls not to exceed in amount the tolls hereinafter specified.

XIII. And be it further Ordained and Enacted, that the said Company at every general meeting shall have power to call for, audit and settle all accounts of money laid out and disbursed on account of the said undertaking, with the Treasurer, Receiver, Officer or, other person employed by or concerned for or under the said Company, in and about the said undertaking, and for that purpose shall have power to adjourn from time to time and from place to place as shall be thought convenient.

XIV. And be it further Ordained and Enacted, that the said Company may, from and after the passing of this Ordinance, make and complete: the said St. John's and Granby Turnpike-Road, from the Banks of the River Richelieu opposite the Town of Dorchester, commonly called St. John's, beginning at a distance of not more than one mile above or below the Toll-Bridge over the said River Richelieu belonging to Robert Jones, to the said Village of Granby. ending at a point not distant more than half a mile from the mill in the said Village known as Guerout's mill, the said Road proceeding between the said places of beginning and ending in as direct a line as may be found convenient and practicable; Provided always, that the said road shall be laid out not less than twenty-five feet wide between the ditches, sixteen feet of which shall be faced with gravel or broken stones of a depth not less than six inches, in such manner as to leave a firm and even surface rising properly in the middle, with good and sufficient ditches on each side of the said road; and a mile stone or post shall be erected and maintained by the said Company on each mile of the said Road, on which shall be fairly and legibly inscribed the distance of such stone or post from the place of the commencement of the said road, at the said River Richelieu.

XV. And be it further Ordained and Enacted, that the said Company for the purposes of this Ordinance, may by themselves, their agents and servants, enter into and upon the lands and grounds of the Queen's Most Excellent Majesty, or of any person, body politic, corporate or collegiate, or community, and survey and take levels of the same, and set out and ascertain such parts thereof as they shall think necessary and proper for making, maintaining, improving or conveniently using the said road, and also may dig, take and carry away earth, trees, gravel and any other matters and things which may be dug or got, in making the said road or other works, or out of the lands or grounds of any person or persons adjoining or lying convenient thereto, and which may be proper or necessary for making or repairing the said road or works incidental or relative thereto, or which may prevent or obstruct the making, using, improving or maintaining the same, and may from time to time alter, repair, and extend the said road, and in connection with the said road may construct, repair and reconstruct a good and sufficient bridge over the River Yamaska in the County of St. Hyacinthe, or the County of Shefford as may be found most advantageous, and may also construct, reconstruct and keep in repair any other bridges or any piers and other works across any other rivers or any brooks, or other work or works, necessary for the making, using and maintaining the said road; and may construct, erect, make and do all other works and things which shall be convenient and necessary for the making, preserving and easy using of the said road and other works, in pursuance of and according to the true intent and meaning of this Ordinance, they the said Company, doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned to the owners or proprietors of, or the persons interested in such lands or grounds: Provided always, that the said Company shall not in making the said road take or use any now existing highway as part of the said road, except merely for the purpose of crossing such highway; nor shall they in any way obstruct or impede the free use of any now existing highway, or render the same in any way more difficult of passage or of access than it would otherwise be; any thing herein contained to the contrary notwithstanding.

XVI. And be it further Ordained and Enacted, that for the purposes of this Ordinance, the said Company shall by a sworn surveyor of this Province and by an Engineer cause to be made surveys and levels of the said lands through which the said road is to be carried, together with a map or plan of such road, and of the course and direction thereof, and also a book of reference for the said road, in which shall be set forth a description of the several lands and the names of the owners or occupiers thereof, and in which shall be contained every thing necessary for the right understanding of such map or plan; which said map or plan and book of reference shall be made in triplicate and certified by the surveyor, who shall deposit one part thereof in the office of the Prothonotary of the Court of King's Bench for the District of Montreal, or of the Division of the Court of Common Pleas, which shall hold its sittings in the Territorial Division in which the City of Montreal shall be situate, one other part in the office of the Secretary of this Province, and shall deliver the remaining part to the said Company; and all persons shall have liberty to resort to such map or plan and book of reference and obtain extracts or copies thereof, as occasion shall require, paying to the said Secretary of the Province, or to the said Prothonotary at the rate of six pence currency of this Province for every hundred words; and such extracts or copies of the said

map or plan and book of reference, certified by the Secretary of the Province, or the said Prothonotary, shall be good evidence in all Courts of Law and elsewhere.

XVII. Provided always, and it is hereby further Ordained and Enacted, that the said Company may make their said intended Road into, through, across or over any lands or grounds marked in the said map or plan, although the name or names of the owners or occupiers, or of any of the owners or occupiers of such lands or grounds be not mentioned in the said book of reference, or hath or have been by mistake omitted, or that instead of his, her or their name, the name or names of some other person or persons to whom such last mentioned lands or grounds do not belong, hath or have by mistake been inserted in the said book of reference,

XVIII. And be it further Ordained and Enacted, that after any lands or grounds shall be set out and ascertained in manner aforesaid, it shall be lawful for the said Company to agree with the owners of any such land through which the said road is to pass, for the purchase of so much thereof as shall be necessary for the making and completing the said road and for the gates, toll-houses and other works thereunto belonging; and in every case in which the owner of such land shall refuse to agree, or shall from any cause be unable or incapable of agreeing to sell, or of selling such land, or shall be an absentee, the value of such land and the amount of damages which may be suffered by reason of any thing which the said Company may do by virtue of this Ordinance shall be ascertained in the manner following, that is to say; one of the Judges of the Court of King's Bench for the District of Montreal, or of the Division of the Court of Common Pleas for the Territorial Division within which such land shall be situate shall, upon the summary petition of the said Company, whereof notice in writing shall be given at least five days previously to the occupier of such land, or if the same be unoccupied, shall be published on two successive Sundays, at the door of the church nearest to such land, appoint three fit and proper persons being proprietors of real property within such District or Territorial Division and not interested in the said road, to be Arbitrators to estimate and settle the value of such land and the amount of the damages aforesaid; which said Arbitrators being first duly sworn before a Judge of one of the said Courts, (who is hereby authorized to administer the necessary oath,) or any two of them, shall on a day to be by them appointed, and of which the occupier of such land if such there be, shall have at least two days notice in writing, shall meet upon such lands and shall then and there estimate as well upon their own view as upon the evidence to be adduced by the parties respectively, the value of such land and the amount of damages suffered as aforesaid if any, and shall with all diligence file their report and award in the premises, in the Office of the Prothonotary of the said Court of King's Bench or of the Division of the Court of Common Pleas sitting in the Territorial Division within which such lands shall be situate; and upon such report and award being so made and filed it shall be lawful for the said Company, after signification and service of a copy thereof upon the occupier of the lands to which the same relates if such occupier there be, and after payment or tender of the sum awarded for such land, or damages, to the owner if he be known and present, or the deposit thereof in the office of the Prothonotary, if such owner be not known, or be absent, for him or to his use, to enter upon and take possession of such land and the same to hold, use and enjoy for all

the purposes of this Ordinance; and all costs and expenses of such arbitration shall be paid by the said company.

XIX. Provided always, and be it further Ordained and Enacted, that any body politic, community, corporation, or other person or persons whomsoever, who cannot in common course of law, sell or alienate any lands or grounds so set out and ascertained, shall receive a fixed annual rent as an equivalent and not a principal sum, to be paid for such lands or grounds; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed by Arbitrators in the manner hereinbefore provided with respect to lands which the Owner shall refuse to agree, or shall from any cause be unable or incapable of agreeing to sell, or of which the owner shall be an absentee.

XX. And be it further Ordained and Enacted, that so soon as the said Road or ten miles thereof shall have been completed, the said company shall give notice thereof to the Board of Works of this Province, or in case the said Board of Works shall not then be in existence, to the Governor of the Province; and the said Board of Works, or if the same be not then in existence, a person to be appointed for that purpose by the Governor, shall view the said Road or the portion thereof described in the notice, and upon the report of the said Board of Works, or of the person to be appointed as aforesaid, to the Governor of the Province, that the said Road or the portion thereof described in the notice, not being less than ten miles, is completed in a workmanlike manner according to the requirements of this Ordinance, it shall be lawful for the said company to erect Turnpike-gates and Toll-houses on the said Road, or portion thereof so reported, not exceeding four in number, at a distance of not less than six miles apart, for the collection of the Tolls by this Ordinance authorized to be exacted and received, one of which such Turnpike-gates and Toll-houses for the collection of toll, may be placed upon the said bridge over the River Yamaska.

XXI. And be it further Ordained and Enacted, that the the said company may demand, exact and receive at each of the said Turnpike-gates and Toll-houses to be established on the said road, and on the said bridge over the river Yamaska, under and by virtue of this Ordinance, from all and every person and persons who shall pass upon or use the said road or bridge, the certain tolls and rates hereby designated and established, that is to say:—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 four 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 four pence half penny currency, and if the same be not loaded the sum of three pence currency; and for every such waggon, wain or cart with wheels, the tires or tracks whereof shall have a breadth less than four and not less than two and a quarter inches, English measure, drawn as aforesaid, if loaded in whole or in part, the sum of five pence currency, and if not loaded the sum of four pence currency; and for every such waggon, wain or cart with wheels, the tire or tracks whereof shall have a breadth less than two and a quarter inches, English measure, drawn as aforesaid, if loaded in whole or in part, the sum of six pence currency, and if not loaded the sum of four pence half penny currency, and for every additional horse or other beast to any such waggon, wain or cart, hereinbefore

mentioned, the further sum of three pence currency; for every coach, stage coach, gig, caleche, dennet, spring-cart, or other wheeled 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 six 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 seven pence half-penny currency; and for every additional horse to such stage coach, gig, caleche, dennet, spring-cart, or other wheel carriage, the further sum of three pence currency; for every sleigh, train, drag, berlin, carriole, or other winter vehicle whatsoever, drawn by one horse or other beast, the sum of three pence currency, and for every additional horse the sum of one penny; for every horse, mare or gelding with a rider, the sum of three pence currency; for every horse, mare, gelding, ass, mule, ox, cow and head of other neat cattle not drawing, the sum of one penny currency; for every score of sheep, lambs, hogs or swine, the sum of three pence currency. Provided always that Her Majesty's mail and persons, animals and carriages employed in the conveyance thereof and not otherwise loaded, Her Majesty's officers and soldiers actually on duty, 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 such 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 provided also 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 taken or demanded at the same Turnpike-gate or Toll-house, for or in respect of the same horse or horses, or other beast or beasts or cattle drawing the same waggon, wain, or cart, coach, gig, caleche, dennet, spring cart, or other wheel 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 or repassing through all or any of the gates along the line of the said road except as hereinafter mentioned.

XXII. Provided also, and be it further Ordained and Enacted, that such exemption from the payment of toll, shall nevertheless not extend to any stage-coach, diligence, van, caravan, stage, waggon, or other stage, carriage or any cart, conveying passengers or goods for pay or reward or to any horse or horses, beast or beasts drawing the same; and if any person 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 and pay any sum not exceeding one pound currency; and in all cases the proof of exemption shall lie upon the person claiming the same.

XXIII. And be it further Ordained and Enacted, that in case the said road or any part of it, or the said bridge over the river Yamaska, shall at any time be out of repair it shall be lawful for any person to make complaint thereof in writing to the District Surveyor, or if there be no

such officer, to any two Justices of the Peace having jurisdiction within the locality in which such part of the said road or the said bridge, so being out of repair may lie, and such District Surveyor or Justices shall thereupon without delay view and examine the part of the said Road or of the said Bridge so complained of, and shall, if such complaint shall be found to be just, give notice in writing to the toll gatherer or gate keeper, nearest to the part of the road so out of repair, or to the toll gatherer or gate keeper of the said bridge as the case may be, to repair the said road or bridge, and in case the same be not repaired within such reasonable time as the said Surveyor or the said trustees may appoint, he or they shall order the two toll-gates nearest to the place so out of repair or the toll-gates on the said bridge as the case may be, to be thrown open and the said toll-gates shall thereupon be kept open and no toll shall be collected thereat until such part of the said road so out of repair or the said bridge shall have been sufficiently repaired and a certificate from the said Surveyor or Justices of the Peace be granted to that effect; and every gate-keeper or toll-gatherer who shall not immediately obey such order to throw open such gates, or who during the time that such gates ought to have been kept open as aforesaid, shall hinder or delay any person passing, or take or demand any toll, shall for each offence forfeit the sum of forty shillings to the party aggrieved, to be recovered with costs in the like manner hereinafter provided. Provided always, that if the District Surveyor or such Justice of the Peace as aforesaid, shall after the part of the said road or bridge so out of repair shall have been sufficiently repaired, refuse to grant a certificate to that effect, or if by reason of their absence application cannot be made to them, the gate keeper of any gate which shall have been so thrown open may apply to any two Justices of the Peace having jurisdiction within the locality in which such gate shall be situate, and such Justices shall thereupon examine into the matter in question, (and may in case the District Surveyor shall have refused such certificate, summon such District Surveyor before them,) and shall if due proof be made of the sufficient repair of the said road or of the said bridge, grant a certificate to that effect, which certificate shall to all intents and purposes have the same effect as the certificate of the District Surveyor, or of the Justices by whose order the gates were thrown open, and may condemn the District Surveyor, if he be found in fault, to pay the costs of such summons and the proceedings thereupon; which costs shall be levied by distress and sale of his goods and chattels under the warrant of the said Justices, or of one of them, if not forthwith paid.

XXIV. And be it further Ordained and Enacted, 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 authorized to collect, shall for every such offence forfeit a sum not exceeding twenty shillings currency, to the person so aggrieved.

XXV. And be it further Ordained and Enacted, that the penalties by this Ordinance imposed upon gate-keepers and toll-gatherers on the said road, shall be recovered with costs by plaint before any one of Her Majesty's Justices of the Peace, having jurisdiction in the locality within which the offence shall have been committed, on the oath of one or more credible witnesses other than the party aggrieved, and may be levied with costs by distress and sale of the offenders goods and chattels, by warrant under the hand of such Justices or

of one of them, and whenever goods and chattels of the defendant cannot be found to satisfy the judgment which may be rendered against him, it shall be satisfied by the said company; and if on demand, payment of the forfeiture and costs awarded by judgment be refused by the said company, the amount thereof may be recovered with costs before any two Justices as aforesaid, in the manner aforesaid, from the said company, and may in like manner be levied by distress and sale of the goods and chattels of the said company, under the warrant of such Justices, or of one of them.

XXVI. And be it further Ordained and Enacted, that if any person shall wilfully hinder or obstruct the laying out, making or completing the said road, or of the said bridge over the river Yamaska, or any other bridge or work hereby authorized to be constructed and performed in the manner and according to the provisions herein contained, or shall cut, break down, destroy, or wilfully injure any turnpike gate, toll-bar, toll-house, embankment, drain or work of any kind whatever erected or made under the authority of this Ordinance, such person so offending shall be guilty of a misdemeanor, and being lawfully convicted thereof before any court of competent jurisdiction, may be punished by fine and imprisonment.

XXVII. And be it further Ordained and Enacted, that any person who shall leave any waggon, cart or other carriage, or shall lay or leave any matter or thing creating any obstruction of any kind in or upon the said road or the ditches or drains thereof, or in or upon the said bridge on the River Yamaska, shall incur a penalty not exceeding twenty shillings currency for each offence; and any person who shall clandestinely or forcibly pass, or attempt to pass, any turnpike gate or toll bar upon the said road, or upon the said bridge, without having first paid the legal toll thereat, such person shall incur a penalty not exceeding forty shillings currency for each offence; And any person who after proceeding upon the said road or bridge, whether in the winter season or any other season, with any carriages animals, or things liable to tolls, shall turn out of the same into any other read or into any field or ground adjoining, so as to evade payment of toll at any turnpike-gate or toll-bar, such person shall for each such offence incur a penalty not exceeding ten shillings currency; and any person, body politic or corporate, occupying or possessing any inclosed lands near the said road, who shall, whether in the winter or at any other season, knowingly permit or suffer any person 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 so offending, and the person so unlawfully avoiding such payment, shall each and severally incur a penalty not exceeding ten shillings currency for each offence; all which said penalties hereby imposed may be sued for, and recovered with costs, on the oath of one competent witness before any two Justices of the Peace having jurisdiction in the locality within which such offence shall have been committed, and such justices may, on conviction, if such penalty be not forthwith paid, commit the offender to the common gaol 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 Her Majesty her heirs and successors for the public uses of this Province; Provided always, that any member, officer or servant of the

Corporation shall be a competent witness on any prosecution for an offence against the provisions of this section if he be not the informer,

XXVIII. 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 imposed by it for such offence, be liable to the party aggrieved for all damages which he may have sustained by reason of such offence.

XXIX. And be it further Ordained and Enacted, that if any person shall consider himself aggrieved by any thing done by any Justice of the Peace in pursuance of this Ordinance, every such person may within four calendar months after the doing thereof, appeal to the Justices of the Peace, at the General Quarter Sessions to be holden in and for the District, or for the Territorial Division within which the judgment appealed from, may have been rendered.

XXX. And be it further Ordained and Enacted, that the said Company in order to entitle themselves to the benefits and advantages to them granted by this Ordinance, shall make and complete the said road in manner aforesaid, within three years from the passing of this Ordinance, and that the book and plan hereby required to be made, shall be completed and deposited within twelvemonths after the passing of this Ordinance.

XXXI. And be it further Ordained and Enacted, that at any time before or after the making and completing of the said road and the said bridge over the river Yamaska, it shall be lawful for Her Majesty, her heirs and successors to assume the possession and property of the same, and of all and every the works and dependencies thereunto belonging, upon paying to the said Company the full amount then actually paid in on their respective shares, or by the said Company expended on the said road, together with such further sum as will amount to twenty per centum upon the monies advanced or paid, as a full indemnification to the said Company, by annual payments of at least twenty per cent, allowing moreover to the said Company six percent interest upon the un-redeemed part of the capital, but not allowing them any interest upon the advance of twenty per cent which is allowed them as aforesaid; and the said road and the said bridge, and all and every the works and dependencies thereunto belonging, shall from the time of such assumption belong to Her Majesty, her heirs and successors, who shall from thenceforward be substituted in the place and stead of the said Company, for all and every the purposes of this Ordinance: but unless Her Majesty, her heirs or successors, shall so assume the property of the said road and bridge, such property shall, if the requirements of this Ordinance shall have been complied with by the said Company, and subject in all cases to the enactments and provisions herein contained, be and remain vested in the said company for the purposes aforesaid for ever, and the said road and bridge, and all the appurtenances thereof, shall be under the exclusive control and management of the said Company, and shall not be subject in any way to the power or control of any Grand Voyer or Road Officer, or of any District Council; any thing in any Act, Ordinance or Law to the contrary notwithstanding.

XXXII. And be it further Ordained and Enacted, that the word “Governor,” whenever it occurs in this Ordinance, shall be held to mean and intend as well the Governor, as the Lieutenant Governor and person administering the Government for the time being and whenever this Ordinance in treating of any person or party, matter or thing, intended to be affected by its provisions, may have used words importing the singular number or the masculine gender only, yet such words shall be understood to include several persons or parties as well as one person or party, and several matters and things as well as one matter and thing, and bodies corporate as well as individuals, and females as well as males, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

XXXIII. And be it further Ordained and Enacted, that this Ordinance shall be taken and deemed to be a public Act, and shall be taken notice of as such by all Judges, Justices and other persons without being specially pleaded.

XXXIV. And be it further Ordained and Enacted, that this Ordinance, and the provisions therein contained, shall not cease or expire on the first day of November, which will be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, and in full force, until the same shall be repealed or altered, by competent Legislative authority.

SYDENHAM.

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-first 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.