

Laws of Her Majesty's Province of United Canada, passed in the year 1846. Montreal:
Stewart Derbishire & George Desbarats, 1846.

9 Victoria – Chapter 83

An Act to incorporate certain persons under the name of the Etobicoke and Mono Sixth Line Road Company. 9th June, 1846.

Whereas the inhabitants of the Townships of Albion, the Gore of Toronto, Chinguacousey, Mono and Etobicoke, and the Townships in rear thereof, suffer great inconvenience in bringing the produce of their farms to market, in consequence of the badness of the roads over which they have to travel; And whereas it would tend much to improve the country and to confer great benefits on the inhabitants of those Townships and of that part of the Home District which lies north-west and east thereof, if the road now travelled and known as the Sixth Line Road, commencing at Dundas Street, in the Township of Etobicoke, thence northerly to Mono Mills in the Township of Mono, thence to Lake Huron, were planked or macadamized; And whereas William Gamble and others have petitioned the Legislature to be by Law incorporated for the purpose of effecting the said improvements by means of a Joint Capital Stock: Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That William Gamble, Edward Musson, Thomas Bagwell, W. P. Howland, Thomas Fisher, Thomas B. Philipps and Henry Weir, or any five of them, together with all such other persons as shall become Stockholders in such Joint Capital or Stock as hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, in fact, by the name of The Etobicoke and Mono Sixth Line Road Company, and by such name they and their successors shall and may have continued succession, and by such name shall be capable of contending and being contended with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever, and that they and their successors may and shall have a common, seal, and may change and alter the same at their will and pleasure, and also that they and their successors by the said name of The Etobicoke and Mono Sixth Line Road Company, shall be in law capable of purchasing, having and holding to them and their successors, any estate, real, personal or mixed, and which may be necessary for the use of the said Company, and of letting, conveying or otherwise parting therewith for the benefit and on account of the said Company from time to time as they shall deem necessary or expedient; and shall have full power and authority to macadamize or plank the road or roads mentioned and described in the Preamble to this Act, to erect Toll Gates, and to take Tolls thereon in the manner hereinafter mentioned, when the same shall be completed; and may for the purposes of this Act either use the road now existing between the places aforesaid, or may change or alter the direction or place of the said road or any part thereof, as they shall find most expedient: Provided always, and it is hereby enacted and declared, that so soon as one mile of the said road shall have been

completed, it shall and may be lawful for the Directors of the said Company to put up and erect a Toll Gate thereon, and collect such Tolls as the Directors may think expedient to be levied, and taken of and from persons travelling along the said Road.

II. And be it enacted, That the whole Capital Stock (exclusive of any real estate which the said Company may have or hold by virtue of this Act,) shall not exceed in value the sum of thirty thousand pounds of lawful money of this Province, which said Capital Stock shall be composed of twelve thousand shares of the value of two pounds ten shillings each; and that the said shares of the said Capital Stock shall be transferable, and may be from time to time transferred by the respective persons so subscribing or holding the same to other person or persons: Provided always, that such transfer be entered or registered in a book or books to be kept for that purpose by the said Company.

III. And be it enacted, That within thirty days after the passing of this Act, Books of Subscription shall be opened at the Etobicoke Post Office, Mono Mills, and Woodil's Corner, and at such other places by such person or persons, and under such regulations within the meaning of this Act as the said Petitioners or a majority of them shall by writing direct.

IV. And be it enacted, That the said Books of Subscription shall remain open for subscription for thirty days, during which time no person subscribing shall so subscribe for more than twenty-five shares, but if after the expiration of the said thirty days any Stock should remain not taken up, then it shall be lawful for the said Subscribers or any of them, or any other person or persons to subscribe for any greater or less number of shares, so long as any of the said Stock may remain unsubscribed for.

V. And be it enacted, That all and every the Subscribers for the said Stock or any part thereof, shall, at the time of subscribing, pay a portion of one-third upon the Capital Stock of the whole number of Shares, for which they, or any of them respectively, may subscribe; and that such proportion so paid and deposited at the time of subscription shall be at the disposal of the Directors hereinafter mentioned, to and for the purposes of this Act in manner as hereinafter is directed, and that the residue of the sum or shares of the Subscribers and Stockholders shall be payable by instalments, at such times and in such proportion as a majority of the Directors to be chosen as hereinafter provided, shall agree upon: Provided, that no such instalment shall exceed ten per cent of the Capital Stock, or become payable in less than thirty days after public notice in one or more of the public newspapers published at Toronto.

VI. And be it enacted, That if any Stockholder as aforesaid, shall refuse or neglect to pay at the time required, any such instalment or instalments as shall be lawfully required by the Directors, as due upon any share or shares, then such Stockholder so refusing or neglecting shall forfeit such share or shares as aforesaid, with the amount previously paid thereon, and the said share or shares may be sold by the said Directors, and the sum so arising therefrom, together with the amount previously paid thereon, shall be accounted for and divided in like manner as other monies of the said Company: Provided also, that nothing in this Act shall prevent any Stockholder

from paying up the amount he subscribes for at any time to the Directors, and the same shall be allowed to him by the said Company.

VII. And be it enacted, That as soon as five thousand pounds of the Capital Stock shall have been subscribed, it shall and may be lawful for the Subscribers or the majority of them, upon thirty days' notice, published in one or more of the Toronto newspapers, to call a public meeting at Montgomery's Inn, Etobicoke, for the purpose of proceeding to the election of Directors as hereinafter mentioned, and the persons then and there chosen shall be capable of serving until the first day of January, one thousand eight hundred and forty-seven, and the Directors so chosen shall commence the business of the said Company, and proceed therein until the first subsequent election of Annual Directors as hereinafter mentioned.

VIII. And be it enacted, That the stock, property, affairs and concerns of the said Corporation shall be managed and conducted by five Directors, one of whom to be the President, who shall hold his office for one year; which Directors shall be Stockholders and shall be inhabitants of the Home District, and shall be elected on the first Monday in December in every year, at such time of the day and at such place as the majority of the Directors for the time being, after thirty days' public notice, shall appoint: Provided nevertheless, that the first Board of Directors, to be chosen by the subscribers as aforesaid, shall continue in office until the first day of January, one thousand eight hundred and forty-seven, as in the last section provided, and no longer, unless re-elected.

IX. And be it enacted, That the election of Directors shall be held and made by such Stockholders of the said Company as shall attend at such place as shall be appointed by six Directors, after giving thirty days' notice by advertisement in one or more of the Toronto papers for that purpose, in their own proper persons or by proxy, and shall be determined by ballot, such ballot to be regulated and calculated by the number of votes allowed to such Stockholders according to the number of shares held by them respectively as follows, that is to say: One vote for one share, three votes for five shares, five votes for ten shares, seven votes for fifteen shares, ten votes for twenty shares: Provided always, that the Stockholders so voting shall be possessed of the share or shares in respect of which they shall respectively vote at least three months before the time of election; and that no person, copartnership or body politic shall be entitled to more than one vote for each share at any such election, nor at the determination of any other matter or thing concerning the said Company or its affairs, which may by the provisions of this Act be submitted to the judgment and decision of the Stockholders generally; Provided also that the choice of the Scrutineers hereinafter mentioned and of the President be had as hereinafter expressly directed.

X. And be it enacted, That the Directors to be chosen shall be Stockholders in the said Company, and shall hold to their own use ten shares at least, and that all and every copartnership and copartners, body and bodies politic or corporate, holding any share or shares of the stock of the Company, shall each of them vote only as an individual Stockholder.

XI. And be it enacted, That of the persons as aforesaid nominated and balloted for in the manner as aforesaid, those shall be deemed elected who shall have the greatest number of votes according to the shares held by the voters respectively, as hereinbefore prescribed at each and

every such election of Directors; and at each and every such election on the first day of May in each and every year as aforesaid, after the ballot shall have been kept open from eleven of the clock in the forenoon to two of the clock in the afternoon, the persons having the majority of the votes in manner aforesaid shall, so soon thereafter as convenient on the same day, be declared the Directors chosen for the ensuing year by any two or more Scrutineers who shall have been previously nominated by the Stockholders for the purpose of nomination and report of such ballot; Provided nevertheless, that the Stockholders present at the place of ballot shall in the nomination of Scrutineers vote per capita, and not by shares.

XII. And be it enacted, That the said Directors in the same day and place wherein they shall have been so chosen and declared Directors, shall, after all other persons have retired, choose by plurality of voices one of their number to be President, in which choice the Directors shall vote per capita, and not by shares.

XIII. And be it enacted, That in case of vacancy among the Directors, by death or absence for more than two months from the sittings of the said Board, the remaining Directors shall elect from among the Shareholders one or more persons to fill the said vacancy or vacancies, so as to complete the full number of five Directors provided for by the eighth clause of this Act, who shall be capable of serving until the next annual election.

XIV. And be it enacted, That all questions submitted to or coming before the Board of Directors concerning the affairs of the said Company shall be decided by the majority of voices.

XV. And be it enacted, That the Directors for the time being, or the majority of them, shall have power to make and subscribe such Rules and Regulations, and the same to alter and amend as to them shall appear needful, just and proper, touching the management and disposition of the stock, property, estate and effects of the said Corporation, and touching the duties and conduct of the clerks and servants employed by the said Company, and shall have power to make and subscribe in the name of the said Company all contracts for labour, work, materials, and all matters concerning the construction of the said road, and, after the same be completed, concerning the tolls of the said road, and other matters and things concerning as well the construction of the said road, its charges, tolls, profits, losses, dividends, and revenue whatsoever, such Rules and Regulations not being contrary to this Act nor to the Laws of this Province.

XVI. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company from time to time to order and establish the rates of toll payable by persons travelling upon the said road, and the said Company shall annually, if required, exhibit an account to either or every Branch of the Legislature of the Province, of the tolls so regulated and the amount thereof received, and of the sums expended in keeping the said road in repair, and also such accounts authenticated in such manner and form as the authority so requiring the same may deem satisfactory.

XVII. And be it enacted, That whenever the said tolls shall in the annual receipts exceed in amount a sum sufficient to defray the expenses of maintaining and repairing the said road, and to afford an

annual income to the said Company of six per cent on the capital actually expended in the construction of the said road, from the commencement of its being travelled as aforesaid, then and in such case the increasing surplus revenue of the said tolls shall be laid out and expended by the Directors in continuing the said road to the point of termination before alluded to.

XVIII. And be it enacted, That if any person or persons shall cut, break down or destroy in any way any of the Gates or Toll-houses to be erected by virtue of this Act, every such person so offending and being lawfully convicted, shall be deemed guilty of a misdemeanor, and be punished by fine or imprisonment; and if any person or persons shall remove any earth, stone or timber on the said road, to the damage of the same, or shall forcibly pass or attempt to pass by force any of the Gates without having first paid the legal toll at such Gate, such person or persons shall pay all damages by them committed, and shall forfeit and pay a fine not exceeding five pounds, nor less than five shillings, currency, to be recovered before any Justice of the Peace for the Home District.

XIX. And be it enacted, That the fines and forfeitures authorized to be imposed by, this Act, shall and may be levied and collected by distress and sale of the offender's goods and chattels under the authority of any warrant or warrants for that purpose to be issued by any one of Her Majesty's Justices of the Peace for the Home District, who is hereby authorized and empowered to grant the same.

XX. And be it. enacted, that if any person or persons shall after proceeding on the said road with any carriage or animals liable to pay toll, turn out of the same into any other road, and shall enter the said road beyond any of the said gate or gates without paying toll, or shall in any other manner drive forcibly through or otherwise, whereby such payment shall be evaded, such person or persons shall for every such offence forfeit and pay the sum of five shillings, which said sum shall be expended on the said road, or towards the discharging of any debt or other incumbrances thereon; and any one Justice of the Peace for the Home District shall on conviction of such offender, fine such person in the said penalty, and from his judgment there shall be no appeal.

XXI. And be it enacted, That if any person or persons occupying or possessing any enclosed lands near any Toll-houses or Toll-gates which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands, or through any gate, passage or way thereon, with any carriage, horse, mare, gelding, or other animal liable to the payment of toll, whereby such payment shall be avoided, every person or persons so offending and also the person riding or driving the animal or animals or carriage whereon such payment is avoided, being thereof convicted, shall for every such offence severally forfeit and pay any sum not exceeding two pounds ten shillings, which shall be laid out in improving such road: Provided always, that this section shall not apply to any proprietor or tenant owning or occupying lands adjacent to the said gate, and extending on both sides of it, or his servants passing on either side of the gate through his own premises.

XXII. And be it enacted, That Her Majesty's mail and persons, animals and carriages employed in the conveyance thereof, Her Majesty's officers and soldiers being 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 in such service or returning therefrom, and all recruits marching by route, and all persons, animals and carriages attending funerals on any day in the week, or going to or returning from divine service on the Lord's day, shall pass toll-free through any Turnpike and Toll-gate to be erected under the authority of this Act.

XXIII. And be it enacted, That the Legislature of this Province may at any time whatever, purchase the said entire estate, property and use of the said road from the said Company, paying to the said Company the Capital so as aforesaid actually expended, together with fifteen per cent advance thereupon, to the credit of which payment all revenue exceeding ten per cent upon the bonâ fide expenditure, and over and above the expense of maintaining and repairing the said road, shall be charged and taken, and it is also hereby provided and declared, that if any deficiencies of the said ten per cent annual profits should occur at any time, such deficiencies shall be also chargeable against the increasing revenue of the subsequent years, so that the Company may fairly and actually receive ten per cent profit on their said bonâ fide expenditure for the whole time they shall enjoy the estate, rights and privileges acquired under the authority of this Act.

XXIV. And be it enacted, That the said Company shall have full power and authority, for the purpose of forming and completing the road, to purchase and hold in their corporate capacity such real estate as may be necessary for all the purposes of the said road, and of this Act

XXV. And be it enacted, That the Directors of the said Company for the time being shall have full power to contract, compound, compromise and agree with the owners and occupiers of land through or upon which the said road may most advantageously pass and terminate.

XXVI. And be it enacted, That if in the making of such contract, composition, compromise or agreement, any obstacle should arise between the parties thereto, touching the value of the portion of the land to be bought for the purposes aforesaid, then and in such case it shall and may be lawful for the Directors for the time being from time to time, as they or a majority of them may think fit, to appoint one or more person or persons as Arbitrator or Arbitrators on the part of the said Company, and also for the party or parties disagreeing as to the value as aforesaid, to appoint one or one more person or persons, being an equal number with those chosen by the said Directors as Arbitrator or Arbitrators on his, her or their part; and that the persons so chosen on both sides shall, (having met for that purpose,) choose by ballot one other indifferent person, and the whole number of persons so chosen shall be the Arbitrators between the parties disagreeing; and the said Arbitrators shall be sworn by a Justice of the Peace, justly, impartially and equally as far as in them lies, and to the best of their judgment, to determine the matter to be to them referred.

XXVII. And be it exacted, That if after eight days' notice in writing given to the party so disagreeing as to the value aforesaid, such party, will not nominate or appoint an Arbitrator or Arbitrators as aforesaid, on his part, it shall and may be lawful for the Directors to add to their first nomination as many others (not being Stockholders of the said Company) as and for the Arbitrators of the party

so refusing to nominate for himself, and such added Arbitrators shall have the same power as if named by the party himself, and shall meet and ballot for the additional Arbitrator.

XXVIII. And be it enacted, That the Board of Arbitrators so constituted shall fix a convenient day for hearing the respective parties, and shall give eight days' notice at least of the day and place; and having heard the parties or otherwise examined into the merits of the matter so brought before them, the said Arbitrators or a majority of them shall make their award and arbitrament thereupon in writing, which award or arbitrament shall be final as to the value so in dispute as aforesaid.

XXIX. And be it enacted, That if the party so disagreeing refuse to accept the value of land so ascertained by the Arbitrators as aforesaid, till the end of the second Term in Tier Majesty's Court of Queen's Bench in Canada West next after making the award and tender of the value thereby ascertained, then and in such case the Directors for the time being shall be at liberty, and shall have full power to occupy the piece of land so valued by the said Arbitrators, and to macadamize or plank it in the same manner as other portions of the said road: Provided that the value awarded by such Arbitrators shall be paid within thirty days after such award: Provided also, that nothing in this Act contained shall be construed to authorize the said Company to take or enter upon any land or real estate of any kind belonging to Her Majesty, Her Heirs or Successors, or vested in or held in trust by the Principal Officers of Her Majesty's Ordnance, or any public body, person or party in trust for the use or service of Her Majesty, Her Heirs or Successors, whether; such land or real estate be held in fee simple or for any less estate, during the continuance of such estate; unless the entering upon or taking of such lands or real estate be authorized by the Governor in Council, or by the Commander in Chief of Her Majesty's Forces in this Province.

XXX. And be it enacted, That in any action of ejectment or other action, real, personal or mixed, for or on account of such occupation by the said Company, their servants or agents, or other person or persons using the said road, the said award may be pleaded in bar to such action at any time after the said two terms of the said Court of Queen's Bench, notwithstanding any defect in form or substance in the said award: Provided always, and it is hereby enacted and declared, That it shall and may be lawful to and for the party or parties interested in the land mentioned in the award, or their Agent by the Counsel, at any time within the two next terms as aforesaid, after the same hath been made, and the amount of the value awarded tendered, to move the said Court of Queen's Bench to set aside such award for corruption or any other matter or thing for which awards are now subject to be impugned by law; Provided also, that if the first award be so set aside by the Court, of Queen's Bench, the matter in difference may again be submitted to other Arbitrators, and so on till a satisfactory award be made between the parties.

XXXI. And be it enacted, That in case it should at any time happen that an election of Directors should not be made on the day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make an election in such manner as shall have been regulated by the Rules of the said Corporation to be made for that purpose, such Rules not being contrary to the provisions of this Act.

XXXII. And be it enacted, That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company, as to them or a majority of them shall appear advisable, and once in every three years (and oftener if required by a majority of the votes of the Stockholders at a general meeting to be called for that purpose,) an exact and particular statement shall be rendered of the state of their affairs debts, credits, profits and losses, and such triennial statements shall appear in the books of the Company, and be open to the perusal of any Stockholder upon his reasonable request.

XXXIII. And be it enacted, That in case any individual or individuals shall be desirous of improving, or shall have improved any portion of the said line of road, or shall be desirous of taking Stock in the same, by giving labour or any material applicable for the purpose of the said line of road, the same to be paid for in shares of the Capital Stock of the said Company, then it shall be the duty of the Directors to appoint persons to estimate the value of such work or materials, and in case any obstacle should arise between the parties, touching the value of such labour or material for the purposes aforesaid, then in such case it shall and may be lawful for Arbitrators appointed as in the twenty-sixth section of this Act to decide upon the same, and upon their reporting to the Directors of the said Company the amount of such valuation, the individual or individuals who have furnished labour or materials as aforesaid, shall be entitled to have transferred to them in the books of the said Company as many shares of the Capital Stock as will cover the amount reported of such estimated value of such labour or materials as they may have performed or furnished on the said line of road.

XXXIV. And be it enacted, That it shall be the duty of the said Directors to keep the said road in good repair, and in all cases when any accident or injury occurs to individuals or property from the neglect of the said Directors or their servants, the said Company shall be liable for the full amount of damage sustained, to be recovered summarily on the complaint of any party on proof by not less than two witnesses other than the party aggrieved, before not less than three Justices of the Peace, to be recovered accordingly by the nineteenth section of this Act.

XXXV. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

XXXVI. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially noticed by all Judges and Justices of the Peace, and other persons without being specially pleaded.