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No. 98.

1st Session, 7th Parliament, 25 Vic., 1862.

BILL.

An Act to Incorporate the Terrebonne Turnpike Road Company.

Received and read, 1st time, Tuesday, 29th
April, 1862.

Second reading, Friday, 2nd May,
1862.

(Private Bill.)

Hon' Sol. Gen. MORIN.

QUEBEC.

PRINTED FOR THE CONTRACTORS BY
HUNTER, ROSE & LEMIEUX, ST. URSULE ST.

An Act to Incorporate the Terrebonne Turnpike Road Company.

WHEREAS the construction of a Macadamized Road, beginning ^{Preamble.} at the toll bridge belonging to Madame Masson, Widow of the late Honorable Joseph Masson, opposite to the town of Terrebonne and extending to the bridge over the Riviere des Prairies in the parish of St. Vincent des Paul called The Viau Bridge, would greatly improve the means of communication between the City of Montreal and the localities aforesaid, and would contribute materially to the prosperity of the inhabitants along the line of the said road and the welfare of the surrounding country; and whereas Madame Marie Genevieve Sophie Raymond, widow of the late Honorable Joseph Masson, the Rev. Jacques Janvier Vinet, Jean Paul Romuald Masson, Louis Benjamin Durocher, Alexander Maurice Deslisle, Benjamin Henri Lemoine, John Atkinson, Fabien Vinet, Joseph Cyrille Auger, and others have prayed to be incorporated with the powers requisite for making and maintaining such road: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. The said Madame Marie Genevieve Raymond, widow of the late Honorable Joseph Masson, the Reverend Jacques Janvier Vinet, Jean Paul Romuald Masson, Louis Benjamin Durocher, Alexander Maurice Delisle, Benjamin Henri Lemoine, John Atkinson, Fabien Vinet, Joseph Cyrille Auger,

together with such other person or persons, Corporations and Municipalities as shall, under the provisions of this Act, become shareholders in the said Company as hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact, by and under the name of the "Terrebonne Turnpike Road Company."

Certain persons incorporated.

2. The said Company and their servants or agents shall have full power to lay out and construct, make and finish, at their own cost and charge, a macadamized road from Madame Masson's Bridge opposite to the said town of Terrebonne, and extending to the village of the parish of St. Vincent de Paul, passing either by the by road commonly called the "Montée de Madam Masson" along the whole length thereof and by the base road of the Grande Côte in the said parish of St. Vincent de Paul or on the summit, or at the foot of the ridge along the bank of the Riviere des Prairies in which case the macadamized road would pass in rear of all or the greater number of the dwellings and buildings on the line of the said Cote to the village aforesaid, and the said road will then take the place of the said base road; or by following the said "Montée Masson" as far as the quarries of St. Francois de Sales, or the wood near the road, thence toward the base road of the "Cote St.

And empowered to construct a macadamized road.

Francois" thence following the said base road to the "Montée Labelle" (passing in a direct line through the little square (*eguerre*) on the said road) thence passing by the said "Montée Labelle" as far as the summit or base of the said ridge or the present base road of the said Grande Cote in conformity with the provisions above contained, to the village of St. Vincent de Paul, or lastly, following the line of the said base road of the said Cote St. François until the said road would take the direction of Grande Cote or of the Montée St. François passing through the farms. Thence the said road will be continued to the aforesaid Viau Bridge following the line of the present base road of the Cote des Ecores, or taking any direction which shall not in any case remove the road to a distance of more than ten arpents from the said last road. In cases where the said macadanized road is substituted for the existing base road of the said Grande Côte the Company shall not be bound to indemnify the proprietors whose land shall be taken for such new road and any part of the existing road for which the new road is substituted shall become *pleno jure* the property of the owner of the land of which it forms part.

Limitation of
breadth of
land.

3. Provided always, that the breadth of land to be taken by the said Company, without the consent of the proprietor, for the said road, shall not exceed fifty feet, French measure, except that an additional piece of land, not exceeding one hundred and twenty-five feet square, same measure, may be taken by the Company opposite to every toll house or gate and at any other intermediate point on the said Road for depositing the materials required for the completion and maintenance of the said road, and the said Company may also, under the conditions hereinafter established take all the materials that may be required for the completion and maintenance of the said roads and the toll houses thereon.

Power to explore country
between termini, &c.

4. The said Company shall have full power and authority to explore the ground or the country lying between the termini of the said Road, and to designate and establish, take, appropriate, have and hold, to and for the use of them and their successors, the requisite land upon the lines, and within the limits of the said Road, according to the provisions hereinafter contained for acquiring the same; and also to cut, make, and keep in repair upon such adjoining or neighboring land, such ditches, drains and water courses as may be necessary for effectually draining and carrying off the water from the said road, or works, making compensation therefor as hereinafter provided; and for the purposes aforesaid, the said Company and their agents, servants and workmen, are hereby authorised and empowered to enter into and upon the lands and grounds of any person or persons, body or bodies corporate or politic, and to take whatever they may deem proper, all stone, earth, sand and other materials required for the construction and maintenance of the said road, the cost thereof, and of the damages incurred in so doing being established in the manner hereinafter provided, and the said Company are also authorised to make ditches, drains, plats, bridges and other works on the said road, and on the sides thereof; and to include in the said road any portion of any existing highway which they may deem expedient to adopt as part thereof, and in case the said portions of existing highways shall not be thirty-six feet in width, French measure, the proprietors in charge thereof shall be bound when required so to do by the said Company, shall be bound to furnish the width aforesaid; and the said road hereby authorized to be made shall be a public highway, to all intents and purposes of law.

Deeds and

5. All deeds and conveyances for lands to be conveyed to the said

Company for the purposes of this Act may, in so far as the title to the said lands, or the circumstances of such parties making such conveyances shall admit, be made in the form given in the schedule of this Act marked A, in presence of any two or more witnesses; and for the due 5 enregistration thereof, the said Company shall, at their own expense, furnish the Registrar of the county of Laval, with a book or books, having a sufficient number of copies of the said form therein printed, one on each page, leaving the requisite blanks to suit the various cases of conveyance, such book or books being authenticated in 10 the manner in which the ordinary registers of such Registrar are by law required to be authenticated; And such book or books shall by such Registrar be received and kept as, and shall be so many registers of his office; and he shall therein enregister such deeds, upon production thereof and proof of their execution, by the oath of 15 one creditable witness, which oath they are hereby authorized to administer; And he shall certify such enregistration, and the date thereof, on each such deed, and the Company shall pay for such enregistration of and certificate, upon each such deed the sum of *fifty cents*, and no more; and such enregistration shall be to all intents 20 valid in law; and in the absence of the original of any such deed, copies thereof taken from such register, and duly certified by the Registrar having charge thereof, shall be held and treated as authentic copies of such deed; and such Registrar shall be entitled to a fee of *one dollar* and no more for every such certified copy.

25 **6.** The affairs, stock, property and concerns of the said Company shall be managed and conducted by five Directors, to be annually elected according to the provisions of this Act; and upon every such election of Directors, the number of votes that each stockholder shall be entitled to, shall be in proportion to the number of shares he may hold or be 30 possessed of in the said Company, that is to say: one vote for each share, and the first Directors of the said Company shall be the said Jean Paul Romuald Masson, John Atkinson, Alexander Maurice Délisle, Louis Benjamin Durocher, and Fabien Vinet,

who shall 35 hold office as such, until others shall be named as hereinafter provided; and they shall at their first meeting appoint one of their number to open stock books, to make a call upon the shares subscribed therein to call a meeting of the subscribers thereto for the election of other Directors as hereinafter provided, to lay out the said Road, and 40 generally to do all such things as may be necessary and expedient for carrying out the provisions of this Act.

7. The Capital Stock of the said Company shall be the sum of fifteen Thousand Dollars, divided into shares of fifty dollars each with power at any general meeting of the Stockholders of the said 45 Company, to increase the same to forty thousand dollars and shall be raised by the persons and corporations who may become Shareholders in such Stock; and the money so raised shall be applied, in the first place, to the payment and discharge of all fees, expenses and disbursements for procuring the passing of this Act; and for making the surveys, 50 plans and estimates, connected with the said Road, and all the remainder of the said money shall be applied to the making, completing, maintaining and working of the said Road, and to no other purpose whatever; and no money shall be paid out or expended, without the authority previously obtained of a majority of the members of the Board 55 of Directors at some regular meeting thereof; Provided always, that if at

conveyances to be in form of schedule A

Directors to manage affairs of Company. Votes at Elections of Directors.

Capital to be £25,000, and to what purpose to be applied.

Proviso: further sum may be raised by loan if required.

any time after the passing of this Act, the Directors shall be of the opinion that the original Capital subscribed will not be sufficient to complete the said Road, it shall and may be lawful for the said Directors, under a resolution to be passed by them for that purpose, to borrow upon the security of the said Company by mortgage or hypothèque of the said Road and tolls to be collected thereon, a sufficient sum of money to complete the same. 5

Debentures for moneys borrowed to be in form of schedule B.

8. In the borrowing of money by way of loan, the debentures of the said Company may be in the form given in the Schedule of this Act, marked B, or in any other like form, and need not be passed before 10 Notaries; and the enregistration in the manner hereinafter set forth of any such debenture, in the form of the said Schedule, in the Registry Offices for the County of Laval, shall perfect the hypothèque thereby created, and such hypothèque shall rank from the perfection of the registration of such debenture, irrespectively of the issuing 15 thereof; and every such debenture being enregistered and issued, shall be transferable by delivery, and binding to all intents against the said Company and all parties whatsoever, in favor of the bearer thereof, and shall hypothecate in his favor all the lands, buildings and real property, whatsoever of the said Company, and 20 all other the appurtenances thereto belonging.

Registration thereof, &c.

Company to furnish books for enregistration of debentures.

9. The said Company, in case of their requiring the enregistration of any debentures as aforesaid, shall, at their own expense, furnish the said Registrar of the County of Laval with a book or books having a sufficient number of copies of the said form of debenture therein 25 printed, one on each page, leaving the requisite blanks, and without any interest coupons thereto, such book or books authenticated in the manner in which the ordinary registers of such Registrar are by law required to be authenticated; and such book or books shall, by the said Registrar, be received and kept as, and 30 shall be so many registers of the said office; and they shall therein enregister the said debentures upon production thereof; and they shall certify such enregistration and the date thereof, in each such debenture, and for such enregistration, and certificate upon each such 35 debenture, they shall be entitled to a fee of twenty-five cents, and no more.

Fee to Registrar.

Provision as to cancelled debentures.

10. If after such enregistration, any such debenture of the said Company shall be presented at any such Registry Office with the word "cancelled," and the signature to such word added of the President or Secretary of the said Company written across the face thereof, the said 40 Registrar on a receipt of a fee of twenty-five cents in that behalf, and on proof of such signature by the oath of one credible witness, which oath he is hereby authorized to administer, shall forthwith make an entry in the margin of the register against the registry of such debenture, to the effect that the same has been cancelled, adding to such entry 45 the date thereof, and his signature; and thereupon such debenture shall become and be held cancelled, and shall be filed and remain of record in such Registry Office.

First general meeting of shareholders.

11. So soon as one-fourth of the said Capital Stock shall have been 50 subscribed, it shall be lawful for the said Directors, or a majority of them, by public notice to be given at least fifteen days previously, in at least one English and one French newspaper, published in the City of Montreal, to call a first general meeting of the Shareholders at such

time and place as they shall think proper, for the election of five directors, who shall remain in office until their successors are elected as hereinafter provided.

12. The annual general meetings of the said Company shall be held thereafter on the first Monday in the month of May, yearly, or on such other day as shall be appointed by any By-law of the said Company, and at such place and hour as by such By-law shall be appointed; and public notice thereof shall be given at least fifteen days previously in at least one English and one French newspaper, published in the said City of Montreal; and at every such annual general meeting, the said private Stockholders shall elect five Directors of the said Company to hold office until the next annual general meeting.

Holding of subsequent annual meetings.

13. All elections of Directors by the said private Shareholders or by special proxy or proxies representing any absent shareholder or shareholders, who shall be entitled to give as many votes as their principals, on being provided with a procuracy in the form C. annexed to this Act, shall be by ballot; and the five persons having the greatest number of votes at any election shall be declared elected; and if it shall happen that two or more have an equal number of votes, the said private Shareholders and proxies shall proceed to ballot anew until a choice shall be made; and no person shall be qualified to be elected such Director by the said private Shareholder unless he be a Shareholder holding Stock in the said Company to the amount of four hundred dollars, and have paid up all calls due on his Stock.

Elections of Directors to be by ballot.

14. From and after the said first general meeting of the said Company, the five Directors so chosen as aforesaid, shall form the Board of Directors of the said Company; and if any vacancy shall occur among the said Directors by death, resignation or otherwise, the remaining members of the Board shall elect a qualified Shareholder to fill such vacancy until the next annual general meeting of the said Company.

Board of Directors. Filling vacancies, &c.

15. Three members of the Board of Directors of the said Company shall be a quorum thereof, for the transaction of business; and the said Board may employ one or more of their number as paid Director or Directors, and no work shall be done or executed without the previous authorization of the Board.

Quorum.

16. Each share in the said Company shall be fifty dollars, and shall be regarded as personal property, and shall be transferable upon the books of the said Company, in such manner as shall be provided by any By-law to be made by the said Directors in that behalf, and not otherwise, so far as regards the rights of the said Company, nor shall any transfer be made of any share on which any call remains due and unpaid: Provided always, that each Shareholder shall be individually liable to the Creditors of the Company, to an amount equal to the amount unpaid on the Stock held by him, for the debts and liabilities thereof, and until the whole amount of his Stock shall have been paid up; but shall not be liable to an action therefor, before an execution against the Company shall have been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable with costs against such Shareholders.

Shares to be \$50.

Provide: as to liability of shareholder for debts of the Company.

17. The Directors for the time being may make calls of the stock subscribed for, in such manner and at such intervals as may be pro-

Directors may make calls.

Suits for calls not paid.

vided by any By-law of the said Company; and the said Company may in any Court having jurisdiction in matters of simple contract to the amount demanded, sue for, recover and receive of, or from any Stockholder in the said Company, the amount of any call or calls of stock which such Stockholders may neglect to pay, after such notice as shall have been provided by the By-laws of the Company; and in any such action it shall be sufficient to allege that the defendant is a Stockholder of the Company; and that a call or calls were made upon such stock in the manner required by the By-laws and were not paid, and to prove by any one witness, whether in the service of the Company or not, such facts as will support the said allegations, without alleging or proving the election or appointment of the Directors or any other special matter, and without naming such Directors in the declaration or other proceeding in the case.

Shares may be sold for non-payment of calls.

18. If any call be made by the Directors upon the Stockholders, in the manner provided by the By-laws of the Company, shall not be paid in when due, the Directors, instead of suing for the same, may by resolution to that effect, sell the shares on which such calls are due and unpaid, and transfer the same to the purchaser as the owner thereof might have done, and after deducting all calls due, interests and costs of sale, they shall pay over the remainder of the proceeds of the sale to the owner of the shares sold.

Bodies politic &c., may sell lands to Company.

19. It shall and may be lawful for all bodies politic, corporate or collegiate, corporations aggregate or sole communities, *grévés de substitution*, guardians, curators, executors, administrators, and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons or parties who are or shall be seized, possessed of, or interested in any lands or grounds which the said Company may require for the purposes of the said road; to contract for, sell and convey unto the said Company, all or any part of such lands or grounds so required by the Company for such purposes; and all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever, any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; all bodies politic, corporate or collegiate, or communities, and all persons whatsoever, so conveying as aforesaid, are hereby indemnified for what he, she or they, or any of them, shall respectively do by virtue of or in pursuance of this Act.

Corporation that could not sell without this Act shall agree upon a fixed rent.

20. Any body politic, community, corporation, or other party or parties whomsoever, who cannot in common course of law sell or alienate any lands or grounds so required by the said Company for the purposes of this Act, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so required by the said Company for the said road; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed, and all proceedings shall in that case be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained and to be paid by the said Company for the purchase of any lands, or for any part of the purchase money of any land which the vendor shall agree to leave in the hands of the said Company, and the said road and other works appertaining thereto, and

the tolls levied and collected on the said road, shall be and are hereby made liable and chargeable in preference to all other claims and demands thereon whatsoever, the deed creating such charge and liability being duly registered.

5 **21.** Whenever there shall be more than one party proprietor of any land or property *par indivis*, any agreement made in good faith between the said Company and any party or parties proprietor, or being together proprietors of one-third or more of such land or property, as to the amount of compensation for the same or for any damages thereto, 10 shall be binding as between the remaining proprietor or proprietors *par indivis* and the Company; and the proprietor or proprietors who have so agreed may deliver possession of such land or property to the said Company, or empower them to enter upon the same, as the case may be.

Agreements with the proprietors *par indivis*.

15 **22.** For the purpose of this Act the said Company shall cause a map or plan to be drawn up of the route of the said road and of the lands through which it is intended to pass; which said map or plan shall be deposited in the office of the Secretary of the Company.

Map or plan be drawn up and deposited.

20 **23.** So soon as the map or plan shall have been deposited as aforesaid, and notice of its being so deposited shall have been given during at least one calendar month, in both languages, in at least one newspaper published in the locality nearest to that through which the said road is intended to pass, it shall be lawful for the said Company to apply to the several owners or parties hereby empowered, to sell or convey the lands through which their road is intended to 25 be carried, or which may suffer damage from the making or constructing of such road, or the exercise of any of the powers granted to the said Company by this Act, and to agree with such owners or parties respectively, touching the compensation to be paid to them by the said Company for the purchase thereof, and for the respective damages, 30 and to make such agreements and contracts with the said parties touching the said lands or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained as to such parties and the said Company shall seem expedient; and in case of disagreement between the said Company and the 35 said owners or parties, or any of them, then all questions which shall arise between them and the said Company, shall be settled as follows, that is to say:

The company to apply to owners of lands touching compensation.

40 The deposit of the map or plan and the notice of such deposit given as aforesaid, shall be deemed a general notice to all parties of the lands which will be required for the said Road.

Legal effect of map and book of reference.

The Company shall serve a notice upon the opposite party, containing a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, (describing them) a declaration that the Company are ready to pay some certain sum (or rent, as the 45 case may be,) as compensation for such lands or for the damages arising from the exercise of such powers; and the name of a person whom they appoint as their arbitrator, if their offer be not accepted; and in making the estimate for such compensation to be awarded for such lands or the damages arising from the exercise of such powers, the arbitrator of the 50 Company as also the arbitrators hereinafter mentioned, shall take into consideration and allow for the benefit to accrue to the party to whom compensation is to be made, from the said road, and in any case wherein the

Notice to opposite party.

said Company shall have given and served the notice aforesaid, it shall be lawful for the said Company to desist from such notice, and afterwards to give new notice with regard to the same or other lands, to the same or any other party; but the said Company shall in any such case be liable to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment; and no change of ownership after the said Company shall have given and served the notice aforesaid shall affect the proceedings, but the party notified shall be still deemed the owner, except as to the payment of the sum awarded:

As to absence of opposite party.

If the opposite party be absent from the district in which the land is situate, (if the notice relate to the taking of land) or from the district in which the power sought to be exercised, is to be exercised, or to be unknown to the said Company, then upon a petition addressed to any one of the Judges of the Superior Court in the said district, accompanied by an affidavit of some officer of the said Company that such opposite party is so absent, and that after diligent inquiry the party on whom the notice ought to be served cannot be ascertained, such Judge shall order a notice as aforesaid (but without the certificate) to be inserted at least three times during one calendar month in the Canada Gazette and in such newspaper as may be named by such Judge, and in either or both languages in the discretion of such Judge;

As to non-acceptance by party of company's offer, &c.

If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the said Company that he accepts the sum offered by the said Company, or notify to them the name of a person whom he appoints as arbitrator, then any such Judge may, on the application of the said Company, appoint some sworn surveyor or other competent person as sole arbitrator for determining the compensation to be paid by the said Company.

Opposite party appointing an arbitrator.

If the opposite party shall within the time aforesaid notify to the said Company the name of the person such party shall appoint as arbitrator, then the two arbitrators shall jointly appoint a third, or if they cannot agree upon a third (of which fact the allegation of either of them shall be evidence) then any such Judge shall on the application of the said party or of the said Company (previous notice of at least one clear day having been given to the arbitrator of the other party) appoint a third arbitrator:

Duties of arbitrators.

The said arbitrators or sole arbitrator being sworn before a Justice of the Peace, who is hereby empowered and required to administer such oath faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company, in such way as he or they or a majority of them shall deem best, and the award of such arbitrators or any two of them shall be final and conclusive; provided that no such award shall be made, or any official act done by such majority, except at a meeting held at a time and place of which the other arbitrator shall have had at least one clear day's notice, or to which some meeting at which the third arbitrator was present shall have been adjourned; but no notice to the Company or opposite party shall be necessary, but they shall be held sufficiently notified through the arbitrator they shall have appointed or whose appointment they shall have required.

Provided always, that the award given by the said arbitrators shall never be for a less sum than that offered by the Company as aforesaid; and if in any one case where arbitrators shall have been appointed, the sum awarded be not greater than that offered by the Company, the cost of the arbitration shall be borne by the opposite party and deducted from the compensation, otherwise they shall be borne by the Company; and in either case they may, if not agreed upon, be taxed by any such Justice of the Peace :

Costs, how paid.

The arbitrators or a majority of them may, in their discretion, examine on oath or solemn affirmation, the parties or such witnesses as shall voluntarily appear before him or them, and may administer such oath or affirmation, but this shall not prevent the arbitrators from acting and deciding upon their personal knowledge of the merits of the case, or from using such knowledge as they shall think just and right; and any wilfully false statement made by any witness, under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly ;

Arbitrator to have powers examine witnesses on oath.

The Judge by whom any third arbitrator or sole arbitrator shall be appointed, shall, at the same time, fix a day on or before which the award shall be made, and if the same be not made on or before such day or some other day to which the time for making it shall have been prolonged, either by the consent of the parties or by the order of any such or Judge, (as it may be for reasonable cause shown, on the application of one of the arbitrators, after one clear day's notice to the others) then the sum offered by the Company as aforesaid shall be the compensation to be paid by them ;

Time within which award must be made.

If the arbitrator appointed by the said Company, or by the opposite party, or any third arbitrator, whether appointed by the two arbitrators or by any such Judge shall die, or be or become disqualified or unable to act, then, on proof thereof to the satisfaction of any such Judge, such Judge shall authorize the Company, or the opposite party, or the two arbitrators, to appoint another person in the place of him who shall be so deceased, disqualified or unable to act, or shall himself appoint another person as third arbitrator as the case may require, but no recommencement or repetition of any prior proceeding shall be necessary ;

Arbitrator dying, &c.

The Company may desist from any such notice as aforesaid, and afterwards give notice with regard to the same or other lands, to the same or to any other party ; but they shall in any such case be liable to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment.

Company may desist payment.

It shall be no disqualification to the person offered as valuator or as arbitrator that he be employed by the Company or by the opposite party, or that he have previously expressed an opinion as to the amount of compensation, or that he be related or of kin to any member of the Company, provided he be not himself personally interested in the amount of such compensation ; and no cause of disqualification shall be urged against any arbitrator appointed by any such Judge after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Judge, and no cause of disqualification shall be urged against any arbitrator appointed by the Company, or by the opposite party after the appointment of a third

Arbitrators not disqualified by certain circumstances.

arbitrator, and the validity or invalidity of any cause of disqualification urged against any such arbitrator, before the appointment of a third arbitrator, shall be summarily determined by any such Judge on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified shall be held to have appointed no arbitrator; 5

Award not avoided by want of form.

No award as aforesaid, shall be invalidated by any want of form or other technical objection, if the requirements of this Act shall have been complied with, and if the award shall state clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the party or parties to whom the sum is to be paid be named in the award. 10

Possession may be taken on payment, tender or deposit of sum awarded.

24. Upon payment or legal tender of the compensation or annual rent so awarded or determined or agreed upon by the parties themselves as aforesaid, to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award shall vest in the said Company the power forthwith to take possession of the lands, or to receive the right or to do the thing for which such compensation or annual rent shall have been awarded; and if any resistance or forcible opposition shall be made by any person or party to their so doing, and such Justice of the Peace may, on proof to his satisfaction that the requirements of this Act have been complied with, issue his warrant to any Sheriff or to any Bailiff or other proper person, to put the said Company in possession and to put down such resistance or opposition, which such Sheriff or Bailiff or other proper person, taking with him sufficient assistance, shall accordingly do the whole at the costs of the proprietor refusing to yield such possession. 15 20 25

As to incumbrances, &c., upon lands purchased or taken.

25. The compensation awarded as aforesaid, or agreed upon by the said Company, and any party who might under this Act, validly convey the lands, or then in lawful possession, thereof as proprietor for any lands which might be lawfully taken under this Act, without the consent of the proprietor, shall stand in the stead of such land, and any claim to or mortgage, hypothec or incumbrance upon the said land or any portion thereof, shall as against the Company, be converted into a claim to the said compensation, or to a like proportion thereof, and if the amount of such compensation exceed eighty dollars they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party: Provided always, that if the Company shall have reason to fear any such claims, mortgages, hypothecs or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof, is payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the Superior Court in the District of Montreal, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the reward if there be no conveyance, (and such award shall thereafter be deemed to be the title of the said Company to the land therein mentioned), and proceedings shall thereupon be had for the confirmation of 30 35 40 45 50

Proviso: how the Company may free the land from incumbrances.

the title of the said Company, in like manner as in other cases of confirmation of title, except that in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company (that is the conveyance or award) under this Act, and shall call upon 5 all persons entitled to, or to any part of the lands, or representing, or being the husbands of any parties so entitled, to file their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall forever bar all claims to the lands or 10 any part thereof, (including dower not yet open) as well as all mortgages, hypothecs or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for securing of the rights of all parties interested as to right and justice, according to the provisions of this Act and to law 15 shall appertain; and the costs of the said proceedings or any part thereof, shall be paid by the said Company or by any other party, as the Court shall deem it equitable to order; and if judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interests to be returned to the Company, and if from 20 any error, fault or neglect of the Company, it shall not be obtained until the six months are expired, the Court shall order the Company to pay to the proper party the interest for such further period as may be right; Provided always, that if the amount of the said compensation do not exceed eighty dollars, the same may be paid by the Company to 25 the party in whose possession as proprietor the land was at the time the Company took possession thereof, or to any person who may lawfully receive money due to such party, and proof of such payment and the award shall be a sufficient title to the said Company, and shall forever discharge them from all claims of any other party to such compensation 30 or any part thereof, saving always the recourse of such other party against the party who shall have received such compensation.

Proviso: if the compensation do not exceed \$80.

26. In case the time limited for the completion of the said road as hereinafter provided expires before the completion thereof, the Company 35 shall forfeit their rights as regards the portion of the road not so completed, but shall retain intact its rights as regards all the portion made.

27. It shall be lawful for the Directors of the said Company to elect 40 one of their number to be the President, and to appoint such and so many officers and servants as they shall deem necessary for performing the duties required of them by the said Company, and in their discretion to take security from them or any of them for the due performance of his or their duty, and that he or they shall duly account for all moneys 45 coming into his or their hands to the use of the said Company; and it shall be lawful for the said Directors to make such By-laws as they shall deem expedient for the good government of the Company; such By-laws not to be inconsistent with the provisions of the present Act, and the same to alter, amend or repeal as they may deem necessary. Election of President, &c.

28. It shall be lawful for the President and Directors of the said 50 Company, from time to time, to fix, regulate and receive the tolls and charges to be received from all persons passing and repassing with horses, carts, carriages and other vehicles, and for cattle driven upon, over and along the said road; Provided, always, that so soon as one or 55 more miles of the said road shall have been completed, tolls may be taken therefor. Proviso.

Tolls not to exceed certain rates.

29. The tolls hereby authorized to be levied by the said Company upon the said road, shall not for each time of passing, whether loaded or otherwise, exceed the rate of one penny half penny per mile (reckoning from the gate at which the toll is to be paid to the next gate in the direction in which the vehicle or animal on which it is to be paid may have come), for any vehicle drawn by two horses or other cattle, and for any vehicle drawn by more than two horses or other cattle, one half penny per mile for every additional one; for every vehicle drawn by one horse or other beast of burthen, one penny per mile; for each sheep or head of swine, one farthing per mile; and for every horse without its rider, and for every ox or cow, or other head of horned cattle, one half penny per mile, for every horse and rider one half penny per mile; and it shall be lawful for the said Company to compound with any persons at such reasonable rates as shall be mutually determined.

Annual returns to the Legislature.

30. It shall be the duty of the Directors of the said Company to report annually to the Legislature within the first fifteen days of each Session, under the oath of the Treasurer of the said Company, after the opening of the said roads or any part thereof to the public, the cost of the said road, the amount of all money expended, the amount of their Capital Stock, and how much is paid in; the whole amount of stock expended on the said road, the amount received during the year for tolls, and from all other sources, stating each separately; the amount of dividends paid, and the amount expended for repairs, and the amount of debts due by the said Company, specifying the object for which such debts respectively were incurred; and the said Company shall also keep regular books of account in which shall be entered a correct statement of the assets, receipts and disbursements of the said Company, which shall at all times be open to the inspection and examination of any person or persons who may for that purpose be appointed by the Government.

Road, &c., vested in the Company.

31. The said road and all the materials which shall from time to time be got or provided for constructing, building, maintaining or repairing the same, and all toll-houses, gates and other buildings constructed or acquired by and at the expense of the said Company acting under the provisions of this Act and used for their benefit and convenience, shall be vested in the said Company and their successors; the said Company shall have full power and authority to erect such number of toll-gates or side-bars, in, along or across the said road, and fix such tolls not exceeding the rates aforesaid, to be collected at each gate or bar, as they may deem fit and expedient, (which tolls may be altered from time to time as circumstances may require,) and to erect and maintain such toll-houses, toll-gates and other buildings and erections as may seem necessary and convenient for the due management of the said road: Provided always, that no toll shall be exacted for merely crossing the said roads.

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Road to be completed within a given time.

32. The said Company shall be bound to complete the said roads beginning at Madame Masson's Bridge and extending to the Viau Bridge in the said parish of St. Vincent de Paul, within five years from the day of the passing of this Act, in default whereof, this Act and every matter and thing therein contained shall cease and be utterly null and void.

Penalties for injuring or obstructing the Road, and works of the Company.

33. If any person or persons shall in any way injure, cut, break down or destroy any part of the said road as aforesaid, or any toll-gate or toll-house, building or other erection, in, upon or near the said road, and belonging to or used for the convenience of the said Company, under the

provisions of this Act, every such person so offending, and being lawfully convicted thereof, shall be deemed guilty of a misdemeanor, and shall be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone, plank, timber or other materials used or intended to be used in or upon the said road, for the construction, maintenance or repair thereof, shall drive any loaded wheel carriage or other loaded vehicle upon that part of any of the said road lying between the stones, plank and hard road and the ditch, further than may be necessary in passing any other vehicle or in turning off or upon the said roads, or shall cause any injury or damage to be done to the posts, rails or fences, or shall haul or draw, or caused to be hauled or drawn, upon any part of the said road, any timber, stone or other thing which shall be carried principally or in part upon wheeled carriages or sleighs, so as to drag or trail upon the said roads to the prejudice thereof, or if any person shall leave any waggon, cart or other carriage whatever upon the said roads without some proper person in the sole custody or care thereof longer than may be necessary to load and unload the same, except in case of accident, and in cases of accident for any longer time than may be necessary to remove the same, or shall lay any timber, stones, rubbish or other thing whatever upon the said roads to the prejudice, interruption and danger or any person travelling thereon, or if any person shall, after having blockaded or stopped any cart, waggon or other carriage in going up a hill or rising ground, cause to suffer or suffer to lie and remain on the said roads, any stone or other thing with which such cart or carriage shall have been blockaded or stopped, or if any person shall pull down, damage, injure or destroy any lamp or lamp posts, put up, erected or placed in or near the said road or toll-houses erected thereon, or shall wilfully extinguish the light of any such lamp, or if any person shall wilfully pull down, break, injure or damage any table of tolls, put up or fixed at any toll-gate or bar on any part of the said road, or shall wilfully or designedly deface or obliterate any of the letters, figures or marks thereon, or on any finger post or any mile post or stone; or if any person shall throw any earth, rubbish or other matter or thing into any drain, culvert or other water course made for draining the said roads, or if any person shall without permission, carry away any stones, gravel, sand or other materials, dirt or soil from any part of the said road, or dig any holes or ditches on the allowance for the same, or shall forcibly pass or attempt to pass by force any of the toll-gates set up by the said Company, without having first paid the toll fixed by the Directors of the said Company to be received at any such gate, such person shall, upon conviction thereof, in a summary way before any Justice of the Peace in or near the place where the injury shall have been done, be sentenced to pay all damages sustained by the said Company, to be ascertained by the said Justice upon the hearing of the said complaint, and also to pay a fine of not more than ten dollars nor less than one dollar; and in default of payment thereof the offender shall be committed to the Common Gaol of the District where such offence shall have been committed, for any time not exceeding one month.

Recovery of penalty and damages.

34. The fines and forfeitures authorized to be summarily 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 of distress for that purpose, to be issued by the Justice before whom the conviction shall have been had; and in case there shall be no goods or chattels to satisfy such warrants, such offender or offenders shall and may be committed to the Common Gaol of the District for any period not exceeding one month.

Fines may be levied by distress.

Penalty for evading tolls

35. If any person or persons shall, after proceeding on the said road with any waggon, carriage or other vehicle, or animal liable to pay toll, turn off the said road into any other road, and shall enter the said road beyond any of the said gate or gates without paying toll, whereby such payment shall be evaded, such person or persons shall, for every such offence, forfeit and pay a fine not exceeding five nor less than two dollars, which said sum shall be expended on the said road or towards the discharge of any debt due by the Company; and any Justice of the Peace for the District in which such part of the said road is situate, shall, on conviction of such offender, fine such offender in the said penalty.

Penalty for allowing persons to pass throughlands to evade tolls.

36. If any person or persons occupying or possessing any enclosed land near any toll-house or toll-gates which shall be erected in pursuance of this Act, and any person who opens or permits to be opened and maintained at any time any road affording egress to the public by a bye-road so constructed as to permit the evasion of the payment of toll on the said turnpike road at any distance less than two miles from either side of the said turnpike road, 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 or animal liable to the payment of toll, whereby such payment shall be evaded, every person or persons leading or driving any animal or carriage whereon such payment is evaded, being thereof convicted before any one Justice as aforesaid, shall, for every such offence, severally incur a penalty not exceeding twenty dollars, which shall be laid out in improving the said roads, and it shall not be lawful for any person whomsoever to open or suffer to be opened any road whatsoever opposed to the interests of the said Company, under a penalty not exceeding one hundred dollars, and not less than twenty dollars for each contravention and for each and every day such road shall remain open against the person or persons contravening this section and against those who shall make use of such roads.

Municipalities may acquire roads.

37. It shall be lawful for any Municipal Body corporate having jurisdiction within the locality through which the said road shall pass, to acquire, accept and hold, and to depart with and transfer stock in the said Company, and from time to time to direct the Mayor or other chief officer thereof, on behalf of such Municipality, to subscribe for such stock in the name of such Municipality, and to act for and on behalf of such Municipality in all matters relative to such stock, and the exercise of the rights of such Municipality as a Stockholder, and may vote and act as such, subject always to such rules and orders in relation to his authority as shall be made in that behalf by such Municipality by their By-laws or otherwise, but acting according to his discretion in cases not provided for by such Municipality; and it shall be lawful for such Municipality to pay for or to pay all instalments upon the stock they shall subscribe for and acquire out of any moneys belonging to such Municipality, and not specially appropriated to any other purpose, and to apply the moneys arising from the dividends or profits on the said stock or from the sale thereof, to any purpose to which unappropriated moneys belonging to such Municipality may lawfully be applied; Provided always, that no stock shall be subscribed for, acquired, accepted, and held, or departed with and transferred under this section by any Municipality unless, nor until a By-law to that effect shall have been approved by a majority of the qualified Electors of such Municipality in the manner and after the formalities required for the approval of By-laws by the Municipal Loan Fund Acts now in force in

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Lower Canada; and provided also, that when, and so long as any Municipality shall hold Stock in the said Company to the extent of fifty shares or more, the Mayor or chief officer for the time being of such Municipality shall be *ex officio* a Director of such Company, in addition
 5 to the seven Directors hereinbefore mentioned; but in that case such Mayor or chief officer shall not vote on behalf of such Municipality at any Election of Directors of such Company.

38. It shall be lawful for any Municipality or County through which the said road passes at any time within one year from the passing of this
 10 Act, to acquire from the said Company all the rights and privileges vested in them by virtue of this Act, and to become the proprietor of the said turnpike road which shall then be constructed upon payment by the said Municipality or County to the said Company of the value of the same road and the materials intended for the construction of the
 15 same, together with the costs incurred in obtaining this Act and the further sum of twenty per cent as indemnification, but in such case the Municipality shall give to the said Company good and sufficient sureties or guarantees that they will construct the said road as provided by this Act within the time prescribed, and that they will maintain them in
 20 good repair.

39. It shall be lawful for the Company to place certain parts of the said road with the view of their being kept in order and repair, under the control of the local Municipalities of the Counties in which they are situated either altogether or partly during the winter season and partly
 25 during the summer season, and the said road shall then be either altogether or only for the period of the year during which they shall have been so placed under the control of the said Municipalities maintained by the persons who, under any *procès-verbal* made or to be made by the said Municipalities, and which they are hereby obliged to make, are or
 30 shall be bound to keep them in repair, and no tolls shall be paid to the said Company in respect of such road or any parts of it which may be so placed for maintenance and repair under the control of the said Municipalities, but the said road and works so placed or any part of them may be reassumed by the Company, and tolls collected thereon,
 35 and they may be otherwise disposed of as though they had never been relinquished, provided always that in no case shall such road or works or any part thereof cease to be the property of the said Company.

40. The said Company may on or before the first day of December in each year, take down, or cause to be taken down by the proprietors;
 40 to a height of twenty-four inches from the ground, leaving the pickets only above that height, all the fences along the line of the said toll road, excepting only within the limits of the villages and in places where the fences are distant at least twenty-five feet from the boundaries of the said road, or where hedges have been grown, or fences so
 45 constructed, that they cannot be taken down without great expense, and fences so taken down shall not be again set up before the first day of April in the year following.

41. The said Company may lay out winter roads on or through any
 50 fields or enclosures adjoining the said roads, excepting however all orchards, gardens or yards or lots of land enclosed by hedges or fences, which cannot be taken down or replaced without great difficulty and expense, across which, the said roads shall not be laid out without the consent of the occupant.

Municipalities may loan money.

42. It shall also be lawful for the Municipality of any locality through which the said road shall pass, to loan money to the said Company out of any moneys belonging to the Municipality, and not appropriated to any other purpose, and to effect such loan upon such terms and conditions as may be agreed upon between the said Company and the Municipality making such loan, and to recover the money so loaned and to appropriate the money so recovered to the purposes of such Municipality. 5

Religious Communities may hold stock and loan money.

43. It shall be lawful for any community or Corporation to hold stock in the said Company, or to lend money to the said Company, any Act or law to the contrary notwithstanding, and to appoint a person or persons to vote for such Community or Corporation upon the shares so held, or to exercise any of its other rights as a member of the Corporation in such a manner as such community or Corporation and the Company may agree upon. 15

Her Majesty may purchase the Road after 21 years.

44. After fifty years from the time of completing the said road, it shall and may be lawful for Her Majesty to purchase the stock of the said Company at the current value thereof at the time of purchase, (to be ascertained by arbitrators to be appointed and to act in the manner hereinafter provided in other cases, if the Company and the Governor cannot agree upon such value.) and to hold the same for the use and benefit of the Province; and the Governor in Council shall thenceforth stand in the place and stead of the said Company, and shall possess all such powers and authority as the said Company shall have theretofore possessed and exercised. 20 25

Stockholders, servants, &c., competent witnesses.

45. In any action or suit brought by or against the said Company upon any contract or for any matter or thing whatever, any stockholder or any officer or servant of the Company shall be competent as a witness, and his testimony shall not be deemed inadmissible on the ground of the interest or of his being such servant or officer. 30

Limitation of actions.

46. If any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards (if the party offending shall be known), and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial. 35

How answers to interrogatories, &c., served on the Company may be given.

47. In case of the service upon the said Company of any writ of *saisie-arrêt*, or the said Company being required to answer to *interrogatoires sur faits et articles*, or to take the *serment décisoire* or *supplémentaire*, it shall be competent to any officer of the said Company, being thereto duly authorized by vote or resolution of the Directors thereof, to appear and make declaration to such writ or answers to such interrogatories, or take such oath, as the case may be, for the said Company; and such declaration, answers or oath, as the case may be, shall be taken as the declaration, answers or oath of the said Company, to all intents whatever; and the production and filing in Court by such officer, of a copy of such vote or resolution, certified by the Secretary of the said Company under its common seal, shall be conclusive evidence of his authorization, as in and by such copy set forth; and in case of any execution issuing against the said Company, whereupon the said road may be seized, the same may be sold at the Sheriff's office of the District within which any portion of the said road may be situated. 40 45 50

48. All persons, horses or carriages, going to or attending or returning from any funeral, or any person with horse or carriage going to or returning from Divine Service on the Lord's Day, or on any *fête d'obligation*, shall pass the gates on the said road free of toll; provided it be within the limits of the Parish in which he resides; and all persons in the naval or military service of Her Majesty, or in the militia of this Province, wearing their uniform and being on actual duty travelling, on the said road in discharge of such duty, with their horses and carriages, and all horses, carts, carriages or waggons in charge of any such persons, conveying any naval, military or militia stores belonging to Her Majesty, in the course of transport from one place to another in Her Majesty's service, and also all vehicles carrying manure and returning therefrom, shall pass the gates set up across the said road free of toll. Exemptions from toll.
49. Nothing in this Act contained shall be construed to entitle the proprietor of land along the line of their road passing any of their gates in going to and fro between parts of the said farm or between two or more farms belonging to such proprietor, nor to oblige such proprietor to pay tolls for the same or make him liable to any penalty for evading payment of tolls under such circumstances. Exemption in favor of persons going from one part of a farm to another, &c.
50. Whenever the said road shall intersect a road constructed by any other chartered Company, no higher rate of toll shall be demanded from the persons travelling along the said last mentioned road, for the distance travelled between such intersection and either of its termini, than the rate per mile charged by the said Company for travelling along the entire length of their road so intersected. As to roads intersected by this road.
51. After the said road shall have been completed and tolls been taken thereon, it shall be the duty of the said Company to keep the same in good and sufficient repair, and in case the said road by the said Company be allowed to fall into decay and get out of repair, the said Company may be indicted in any Court of Superior Jurisdiction, within the District where the said road shall be so put out of repair as aforesaid; and upon conviction, the Court before whom the prosecution shall be had, shall direct the said Company to make the necessary repairs, for the want whereof such prosecution shall have been commenced, within such time as such Court shall seem reasonable; and in default of such repairs being made in the manner and within the time prescribed by such judgment, the said Company shall be subject to a fine not exceeding four dollars for each offence, which said penalty shall belong to the Municipality. Road to be kept in repair. Penalty in case of default.
52. The said Company shall have power to become a party to promissory notes and bills of exchange for sums not less than one hundred dollars; and any such promissory note made and endorsed; and any such bill of exchange drawn, accepted or endorsed by the President of the said Company, and countersigned by the Secretary and Treasurer thereof, under authority of a quorum of the Directors, shall be binding upon the said Company; and every such promissory note or bill of exchange, so made, drawn, accepted or endorsed by the President of the said Company, and countersigned by the Secretary and Treasurer thereof, shall be presumed to have been properly so made, drawn, accepted or endorsed, as the case may be, unless the contrary be shown; and it shall not be necessary to have the seal of the said Company affixed to such promissory note or bill of exchange; nor shall the officers of the

Proviso. said Company, signing or countersigning the same, or such acceptance or endorsement thereof, be thereby subjected individually to any liability whatever; Provided always, that nothing herein contained shall be held to authorize the said Company to issue any note or bill payable to bearer or intended to be circulated as money or as the notes of a Bank. 5

53. The turnpike gate-keepers shall be special constables, and shall be invested with all the powers attached to that office on taking the oath of office before a Justice of the Peace.

54. The said Company shall only be responsible for the maintenance of bridges on the said roads, and not for any damages resulting from 10 water courses which shall not have been made by the said Company, nor for any accidents that may occur beyond the part of the road macadamized.

Public Act. **55.** This Act shall be a Public Act, and shall be judicially taken notice of as such. 15

SCHEDULE A.

Know all men by these presents, that I, (or we, as the case may be,) A. B., of _____ in consideration of _____ paid to me by the _____ the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell, convey and confirm unto the said Company, their successors and assigns for ever, all that tract or parcel (or those tracts or parcels, as the case may be,) of land situate, (here describe the lands,) the same having been selected and laid out by the said Company for the purposes of their Road; to have and to hold the said lands and premises, with all appurtenances thereto, to the said _____ their successors and assigns for ever, (here add clause for release of dower, if any.)

Witness my hand and seal, (or our hands and seals, as the case may be,) this _____ day of _____ in the year of our Lord, one thousand eight hundred and _____

Signed, sealed and delivered in } A. B. [L. S.]
presence of _____ }
L. M.
N. O.

