

said, and he had no right to recover pecuniary damages. The judgment dismissing the action would, therefore, be confirmed.

A. Germain for plaintiff.

M. Mathieu for defendant.

CIRCUIT COURT.

MONTREAL, July 9, 1879.

HENDERSON v. THE ST. MICHEL ROAD CO.

Turnpike Roads—Manure exempted from Toll.

JOHNSON, J. Action by a farmer of the Cote de la Visitation in the Parish of Montreal, to get back \$8 taken by the defendants without right as toll for passing on their road with carts containing manure. The plaintiff's position is that he comes within the operation of the 7 Vic., c. 14, sec. 1, which is reproduced in the Consolidated Statutes of Canada, cap. 86, sec. 3, and exempts such loads from toll, when taken for the purposes of agriculture from any city into the country parts within 20 miles from it. The plaintiff proves the necessary facts; but the defendants pleaded that they were originally incorporated by an Act of the special council, which authorized them to levy tolls on this road with certain exemptions, not however, extending to loads of manure; and that the 7 Vic., c. 14 was passed in violation of the 46th section of the Act of re-union of the Provinces, which said that all laws in force in either of the Provinces should remain in force, and have the same authority and effect as if the Imperial Act had not been passed, and the 7th Vic. is moreover a violation of the vested rights of the corporation created by the Act of the special Council, and therefore a violation also of Magna Charta, which provides that no freeman shall be dis-seized of his rights except by the judgment of his peers or by the law of the land. Turnpike roads were first established on the Island of Montreal under the authority of the Act of the special Council, 3rd Vic., c. 31, but the Act invoked here is the 4th Vic., c. 22, of the same body, and seems an extension of the system to a particular road under a joint stock company. Still it was a public Act, and passed in the public interest, and it is entitled, "An ordinance for the improvement of a certain part of the road from the City of Montreal to the Cote St. Michel, in the parish of Sault-au Recollet." The Parliament of Canada, after the re-union of

the provinces, was competent to legislate for all public purposes for either of the previous provinces. The end of the first section of the 7th Vic., c. 14, as reproduced in the chap. 86 of the Consolidated Statutes, shows that they intended to legislate in the public interests whether they were confided to trustees, commissioners or companies, and they say by this Act that it is good for the health of the towns, that manure should be carted out of them, and good for the fertility of farms that they should get it, and therefore it is to go free over the roads in whosoever hands the roads may be; and I must give effect to this law. See Potter's Dwaris, pp. 75 to 79 and notes; also Cooley's Constitutional Limitations, pp. 164 to 167. I decline to go into a discussion of the limits of legislative and judicial powers. The authorities and cases cited in the two books I have mentioned make it plain that except where the constitution has imposed limits on the legislative power, it must be considered as practically absolute, whether it operate according to natural justice or not in any particular case. The Act of re-union merely preserved existing laws subject, as they always were, to alteration by competent authority. Judgment for plaintiff.

SUPERIOR COURT.

MONTREAL, July 11, 1879.

Ex parte JODOIN et al. v. THE CORPORATION OF THE VILLAGE OF VARENNES.

Electoral List—Correction.

The petition of Jodoin et al. set forth that Joseph N. A. Archambault, secretary-treasurer of the Village of Varennes, prepared and deposited as required by law, the electoral list of the Village, and gave notice thereof, and gave notice, contrary to Section 21 of the Quebec Electoral Act, that the list was subject to inspection till 7th April, that it was not corrected or amended within thirty days limited by the statute, but that on the 7th April, the council illegally struck out certain names from the list and added others. The demand was that these corrections and amendments should be held for nought, as not having been made within thirty days.

TORRANCE, J. The facts are not disputed, but the Corporation objects that the notice