

No. 184.

2nd Session, 7th Parliament, 26th Victoria, 1863.

BILL.

An Act to provide for the erection of a Toll-Gate on the Road called Chemin La Rocque, and to fix the rates of Toll to be taken on the said Road.

PRIVATE BILL.

Received and read, first time, Tuesday, 17th
March, 1863.

Second reading, Wednesday, 18th April,
1863.

Mr. DENIS.

QUEBEC.

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An Act to authorize the Municipal Council of the Parish of Ste. Cécile, to fix certain rates of toll, and to construct two toll-gates on a Macadamized road in the said parish.

- WHEREAS** the macadamizing of the road commencing at the rear of the lots of the fourth concession of Catherineton and extending to the rear of those of the fourth concession in the Parish of Ste. Cécile, County of Beauharnois, greatly improves the means of communication between the Counties of Huntington, Beauharnois and the City of Montreal, by way of the Grand Trunk Railway, or by the Steamers, and contributes to the material welfare of the inhabitants of the aforesaid Counties; and whereas in order to macadamize the said road, the Municipal Council of the Parish of Ste. Cécile has been compelled to effect a loan of ten thousand dollars on the credit of the Lower Canada Consolidated Municipal Loan Fund; and whereas, without the erection of toll-gates thereon, the said Council will be unable to pay to the Government of this Province the interest of the said loan; and whereas the Mayor of the said Parish and others, rate-payers of the said parish, have prayed that an Act may be passed authorizing the Corporation of the said parish to construct the said toll-gates, and it is desirable to grant the said prayer: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:
- 1.** The Corporation of the said Parish of Ste. Cécile shall have the entire control of the affairs of the said road as a Municipal property, shall enjoy the rights and privileges usually granted to turnpike road companies, shall be subject to all the duties and obligations of such companies and shall be known in law, for all the purposes of the said macadamized road, under the name and style of "the Corporation of the Parish of Ste. Cécile."
- 2.** The said Corporation shall have full power and authority to explore the ground or the country lying between the termini of the said road, and to cut, make and keep in repair, upon the adjoining or neighbouring land, such ditches, drains and water courses as may be necessary for effectually draining and carrying off the water from the said road or other works, and to take, wherever they may deem proper, all stone, earth, sand and other materials required for the maintenance of the said road, the cost thereof and of the damages incurred in so doing, being established in accordance with the Lower Canada Consolidated Municipal Act. And for the purposes aforesaid, the said Corporation and other agents, servants and workmen, are hereby authorized and empowered to enter into and upon the lands of any person or persons, body or bodies corporate or politic.
- 3.** Any person or persons, body or bodies, corporate or politic, holding lands adjacent to the said road and desirous of entering thereupon, shall be held and bound to make and maintain at their own costs and expense one or more bridges in front of their respective properties, across the ditches, drains and water courses on either side of the said road.

Preamble.

Corporation
to have control
of Road.Powers of
Corporation.Bridges over
side ditches.

Rates of toll limited.

4. The rates of toll which the said Corporation is authorized to levy on the said road, in virtue of this Act, shall not exceed *two and one half cents* per mile, for each vehicle drawn by two horses or other beasts of burden, for each time such vehicle shall pass over the said road, whether laden or not; and for each vehicle drawn by more than two horses or other beasts of burthen, *one cent* per mile, for every additional beast of burden; for each vehicle drawn by one horse or other beast of burden, *two cents* per mile; for each sheep or head of swine, *one half of a cent* per mile; for each horse without its rider, and for each ox, cow or other head of horned cattle, *one cent* per mile; for each horse and rider, *one cent* per mile; and the said Corporation may compound with any persons for such reasonable rates as shall be mutually determined, and the said Corporation may also reduce the aforesaid rates of toll.

Road, &c., vested in the Company.

5. The said road and all the materials which shall from time to time be got or provided for maintaining or repairing the same, and all toll-houses, gates and other buildings constructed or acquired by and at the expense of the said Corporation acting under the provisions of this Act and used for their benefit and convenience, shall be vested in the said Corporation and their successors; the said Corporation shall have full power and authority to erect such number of toll-gates or side-bars, in, along or across the said road, and to 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.

Toll-gates and tolls.

Proviso.

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

6. 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 Corporation 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 road, or shall haul or draw, or cause 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 road to the prejudice thereof, or if any person shall leave any waggon, cart or other carriage whatever upon the said road 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 of 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 or suffer to lie and remain on the said road, 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 there-

on, 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 said Corporation 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 Corporation 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.

7. 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 warrant, 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.

8. 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, or, in any other way, evade payment of such toll, such person or persons shall, for every such offence, forfeit and pay a fine not less than *five* nor more than *ten* dollars, which said sum shall be expended on the said road or towards the discharge of any debt due by the Corporation; and any Justice of the Peace for the District in which the said road is situate, shall on conviction of such offender, fine such offender in the said penalty, and such penalty shall be levied in the manner aforesaid.

Penalty for evading tolls.

9. 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, or any person opens or permits to be opened and maintained at any time any road affording egress to the public by a by-road so constructed as to permit the evasion of the payment of toll on the said turnpike road, at any distance less than three 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 road, and it shall not be lawful for any person whomsoever to open or suffer

Penalty for allowing persons to pass through lands to evade tolls.

to be opened any road whatsoever opposed to the interests of the said Corporation, 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, recoverable as aforesaid. 5

Corporation may relinquish the road.

10. It shall be lawful for the said Corporation to relinquish the said road, for the winter season or for the summer season, or for one or several years, to be maintained and repaired by the persons who, under any *procès verbal* made or to be made, are or shall be bound to maintain and repair it; and no toll shall be paid to the Corporation on the said road so long as it shall be relinquished as aforesaid, but the said road so relinquished may be reassumed by the said Corporation, and tolls collected thereon and it may be otherwise disposed of by the said Corporation as though it had never been relinquished. 15

Corporation may take down fences in winter.

11. The said Corporation may on or before the first day of December in each year, take down, or cause to be taken down by the proprietors, 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 road, excepting only 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 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.

Winter roads.

12. The said Company may lay out winter roads on or through any fields or enclosures adjoining the said road, excepting however all orchards, gardens or yards or lots of land enclosed by hedges or fences, which cannot be taken or replaced without great difficulty and expense, across which, the said road shall not be laid out without the consent of the occupant. 30

Servants, &c. competent witnesses.

13. If any action or suit shall be brought by or against the said Corporation upon any contract or for any matter or thing whatever, any officer or servant of the Corporation shall be competent as a witness, and his testimony shall not be deemed inadmissible on the ground of interest or of his being such servant or officer. 35

Limitation of action.

14. 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. 40

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

15. In case of the service upon the said Corporation 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 Corporation being thereto duly authorized by vote or resolution of the Council 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 Corporation; and such declaration, answers or oath, as the case may be, shall be taken as the declaration, answers or oath of the said Corporation, 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 50

the said Corporation 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 Corporation, whereupon the said road may be seized, the same may be sold at the Sheriff's office of 5 the District within which the said road is situated.

16. All persons with 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; 10 provided it be without the limits of the Parish in which they reside; 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 15 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 tolls:

20 17. Nothing in this Act contained shall be construed to entitle the said Corporation to demand toll for the horses, cattle or vehicles of any 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. Exemption in favor of certain persons.

18. The turnpike gate-keepers shall be special constables, and shall 25 be invested with all the powers attached to that office on taking the oath of office before a Justice of the Peace. Gatekeepers to be constables.

19. The said Corporation shall only be responsible for the maintenance of bridges on the said road, and not for any damages resulting from water courses which shall not have been made by the said Corporation, 30 nor for any accidents that may occur beyond the part of the road macadamized. Liability for accidents.

20. No appeal shall lie from any judgment rendered in virtue of this Act, nor shall any writ of *certiorari* be issued in respect thereof. No appeal, &c

21. This Act shall be deemed a Public Act.

Public Act.