

No. 13.

4th Session, 3rd Parliament, 14 Victoria, 1851.

BILL.

The Lower Canada Road Act.

Received and read first time, Monday, 26th May,
1851.

Second reading, Tuesday, 3rd June, 1851.

[500 Copies.]

Hon. Atty. Genl. LAFONTAINE.

S. Dorbishire and G. Desbarats, Queen's Printer.

BILL.

The Lower Canada Road Act.

WHEREAS it is necessary to amend the Road Laws of Lower Canada, and to adapt them to the Municipal Institutions of that portion of the Province :—Be it therefore enacted, &c. Preamble.

SECTION I.

1. Every road or thoroughfare for carriages which shall have been declared a Public Highway by any *Procès-Verbal*, By-law or Order of any *Grand-Voyer*, Commissioner, District Council or Municipal Council, legally made, and in force when this Act shall commence, shall be held to be a Public Highway within the meaning of this Act, or of any other Act concerning the municipal system of Lower Canada, unless and until it be otherwise ordered by competent authority. What shall be deemed roads within the meaning of this act.

2. And any such road or thoroughfare openly used as such by the Public, without contestation of their right, during a period of ten years or upwards, shall be held to have been legally declared a Public Highway by some competent authority as aforesaid. Roads publicly used.

3. The word "Road" in this Act, or any such Act as aforesaid, shall mean a Public Highway and include all Bridges upon it, and all ditches and other works therewith connected, unless it be otherwise expressed or the context be inconsistent with such interpretation. Word "road" interpreted.

4. This Act shall not apply to roads or bridges under the control of the Commissioners of Public Works, unless and until the same shall be relinquished to the Municipal Authorities; nor to Roads in possession of any private party or Company under any Act or By-law. Act not to apply to certain roads.

5. But whenever any road or bridge theretofore under the control of the Commissioners of Public Works, or of any Trustees or other like authority, or of any incorporated Company or private party, shall cease to be under such control, such road or bridge shall thereupon be vested in the Municipality or Municipalities, in which it lies as public road, and shall be maintained and dealt with under the provisions of this Act. Proviso.

SECTION II.

1. Roads are distinguished into Front Roads and By-Roads; Front roads are those whose general course is across the lots in any Range or Concession, and which do not lead from one Range or Concession to another in front or rear thereof, in the same Parish or Township, or in another. Front roads and by-roads defined.

2. By-roads (*routes*) are those whose general course is lengthwise of the lots in any Range or Concession, or which lead from one Range or Concession to another in front or rear thereof in the same in Parish or Township or in another, or to a Banal Mill; and all other roads not being front roads. By-roads.

Roads between
two conces-
sions.

3. A front road passing between two Ranges or Concessions is the front road of both, unless one of them has another front road, in which case it is the front road of the other.

Front road of
a lot.

4. That part of the front road of any Range or Concession, which is upon or in front of any Lot, is the Front Road of such Lot.

SECTION III.

By whom roads
are to be made
and maintained
when it is not
otherwise orde-
red by any
"procès ver-
bal," etc.

1. If there be no valid *Procès-Verbal* or By-law, or order, provid-
ing otherwise, then—

Front roads.

2. The Front Road of any Lot or Lots, is to be made and kept
in repair by the occupant thereof, and if there be two or more
occupants then by them jointly and severally, saving their recourse
against each other: But the occupant of any Lot shall not be bound
to make or repair more than one Front Road on the breadth of such
Lot, unless such lot be more than thirty arpents, in depth; and if
there be more than one front road on any Lot not exceeding that
depth, and it be not regulated as aforesaid, which of them shall be
made and maintained by the occupant thereof, then the Inspector of
Roads for the division shall, on the application of such occupant,
declare which of such Front Roads shall be made and maintained
by him, and the other or others shall be made and maintained as a
By-Road.

Fords and
large bridges.

3. But every Ford and every Bridge exceeding eight feet in span,
(hereinafter called "Public Bridges") shall be made and maintained
by all the occupants of Lots in the Parish or Township, on the Front
Road upon which they are situate.

By-roads.

4. By-roads and the fences on one side thereof, shall be made and
maintained by the occupants of Lots in the Concession to which they
lead from a front or older Concession:

Fences.

5. The fences on the other side of any By Road shall be made and
maintained by the occupants of the lots between which it runs, but if
it runs wholly on one lot then the whole of the fences shall be made
and maintained by the parties bound to make or maintain the road,
and in like proportions.

Roads to mills.

6. Except that a By-road leading to a Banal Mill, and the fences
on one side thereof, (or on both as the case may be) shall be made
and maintained by the occupant of such Mill.

Ungranted
lands.

7. Front roads on ungranted Lands of the Crown shall be made
and maintained as By Roads.

Streets.

8. Streets in Towns and Villages shall be deemed roads and made
and maintained accordingly, unless the Municipal authorities thereof
shall provide for their being made and maintained in some other way.

Onus of proof.

9. The burden of proving that any road is not subject to the fore-
going provisions, shall always be upon the party claiming exemption,
from them.

SECTION IV.

How far the
seignior shall
be liable for
unconceded

1. The Seignior shall be deemed the owner and occupant of all
unconceded lands in his Seignior, the tenure whereof shall have
been commuted; and also of all lands commuted or uncommuted,
cultivated by or for him, or held by him as part of his Domain or

otherwise than for the purpose of immediately conceding the same when demanded, and shall be liable as such owner and occupant as well under this Act, and for all the purposes thereof, as for all Municipal purposes whatever.

lands for the purposes of this act.

2. All lands commonly called wild lands, bush lands, or *terres en bois debout*, or other uncultivated or unworked lands in the possession of the Seigneur, and not held by him as part of his Domain, shall be held to be unconceded lands within the meaning of this Act.

Unconceded lands, what—.

3. The Seigneur shall, for the purposes of this Act, be deemed the occupant of all unconceded lands in his Seigniorie the tenure whereof shall not have been commuted, and shall be bound to make and maintain the front roads upon them, and to contribute his share towards the making and maintaining of the By-roads and Public Bridges by which such unconceded lands are benefitted, and shall be chargeable with statute labour in respect of them, in like manner as the occupants thereof would be if such lands were conceded; and such unconceded lands shall be valued by the Valuers of the Municipality, but shall not be liable to be taxed for Municipal purposes except as provided by this Act.

Seigneur deemed occupant of them.

4. Provided always, that the Seigneur shall not be liable under this Act as the occupant of any lot of unconceded and uncommuted land, from the time when he shall have given notice in writing to the *Grand-Voyer*, that he is willing that such lot should be sold and the proceeds applied as hereinafter mentioned, in which case such lot shall be sold by the *Grand-Voyer* or some person by him thereunto authorized, to the highest and best bidder, and the proceeds shall be received by the *Grand-Voyer*, and applied under his orders, in aid of the Seigneur towards making and maintaining the roads which the Seigneur is bound to make, or maintain on or in respect of unconceded lands; and any lot so sold shall be conveyed by the *Grand-Voyer* to the purchaser, and shall thereafter be held *à titre de cens* at the rate of one *sous* of *cens* per annum, and subject to no other Seigniorial right or charge, except such only as are by law inseparable from the tenure *à cens*, and as if conceded by the Seigneur to the purchaser at such rate and on such condition only.

Seigneur may abandon any such land.

5. The sale of any such lot of land shall be made by the *Grand-Voyer* or the person acting for him, by public auction, after notice given by the *Grand-Voyer* during at least _____ in the manner by law provided with regard to the notice to be given by the *Grand-Voyer* of his visit to examine the place where it is proposed to open a new road; and if the party to whom any lot shall be adjudged shall not forthwith pay the amount of his purchase money, the lot shall be put again and resold immediately.

Sale of land so abandoned.

6. If a road upon or in front of any unconceded land in a Seigniorie, would be a front road if such land were conceded, then it shall be deemed a front road while such land is unconceded, otherwise it shall be deemed a by-road; and if any question shall arise whether any such road is or is not a front road, recourse shall be had for the decision thereof, to the plan of the Seigniorie filed in the office of the *Grand-Voyer* for Municipal purposes, and if there be no plan so filed, or if it do not contain such information as will decide the question, then the *Grand-Voyer* shall decide it, as he may think most consistent with the intent of this Act.

What shall be front or by-roads on unconceded lands.

SECTION V.

" Procès-verbaux," &c., now in force to remain in force until altered.

1. Every *Procès-Verbal*, By-law or order touching any road or bridge in force at the commencement of this Act, shall remain in full force until it be repealed or altered by competent authority.

2. Any apportionment of any work among the parties jointly bound to perform the same, legally made and in force at the commencement of this Act, shall remain in force until altered under this Act, or until the time for which it was made shall expire. 5

How they may be altered.

3. Any such *Procès-Verbal*, By-law, or order as aforesaid, may be annulled, repealed or altered by a *Procès-Verbal* made under the authority of this Act, and assented to by not less than two thirds of 10 the Members of the proper Council for the time being. But no *Procès-Verbal* hereafter made shall discharge any Inhabitants of any Parish or Township from their obligation to perform any work in another, unless it be homologated by the County Council.

Repeal, &c., of "procès-verbal."

Special provision
Certain "procès-verbaux" to be altered only by county council.

4. Nor shall any such *Procès-Verbal* discharge any Inhabitants of 15 any County from their obligation to perform work in another County, unless it be a *Procès-Verbal* of the County in which the work is to be performed. But hereafter no occupant of a lot in one County shall be made liable to work in respect of such lot in another County; except on some road of common interest to two or more Counties, on which 20 by a *Procès-Verbal* homologated by the Council of Delegates he may be bound to work, or unless such road be the Front Road of his lot.

SECTION VI.

What rules shall be followed in determining in any new "procès-verbal," by what parties the work mentioned in it shall be done.

1. In any new *Procès-Verbal* the general rules hereinbefore established with regard to cases where there is no *Procès-Verbal* shall be followed, that is to say: the occupants of lots shall be liable to make 25 and maintain the Front Roads thereof to the extent and in the manner mentioned in the said rules, and the Fords, Public Bridges and By-Roads shall be made and maintained by the occupants of lots who from the position of such lots shall be interested therein, of all which the authority making or revising such *procès-verbal* shall be the 30 judge.

Particulars in "procès-verbal"

2. The *Procès-Verbal* shall determine—the position and description of the road, bridge or thing to which it relates,—the work to be done and (if requisite) the time within which it is to be completed,—the lands by the occupants of which it is to be done, and if the occupants 35 of any of such lands are more interested than the occupants of others of them, then the proportion of the work to be done by each,—distinguishing also what part of the contributions shall be in money and what part in work or materials, and to what Officers and where any such contribution in money must be paid or the materials delivered, 40 (and in the last case when they are to be paid or delivered,) and under the superintendence of what Officers the work or any portion thereof is to be done,—and all other particulars necessary for ascertaining fully and clearly what is to be done, by whom, when and in what manner.

Value of lots to be regarded.

3. In fixing the share of work, materials or money to be contributed 45 by the occupants of the several lots in any local division regard shall be had to the value of such lots, and the buildings and improvements thereon, and not to their mere extent, such value being taken

from the Assessment Roll (if any) in force when the *Procès-Verbal* is made, or if there be none, then according to the estimate of the *Grand-Voyer*; but the share so fixed shall not be affected by any subsequent valuation, unless the *Procès-Verbal* be altered.

5 4. When the nature of the work shall allow it, the portion of the road which is to be made by the occupant of each lot respectively, shall be defined and described in the *Procès-Verbal*, that it may be afterwards marked out by the proper Road Officer on the ground. Dividing the road.

10 5. Whenever it shall appear to the *Grand-Voyer* or Council, that by reason of the nature of the ground over which the front road of any lot passes, or by reason of the oblique direction in which it passes in crossing the breadth thereof, or from other circumstances, the quantity of work to be done by the occupant of such lot, would exceed by more than one half the average quantity of work on the front roads of 15 other lots of like value in the same Concession, they may by any *procès-verbal* relieve the occupant of such lot from making or maintaining a certain described portion of such front road, and order that the same be made by joint labour and contribution as in the case of a By-road or Public Bridge. Relief of parties having an unusually difficult front road.

20 6. Any *Procès-Verbal* made under this Act may be repealed, altered, amended or (explained) at any time by another subsequently made in like manner, and assented to by such majority of the proper Council as aforesaid. How "procès-verbaux" under this act may be attend, &c.

25 7. The work necessary for keeping in repair By-roads and Roads to be made as such and Public Bridges, shall not be done by the labour of the parties bound to maintain the same, but by contribution in money; and the Inspector of Roads for the Division shall, after public notice given during at least one week, give out such work in the month of October for the ensuing winter, that is from the of to 30 the of , and in the month of March for the ensuing Summer, that is from the of to the of , to the lowest bidder who shall give satisfactory security for the proper performance of the work; and the sum required to pay for such work shall be paid by the parties liable therefor, in the proportions fixed by 35 the *procès-verbal*, By-law, Order or other Document in force in that behalf. Certain joint labour to be given out by contract.

SECTION VII.

1. In addition to the road work and contribution to which the occupant of any lot may be liable as aforesaid, he shall, in proportion to the value at which such lot shall be assessed, be liable yearly to a 40 certain number of days' statute labour on the roads; that is to say: if such lot be assessed.

Statute labour imposed on certain parties.

At not over £100, to one day's labour, and to one additional day's labour for every £100 of additional value reckoning any fraction of a hundred pounds as a hundred pounds. Rates.

45 2. And every male inhabitant between the age of 21 and 60 and not otherwise liable to statute labour, shall be liable to one days labour. Parties not assessed.

3. But no officer on full pay, nor any soldier on actual service shall be liable to statute labour, except in respect of some land owned or occupied by him otherwise than for Her Majesty's service. Exemption.

How and where such labour shall be performed.

4. Labour performable under this Section, shall be performed at such places in the Parish or Township, as the *Grand-Voyer* shall from time to time appoint by order in writing,—or in default of such order, at such places in the division as the Inspector shall appoint by order in writing,—or in default of such order, then at such places in the section as the Overseer shall think proper,—in aid of such parties as shall in the opinion of such *Grand-Voyer*, Inspector or Overseer, have more than their proportionate share of work to perform in making and maintaining the front road on their lots, by reason of some difficulty arising out of the nature of the ground or other circumstances of such front roads, or at such other places as in his discretion he shall think proper.

Commutation.

5. The commutation money for statute or joint labour shall be for each day, and any party may commute his statute labour, at that rate instead of performing the same; but such commutation shall be paid before the party commuting shall have been notified by the overseer to perform such labour, otherwise the penalty shall be payable instead of the commutation money, if the labour be not performed according to the notice.

SECTION VIII.

Actual occupants to be liable, saving recourse.

1. The actual occupant of any lot shall always be liable for the work or contribution assigned to such lot, and for one year's arrears thereof, saving his recourse (if any), against any previous occupant, or against the owner of the lot or any other party; and if any lot be divided after the making of the *Procès-Verbal*, or there be from any other cause more than one occupant thereof, they shall be jointly and severally liable, saving the recourse of each against the others.

Liability for damages.

2. All persons shall be liable for all damages arising from the non-performance of work they are bound to perform, and if any persons are jointly and severally bound they shall be jointly and severally liable.

SECTION IX.

Council may raise money for road purposes.

1. Provided always, that the Council of any Parish or Township may raise by Assessment any sum of money for making or maintaining the Roads and Bridges therein, or any of them, and may apply the sum so raised to that purpose in such manner as they shall think proper.

SECTION X.

Council may enact that all road work shall be paid for by assessments in money and statute labour, instead of being performed by the occupants of particular lots.

1. And the Council of any Parish or Township may by any By-law to come into force on the first day of January next after the expiration of three months, from the time of its passing, and passed by a majority of two thirds of the Members of the Council, enact that the roads in such Parish or Township, or which the inhabitants of such Parish or Township or any of them are bound to make and maintain shall thereafter be made and maintained solely by monies to be raised for that purpose by Assessment, and by Statute Labour: and from the time such By-law shall take effect and while it shall be in force, so much of any *procès-verbal* as determines by the occupants of what lands in such Parish or Township any road shall be made or main-45

tained, shall cease to have effect, nor shall the occupant of any land therein be bound to make or maintain the front road thereof; but that part of any *procès-verbal* which describes the work to be done and its nature and quality shall remain in full force and be binding on 5 the municipality; nor shall any power of the *Grand-Voyer* or of any Road Officer, or any provision of this Act be affected by such By-law except only as by this Section expressly provided.

During the time such By-law shall be in force—————

2. The amount of statute labour to which any party would otherwise 10 be liable, shall be doubled by virtue of this Act, and may, in the discretion of the Council, be further increased.

Consequences of any by law to that effect. As to statute labour. As to seignors.

3. The unconceded lands in any Seignior, the tenure whereof shall not have been commuted, shall be taxable for road purposes only, according to the valuation thereof; but the Seignior shall have the same 15 privilege of exemption in respect of such lands as he shall be willing to allow to be sold and the proceeds applied for road purposes, as he would have if such By-law were not in force; and such lands shall be sold and dealt with in like manner, and the proceeds of the sale thereof shall be paid over to the Treasurer of the Municipality and applied 20 towards making and maintaining the roads within the same.

4. The Municipality shall be bound to make and maintain all roads and bridges within the same, and also those beyond the limits thereof, which without such By-law, any of the occupants of lands within the Municipality would have been bound to make or maintain, and 25 generally to perform all road work for which any such occupant would otherwise have been liable; and it shall be the duty of the *Grand-Voyer*, and of the road-officers, to see that the roads are made and maintained by the Municipality in the manner required by law and by the *procès-verbal* regulating the same respectively, and to 30 require the Municipality so to make and maintain them, and to prosecute the Municipality for any default so to do.

Municipality to make and maintain the roads.

5. The Municipality shall be liable for all damages arising to any party from the non-performance of any obligation imposed on it by this section; and shall be liable to the same penalty for neglect or 35 refusal to perform such obligation or to comply with any of the requirements of this Act as any private party would be in the like case.

And liable in damages for default.

6. The Municipal Council of the locality may make such By-laws and regulations as may be deemed necessary, (not being inconsistent with any provision of this act) for defining the manner in which 40 the money raised for road purposes, and statute labour, shall be expended and applied for the purpose of making and maintaining the roads which are to be made and maintained by the Municipality, and may enter into all contracts which they may think necessary touching any work to be done to or upon the same.

Powers of council in such case.

7. While any such By-law shall be in force the *Grand-Voyer*, or such of the Inspectors of roads as shall be thereunto authorized by him, may divide the roads in any Municipality or which the inhabitants of any Municipality are bound to make and maintain, into convenient portions, and may assign the lands the statute labour perform- 45 able in respect of which shall be performed upon each portion, endeavoring so to make such division, as that according to the best of their judgment, the amount of statute labour assigned to each portion 50

And of grand-voyers, &c.

of the road shall be proportionate to the quantity of work required on such portions respectively.

By law may be repealed.

8. Any such By-law may be repealed by another passed to come into force on the first day of January next after a like period from its passing, and passed by a majority of two thirds of the Members of the Council; in which case all the provisions of any *procès-verbal*, By-law or order, or of this Act, which were suspended while the repealed By-law was in force, shall again revive and have effect. 5

SECTION XI.

Width of roads.

1. No front road hereafter to be opened shall be less than thirty-six feet French measure, in width. 10

By-road.

2. No By-road and no road leading to a Banal Mill hereafter to be opened, shall be less than twenty-six feet French measure, in width.

Existing roads.

3. And no road of any of the kinds aforesaid, respectively, heretofore opened shall be of less than the width than that hereby assigned to it, unless it be established that such less width was allowed by some *procès-verbal*, By-law or order legally made. 15

Encroachment presumed in certain cases.

4. If any road be found to be narrower than the width hereby assigned, it shall be held to have been encroached upon, and shall be restored to its proper width; and if there be no *procès-verbal* or other authentic document, from which it can be clearly ascertained what lots have encroached upon the road, then the *Grand-Voyer* shall examine the matter and it shall be regulated by a *procès-verbal*. 20

May be wider.

5. Nothing herein contained shall be construed to prevent any road from being made wider than is above provided, if it be so ordered by the *procès-verbal*. 25

SECTION XII.

Proper ditches and water courses to be made.

1. Except where it shall be otherwise provided by some *procès-verbal* or By-law, there shall be on each side of every road a ditch three feet in width, properly constructed and having sufficient fall in the direction of its length, to carry off the water; and there shall be small drains across the road at all places where the same may be necessary for the free passage of the water from one ditch to the other; these ditches and drains shall be held to be part of the road. 30

Ditches may be dispensed with.

2. Ditches may be dispensed with or may be made of less width than is above provided, if the nature of the ground render it advisable and if it be so ordered by the *Procès-Verbal*. 35

May be made thro' any lands.

3. If in order to convey the water from off any road it shall be deemed necessary to make any water course upon or through the lands of any party, such necessity shall be declared by the *procès-verbal* which shall regulate the making and maintaining such water course as part of the work belonging to the Road; and if any *Procès-Verbal* or By-law touching any such water course, be in force at the commencement of this Act, it shall remain in force until annulled, or altered by a *procès-verbal* under this Act. 40

Parties must allow them.

4. Every party upon whose lands such water-course shall have been directed to be made, shall be bound to allow the same and to 45

allow free access thereto for the purpose of making and maintaining it; being first compensated (if he has not before received compensation) in the manner hereinafter provided.

SECTION XIII.

It may be ordered by any *procès-verbal*—

- 5 1. That any Public Bridge be constructed of stone or brick, or other material, or partly of one and partly of another, and of certain dimensions and according to plans and specifications attached to the *procès-verbal* therein referred to, and which may be amended by the Council as forming part thereof. " Procès-verbal " may determine the manner in which any work is to be done and the materials to be used, &c. Fences.
- 10 2. That proper fences, hand rails and other like defences be placed at the side of any road where it passes any precipice, ravine or dangerous place. Paved roads, &c.
- 15 3. That any part of a road thro' a swamp or wet ground be made with fascines of brushwood, or paved with round or square timber, describing the mode of construction. Rounded roads.
- 4. That any road be raised in the middle, and that any specified kinds of materials shall or shall not be used in making or repairing it. Clearance.
- 20 5. That the timber where the road passes thro' uncleared lands, be cut down for the space of thirty feet on each side of it. General mode of construction.
- 30 6. And generally the mode of constructing and repairing the road and the work connected with it, having due regard to situation of the road, the travel over it, the more or less advanced state of the settlements to and from which it leads; and the circumstances of the parties by whom it is to be made and maintained.

SECTION XIV.

- 25 1. The *Grand-Voyer* may from time to time cause portions of roads to be made by the persons liable to statute labour, to serve as models for the remainder of such roads or for roads in their neighbourhood; and the road officers and others, shall govern themselves by such models, and no road shall be held to be properly made or repaired, Portion of roads may be made to be used as models.
- 30 which shall be inferior to the model so provided for it, and the parties in default shall be liable accordingly.

SECTION XV.

1. Fords over Rivers shall be kept free from loose stones, and impediments, and the bottom as smooth and even as practicable, and shall be properly marked out with poles or *balizes*. Fords.

SECTION XVI.

- 35 1. From the day of November, in each year until the day of April, in the next following year, all fences by the side of Highways, and all line fences; or fences making an angle with the road, to the distance of at least twenty-five feet from it, shall be taken down to within twenty-four inches from the ground, Winter roads. Removal of fences.
- 40 leaving only the upright posts or pickets standing above that height,

except only within the limits of Villages, and in places where the fences stand at least twenty-five feet from the side of the Highway, or where in consequence of hedges, or fences not removeable without great expense having been erected, the *Grand-Voyer* shall permit them to remain on such conditions as he may think proper. 5

How winter roads shall be laid out, and when.

2. The winter roads upon the snow and across the rivers and waters when frozen, may be made in such places, other than the ordinary Highways, as the Road Officers shall from time to time determine, subject to any general or special instructions they may receive from the *Grand-Voyer*; and the said Road Officers shall, between the first 10 day of October and the first day of November in each year, cause them to be traced and marked out accordingly:

May be made through fields, &c.

3. Such winter roads may be carried upon or through any field or inclosed ground, except such as may be used as orchards, gardens or yards, or as may be fenced with quick hedges or with fences which 15 cannot without great difficulty be removed, through which they shall not be carried without the consent of the occupant.

By whom to be kept up.

4. The winter roads shall be kept in order by the parties who are bound to keep the same roads (or the roads for which they are substituted) in repair in summer, including the Municipality when so 20 bound; they shall be kept free from cahots and deep ruts, and the *Grand-Voyer* may from time to time give such general and special orders concerning the mode of keeping them as he shall deem expedient, and such orders shall be binding on the road officers and parties concerned. 25

May be made double.

5. The *Grand-Voyer* may, if he thinks proper, order that any Winter road be made double, having a row of balizes in the middle and a track on one side thereof for vehicles going in one direction, and on the other for those going in the opposite direction.

SECTION XVII.

Ground occupied by roads vested in the municipality.

1. The ground occupied by any public road shall be and is hereby 30 vested in the Municipality of the Parish or Township in which it lies, and such road may be discontinued or its position in any part may be altered by *procès-verbal*, but shall not otherwise be alienated; and if the road on any such ground shall be discontinued, then if the land on each side belong to the same party, the said ground shall 35 *ipso facto* become the property of such party,—or if the land on each side belongs to different parties then half the breadth of the road shall become the property of each of them, unless one of them shall have furnished land for a road, in the place of that so discontinued, in which case the whole shall become his property. 40

SECTION XVIII.

How the compensation (if any) to be paid for land taken for roads shall be ascertained and paid.

1. Whenever any ground is to be taken for a road, the proprietor thereof shall receive fair compensation for the same from the parties who by the *procès-verbal* shall be bound to pay the same, unless it be decided that he is not entitled to compensation.

2. In estimating such compensation, or deciding whether the party 45 is entitled to any, the advantages which such proprietor may derive from the road, or from the change in the position thereof, or from his

- receiving any ground no longer to be used as a road, as well as his liability to furnish ground for road purposes or his exemption therefrom, (as the case may be,) shall always be taken into consideration, and if they be equal to the damage sustained by the taking of the new ground, then he shall be entitled to no compensation; nor shall he be entitled to any *prix d'affection*, or damages arising from his supposed affection for the land to be taken; but in no case shall he be called upon to pay compensation.
3. No compensation shall be allowed for the land itself, taken for the first front road made upon it, nor for any road unless the quantity so taken shall exceed the allowance for roads, made in the original grant or concession of such land.
4. The Valuators of the Parish or Township, or any two of them, shall ascertain the compensation (if any) to be paid, at least eight days notice (including two Sundays) having been previously given of the day or days when they will attend upon the ground to hear the parties and estimate the compensation, which time shall be appointed by the *Grand-Voyer*.
5. Such notice shall be given by posting a copy of the *Grand-Voyer's* order at the place where the Sitings of the Council are held, and by posting it and reading it aloud at the door of the Church of the Parish on the said two Sundays, immediately after Divine Service in the forenoon.
6. Any two of the Valuators may act in the absence of the third; and if any one or more of them be absent at the time appointed as aforesaid, or be disqualified by direct interest or by relationship to the party whose land is taken, or otherwise, or shall refuse or be unable to act, then the *Grand-Voyer* shall appoint another person to act in his or their stead, in any case or cases, or generally as to the road in question,—and may for like cause and in like manner appoint a person to act instead of any person so appointed.
7. It shall not be an objection to any such Valuator or person acting as aforesaid, that he be related to some one or more of the parties by whom the compensation is payable, and every objection to the competence of any such Valuator or person, shall be made before the delivery of the Certificate, otherwise it shall not avail.
8. The Valuators or persons acting in their stead, or any two of them after examining the ground and hearing the parties attending as aforesaid, shall by one or more Certificate under their hands, ascertain whether any compensation, and if any, then what compensation shall be paid for the ground taken from any lot or lots, and shall transmit such Certificates to the *Grand-Voyer*, who shall file them among the records of his office: and the award made by any such Certificate shall be final and conclusive.
9. It shall not be necessary in any such Certificate, to mention the party to or by whom the compensation is payable, but simply to mention the lot of which the ground forms part, referring to the *procès-verbal* under which it is to be taken, and stating whether any, and if any, what compensation is to be paid for it: but any lot may be described as being supposed to belong to, or to be in the possession of any party.

Mode of calculating compensation.

None allowed in certain cases.

Valuators to estimate the compensation.

Notice how given.

Case of the absence or inability to act of any valuator provided for &c.

Objections to valuers

Certificate of amount awarded.

Form of award.

When the municipality may take possession.

10. On delivery of any such Certificate to the *Grand-Voyer* if no compensation be awarded thereby, or on the payment of the compensation, if any, into the hands of the Treasurer for the parties entitled thereto, the land in question shall be vested in the Municipality of the Parish or Township, as part of the public road thereof, and the said Certificate and the Treasurer's receipt for the compensation (if any), shall be their sufficient title thereto, and shall not require registration to preserve it. 5

Payment of compensation.

11. The compensation shall be paid by the Treasurer, free of all deduction, to the party entitled to receive the same, at the end of 10 months from the time of its being paid to such Treasurer, and the party in possession of the ground at the time it was taken as proprietor, shall be held to be entitled to receive the compensation from the Treasurer, saving the recourse of any other party to recover the same from the party so receiving it: but if within the said 15 months there be contending claims, the Treasurer shall keep the money in his hands subject to the decision of the proper Court.

SECTION XIX.

Entry to survey for road or search for materials.

1. It shall be lawful for any *Grand-Voyer*, Inspector of roads, or Overseer of roads, or any Surveyor or person accompanying him or authorized in writing by him, to enter in the day time, and after 20 clear days previous notice in writing to the occupant if such land be occupied, upon the lands of any party occupied or unoccupied, inclosed or uninclosed, for the purpose of making any survey for a road or for road purposes, or upon any unoccupied land for the purpose of searching for timber, stone or other materials for making or 25 repairing any road, or any bridge or work therewith connected, doing no wilful and unnecessary damage and making compensation only for actual damage done.

Taking materials from unoccupied lands.

2. It shall be lawful for the Overseer of roads superintending the making or repairing of any road, or bridge or work therewith connected, to enter in the day time upon any unoccupied land within 30 of such road, bridge or work, and to take from off the same any timber, stone, gravel, earth or materials requisite for making or repairing the same, but such Overseer shall, as soon thereafter as may be, declare on oath before some Justice of the Peace 35 what he believes to be the damage done to such land by the taking of such materials; and the Overseer shall deliver such affidavit to the Inspector of roads for his division; and the amount so sworn to shall be set off against any road, contribution statute labour or penalty due in respect of such land or by the owner thereof, or if such amount 40 exceed the sum so due the balance shall be paid to such owner by the Inspector, out of any monies in his hands for the purpose of defraying the cost of making or repairing such road, bridge or work; and if he have not sufficient the money shall be raised by assessment as other monies required for such purpose: Provided, that if the amount of 45 such damages exceed the same shall be assessed by the Valuers of the Municipality or any two of them, in like manner as the value of land taken for a road, and their award shall be final.

Proviso.

3. Any person preventing or hindering or attempting to prevent or hinder any of the said Officers in the exercise of the powers hereby vested in them, shall for each such offence incur a penalty of: over and over any damages which he may be liable to pay.

Penalty for hindering road officers.

SECTION XX.

5 1. It shall be the duty of the Grand-Voyer, between the and days of each of the months of and to visit each Inspector's division in his County, and to pass over and examine the main road therein and such of the other front roads and by-roads to which his attention may have been called by any report 10 or representation to him made, and to examine and make notes of the state in which he shall find each road or any part thereof and the works thereon or therewith connected, and to call upon each of the Inspectors of roads to accompany him in his visit to the division under the superintendence of such Inspector, and to give him such 15 orders and instructions as may be necessary to ensure the faithful performance of his duties under this Act, to inspect the notes kept by each Inspector as aforesaid, and to note any case in which he shall find any Road Officer or other party to have neglected any duty imposed on him by this Act, to the end that he may be prosecuted for 20 such neglect.

Duties of Grand-Voyer. Visits.

2. It shall be the duty of each Grand-Voyer, between the and days of in each year, to transmit to the Clerk of each of the local Municipalities in the County, for the purpose of being laid before the Municipal Council thereof at its then 25 next session, a report on the state of the roads in the Municipality or towards making or maintaining which the inhabitants of the Municipality or any of them are bound to contribute, shewing how far the law has been carried into effect with regard to the said roads, and where and how (if there be any such case) it has been neglected or 30 disobeyed, and containing such other information and such suggestions touching the said roads as he may deem expedient: and the said Clerk shall lay such report before the Council at its then next session.

Grand-voyer's report of the local municipal council.

3. The Grand-Voyer shall also, between the and days of in each year, transmit to the Mayor of the County, 35 for the purpose of being laid before the County Council at its then next session, a general report on the state of the roads in the County or towards making or maintaining which the inhabitants of the County or any of them, are bound to contribute, containing similar information and suggestions as to the said roads as he is hereinbefore 40 required to give and make in the reports to be laid before the local Municipal Councils; and the said Mayor shall lay such report before the County Council at its then next session.

Grand-voyer's report of the county municipal council.

4. The Grand-Voyer shall give public notice of the time when he intends to make his examination of the roads in any Municipality, in 45 the manner provided by law with regard to the notice to be given of his visit for the purpose of examining the site of a proposed new road.

Notice of visit.

5. And it shall be the duty of each Inspector of roads, to accompany the Grand-Voyer during his visit to any roads in the division of such 50 Inspectors to give him all proper information on the subject of the

Inspectors to accompany Grand-Voyer.

roads under the charge of such Inspector, to exhibit to the *Grand-Voyer* the notes kept by him of his own official visits to the said roads, and to note and obey the instructions and orders he may receive from the *Grand-Voyer*.

SECTION XXI.

- Duties of inspector of roads. Visits. 1. It shall be the duty of each Inspector of Roads at least once in five months to pass over and examine every road in his division or over which he has any authority or superintendence, and to make notes of the state in which he shall find each road or any part thereof or any work thereon, or therewith connected, and to call upon the several Overseers of Roads in his division to accompany him in the inspection of the roads in their respective sections, and to give to each of them, such orders and instructions as may be necessary to ensure the faithful execution of this Act, and to note any case in which he shall find any Overseer or other party to have neglected to perform any duty imposed on him by this Act, to the end that he may be prosecuted for such neglect. 10
- Notes. 2. The notes so made by the Inspector on such visit, shall be signed by him and kept for the inspection of the *Grand-Voyer* at his next visit.
- Notice. 3. Each Inspector of roads shall give at least five days notice in writing to every Overseer of roads in his division of the time when he intends to visit the section of such Overseer, such notice being left at the residence of the Overseer. 20
- Overseers to accompany inspector. 4. It shall be the duty of each Overseer of roads to accompany the Inspector of roads during his visit to the roads in the section of such Overseer, and to give him all proper information on the subject of the roads under the charge of such Overseer, and to note and obey his instructions and orders. 25
- Report. 5. It shall be the duty of each Inspector of Roads, within the first ten days of each of the months of January and July to make a Report in writing to the *Grand-Voyer* of the County, containing the substance of the notes he shall have made and the information he shall have obtained during such visit as aforesaid. 30

SECTION XXII.

- Encroachments and obstructions. 1. It shall be the duty of the Inspectors of roads to cause all obstructions or nuisances, to be removed from off the roads under their superintendence respectively, and to report all encroachments thereupon to the *Grand-Voyer*; to the end that he may compel their removal, if the party making such encroachment, shall not on being thereunto required by the Inspector desist from such encroachment. 35
- What shall be an obstruction. 2. It shall be deemed an obstruction to leave or place any thing upon the road or in any ditch or water course therewith connected, or to make any trench or opening in the road, or to do any other act, whereby in either case, the free passage of vehicles or foot passengers over any part of the road, may be obstructed, impeded or rendered inconvenient, or the free passage of the water prevented, unless the act be done in the course of some duly authorized work upon the road, or by the command or with the permission of some road officer, under the authority of some by-law of the proper Municipal Council. 40 45

3. Every person guilty of such obstruction or nuisance, shall thereby incur a penalty of _____ for every day during which it shall continue with all costs and the costs of removing such obstruction or nuisance, and such penalty shall be recoverable by a suit or proceeding separate from the action hereinafter mentioned for recovering the land encroached upon, and may be sued for after such action is determined.

Penalty.

4. Any Justice of the Peace resident in the County may hear and determine any complaint of such obstruction or nuisance and order the removal thereof at the expense of the offender, by such person as he shall by his warrant authorize to remove the same, and may tax the costs of such removal and cause the same to be levied with the penalty and costs of prosecution and by the same process.

How enforced.

5. If the obstruction of any road be made by placing thereon any building or any fence, and the encroachment be denied, it shall be the duty of the *Grand-Voyer* to cause an action to be brought in the name of the Municipality against the party so encroaching for the recovery of the land taken from the road by such encroachment.

Grand-voyer to cause encroachments to be removed.

6. Such action shall be brought in the Circuit Court in the Circuit wherein such Municipality or any part thereof shall lie, which shall have and is hereby expressly invested with jurisdiction in the case, and with power, if the encroachment be proved, to adjudge that the land taken by such encroachment be restored to the Municipality ; and if such judgment be not complied with, within _____ after service thereof on the defendant, then any Judge of the said Court may, in term or out of term, on the application of the Municipality, direct a writ of possession to any Bailiff of the Court, commanding him to give possession of such land to the said Municipality, first removing all buildings and fences therefrom, which such Bailiff taking with him sufficient assistance shall accordingly do.

Action to compel removal.

Execution.

7. The costs in such action shall be those allowed in actions of the first class in the said Court, and the costs on the writ of possession and proceedings thereupon, shall be taxed by a Judge of the Court at such sum as in his discretion he may think right, unless and until they be regulated by a tariff of the Court, under which the Clerk of the Court shall then tax such costs.

Costs.

SECTION XXIII.

1. It shall be the duty of the Inspectors of roads, subject to the provisions of this Act and to the orders and instructions of the *Grand-Voyer*, by whom they shall be furnished with the necessary copies of or extracts from *procès-verbaux*, valuation rolls, assessment rolls and other documents,—to direct the Overseers of roads in their respective divisions; as to the time when and the manner in which all road work is to be done, to furnish them with lists of the statute labour, share of joint labour and materials, to be furnished by each person, or in respect of each lot of land in their sections respectively, and to inform them upon what work or works the same is to be employed and in what proportions,—to receive all sums paid for commutation of statute or joint labour, and to notify such commutation to the proper Overseer ; to instruct him to engage other labour in the place of that so commuted for, and to pay for such labour out of such

Special duties of inspector of roads.

commutation money, on the certificate of the Overseer that the same has been duly performed.

Special duties
of overseers of
roads.

2. It shall be the duty of each Overseer of roads, subject to the provisions of this Act, the orders of the *Grand-Voyer* and the directions of the Inspectors of roads,—to notify the inhabitants of his section, 5 respectively, of the time and place where and when any statute labour or joint labour is to be performed or materials to be furnished, and the amount of labour, quantity and description of materials to be then and there furnished by each : and such notice shall be given at least clear days before that on which the party notified is re- 10 quired to attend, and may be given verbally to such party in person or left in writing at his residence,—to specify the tools and implements (being those ordinarily used by farmers) which each person is required to bring with him ; and if the nature of the work requires it, he may command any person having the same and being bound to 15 furnish at least three days labour and not having commuted the same, to bring with him or to send with a man to work them, a horse or horses, ox or oxen, with proper harness and a cart, waggon or plough ; and every day's labour of a horse or ox with such harness and vehicle as aforesaid shall be credited to the person furnishing the 20 same as one day's work,—to superintend and direct the performance of statute labour and joint labour on the roads, and to give certificates of the due performance thereof,—to appoint the hour of commencing and leaving off, and the time to be taken for rest or meals, the days work being eight clear hours of labour on the spot where the work is to be 25 done,—to dismiss any man who shall not attend during the hours appointed for labour, or who shall be idle or refuse to obey the orders of the Overseer, or not work faithfully or hinder others from working ; and any man so dismissed shall for the offence occasioning his dismissal incur a penalty of shillings.—to prosecute for all such 30 penalties as last aforesaid and for all penalties incurred for disobedience to his orders,—To report to the Inspector of roads for his division, the number of days work performed and the quantity of materials furnished under his superintendence with the names of the parties performing or furnishing the same, and the names of those 35 who have been fined.

SECTION XXIV.

Penalties for
not complying
with the re-
quirements of
this act

Not attending
to work.

1. Every person liable to perform labour on the roads and not having commuted for the same, who being so required as aforesaid by any Overseer to attend and perform the same, shall refuse or neglect so to attend, shall for each day on which he shall so refuse or neglect incur 40 a penalty of , and he shall incur one half of such penalty if he was required to bring with him any tool or implement, and shall appear without the same ; and if he was required to bring with him any plough, horse, ox, waggon, cart or vehicle and harness the penalty shall be doubled, that is he shall incur a penalty of 45 if he shall wholly fail to attend and of if he shall attend without such horse, ox, waggon, cart, vehicle or harness.

Not making
or repairing
front road.

2. No notice shall be required to compel any person to make or repair any front road which ought to be made or repaired by him alone, but if it be not made or repaired in the manner required by 50 the *procès-verbal* regulating it and by this Act, such person shall

139

incur a penalty of _____ for each day on which it shall remain unmade or out of repair.

3. All such penalties shall be recoverable with costs in like manner as sums of money due for municipal taxes may be recovered, and upon the oath of the overseer; and his oath or that of any competent witness that the proper notice was given to the defendant in person verbally, or was left at his residence in writing, shall be sufficient proof that the same was regularly given.

Recovery of penalties.

4. Any such penalty shall be paid to the Inspector for the division, and applied to the same purpose for which the labour for the due performance of which it was incurred would have been applicable: and the payment of the penalty shall be set off in favor of the offender against the road labour for which he is liable, at the rate of one day's labour for each _____ of the penalty paid.

To whom payable.

5. The penalty may be paid to the Inspector before any suit for it is commenced, and in this case it shall be payable without costs.

May be paid without suit.

SECTION XXV.

1. Whenever any road work which ought to be done or any materials which ought to be furnished upon or for any front road, by-road or bridge, in respect of any lot or by any person, shall remain unperformed or unfurnished after the occupant of such lot or such person shall have been required as aforesaid to perform or furnish the same, it shall be lawful for the Overseer of roads to cause such work to be done or such materials to be furnished by some other person, and to recover the value of such work or materials from such occupant or person, in default, with twenty per cent in addition thereto and costs of suit, as a debt due to such Overseer and in any way in which debts of like amount are recoverable, or such amount may be levied as arrears of taxes due to the municipality and paid to such Overseer by the Treasurer.

Overseer may perform work in arrear and recover the amount.

2. Or the Overseer of roads may report to the Inspector of roads of his division that any such work remains unperformed, or any such materials unfurnished, and that the party who ought to perform or furnish the same has been by him required so to do, or that such party has no residence in the division; and on such report the Inspector may, if he thinks proper, authorize such Overseer to cause the work to be done or the materials to be furnished by some person to be employed by him for that purpose, and the sum expended shall be recoverable by the municipality from the party in default in any manner in which municipal taxes are recoverable, with twenty per cent in addition thereto as a penalty for such default and costs; and the sum actually expended shall be paid by the Treasurer of the municipality to the order of the Inspector, out of any monies in his hands applicable to road purposes, or to the general purposes of the municipality.

Or the work may be paid for by the municipality and the value recovered.

3. The affidavit of the Overseer sworn before a Justice of the Peace that the formalities of the law were complied with and that the work was done or the materials furnished, that the sum charged is the true value thereof, and that the defendant or the occupant of the land in question is the party liable for the same by law, and the certificate of the Inspector that to the best of his knowledge and belief the facts

What evidence shall be sufficient.

stated in such affidavit are true, shall be *prima facie* evidence of such facts, and if not controverted shall be sufficient to maintain the claim and demand of the municipality or of such Overseer.

No penalty in such case.

4. In either of the cases last above mentioned the party in default shall not be liable to a penalty, but the *twenty* per cent above mentioned shall stand in stead thereof. 5

SECTION XXVI.

Arrears.
Overseer's report, &c.

1. Each Overseer shall from time to time report to the Inspector of his division, the arrears of labour and materials remaining unperformed and undelivered in his section, and penalties remaining unpaid, specifying the land in respect of which the same are due, the occupants of such lands if known, and the value in money of such materials delivered at the place where they ought to have been delivered by the party in default. And it shall be the duty of the Inspector to sue for and recover the same from the parties liable if they have any goods or chattels whereupon the same can be levied. 15

Inspector's report to grand-voyer, &c.

2. Each Inspector shall before the day of in each year, report to the *Grand Voyer* the arrears due in his division, with the particulars thereof as reported to such Inspector by the Overseer, and the *Grand Voyer* shall cause all such arrears to be levied on the lands liable for the same in the same manner as arrears of other municipal taxes, and when levied they shall belong to the municipality for road purposes. 20

Allowance to overseers.

3. The Overseer of roads shall be entitled to reckon a day spent by him in overseeing any party of not less than persons lawfully employed in work on any road under his superintendence, as one day of statute or joint labour performed by such Overseer at the same place, or if he have no such labour to perform within that year, then he shall upon certificate of the Inspector of roads for his division, receive from the Treasurer of the municipality for each day so spent by him. 30

Allowance to inspectors.

4. Any Inspector of roads shall be entitled to reckon a day spent by him in attending the *Grand-Voyer* on any circuit or visit as one day of statute labour performed by him, and the certificate of the *Grand-Voyer* shall be his discharge for the same; or if he have then no labour to perform within that year, then he shall, upon certificate of the *Grand Voyer*, receive from the Treasurer of the Municipality for each day so spent by him. 35

SECTION XXVII.

Penalties on road officers in default.
Inspectors.

1. If any Inspector of roads shall refuse or neglect to perform any duty assigned to him by this Act, or to obey any lawful order of the *Grand-Voyer*, he shall for each day on which such offence shall be committed or shall continue, incur a penalty of unless some other and heavier penalty be by law imposed on him for such offence. 40

Overseers.

2. If any Overseer of roads shall refuse or neglect to perform any duty assigned to him by this Act, or to obey any lawful order of the *Grand-Voyer*, or of the Inspector of Roads for his division, he shall 45

for each day on which such offence shall be committed or shall continue, incur a penalty of _____, unless some other and heavier penalty be by law imposed on him for such offence.

3. In any suit or proceeding for the recovery of such penalties, the certificate of the *Grand Voyer* or the oath of any Inspector of Roads or other competent witness shall be *prima facie* evidence of the refusal or neglect so certified or proved.

On what evidence recoverable.

4. An Inspector of roads, or an Overseer of roads shall always be liable for all damages occasioned by the non-performance of any work which ought to have been performed within his division or section, unless he can shew that he has used all legal means in his power by notice, prosecution and otherwise to compel the performance of such work; saving always the recourse of the Inspector against the Overseer and of both against the party who was bound to perform such work.

Their liability for damages arising from their neglect of duty.

SECTION XXVIII.

1. The *Grand-Voyer* may cause mile posts or mile stones to be set up on the main road in his County, shewing the distances from the principal Towns to which such roads lead, and may cause Guide-Posts to be set up at the intersections of roads: and the expenses incurred for those purposes shall be paid by the Treasurer of the Municipalities respectively, in which such mile stones or mile posts, or guide posts shall be set up, on the order of the *Grand-Voyer*, and out of any monies in the hands of the Treasurer applicable to road purposes or to the general purposes of the Municipality.

Grand-voyer may cause mile posts, &c., to be set up.

2. The *Grand-Voyer* may direct any Inspector of Roads to procure a snow plough and an iron or steel shod scraper, or either, to be used on the roads in his division and to be carefully kept by such Inspector and by him handed over to his Successor in office for the like purposes; and when the same are so procured, the Inspector may command each Overseer of Roads in his division to require the persons bound to perform road work in his section to use and work such snow plough or scraper (when and as the case may require) as part of the work they are so bound to perform: and the cost of such snow ploughs and scrapers and of all necessary repairs thereto, shall be paid by the Treasurer of the Municipality on the order of the *Grand-Voyer* as provided in the next preceding paragraph.

And certain implements to be procured.

3. The *Grand-Voyer* may employ a sworn Surveyor, Engineer or Draughtsman, whenever he shall deem it necessary for the due execution of any of the powers vested in him by this Act, and charge the sum paid to such Surveyor for his services, as part of the expenses lawfully incurred by him in executing such power: and to any *procès-verbal* or other Act of the *Grand-Voyer*, plans or drawings may be annexed and referred to as part thereof, when he shall deem it necessary for the proper understanding of such *procès-verbal* or act.

May employ a surveyor, &c.

4. The *Grand-Voyer* may in his *procès-verbal* direct or allow a footpath to be made in any place where in his judgment it shall be necessary or allowable, and where any such footpath shall be made, the Road Inspector may permit trees to be planted thereon by the owners of the adjoining lands on such conditions as he may think proper, subject always, to any direction he may receive in this behalf from the *Grand-Voyer*.

May authorize footpaths, &c.

SECTION XXIX.

Penalties for
injuring brid-
ges, or other
works apper-
taining to
roads.

How recover-
ed.

1. It shall not be lawful for any person to drive of any pace faster than a walk over any bridge exceeding feet in length, unless such bridge be wholly of brick or stone:—or to cut, deface or injure any part of any bridge, rail, or post, or any mile stone, or any inscription thereon, or any work or thing forming part of or serving 5 to the use of any road, or any trees lawfully planted on any side walk, or in any way to obstruct or render inconvenient or dangerous the use of any road;—and for every such offence the offender shall incur a penalty not exceeding nor less than , to be recovered with costs upon the evidence of one credible witness, 10 before any Justice of the Peace, by any person who will sue for the same, and to belong one moiety to the person so suing, and the other moiety to the Municipality in which the offence is committed for road purposes: and if such penalty and costs be not forthwith paid, such Justice of the Peace may commit the offender to Gaol for any 15 period not exceeding unless such penalty be sooner paid; But nothing herein contained shall exempt the offender from indictment, trial and punishment for any misdemeanor or greater crime to which his offence may amount, nor from his liability to the Municipality for the amount of damages occasioned by such offence. 20

SECTION XXX.

Ferries to be
regulated by
local council.

1. Ferries in cases where both sides of the River or water to be crossed lie within the same local Municipality, shall be under the control of the Municipal Council thereof;

By county
councils.

2. Ferries in cases where both sides of the river or water to be crossed lie within the same county but not within the same local 25 municipality, shall be under the control of the county council:

Powers of mu-
nicipal coun-
cils.

3. And the Municipal Council of the locality or of the County, as the case may be, shall have power to make By-laws for regulating any ferry under its control, to fix the tolls to be charged for crossing the same, to authorize any officer to grant a license for keeping such ferry 30 and to fix the sum to be paid for such license, and the other conditions on which such license shall be granted, and to impose penalties on any ferryman or other person contravening such By-laws: and no such license shall be granted for more than one year.

Equality of
tolls.

4. It shall not be lawful by any such By-law to make the tolls pay- 35 able by inhabitants of the local municipality or county less than those payable by other persons, or to give any undue advantage to any such inhabitants or to any party.

Application of
license monies.

5. The monies arising from any license for a ferry shall, if the ferry be under the control of any local municipality belong to such muni- 40 cipality, and if it be under the control of the County Council they shall belong one moiety to each of the local municipalities between which the ferry lies: and such monies shall be applied to road purposes.

Parts of ordin-
ance 17 Geo.
3, c. 12.

6. So much of the Ordinance passed in the seventeenth year of the 45 Reign of King George the Third, and intituled, "*An Ordinance empowering the Commissioners of the Peace to regulate the*

prices to be paid for the carriage of goods and the passage of ferries in the Province of Quebec," or of the Ordinance passed in the second year of Her Majesty's Reign, and intituled, "An Ordinance for the better regulation of Ferry-men and others, conveying persons for hire across the rivers and waters of this Province," or of any other Act or Law, as would otherwise require that the keeper of any ferry hereby placed under the control of any local or county Municipal Council should receive a license from the Governor, or as empowers any authority other than such Municipal Council to regulate them or the tolls to be taken on them, shall have no force or effect as regards any such ferry as aforesaid after the commencement of this Act; but any person acting as a ferryman at any such ferry without a license from the proper Municipal Council or beyond the limits assigned to him by such license, shall incur a penalty of _____ for each person ferried over by him contrary to this Act.

And 2 V. (3),
c. 13, repealed.

7. Ferries in cases where both sides of the river or water to be crossed, shall not lie within the same County, shall continue to be regulated and governed as they now are.

Certain ferrie
to be regulated
as now.

8. Nothing herein contained shall be construed to enable any Municipal Councils to authorize any person to keep a ferry within the limits for which an exclusive privilege has been granted by law to the proprietor of any toll-bridge.

As to exclusive
privileges.

9. The road between any ferry or toll-bridge and the nearest front road; shall, unless be otherwise expressly provided by some *procedural* then in force, be made and maintained by the person licensed to keep the ferry; as if it were the front road of a lot occupied by him.

Roads to fer-
ries.

SECTION XXXI.

1. Nothing in this Act shall apply to the City of Quebec or to the City of Montreal or the Town of St. Hyacinthe, or to any road within either of the said Cities or Town.

Act not to
affect certain
places.

SECTION XXXII.

1. All the powers vested by the Act passed in the 12th year of Her Majesty's Reign and intituled, *An Act to authorize the formation of Joint Stock Road Companies in Lower Canada, for the construction of macadamized Road, and of Bridges and other works of the nature,* in the Municipalities and Municipal Councils therein mentioned shall be and are hereby transferred to and vested in the local Municipalities created by the Act of the present Session intituled *The Municipal Act of Lower Canada,* and the Municipal Councils thereof.

Certain powers
under 12 Vic.
c. 56, trans-
ferred.

SECTION XXXIII.

The Act of the Legislature of Lower Canada passed in the 36th year of the Reign of King George the Third, and intituled, *An Act for making, repairing and altering the Highways and Bridges within this Province, and for other purposes,* and the Act of the said Legislature passed in the thirty-ninth year of the same Reign,

Certain parts
of the acts of
L-C, 36 Geo.
3, c. 9,

39 Geo. 3, c. 5. and intituled, "Act to amend an Act passed in the thirty-sixth year of his present Majesty's Reign and intituled, "An Act for making, repairing and altering the Highways and Bridges within this Province and for other purposes," and the Act of 48 Geo. 3, c. 25. the said Legislature passed in the forty-eighth year of the said Reign, and intituled, "An Act more effectually to provide for the making, altering and repairing the Highways and Bridges within the Inferior District of Gaspé, and to repeal so much of an Act passed in the thirty-sixth year of His Majesty's Reign, and intituled, "An Act for making, repairing and altering the Highways and Bridges within this Province and for other purposes," as regards the said Inferior District," and the Act of the said Legislature passed in the third year of the Reign of King George the Fourth and intituled, "An Act to explain and extend the provisions of an Act passed in the thirty-sixth year of the Reign of His late Majesty, intituled, "An Act for making, repairing and altering the Highways and Bridges within this Province, and for other purposes," in so far as respects the Townships,—and the Ordinance of the Legislature of Lower Canada, passed in the second year of Her Majesty's Reign and intituled "An Ordinance to amend the Act passed in the thirty-sixth year of the Reign of King George the Third, Chapter Nine, commonly called the Road Act," shall be and are hereby repealed, except in so far as any of the said Acts may relate to the City of Quebec or the City of Montreal or to any road or street therein, and except in so far as relates to any *procès-verbal* or order lawfully made, and in force immediately before the commencement of this Act, which shall remain in force, as aforesaid, until it be otherwise lawfully ordered under this Act, and except as to any penalty or forfeiture incurred under them before the commencement of this Act, which may be recovered as if this Act had not been passed.

And
Vic. c. 7, re-
pealed.
Exception, as
to Quebec and
Montreal.

SECTION XXXIV.

General provi-
sion as to pe-
nalties under
this Act.

Interpretation
of this Act.

1. All penalties imposed by this Act and all sums of money recoverable under it, may when it is not otherwise provided in this Act be recovered and applied in like manner as penalties imposed by and sums of money recoverable under the Act of the present session intituled, "The Municipal Act of Lower Canada," or if such recovery or application be only partly provided for by this Act, then the remaining provisions shall be supplied from the said Act, and all provisions for the interpretation of that Act shall apply to this, and the two Acts shall be construed with reference to each other and as forming part of the same law: and if any case shall arise, touching any of the subject matters of this Act, and no express provision is made in such case by this Act or the said Act, and if it were treated as one wholly without the purview thereof, there would be a manifest failure of justice and the purposes of this Act would not be attained, then such case shall not be held to be omitted, but it shall be lawful for the *Grand-Voyer*, County or Local Municipal Council, Council of Delegates, Inspector of Roads or Overseer of Roads, or other officer or party (as the case may be) to adopt such proceeding as he or they may think most consistent with the express provisions, spirit and intent of this Act, and no such proceeding shall be held to

be illegal, unless it be inconsistent with some express provisions of this Act or of the law.

SECTION XXXV.

1. The forms given in the Schedules to this Act shall suffice for the purposes for which they are given; but any other form to the like effect shall be sufficient; and any form shall be sufficient for such purposes or any other under this Act, or any Act relating to the Municipal system, if according to the ordinary construction of the language the purport and intent thereof can be *bona fide* understood from the words used; and no unnecessary or irrelevant allegations or expressions, in any such form, shall affect the validity thereof, if by passing them over as mere surplusage the remainder can be made to bear the sense required; the rules of construction embodied in the Interpretation Act shall apply as well to the forms here given as to any such forms as aforesaid, as to the allegations, statements, orders or directions therein contained; and no objections of mere form or bounded on the omission of any form shall be allowed to prevail in any action, suit or proceeding under this Act or any such Act as aforesaid, shall unless substantial injustice would be done by not allowing such objection.

As to forms under this act.

SECTION XXXVI.

1. This Act shall come into force from and after the Thirty-first day of January next and not before, and shall apply only to Lower Canada.

Commencement and extent of act.

SCHEDULE

Form of a Procès-Verbal.

COUNTY OF

It is ordered that a By-road shall be made from the front road of the second concession to the front road of the third concession in the Seigniorie of _____ in the Municipality of the Parish of _____ which By-road shall be made *between the land now occupied by _____ and that now occupied by _____ in the said second concession*, and shall be completed *on or before the _____ day of _____ next*, and shall be made and maintained by *the occupants of the lands in the said third concession, between lot number _____ and lot number _____ exclusive*; and that part of *the said By-road between the end of the third arpent, (reckoning from the front road of the second concession) to the end of the seventh arpent from the said point, shall be paved with squared cedar logs, _____ inches thick and not less than _____ inches wide, and _____ feet long properly laid on cedar sleepers, which said logs shall be furnished by the occupants of lands aforesaid, who shall also contribute the sum of _____ in money, to defray the expense of squaring and properly laying and fastening the same*; and the said By-road shall be made under

the superintendence of the Inspector of roads for the division
of the said Municipality, and the several Overseers of roads in that
division.

GEORGE GOODROADS,
Grand-Voyer.

20th May, 1852.

The Municipal Council, of the said Parish of have this
day homologated the foregoing *procès-verbal* (or rejected the said
procès-verbal, or amended the said *procès-verbal* in the manner which
appears by the amendments thereupon made each of which I have
attested by signing my Initials thereunto. Or, if the amendments
are numerous, say; have amended the same so as to read as follows,
copying it out as amended).

FRED. FORMAL,
Clerk.

19th June, 1852.

NOTICE OF VISIT.

COUNTY OF

I will on the day of next, visit
the place at which by the Petition of B. Betterments and others, dated
1852, I have been requested to cause a By-road to be
opened from the front road in the Second Concession of the Seignior
of to the front road in the Third Concession of the said
Seignior between the lands now occupied by and those
now occupied by , of which all concerned are required to
take Notice.

GEORGE GOODROADS,
Grand-Voyer.

20th March, 1852.

NOTICE TO PERFORM STATUTE LABOUR.

PARISH OF

To Mr. J. Farmer :

You are required to attend at the Bridge over the River ,
on the 19th, 20th, and 21st days of August instant, at 7 O'clock in
the morning, bringing with you an axe and a hoe, for the purpose of
performing statute labour on the said bridge and the road and hill
thereunto adjoining.

S. SPRY,
Overseer of Roads.

16th August, 1852.