

No. 121.

3rd Session, 5th Parliament. 20 Victoria, 1857.

BILL.

An Act to incorporate a Company to construct a Macadamized Road from Athanase to South Stukeley Mills.

Received and read, first time, Tuesday, 17th
March, 1857.

Second reading, Friday, 20th March, 1857.

TORONTO:
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YONGE STREET.

An Act to incorporate the Iberville, Brome, Shefford and Missisquoi Road Company.

WHEREAS the construction of a macadamised road from the Village of St. Athanase, in the County of Iberville, opposite St John's, in the County of St. John's, to the outlet of Brome Lake, in the County of Brome, and thence to South Stukeley, in the County of Shefford, would greatly improve the means of communication between the City of Montreal and the said Counties and conduce materially to the welfare of the inhabitants residing along the line of such road, as well as to the prosperity of the surrounding country; And whereas C. H. Jones, Ralph Arms, Wm. L. Dampier, William D. Jones, E. O. Brigham, P. C. Gilmour, Wm. McGinnis, Felix Côté, J. DeLagrave, Joseph Dacier, John Pearson, Henry LaRocque, R. B. McGinnis, Charles Lindsay, E. Bourgeois, F. X. Langelier, V. Titus, and others, have prayed to be incorporated with the powers requisite for making and maintaining such road: Therefore Her Majesty, &c., enacts as follows:

Preamble.

I. The said C. H. Jones, Ralph Arms, Wm. L. Dampier, William D. Jones, E. O. Brigham, P. C. Gilmour, W. McGinnis, Felix Côté, J. DeLagrave, Joseph Dacier, John Pearson, Henry LaRocque, R. B. McGinnis, Chas. Lindsay, E. Bourgeois, F. X. Langelier, and V. Titus, together with such person or persons, corporations and municipalities as shall, under the provisions of this Act, become shareholders in the said Company as hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact, by and under the name of the "Iberville, Brome, Shefford and Missisquoi Road Company."

Certain persons incorporated.

II. The said Company and their servants or agents shall have full power to lay out and construct, make and finish a macadamized Road at their own cost and charges, from St. Athanase aforesaid to Jones' Mills, at the outlet of Brome Lake aforesaid, and thence to South Stukeley aforesaid.

And empowered to construct a macadamized road.

III. Provided always, that the breadth of land to be taken by the said Company without the consent of the proprietor for the said road, shall not exceed sixty-six feet English, except that an additional piece of land, not exceeding one hundred and twenty feet square English, at each end of the Road, may be taken as a site for any toll-house to be erected by the Company.

Limitation of breadth of land.

IV. The said Company shall have full power and authority to explore the ground or the country lying between the termini of the said Road, and to designate and establish, take, appropriate, have and hold, to and for the use of them and their successors, the requisite lands upon the line, and within the limits of the said Road, according to the provisions

Power to explore country between termini, &c.

hereinafter contained for acquiring the same ; and also to cut, make, and keep in repair upon such adjoining or neighboring lands, such ditches, drains, and water courses, as may be necessary for effectually draining and carrying off the water from the said road or work, making compensation therefor as hereinafter provided ; and for the purpose 5 aforesaid, the said Company and their agents, servants, and workmen, are hereby authorised and empowered to enter into and upon the lands and grounds of any person or persons, body or bodies corporate or politic ; and the said Company are also authorized to make ditches, drains, flats, bridges and other works on the said road and on the sides thereof ; 10 and to include in the said road any portion of any existing highway which they may deem expedient to adopt as part thereof ; and the said road hereby authorized to be made shall be a public highway, to all intents and purposes of law.

Deeds and conveyances to be in form of schedule A.

V. All deeds and conveyances for lands to be conveyed to the said 15 Company for the purposes of this Act may, in so far as the title to the said lands, or the circumstances of such parties making such conveyances shall admit, be made in the form given in the schedule of this Act marked A, in presence of any two or more witnesses ; and for the due enregistration thereof, the said Company shall, at their own expense, furnish the Registrar 20 of each county traversed by the said Road, with a book or books having a sufficient number of copies of the said form therein printed, one on each page, leaving the requisite blanks to suit the various cases of conveyance, such book or books being authenticated in the manner in which the ordinary registers of such Registrar are by law required to be authenticated ; 25 And such book or books shall by such Registrars be received and kept as, and shall be so many registers of their respective offices ; and they shall therein enregister such deeds, upon production thereof and proof of their execution, by the oath of one credible witness, which oath they are hereby authorized to administer ; And they shall certify such enregistration, and 30 the date thereof, on each such deed, and the Company shall pay for such enregistration of and certificate, upon each such deed the sum of *two shillings and sixpence*, currency, and no more ; and such enregistration shall be to all intents valid in law ; and in the absence of the original of any such deed, copies thereof taken from such register, and duly certified by the Registrar 35 having charge thereof, shall be held and treated as authentic copies of such deed ; and such Registrar shall be entitled to a fee of *five shillings*, currency, and no more, for every such certified copy.

Directors to manage affairs of company.

VI. The affairs, stock, property, and concerns of the said Company shall be managed and conducted by seven Directors, to be annually elected 40 according to the provisions of this Act ; and upon every such election of Directors, each stockholder shall be entitled to one vote for every share he may hold or be possessed of in the said Company ; and the first Directors of the said Company shall be the said C. H. Jones, Robert Jones, E. O. Brigham, Wm. McGinnis, J. DeLagrange, Robert McCorkel, 45 C. G. Jones, who shall hold office as such, until others shall be named as hereinafter provided ; and they shall have power to open stock books, to make a call upon the shares subscribed therein, to call a meeting of the subscribers thereto for the election of other Directors as hereinafter provided, and to lay out the said Road, and generally to do all such 50 things as may be necessary and expedient for carrying out the provisions of this Act.

VII. The capital stock of the said Company shall be the sum of £20,000 Capital sto
 and shall be raised by the persons and corporations who may become
 shareholders in such stock ; and the money so raised shall be applied, in the
 first place, to the payment and discharge of all fees, expenses and dis-
 5 bursements for procuring the passing of this Act ; and for making the sur-
 veys, plans and estimates connected with the said Road ; and all the re-
 mainder of the said money shall be applied to the making, completing,
 maintaining and working of the said Road, and to no other purpose what-
 ever ; Provided always, that if at any time after the passing of this Act, the
 10 Directors shall be of opinion that the original capital subscribed will not
 be sufficient to complete the said Road, it shall and may be lawful for the
 said Directors, under a resolution to be passed by them for that purpose,
 either to borrow upon the security of the said Company or by mortgage
 or hypothèque of the said road and tolls to be collected thereon, a suffi-
 15 cient sum of money to complete the same.

VIII. In the borrowing of money by way of loan, the debentures of the Debentures
for moneys
borrowed to
be in form of
schedule B.
 said Company may be in the form given in the schedule of this Act,
 marked B, or in any other like form, and need not be passed before nota-
 ries ; and the enregistration in the manner hereinafter set forth of any
 20 such debenture, in the form of the said schedule, in the Registry Office for
 the County of Iberville only, shall perfect the hypothèque thereby
 created, and such hypothèque shall rank from the date of the pre-
 sentment of such debenture for enregistration, irrespectively of the issuing
 thereof ; and every such debenture being enregistered and issued, shall be
 25 transferable by delivery, and binding to all intents against the said Com-
 pany and all parties whatsoever, in favor of the bearer thereof, and shall
 hypothecate in his favor all the lands buildings and real property whatso-
 ever of the said Company, and all other the appurtenances thereto belong-
 ing.

IX. The said Company in case of their requiring the enregistration Company to
furnish books
for enregistra-
tion of debent-
tures.
 of any debentures as aforesaid, shall at their own expense furnish the said
 Registrar with a book or books having a sufficient number of copies of the
 said form of debenture therein printed, one on each page, leaving the re-
 quisite blanks, and without any interest coupons thereto, such book or
 35 books authenticated in the manner in which the ordinary registers of
 such Registrar are by law required to be authenticated ; and such book or
 books shall by the said Registrar be received and kept as, and shall be so
 many registers of the said office ; and he shall therein enregister the said
 debentures upon production thereof ; and he shall certify such en-
 40 registration and the date thereof in each such debenture, and for such
 enregistration and the date thereof, in each such debenture, and for such
 enregistration of and certificate upon each such debenture he shall be en-
 titled to a fee of *one shilling and three pence*, currency, and no more.

X. If after such enregistration, any such debenture of the said Com- Provision as
to cancelled
debentures
 45 pany shall be presented at the said Registry Office with the word " can-
 celled" and the signature to such word added of the President or Secre-
 tary of the said Company written across the face thereof, the said Registrar
 on receipt of a fee of *one shilling and three pence* in that behalf ; and on
 proof of such signature by the oath of one credible witness, which oath he
 50 is hereby authorized to administer, shall forthwith make an entry in the
 margin of the register against the registry of such debenture, to the effect

that the same has been cancelled, adding to such entry the date thereof and his signature; and thereupon such debenture shall become and be held cancelled; and shall be filed and remain of record in the said registry office.

General meeting of shareholders to be called.

XI. So soon as one-fifth of the said capital stock shall have been subscribed, and ten per cent. paid thereon, it shall be lawful for the said Directors, or a majority of them, by public notice to be given at least thirty days previously in the Canada Gazette, and also at least fifteen days previously in at least one English and one French newspaper, published in the City of Montreal, and in one of the nearest country papers, to call a first general meeting of the shareholders at such time and place as they shall think proper, for the election of seven Directors, who shall remain in office until their successors are elected as hereinafter provided. 5 10

Holding of subsequent annual meetings.

XII. The annual general meetings of the said Company shall be held thereafter on the first Monday in the month of May, yearly, or on such other day as shall be appointed by any By-law of the said Company, and at such place and hour as by such By-law shall be appointed; and public notice thereof shall be given at least thirty days previously in the Canada Gazette, and also at least fifteen days previously in at least one English and one French newspaper published in the said City of Montreal; and at every such annual general meeting, the said private stockholders shall elect seven Directors of the said Company to hold office until the next annual general meeting. 15 20

Elections of Directors to be by ballot.

XIII. All elections of Directors by the said private shareholders shall be by ballot; and the seven persons having the greatest number of votes at any election shall be declared elected; and if it shall happen that two or more have an equal number of votes, the said private shareholders shall proceed to ballot anew until a choice shall be made; and no person shall be qualified to be elected such Director by the said private shareholders unless he be a shareholder holding stock in the said Company to the amount of one hundred pounds, and have paid up all calls due on his stock. 25 30

Board of Directors.

XIV. From and after the said first general meeting of the said Company, the seven Directors so chosen as aforesaid, shall form the Board of Directors of the said Company; and if any vacancy shall occur among the said Directors, by death, resignation or otherwise, a majority of the remaining members of the Board may elect any qualified shareholder to fill such vacancy until the next annual general meeting of the said Company. 35

Quorum.

XV. Three Members of the Board of Directors of the said Company shall be a quorum thereof for the transaction of business; and the said Board may employ one or more of their number as paid Director or Directors. 40

Shares to be £5.

XVI. Each share in the said Company shall be five pounds, and shall be regarded as personal property, and shall be transferable upon the books of the said Company, in such manner as shall be provided by any by-law to be made by the said Directors in that behalf and not otherwise, so far as regards the rights of the said Company, nor shall any transfer be made of any share on which any call remains due and unpaid. 45

Directors may make calls.

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

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

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

Shares may be sold for non-payment of calls.

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

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

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

Corporations that cannot sell shall agree upon a fixed rent.

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

Agreement with the proprietors *par indivis*.

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

Map or plan and book of reference to be drawn up and deposited.

XXII. For the purposes of this Act the said Company shall cause a map or plan to be drawn up by a sworn surveyor of the route of the said road, and of the lands through which it is intended to pass; and also a book of reference for the said roads, in which shall be set forth a general description of the said lands and the names of the owners, occupiers or proprietors thereof, so far as they can be ascertained; which said map or plan and book of reference shall be certified by the Commissioner of Crown Lands, or his Deputy, and copies thereof deposited by him in the office of the Secretary of the Province, and of the Prothonotary of the Superior Court in the District of Montreal, and a copy thereof delivered to the said Company; and access may be had at all times to such copies, from which extracts may be obtained by any person whomsoever, at the rate of sixpence currency for every hundred words; and the said copies of the said Bill so certified, or true copies thereof certified by the said Secretary of the Province, or by the said Prothonotary, shall be legal evidence in all Courts of Law and elsewhere.

The company to apply to owners of lands touching compensation.

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

Legal effect of map and book of reference.

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

The Company shall serve a notice upon the opposite party, containing a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands (describing them) a declaration that the Company are ready to pay some certain sum (or rent as the case may be) as compensation for such lands or for the damages arising from the exercise of such powers; and the name of a person whom they appoint as their arbitrator, if their offer be not accepted; and such notice shall be accompanied by the certificate of a sworn Surveyor, disinterested in the matter and not being the arbitrator named in the notice, that the land (if the notice relate to the taking of land) is required for the said Road, that he knows such land or the amount of damages to arise from the exercise of such powers, and that the sum so offered is in his opinion a fair compensation for such land and for such damages as aforesaid; and in making the estimate for such compensation, such Surveyor shall, as shall also the arbitrators hereinafter mentioned, take into consideration and allow for the benefit to accrue to the party to whom compensation is to be made from the said road; and in any case wherein the said Company shall have given and served the notice aforesaid, it shall be lawful for the said company to desist from such notice and afterwards to give new notice with regard to the same or other lands, to the same or any other party; but the said Company shall in any such case be liable to the party first noticed for all damages or costs by him incurred in consequence of such first notice and desistment; and no change of ownership after the said Company shall have given and served the notice aforesaid shall affect the proceedings; but the party notified shall be still deemed the owner, except as to the payment of the sum awarded.

Notice to opposite party.

Certificate of surveyor.

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

As to absence of opposite party.

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

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

If the opposite party shall within the time aforesaid notify to the said Company the name of the person such party shall appoint as arbitrator, then the said two arbitrators shall jointly appoint a third, or if they cannot agree upon a third, (of which fact the allegation of either of them shall be evidence) then any such Justice or Judge shall on the

Opposite party appointing an arbitrator.

application of the said party or of the said Company (previous notice of at least one clear day having been given to the arbitrator of the other party) appoint a third arbitrator.

Duties of arbitrators.

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

Costs how paid.

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

Arbitrators to have power to examine witnesses on oath.

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

Time within which award must be made.

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

Arbitrator dying, &c.

If the arbitrator appointed by the said Company or by the opposite party, or any third arbitrator, whether appointed by the two arbitrators or by any such Justice or Judge, shall die, or be or become disqualified or unable to act, then, on proof thereof to the satisfaction of any such Justice or Judge, such Justice or Judge shall authorize the Company, or the opposite party, or the two arbitrators, to appoint another person in the place of him who shall be so deceased, disqualified or un-

able to act, or shall himself appoint another person as third arbitrator as the case may require, but no recommencement or repetition of any prior proceedings shall be necessary.

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

It shall be no disqualification to the surveyor or other person offered or appointed as valuator or as arbitrator that he be employed by the Company or by the opposite party, or that he have previously expressed an opinion as to the amount of compensation, or that he be related or of kin to any member of the Company, provided he be not himself personally interested in the amount of such compensation; and no cause of disqualification shall be urged against any arbitrator appointed by any such Justice or Judge after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Justice or Judge, and no cause of disqualification shall be urged against any arbitrator appointed by the Company or by the opposite party after the appointment of a third arbitrator, and the validity or invalidity of any cause of disqualification urged against any such arbitrator before the appointment of a third arbitrator shall be summarily determined by any such Justice or Judge on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified shall be held to have appointed no arbitrator. Arbitrators not disqualified by certain circumstances.

No award made as aforesaid shall be invalidated by any want of form or other technical objection, if the requirements of this Act shall have been complied with, and if the award shall state clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the party or parties to whom the sum is to be paid be named in the award; and the arbitrators shall have full power to award that any fences or ditches between the lands taken and other lands of the opposite party shall be made and maintained by the said Company, and in such manner as shall be mentioned in the award. Award not avoided by want of form.

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

such warrant may also be issued by any such Justice or Judge (and shall be addressed and executed as aforesaid) on the application of the Company before any award or agreement shall have been made, upon the affidavit of any Engineer or Superintendent of Works in the employ of the Company, that the immediate possession of any land, or the power immediately to do any thing mentioned in the notice to the party interested, is necessary to the carrying on of the works of the said Company, and upon the said Company giving security to the satisfaction of such Justice or Judge in such sum as he shall direct (not being less than twice the sum mentioned in the certificate of the sworn surveyor) to pay or deposit the amount to be awarded as compensation in such case, with interest from the date of such warrant, and all costs within thirty days after the award shall have been made.

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

XXV. The compensation awarded as aforesaid, or agreed upon by the said Company, and any party who might under this Act, validly convey the lands, or then in lawful possession thereof as proprietor, for any lands which might be lawfully taken under this Act, without the consent of the proprietor, shall stand in the stead of such land, and any claim to or mortgage, hypothec or incumbrance upon the said land or any portion thereof, shall as against the Company, be converted into a claim to the said compensation, or to a like proportion thereof, and if the amount of such compensation exceed twenty pounds, they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party: Provided always, that if the Company shall have reason to fear any such claims, mortgages, hypothecs or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof, is payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the Superior Court in the District in which such land is situate, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award if there be no conveyance, (and such award shall thereafter be deemed to be the title of the said Company to the land therein mentioned) and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company (that is the conveyance or award) is under this Act, and shall call upon all persons entitled to, or to any part of the lands, or representing, or being the husbands of any parties so entitled, to file their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall forever bar all claims to the lands or any part thereof, (including dower not yet open) as well as all mortgages, hypothecs or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as to right and justice, according to the provisions of this Act, and to law shall appertain; and the costs of the said proceedings or any part thereof, shall be paid by the said Company or by any other party, as the Court shall deem it equitable to order; and if judg-

ment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company, it shall not be obtained
 5 until the six months are expired, the Court shall order the Company to pay to the proper party the interest for such further period as may be right: Provided always, that if the amount of the said compensation do not exceed twenty pounds, the same may be paid by the Company to the party in whose possession as proprietor the land was at the time the
 10 Company took possession thereof, or to any person who may lawfully receive money due to such party, and proof of such payment and the award shall be a sufficient title to the said Company, and shall forever discharge them from all claims of any other party to such compensation or any part thereof, saving always the recourse of such other party
 15 against the party who shall have received such compensation.

XXVI. If any land belonging to or in possession of any Tribe of Indians be taken, or any power shall be exercised with regard to such lands by the said Company, compensation shall be made to them therefor, in the same manner as is provided with respect to other parties; and whenever
 20 it shall be necessary that arbitrators be chosen for settling the amount of such compensation, the chief officer of the Indian Department shall name an arbitrator on behalf of the said Indians, and the amount awarded shall be paid to the said chief officer for the use of such Tribe.

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

35 XXVIII. It shall and may be lawful for the President and Directors of the said Company, from time to time, to fix, regulate, and receive the tolls and charges to be received from all persons passing and repassing with horses, carts, carriages and other vehicles, and for cattle driven upon, over and along the said road, with or without any such carriages or
 40 animals as aforesaid: Provided always, that so soon as one or more miles of the said road shall have been completed, tolls may be taken therefor.

XXIX. No by-law, rule or regulation of the said Company, fixing, regulating or altering the rate of tolls or charges on the said road or affecting others than the members or officers of the said Company, shall have
 45 force or effect until it shall have been confirmed by the Governor in Council.

XXX. The tolls hereby authorized to be levied by the said Company upon the said road, shall not for each time of passing, whether loaded or otherwise, exceed the rate of one penny half-penny per mile (reckoning
 50 from the gate at which the toll is to be paid to the next gate in the direction in which the vehicle or animal on which it is to be paid may have

come) for any vehicle drawn by two horses or other cattle; and for any vehicle drawn by more than two horses or other cattle, one half-penny per mile for every additional one; for every vehicle drawn by one horse or other beast of burthen, one penny per mile; for each sheep or head of swine, one farthing per mile; and for every horse without its rider, and for every ox or cow, or other head of horned cattle, one half penny per mile for every horse and rider, one half penny per mile: Provided always, that it shall be lawful for any individual to compound with the said Company at such reasonable rates as shall be determined upon by the said Company for passing over the said road. 10

Return to the
Legislature.

XXXI. It shall be the duty of the Directors of the said Company to report annually to the Legislature within the first fifteen days of each Session, under the oath of the Treasurer of the said Company, after the opening of the said road or any part thereof to the public, the cost of the said road, the amount of all money expended, the amount of the capital stock, and how much is paid in; the whole amount of stock expended on the said road, the amount received during the year for tolls, and from all other sources, stating each separately; the amount of dividends paid, and the amount expended for repairs, and the amount of debts due by the said Company, specifying the object for which such debts respectively were incurred; and the said Company shall also keep regular books of account in which shall be entered a correct statement of the assets, receipts and disbursements of the said Company, which shall be at all times open to the inspection of the Government and examination of any person or persons who may for that purpose be appointed by the Government; and every person so appointed shall have the right of taking copies or extracts from the same, and of requiring and receiving from the keeper or keepers of such books, and also from the President and each of the Directors of the said Company and all the other officers and servants thereof, all such information as to such books and the affairs of the said Company generally, as such person or inspector may deem necessary for the full and satisfactory investigation into and report upon the state of the affairs of the said Company and the profits by them derived from the said road. 15 20 25 30

Road, &c.,
vested in com-
pany.

XXXII. The said road and all the materials which shall, from time to time, be got or provided, for constructing, building, maintaining or repairing the same, and all toll-houses, gates, and other buildings constructed or acquired by and at the expense of the said Company acting under the provisions of this Act and used for their benefit and convenience, shall be vested in the said Company and their successors; the said Company shall have full power and authority to erect such number of toll-gates or side-bars, in, along, or across the said road, and fix such tolls not exceeding the rates aforesaid, to be collected at each gate or bar, as they may deem fit and expedient, (which tolls may be altered from time to time as circumstances may require,) and to erect and maintain such toll-houses, toll-gates, and other buildings and erections as may seem necessary and convenient for the due management of the said road; Provided always, that no toll shall be exacted for merely crossing the said road. 35 40 45

Road to be
completed
within a given
time.

XXXIII. The said Company shall be bound and are hereby required to complete the said road within five years from the day of the passing of this Act, in default whereof this Act, and every matter and thing therein contained, shall cease and be utterly null and void. 50

XXXIV. If any person or persons shall in any way injure, cut, break down or destroy any part of the said Road as aforesaid, or any toll-gate or toll-house, building or other erection, in, upon or near the said Road, and belonging to or used for the convenience of the said Company under the provisions of this Act, every such person so offending, and being lawfully convicted thereof, shall be deemed guilty of a misdemeanor, and shall be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone, plank, timber or other materials used or intended to be used in or upon the said Road, for the construction, maintenance or repair thereof, shall drive any loaded wheel carriage or other loaded vehicle upon that part of any of the said road lying between the stones, plank, or 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 cause any injury or damage to be done to the posts, rails or fences, or shall haul or draw, or caused to be hauled or drawn, upon any part of the said road, any timber, stone or other thing which shall be carried principally or in part upon wheeled carriages or sleighs, so as to drag or trail upon the said 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 road, to the prejudice, interruption and danger of any person travelling thereon, or if any person shall, after having blocked or stopped any cart, waggon, or other carriage in going up a hill or rising ground, cause to suffer or suffer to lie and remain on the said road, any stone or other thing with which such cart or carriage shall have been blocked 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 side of the said road or toll-houses erected thereon, or shall wilfully extinguish the light of any such lamp, or if any person shall wilfully pull down, break, injure or damage any table of tolls, put up or fixed at any toll-gate or bar on any part of the said road, or shall wilfully or designedly deface or obliterate any of the letters, figures, or marks thereon, or on any finger post, or any mile post or stone; or if any person shall throw any earth, rubbish or other matter or thing into any drain, ditch, culvert or other water course, made for draining the said road, or if any person shall without permission, carry away any stones, gravel, sand or other materials, dirt or soil from any part of the said road, or dig any holes or ditches on the allowance for the same, or shall forcibly pass or attempt to pass by force any of the toll-gates set up by the said Company, without having first paid the toll fixed by the Directors of the said Company to be received at any such gate, such person shall upon conviction thereof in a summary way before any Justice of the Peace in or near the place where the injury shall have been done, be sentenced to pay all damages sustained by the said Company, to be ascertained by the said Justice upon the hearing of the said complaint, and also to pay a fine of not more than two pounds ten shillings nor less than five shillings; such damages and fine to be paid either in money, or in the discretion of the said Justice, in labor to be performed upon the road under the direction of the said Company, and within a time to be limited by the said Justice, and in default 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.

Penalty for
injuring Road,
&c.

Fines may be levied by distresses.

XXXV. 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 or warrants, such offender or offenders shall and may be committed to the Common Gaol of the District for any period not exceeding one month. 5

Penalty for evading tolls

XXXVI. If any person or persons shall, after proceeding on the said road with any waggon, carriage, or other vehicle, or animal liable to pay toll, turn off the said road into any other road, and shall enter the said road beyond any of the said gate or gates without paying toll, whereby such payment shall be evaded, such person or persons shall for every such offence, forfeit and pay the sum of ten shillings, which said sum shall be expended on the said road or towards the discharge of any debt due by the Company; and any one Justice of the Peace for the District in which such part of the said road is situate, shall, on conviction of such offender fine such offender in the said penalty, and shall cause to be levied as aforesaid. 15

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

XXXVII. 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, 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 so offending, and also the person riding 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 shillings, which shall be laid out in improving the said road. 20 25

Municipalities may take stock.

XXXVIII. It shall be lawful for any Municipal Body corporate having jurisdiction within the locality through which the said road shall pass, to subscribe for, acquire, accept and hold, and to depart with and transfer stock in the said Company, and from time to time to direct the Mayor or other chief officer thereof, on behalf of such Municipality, to subscribe for such stock in the name of such Municipality, and to act for and on behalf of such Municipality in all matters relative to such stock, and the exercise of the rights of such Municipality as a stockholder, and the Mayor or other chief officer shall, whether otherwise qualified or not, be deemed a stockholder in the Company, and may vote and act as such, subject always to such rules and orders in relation to his authority as shall be made in that behalf by such Municipality by their By-laws or otherwise, but acting according to his discretion in cases not provided for by such Municipality; and it shall be lawful for such Municipality to pay for, or to pay all instalments upon the stock they shall subscribe for and acquire out of any moneys belonging to such Municipality, and not specially appropriated to any other purpose, and to apply the moneys arising from the dividends or profits on the said stock or from the sale thereof, to any purpose to which unappropriated moneys belonging to such Municipality may lawfully be applied. 30 35 40 45

Municipalities may loan money.

XXXIX. It shall also be lawful for the Municipality of any locality through which the said road shall pass, to loan money to the said Company out of any moneys belonging to the Municipality and not appro- 50

5 priated to any other purpose, and to effect such loan upon such terms and conditions as may be agreed upon between the said Company and the Municipality making such loan, and to recover the money so loaned and to appropriate the money so recovered to the purposes of such Municipality.

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

Religious communities may hold stock and loan money.

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

Her Majesty may purchase Road after 21 years.

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

Stockholders, servants, &c., competent witnesses.

30 XLIII. 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, 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.

Limitation of actions.

35 XLIV. In case of the service upon the said Company of any writ of *saisie arrêt*, or the said Company being required to answer to *interrogatoires sur faits et articles*, or to take the *serment décisoire* or *supplettoire* it shall be competent to any officer of the said Company, being thereto duly authorized by vote or resolution of the Directors thereof, to appear and make declaration to such writ or answer to such interrogatories, or take such oath, as the case may be, for the said Company; and such declaration, answers or oath, as the case may be, shall be taken as the declaration, answers or oath of the said Company, to all intents whatsoever; and the production and filing in Court by such officer, of a copy of such vote or resolution, certified by the Secretary of the said Company under its common seal, shall be conclusive evidence of his authorization, as in and by such copy set forth.

45 XLV. All persons, horses or carriages, going to or attending or returning from any funeral, or any person with horse or carriage going to or returning from Divine Service on the Lord's Day, or on any *fête d'oblation*, shall pass the gates on the said road free of toll; and all persons

Exemptions from toll.

in the naval or military service of Her Majesty, or in the militia of this Province, on actual duty, travelling on the said road in discharge of such duty, with their horses and carriages, and all horses, carts, carriages or wagons in charge of any such persons, conveying any naval, military or militia stores belonging to Her Majesty, in the course of transport from one place to another for Her Majesty's service, shall pass the gates set up across the said road free of toll. 5

As to roads intersected by this road.

XLVI. Whenever the said Road shall intersect a road constructed by any other chartered Company, no higher rate of toll shall be demanded from the persons travelling along the said last mentioned road for the distance travelled between such intersection and either of its termini than the rate per mile charged by the said Company for travelling along the entire length of their road so intersected. 10

Road to be kept in repair.

XLVII. After the said road shall have been completed and tolls been taken thereon, it shall be the duty of the said Company to keep the same in good and sufficient repair, and in case the said road by the said Company be allowed to fall into decay and get out of repair, the said Company may be indicted at the Court of General Sessions of the Peace or Court of Superior Jurisdiction, within the District where the said road shall be so out of repair as aforesaid; and upon conviction, the Court before whom the prosecution shall be had, shall direct the said Company to make the necessary repairs, for the want whereof such prosecution shall have been commenced, within such time as to such Court shall seem reasonable; and that in default of such repairs being made in the manner and within the time prescribed by such judgment, the said Company shall be declared to be dissolved, and the said Road shall thenceforth be vested in Her Majesty, Her Heirs and Successors, to and for the use of the public, in like manner as any public and common highway or public work, and shall thenceforth be subject to all the laws affecting public highways and public works, and the powers of the said Corporation shall thenceforth vest in the Governor in Council. 15 20 25 30

Company may become parties to promissory notes.

XLVIII. The said Company shall have power to become a party to promissory notes and bills of exchange for sums not less than twenty-five pounds, currency; and any such promissory note made and endorsed, and any such bill of exchange, drawn, accepted, or endorsed by the President or Vice-President of the said Company, and countersigned by the Secretary and Treasurer thereof, under authority of a quorum of the Directors, shall be binding upon the said Company; and every such promissory note or bill of exchange, so made, drawn, accepted or endorsed by the President or Vice-President of the said Company, and countersigned by the Secretary and Treasurer thereof, shall be presumed to have been properly so made, drawn, accepted or endorsed, as the case may be, unless the contrary be shown; and it shall not be necessary to have the seal of the said Company affixed to such promissory note or bill of exchange; nor shall the officers of the said Company, signing or countersigning the same, or such acceptance or endorsement thereof, be thereby subjected individually to any liability whatever; Provided always that nothing herein contained shall be held to authorize the said Company to issue any note or bill payable to bearer or intended to be circulated as money or as the notes of a Bank. 35 40 45 50

Public Act.

XLIX. This Act shall be a public Act.

SCHEDULE A.

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

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

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

SCHEDULE B.

No. £ sterling (or currency, as the case may be.)

This Debenture witnesseth that the

under authority of the Statute of the Province of Canada passed in the year of Her Majesty's Reign, intituled,

are indebted to the bearer hereof in the sum of sterling, (or currency, as the case may be) as a loan to bear interest from the date of the issue hereof, at the rate of per centum per annum, payable half yearly on the day of and on the day of ; which said sum of sterling (or currency as the case may be,) the said Company hereby bind and oblige themselves to pay on the day of in the year of Our Lord one thousand eight hundred to the bearer hereof at and also to pay the interest thereon half yearly as aforesaid to the bearer hereof at the place aforesaid, on delivery of the coupons therefor, now forming part hereof.

And for the due payment of the said sum of money and interest, the said Company, under authority of the said Statute, do hereby hypothecate the real estate and appurtenance hereinafter described, that is to say the whole of the road known as the

including all the lands, buildings and real property whatsoever of the said Company, and all rails and iron thereto affixed, and all the other appurtenances thereto belonging.

In testimony whereof, A. B. of _____ President of the said Com-
 pany, hath hereto set his signature and affixed the common seal of the
 said Company at _____ this _____ day of _____ in the year
 of Our Lord one thousand eight hundred and _____

A. B. [L. s.]

Countersigned and entered.

C. D., Secretary.

I certify that this Debenture was duly presented for enregistration in
 the Registry office for the _____
 on the _____ day of _____ in the year of Our Lord one thou-
 sand eight hundred and _____ at _____ of the clock in the
 _____ noon, and is accordingly enregistered in the Register, for such
 debentures, marked _____ at page number _____

E. F., Registrar.

Issued to L. M., of _____ this _____ day of _____
 in the year of Our Lord one thousand eight hundred and _____

C. D., Secretary.