

The Provincial Statutes of Lower-Canada, Being the first session of the fourth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1805.

45 George III – Chapter 11

An Act to establish a Toll or Turnpike, for improving and repairing the Road, from the City of Montreal to La Chine, through the wood. (25th March, 1805.)

Whereas a Road from the City of Montreal to La Chine through the Wood, for the convenience of the mercantile transport to and from the Province of Upper Canada in particular, and in general, that of the inhabitants residing beyond the first mentioned place, has been made at a heavy expence, the greater part where of was defrayed by a voluntary subscription; and experience having shewn, that the means already provided by Law, are either insufficient for the further improvement and repairs of the said Road, or if exacted, would in many cases be oppressive, and that the same cannot be effected without permanent pecuniary funds, for the supply of which, nothing can be so equitable and proper, as a Toll upon the Carriages and Horses which may pass through the great thorough fare. May it therefore please Your Majesty that it may be it enacted, and be enacted by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly, of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America,' and to make further provision for the government of the said Province;" and it is hereby enacted by the authority of the same, that it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person administering the Government of this Province, for the time being, to nominate and appoint nine persons, who, with every person who has contributed or who shall contribute Ten Pounds current money of this Province, or upwards towards, improving and repairing the said Road, shall be and are hereby appointed and constituted Trustees, for improving, ordering and keeping in repair the said Road.

II. And be it further enacted that upon the death or resignation of any one or more of the nine persons who shall be appointed, as aforesaid, to act as Trustees, it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person administering the Government, to nominate and appoint in the room of the Trustee, or Trustees so deceased or resigning, some other fit and proper person or persons to be joined with the surviving Trustees, in the execution of all and every the powers and the Trusts in them and the other Trustees, appointed, in Virtue of their said contributions by this Act vested and reposed; and all and every Person or Persons so appointed, in the Room of a Trustee or Trustees so deceased, or resigning, shall have the like power and authority, as if he or they had originally been appointed a Trustee or Trustees for putting this Act in execution.

III. And be it further enacted, that the said Trustees or Survivors of them or any three or more of them, at the first General meeting of the Trustees aforesaid, to be held at the City of Montreal, on the first Monday in May, One Thousand eight Hundred and Five, or at any of their other meetings as herein after authorised, shall and may erect or cause to be erected, a Gate or Turnpike, on or across the said Highway or Road, and may also erect or build, or lease or otherwise agree for a Toll House, at such place as shall be fixed by the said Trustees, or any three or more of them, at a general meeting, and may cause the said Turnpike or the said Toll House to be, from time to time, if need be, taken down, removed or altered as they or any three or more of them, at such meeting, shall judge proper, and may demand, take and receive Tolls and Rates following, before any saddle Horse, Mare or Gelding, or any Wagon, Wain Cart or other such Carriage or any Coach, Chariot, Landau, Chaise, Phaeton, Gig, Calash, Chair or other such wheel Carriage be permitted, (as after mentioned) to pass through the said Gate or Turnpike, this is to say: For every Horse, Mare or Gelding with a Rider, the sum of Four pence currency. For every Waggon, Wain Cart or other such wheel Carriage, (unless the same be exempted in manner after mentioned) drawn by one or two Horses, Oxen or other Beast of draught, if the same be loaded in whole or in part, and if the wheels thereof shall have fellies of the breadth of five inches English measure, (taken from the outside to the outside, of the iron or irons surrounding or shoeing the said fellies, or if not shod, then to be measured across such part of the said fellies as shall be on a line or flat surface,) the sum of Eight Pence currency, or if the fellies shall be of a lesser breadth, when so measured, the sum of Twelve Pence currency: and further for any additional number of Horses or Beasts of draught by which they are drawn, Four Pence currency, each. For every Coach Chariot, Landau, Chaise, Phaeton, Gig, Calash, Chair or other such wheel Carriage drawn by two Horses, Mares or Geldings, the sum of Twelve Pence currency, and further, for any additional number by which they are drawn, Four Pence currency, each. For every wheel Carriage of any such last-mentioned description, drawn by one Horse, Mare or Gelding, the sum of Eight Pence currency. And such Tolls and Rates, printed or written, shall be posted up at each Toll Gate, in such situation and manner as to be distinct and visible to persons passing the same.

IV. Provided always, and it is further enacted, that no Cart or other wheel Carriage of any description, going to market on any Tuesday, Thursday or Friday, along any part of the said Road, with the produce of the farm or ground of the person to whom such Cart or Carriage belongs, nor in returning from the market on any of the said days, with any thing for his or her own proper family use, shall be chargeable with the said Toll or Rate, nor shall any firewood nor any stone, gravel or other materials for repairing of the said Road, nor any dung or other manure for land in whatever carriage the same may be, nor any Horse or Carriage employed in conveying mail or letters, under the authority of his Majesty's Post Office, nor for the Horses or necessary Carriages attending Officers and Soldiers of his Majesty's Forces, whilst upon their march or upon duty, nor Carriages sent with Prisoners of any description, be chargeable, with any Toll or Rate. whatsoever.

V. And be it further enacted, that in case the Trustees or any three or more of them, at a general meeting, shall, after twelve months experience, think it likely to benefit the Tolls and

Rates, (the charges of collection considered,) that more than one Gate or Turnpike should be erected, then and in such case they are hereby authorised to erect the same in the situation or situations that they shall think most fit. Provided always, that no person shall thereby be subjected to the payment of a greater Toll or Rate in the whole between Montreal and La Chine, if going through all the Gates in one day, than by this Act is chargeable, if there shall be but one Gate, and the Regulations in other respects regarding one Gate as hereby established, shall, in like manner, extend to the whole, but the whole Toll shall be payable at the Gate first passed through, and no abatement or return of Tolls shall be made by reasons of not proceeding through more than one Gate.

VI. And be it further enacted, that the money so to be raised and collected as aforesaid, together with the said Gates or Turnpikes, and the Toll Houses, shall be and are hereby vested in the said Trustees, and the said money, and every part thereof, shall be paid and applied to and for the uses and purposes by this Act directed, and it shall and may be lawful to and for the said Trustees, or such person or persons as they or any three or more of them, shall, from time to time, nominate and appoint, to demand and take the Tolls and Rates hereby granted and made payable.

VII. And be it further enacted, that it shall and may be lawful to and for the said Trustees, or any three or more of them, at a general meeting assembled to choose and appoint a fit person or persons to be, Collector or Collectors, and some other fit person to be Treasurer and Clerk to the said Trustees, for receiving the Tolls and Rates granted and made payable by this Act, and also, if need be, a fit person, to be Surveyor and Overseer of the said Road, and from time, to time, to remove the persons so appointed, or any of them, and appoint new ones in case of death or such removal: and all and every person or persons, who is or are or shall be liable by this Act to pay the said Tolls or Rates, is and are hereby required to pay the same unto the said Collector or Collectors so appointed: and the said Collector or Collectors shall, on the first Tuesday of every month or at any other time be appointed by the said Trustees or any three or more of them, as aforesaid, give into their said Treasurer and Clerk, all Monies or Notes or Tickets representing Monies, which he or they shall have received, and verify the same upon oath as if required (which oath and under every other oath required by this Act, any Justice of the Peace for the District of Montreal is hereby authorised to administer,) to be disbursed and laid out in improving and repairing the said Road, and the said Trustees or any three or more of them, as aforesaid, at a general meeting assembled, shall and may, and they are hereby authorised and empowered out of the money arising by the said Tolls or Rates, to make such allowance unto their Treasurer and Clerk, Surveyor and Overseer and Collector or Collectors, for and in consideration of their care and pains in the execution of their said respective offices, as they shall think just and reasonable, but they shall make no charge or allowance for their own trouble therein, and the said Trustees or any three or more of them, may and they are hereby authorised if they shall think fit, to take such security from their Treasurer and Clerk, and from the Collector or Collectors, as they may deem expedient.

VIII. And be it further enacted, that all and every sum and sums of money to be laid out and expended, under the authority of this Act, shall be paid upon the order of the Trustees or any three or more of them, at a general meeting assembled, or upon the order or approval of two or more of such Trustees, as may be appointed, (and which they are hereby authorised, from time to time to appoint,) at such meeting, specially to superintend and direct the improvement and repairs generally agreed upon to be executed, and the said Trustees shall, by their Treasurer and Clerk, keep an exact account of the money received by virtue of this Act, and the application thereof, and all other their proceedings, and shall cause the same to be entered in a book or books, to be kept for that purpose, which book or books every person who has contributed or shall contribute, or who shall lend any monies for the said Road, shall at all reasonable times be at liberty to inspect, without fee or reward, and the said Treasurer and Clerk as often as he shall be thereunto required by three or more Trustees, shall make out and deliver to them at a general meeting, a true and particular account in writing under his hand, of all monies which he shall have received, paid and disbursed by virtue of this Act, and verify the same upon oath, if required, in the manner herein before mentioned in respect to the Collectors.

IX. And be it further enacted, that if any person or persons shall maliciously break down, pull up or otherwise destroy or injure any Turnpike, Gate, Post, Chain, Bar or other Works whatsoever, or any Toll House erected, made or leased for the use of the Turnpike, or abuse or maltreat any Collector or Toll Gatherer, or shall rescue any Person in custody for any such offence, every person so offending in any of the premises, and being thereof convicted, shall not only be condemned to pay the whole damages and expences sustained by the said Trustees by reason of such offence, but shall, also, be imprisoned in the common Gaol of the District, for any time not exceeding two calendar Months, and if any such person or persons shall offend a second time or oftener, and be thereof convicted, he, she, or they shall besides the payment of such damages and expences, be adjudged to be imprisoned in the said common Gaol for three calendar Months.

X. And be it further enacted, that if any person or persons occupying inclosed lands near to any Turnpike or Gate, which shall be erected in pursuance of this Act, shall knowingly and willingly permit or suffer any person or persons to pass through such lands, or through any Gate, Passage or way thereon, with any Coach, Cart or other wheel carriage, or with any Horse, Mare or Gelding, liable to the payment of Toll, whereby such payment shall be avoided, every person so offending, and also the person or persons riding or driving the animal or carriage, whereon such payment is so avoided, being thereof convicted, shall, for every such offence, severally, forfeit and pay to the Trustees, or their Treasurer or Collector, any sum not exceeding Ten Shillings currency.

XI. And be it further enacted, that if any person or persons shall, at any time during the continuance of this Act, after proceeding upon the said Road, with any saddle Horse, Mare or Gelding or any Carriage liable to the payment of Toll, turn out of the same into any other Road, or being upon any other Road, shall enter the said Road beyond a Turnpike Gate, whereby such payment shall be avoided, or shall take off, or cause to be taken off, any Horse

or other Beast of draught from any carriage liable to Toll, at or before the same shall come to any Turnpike Gate erected by virtue of this Act, with an intent to avoid paying any Toll or Rate hereby imposed, or shall put and leave in any House or place, any Horse or Beast of draught or any carriage liable to Toll, with such intent, as aforesaid, every person so offending, shall, for every such offence, forfeit and pay to the said Trustees or to their Treasurer or Collector, a sum not exceeding Ten Shillings currency. Provided always, that any person or persons in any of the cases abovesaid, who shall proceed no further upon the said Road in one day, than the extent of One English Mile, (such Road being considered for the purposes of this Act to commence at and beyond the Bridge over the River Prudhomme near the Recollet Suburbs of the City of Montreal, and to end at the outlet of the said Road to River Saint Lawrence at La Chine,) shall not be adjudged to be liable to toll, unless that he, she or they, shall pass through a Turnpike Gate.

XII. And be it further enacted, that every person having paid Toll for passing through any turnpike Gate erected under this Act, may and shall be permitted to return the same day, before twelve of the Clock at night with the same Carriage, saddle Horse, Mare or Gelding, without again paying Toll for the same. Provided such carriage be not loaded in whole or in part with merchandise or other articles, not exempted from Toll under this Act; but in case the same carriage shall pass with such a new load or any part thereof a second time or oftener, then the Toll, shall each time, be payable in the same manner as the first time; and the Trustees, or any three or more of them, at a general meeting assembled, may make Tickets or Checks under such regulations, as they shall see fit, for prevention of frauds and abuses in the said Tolls or Rates, or compositions, as herein after mentioned, and the Collector and every person receiving such a Ticket or Check, who shall give, lend or dispose of the same to any other person or for any purpose not authorised by the Trustees in their said regulations, and every person, who shall wrongfully and knowingly receive, borrow, purchase or use the same, and every person who, by any false pretext, shall obtain an exemption from any Toll, to which he or she is liable, being thereof convicted, shall, for each offence, respectively, forfeit and pay a sum, not exceeding Twenty Shillings currency.

XIII. And in order to remedy the inconvenience of a want of change or small money for the payment of Tolls, Be it further enacted, that the Trustees, or any three or more of them, may, at a general meeting, agree upon and issue Notes which shall pass and be received as money, in payment of Tolls only, and for no other purpose; and any person or persons who shall with an intent to defraud the Trustees, their Treasurer or Collector, forge or counterfeit the said Notes or the abovementioned Tickets or Checks, or any of them, or who shall pass as a true one, any Note, Ticket or Check, which such person or persons shall know to be forged or counterfeited, shall, upon conviction thereof, before his Majesty's Court of King's Bench for the District of Montreal, forfeit and pay the sum of Twenty Pounds, and in default of payment thereof, upon such conviction, shall be imprisoned for six calendar Months in the common Gaol of the said District.

XIV. And be it further enacted, that no person shall leave any Cart or other Carriage, nor shall lay or leave or cause to be laid or left any matter or thing, creating an obstruction of

any kind or nuisance upon the said Road, or the ditches or drains thereof, and every person so offending, shall, for every such offence, forfeit and pay a sum not exceeding Ten Shillings, besides the expence of removing the same, and in case it shall not appear who laid down or left any such nuisance or obstruction, the possessor or occupier of the ground adjacent to that part of the Road, ditch, or drain on which the same shall be found, shall be deemed and held to have committed the offence.

XV. And be it further enacted, that no person shall break up any part of the said Road, nor conduct water across the same without permission from the superintending Trustees first had and obtained, who are hereby empowered to prescribe the manner of so breaking up or conducting the same, and limit a time for the execution of the work; and no person shall let any water flow into any ditch or drain alongside the said Road, where it did not flow before, nor let any water flow upon the said Road, under the penalty for each offence of a sum not exceeding Ten shillings currency, besides paying the damage which shall have arisen thereby to the road. Provided always, that such permission shall not be refused, when there shall be a reasonable cause for asking the same, and if any difference of opinion shall arise thereupon, or in respect to any other matter, or thing in the said clause contained, the same, shall be decided by the Justices of the week, at Montreal, such not being trustees, otherwise, by two other Justices who shall not be trustees, after hearing the parties.

XVI. And whereas many persons resident within the parish of La Chine, are liable to certain annual labour on the said road, and others within that parish and the parish of Montreal, are by Law, chargeable indefinitely with the repairs of certain parts thereof, and it is equitable and would be convenient, that all such persons should be exonerated from such labour and such repairs, and their services be compounded for money. Be it therefore further enacted, that every person so liable to any specific annual labour upon he said Road, may, on or before the last day of March, in each year, compound for the same, by paying to the Treasurer, and Clerk of the Trustees, the sum of five shillings for each days labour of a horse, cart and driver, and one shilling and eight pence currency, for each days labour of a man, to which he or she is liable; every person who is chargeable indefinitely, with repairs to any part of the said Road, may at the like period, in each year, compound for the same by so paying for each Land or Farm three acres in front, by him or her owned or possessed and liable thereto, the sum of fifteen shillings currency, or compound by agreeing to furnish in lieu of such sum when required by the Trustees, or their overseer, three days labour of a horse, cart and driver, at the option of any such person, but such option to be declared on or before the period above said, and so in proportion, be the Land or Farm of greater or lesser front, or if a village, house and lot, five shillings currency; and every person resident along the Cote Saint Paul, may compound as above said, by paying five shillings for each farm of three acres in front, by him, her or them possessed, and so in proportion and such payments in money or such labour if furnished, shall, respectively, exempt the persons making them for the year, in which the composition shall be so made from all Tolls, and from the labour upon the said Road, other than the said composition labour to which they would otherwise be liable, the labour, however, respecting the Road during the season of winter conveyances, (to which any such persons may be liable by Law excepted;) and every person

who may not be chargeable by Law with repairs to the said Road, but shall be desirous of compounding for the use of the same, in so far as shall respect coaches, chariots, landaus, chaises, phaetons, gigs, calaches, chaise, or other carriages of pleasure, and in respect to saddle horses may compound for the same, by paying as abovesaid, such sum or sums as the said Trustees, or any three or more of them at a general meeting, shall establish as the rule or standard for composition, in such cases: and which sum or sums so paid, shall exempt the persons paying from every Toll and Duty during the like period, which such carriages of pleasure, or such saddle horses, would otherwise be liable to. But in neither of the cases abovesaid, nor in any case whatever, shall any wagon, cart or other carriage, when employed in transporting any merchandise, or other effects for hire, be compounded for, or be capable of composition.

XVII. And whereas the road fund of the City of Montreal, is chargeable with the repairs of that part of the said Road to La Chine, which is situated between the bridge over the River Prudhomme and the bounds of the said City, and the general Road Act, having provided for assistance from that fund, towards the roads upon hills within the parish, assistance therefrom was in consequence given towards the expence incurred upon the hills near the Tannery and at Urtubijc's. Be it therefore further enacted, that from and after the passing of this Act, the road fund of the said City shall be exonerated from the repairs of the said part of the La Chine road, between the said bridge and the City bounds: and also, from the repairs to the said hills, to all which the said Trustees shall become liable, and in consideration thereof, there shall annually be paid during the continuance of this Act, (the first payment whereof to be made out of the said road fund, for the year one thousand eight hundred and five,) by the road Treasurer, of the said City to the Treasurer and Clerk of the said Trustees, the sum of twenty-five pounds currency.

XVIII. And be it further enacted, that it shall and may be lawful for the said Trustees, or any Person or Persons whom any two of the Trustees specially superintending the repairs of the road shall appoint, to search for, dig, gather, take, and from time, to time convey away Gravel, Stones, Sand, or other materials for roads, from any grounds within the parishes, through which the said road passes, or within a neighbouring parish, (not being the ground whereon any house stands or whereby, the foundation thereof can be injured, nor a garden, orchard, nursery of trees, yard or avenue to any house,) where such materials have been in use, to be taken, or are, or may be found, and so much thereof to carry away as shall be necessary for improving and repairing the aforesaid road, paying only for the damage done to the surface of the said grounds, (and for the expences of fencing in the part of same, where the surface is broken, and shall require it) respectively, where and from whence the same shall be dug, gathered or taken away, or over which the same shall be carried, the amount of which damage, shall in the event of disagreement about the same be ascertained by an equal number of Arbitrators to be chosen by the said superintending Trustees, or any two of them, and by the owner or occupier of such grounds; and which Arbitrators shall, if necessary, appoint an Umpire, and the decision of the majority of such Arbitrators, or the decision of such Umpire, (if the Arbitrators be equally divided in opinion,) shall be final, and the Treasurer and Clerk of the Trustees, shall make payment accordingly, and if either the

Trustees, or the owner or occupier of such grounds, shall refuse or neglect to appoint Arbitrators, then the Justices in their next General or Quarter Sessions of the Peace, or in a Special Session, which upon the application of either party may be summoned for the purpose, shall hear and finally determine the amount of the damage, and payment therefor, shall be made accordingly, but such dispute or difference shall not in the mean time hinder the carrying off and using the said materials, towards repairing the said Road.

XIX. Provided nevertheless, and be it further enacted, that it shall not be lawful to dig, gather, take and carry away materials for the said Road, without the consent of the Proprietor or Occupier of the grounds from whence the same are intended to be taken, until five days notice in writing shall have been given to him or her or left with some grown person, at his, or her residence to appear, (at a time and place to be in such notice mentioned,) before two Justices of the Peace acting for the District of Montreal, to shew cause, if any they have, why such materials should not be taken and carried away from such grounds, and the said Justices at the time and place appointed for such appearance, shall, whether the Proprietor or Occupier do attend or not, upon a consideration of the circumstances, make such order therein, as they shall see proper and fit, either for authorizing or refusing such materials to be dug, gathered and carried away; and such order, so made, shall be obeyed.

XX. And be it further enacted, that it shall be lawful to cut and make such drains and ditches, through the grounds lying contiguous to the said Road, (not being within the restrictions before mentioned,) as shall be judged necessary by the Trustees, or any three or more of them, for draining the said Road; and if any part of the said Road already formed, shall be found to be too narrow, the same may be widened: Provided, that no fence thereby removed unless by consent of the Proprietor or Occupier, and any part thereof not yet formed or fenced may be straightened and made of a breadth not exceeding forty English feet; and the necessary bridges in the extent of the said Road, may be made with stone or timber, as shall be judged most adviseable, and ground necessary for building Toll Houses thereon, (if the same cannot be conveniently rented or leased,) may be taken by the order of the Trustees, or any three or more of them, at a general meeting, upon paying such compensation to the Proprietors or Occupiers whose grounds shall be so damaged, by such drains or ditches or be so taken for building such Toll Houses; and the amount of which compensations, shall be ascertained (if the same be not agreed upon between the parties,) in the manner and form herein before directed, in respect to damage done to grounds by digging and carrying away gravel or other Road materials.

XXI. Provided always, and be it further enacted, that where compensation shall have been paid for any such ditches and drains so made, through the grounds of any contiguous Proprietor, then such Proprietor or Occupier of such ground, shall thereafter be obliged to cleanse and keep clean such ditches and drains, so as that the water shall not be stopped or made to restagnate into the Road, but have a free passage therefrom, and in case of neglect or refusal so to cleanse and clear the same, when duly required by an order of the said Trustees, or any two of them appointed, to superintend improvements and repairs to the

Road, then their Surveyor and Overseer shall have power to cleanse and clear the same, and to levy the expence thereof, upon the proprietor or Occupier of such grounds, upon complaint made before any two Justices of the Peace for the District,

XXII. And for the more effectual and speedy improvement and repair of the said Road, Be it further enacted, that it shall and may be lawful to and for the Trustees, or any three or more of them, at a general meeting assembled, and they are hereby authorised and empowered to borrow any sum or sums of any money, not exceeding in the whole Five Hundred Pounds, currency, at an interest not exceeding Six Pounds per centum, per annum; which shall be applied towards making and repairing the said Road, and when the sum or sums, so borrowed, shall be paid off out of the Tolls and Rates, by this Act granted, then the said Trustees, or the like number of them, at another general meeting, are hereby authorised to borrow another sum of money, equal to that by them so paid off, and all and every sum of money so borrowed, shall be entered in a Book to be kept by the Treasurer and Clerk of the said Trustees, and the monies so borrowed, shall, until repayment thereof, with the interest due thereon, be a lien and charge upon the Tolls and Rates aforesaid, preferable to every other charge, excepting the allowances or considerations made to the Treasurer, and Clerk, Collectors, Surveyor and Overseer, and the expences of prosecutions for offences against this Act.

XXIII. And be it further enacted, that any three or more of the said Trustees, at a general meeting assembled, are hereby empowered, after a year's experience, of the collection of the Tolls, to let, by Public Auction, the said Tolls and Rates, if they shall see fit from time to time, during the continuance of this Act, by Lease for any term, not exceeding three years, for the highest Rate or Rates they can get for the same, to such person or persons as shall give such good and sufficient security for payment thereof, as shall be approved of by the Trustees abovementioned. Provided always, that Public Notice of the time and place for such Lease, by Auction, shall previously be given at least twice, in the Montreal News-Paper.

XXIV. And be it further enacted, that the Trustees, at their first general meeting, may fix upon a day and place, for general meetings periodically, afterwards: and extra general meetings for the purpose of this Act, may at any time, when necessary, be called by any two of the Trustees, who, in writing, shall direct the Treasurer and Clerk to give notice of the time and place for such extra-general meeting, by posting up such notice for three days at least, previous thereto, upon one of the Gates leading to the Court House in Montreal; and the said Treasurer and Clerk, when so required in writing, shall give such notice accordingly; and every general meeting assembled, may adjourn to any other day which shall be designated in their resolution of adjournment.

XXV. And be it further enacted, that if at any time before the expiration of this Act, the said Road shall be in such repair, and the funds applicable thereto, be in such productive state as to admit of the Tolls and Rates hereby granted, being diminished, and yet sufficient remain for fulfilling the purposes of this Act, then a diminution thereof, shall be made in such proportions as the said Trustees, or any three or more of them, at a general meeting

assembled, shall determine: and afterwards, if need be, the Tolls and Rates may be augmented, but not so as to exceed the Rates herein before authorised, to be taken.

XXVI. And be it further enacted, that this Act shall not extend not be construed to extend, to oblige the said Trustees, or to render them liable to make or keep in repair the said Road, during the winter, nor to authorise them to demand or receive any Toll or Rate, for a cariole, Train or other winter carriage or conveyance, nor to exempt any person liable by Law to the making and keeping in repair the said Road, in winter, from any labour for that purpose: but the obligations now in force upon every person in respect to the said Road, in winter, shall remain the same, as if this Act had not been made.

XXVII. And be it further enacted, that if it should happen that the improvement and repair of this said Road, at any other time than in winter, should be neglected, it shall be lawful for any person or persons having paid Toll thereon, and finding security to pay costs, if non suited, to prosecute the Trustees, or any two or more of them appointed to superintend the repairs of the said Road, before the Court of King's Bench for the District of Montreal, who are hereby authorised and required to hear and determine the same in a summary manner, without awaiting the course of the Roll, and upon finding the said Road or any part thereof, not to be in proper repair, the said Trustees may and shall be obliged to have the same amended and repaired, in a proper manner, within the space to be limited by the said Court, who shall adjudge full expences of suit to the prosecutor or prosecutors, against such Trustees, who shall pay the same at their own private cost. Provided always, that there shall at the time of the commencement of such prosecution, be funds levied under this Act, remaining undisbursed sufficient for such repair, but if such prosecution shall upon the Trial be found to be vexations and groundless, the prosecutor or prosecutors shall be liable to triple costs.

XXVIII. And be it further enacted, that all the Tolls and Rates, Penalties and Forfeitures, by this Act imposed, shall be paid and taken in the current money of this Province, and the same, (when not otherwise herein before directed,) shall be levied by Seizure and Sale of the Offender's Goods and Chattels, by Warrant, under the Hands and Seals of any two or more Justices of the Peace, for the District of Montreal, upon proof, before them made, of the default by the Oath of one or more credible Witness or Witnesses, other than the Prosecutor; and the person or persons authorised, by such Warrant, to seize such Goods and Chattels, is and are hereby authorised to sell the same, returning the overplus money, (if any there be,) upon demand, to the owner of such Goods and Chattels, after such Tolls, Rates, Penalties and Forfeitures, with the reasonable charges of prosecution, and of seizure and sale, shall be deducted and paid.

XXIX. And be it further enacted, that if any person or persons shall think himself, herself or themselves aggrieved by any order or other proceeding of the said Justices, it shall and may be lawful, for him, her or them to appeal to the Justices at their General or Quarter Sessions of the Peace for the District, first paying or giving security for the amount of the Order or

Judgment complained of, if of a pecuniary nature, who are hereby authorised to hear and finally determine the matter in dispute.

XXX. And be it further enacted, that all persons offending against this Act, may be sued by the Trustees, in the name of their Treasurer and Clerk or of their Collector or Collectors, or if their Surveyor or Overseer, and all monies recovered from persons so offending, shall be paid to the said Treasurer, and shall compose part of the Funds applicable to the purposes of this Act.

XXXI. And be it further enacted that in all cases where actions shall be brought against any person for any thing done in pursuance of this Act, and that the person bringing any such action, shall be non-suited, or shall withdraw the same, every such person shall pay triple costs, and all informations, suits or actions for any thing done in pursuance of this Act, or for any Toll, Rate, Fine, Penalty or Forfeiture thereby imposed, shall be commenced within three Calendar Months after the fact done or committed, and not afterwards.

XXXII. And be it further enacted, that the due application of the monies levied under this Act, according to the purposes thereof, shall, if required, be accounted for, to his Majesty, his Heirs and Successors, through the Lords Commissioners of his Majesty's Treasury, for the time being, in such manner and form, as his Majesty, his Heirs and Successors shall direct.

XXXIII. And be it further enacted, that this Act shall be taken and allowed in all Courts, as a Public Act, and all Judges and Justices are hereby required to take notice thereof, as such, without the same being specially pleaded.

XXXIV. And be it further enacted, that the powers hereby granted, shall take place, from and after this Act shall receive the Royal Assent, and shall continue for and during the term of Twenty One Years, and from thence to the end of the then next Session of the Provincial Parliament, and no longer. Provided always, that the Tolls and Rates hereby granted, shall not be levied until, after a Gate or Turnpike be erected, and notice thereof given, at the Doors of the Parish Churches of Montreal and of La Chine, after Divine Service, on a Sunday.