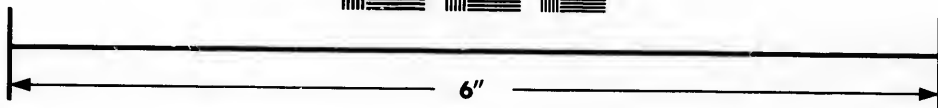
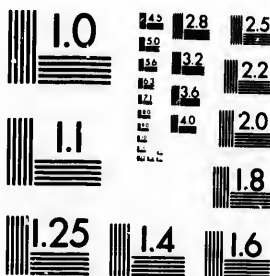


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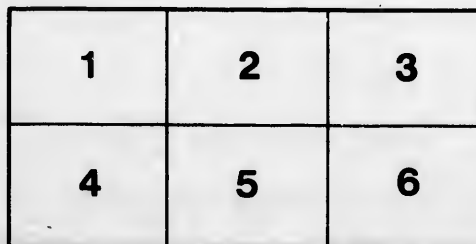
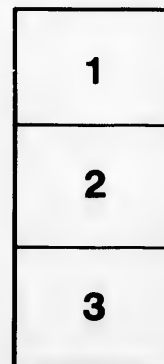
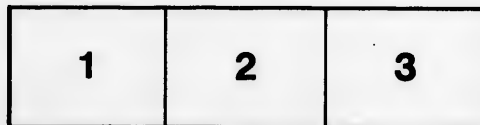
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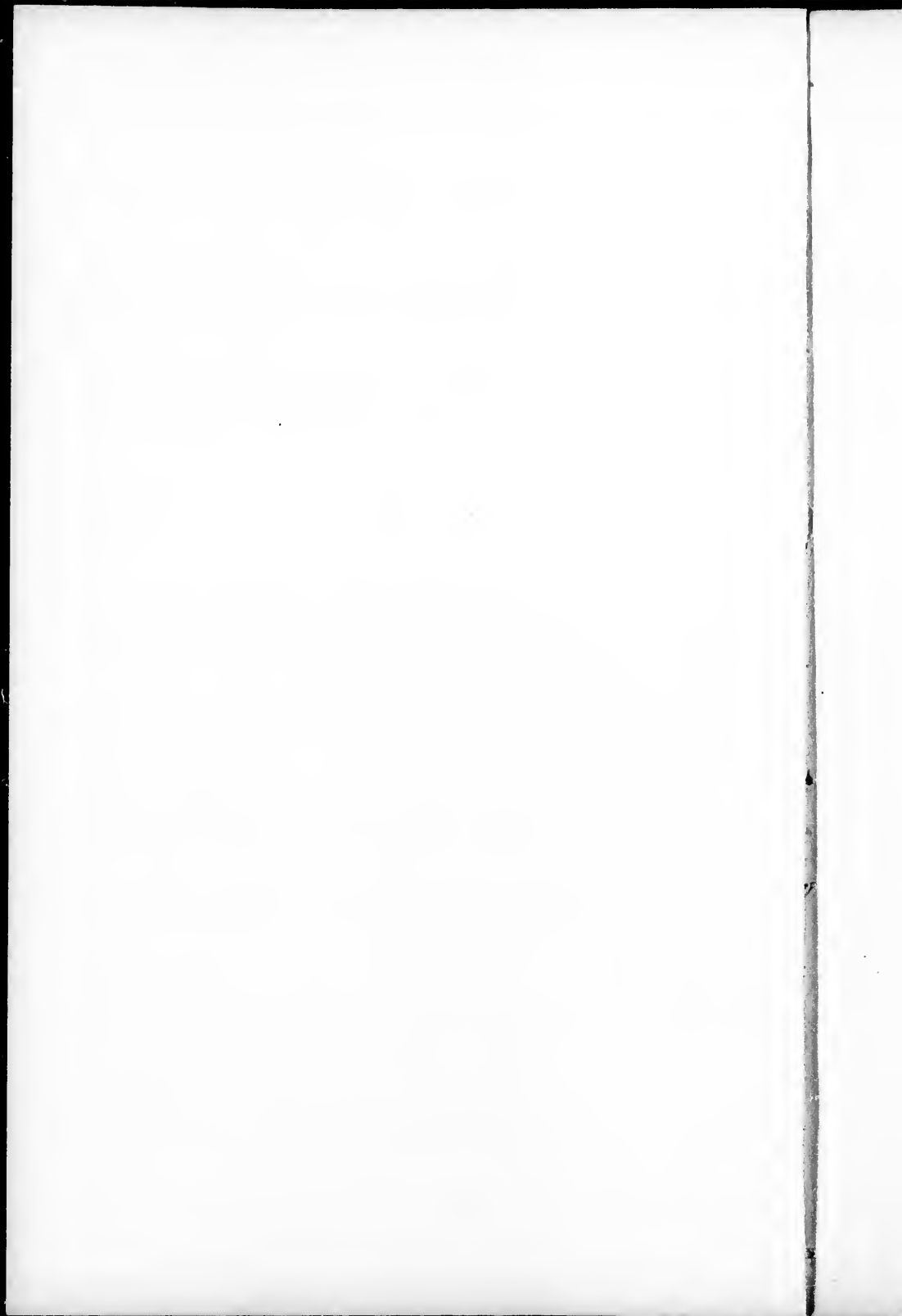
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OBSERVATIONS  
FOR THE  
IMPROVEMENT  
OF THE  
ROAD LAWS

IN FORCE IN LOWER CANADA,

IN 1825.

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BY

J. VIGER, Esq.

*Surveyor of Roads and Bridges for the City and Parish of Montreal.*

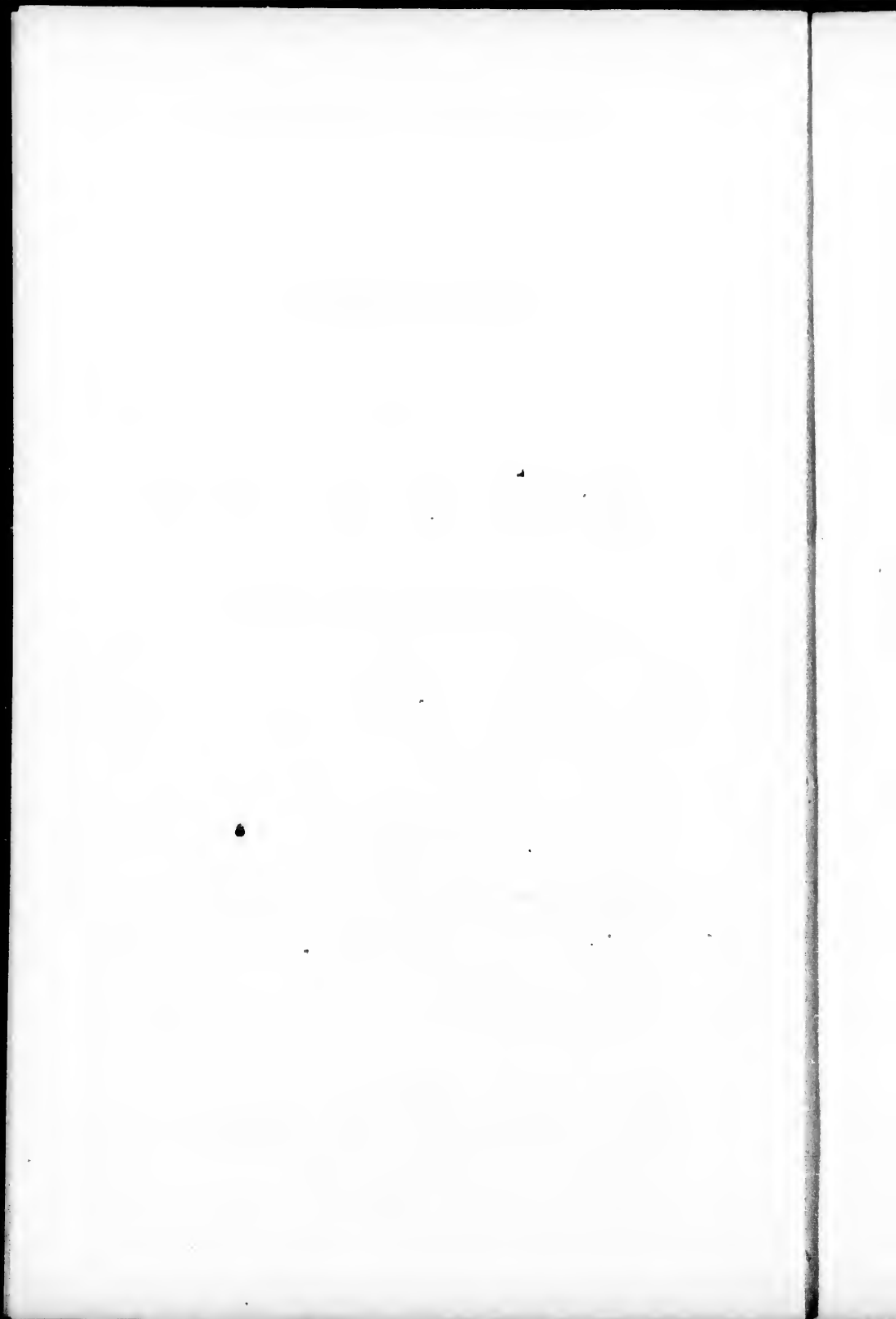
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Montreal :

PRINTED BY JOHN LOVELL,  
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1840.



## NOTE.

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THESE Observations were printed in the Journals of the House of Assembly of Lower Canada, in 1825, (*Appendix X.*) with the Report of a Committee of the same House, dated 10th March, viz :—

{ "HOUSE OF ASSEMBLY.  
COMMITTEE ROOM, March 10, 1825.

"PRESENT :

"MESSRS. CUVILLIER,  
TASCHEREAU,  
QUESNEL,  
BUREAU.

"MR. TASCHEREAU in the Chair.

"Read the Order of Reference.

"Ordered, that Mr. JACQUES VIGER be examined as a Witness.

"And the said Mr. Jacques Viger forthwith appeared, and the following question was put to him :

"Q. Is the existing Road system susceptible of improvement? are the laws respecting the same defective? What are the inconveniences thence arising; and have you any plan of improvement to propose to the Committee, especially respecting the Highways of the Cities and of the Parishes in which the Cities are ?

"Mr. Viger accordingly made answer as follows:—"



*(Here are inserted my OBSERVATIONS, as Evidence. Then the Committee proceeds thus :)*

“Your Committee, after having attentively considered the object of the present reference, and the evidence adduced thereon, is unanimously of opinion, that the Road Acts in force in this Province, admit of being altered for the better, and that it is necessary to consolidate them into one Act ; but that the labour which this would require would take up more time than it is possible for your Committee to extend to it in the present Session ; but that these Acts should be the subject of the consideration of this House at the commencement of the next Session of the Legislature.

“That nevertheless there are inconveniences resulting from the obscurity of certain clauses of the Road Acts now in force, which render the execution of them more difficult, and which it is easy to remedy in the present Session, and which require that such remedy be immediately applied.

“Ordered, that the Chairman do now leave the Chair and report progress.

“The whole nevertheless respectfully submitted.”

In consequence of the Report of the Committee, the Parliament passed in the same Session, (1825,) an Act, intituled “An Act to make certain Alterations to the Road Laws,” (chap. 3.)

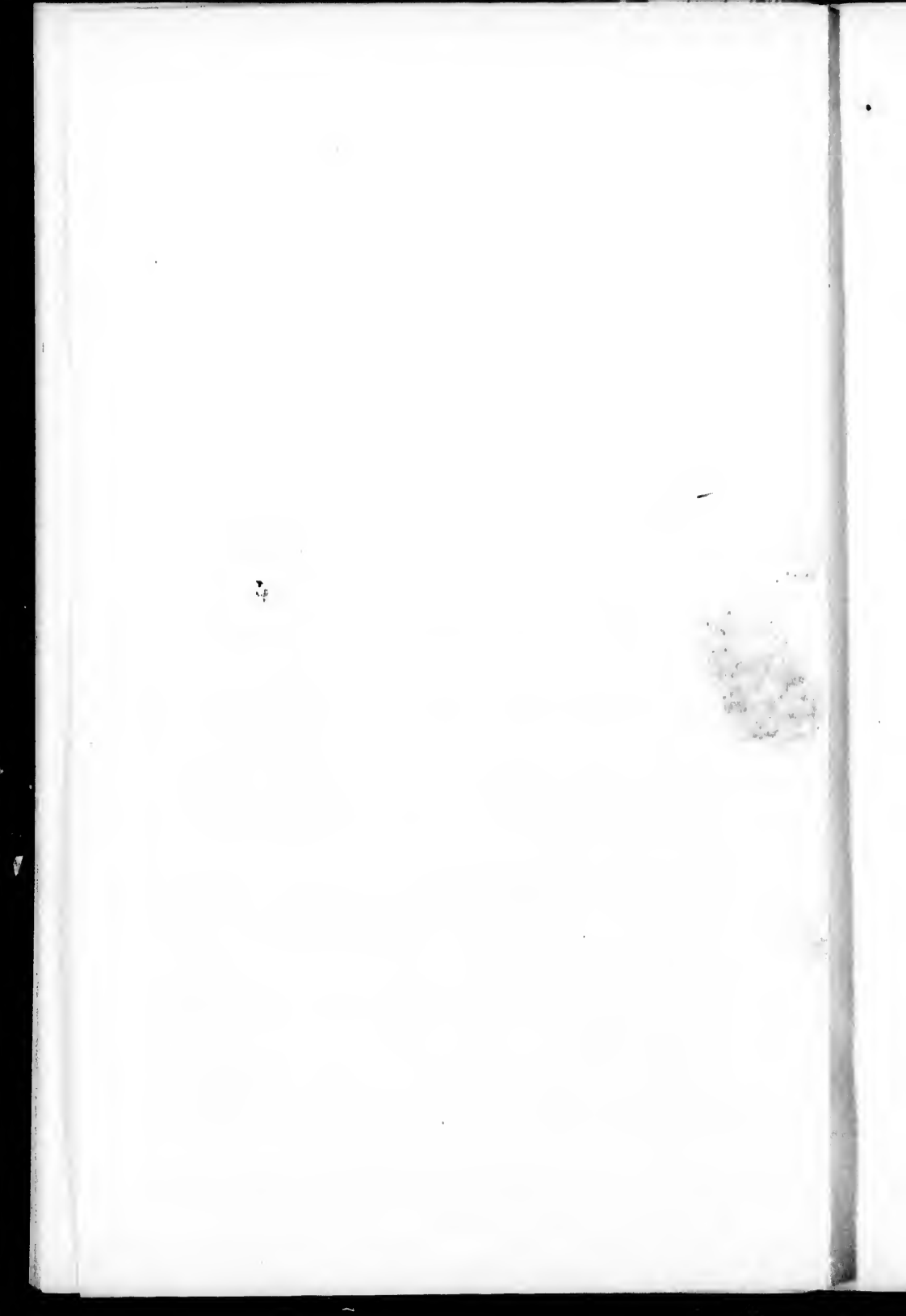
Many of my suggestions have since been adopted, either by Acts of the Legislature, or by Rules of the Magistrates of Montreal.

J. V.

Montreal, December, 1840.

These **OBSERVATIONS** were originally written by **Mr. VIGER**, in the French language, and are here reprinted from the Translation in the Journals of the **House of Assembly**, with a few verbal alterations by the **Author**. Though the spirit of the original has been preserved, the translation is by no means as perfect as those generally of the **House**, but the necessity of adhering to the text has prevented such general amendments as might have been necessary to render the document as correct in the English as it is in the French language.

**THE EDITOR.**



## OBSERVATIONS &c.

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I have been Surveyor of Highways, Streets, Lanes, and Bridges, for the City and Parish of Montreal during eleven years last past. An assiduous practice of the duties and obligations of that office, during all that period, under the direction of zealous and active Magistrates, in an industrious city, among inhabitants distinguished by their good taste, liberality, and anxious solicitude to promote and give every encouragement to its progress and improvement of every kind, have in fact led me to discover deficiencies in those Acts, without doubt originally excellent, and to wish that they were in part new modelled, in order to render them, if possible, more analogous to, or better adapted to the present time. My small experience in this behalf is chiefly limited to the wants of the city.

My jurisdiction in the county not extending beyond the limits of the single parish of Montreal, and my predecessor in office, Mr. Louis Charland, having been actively employed during fourteen years in giving there the assistance required, little remained there for me to accomplish, and therefore fewer opportunities of forming a judgment wherein those Acts are defective, respecting the country parts in general. I have nevertheless ascertained in the course of my practice that it would be beneficial to the parishes circumjacent to the cities, were some of the Sections of those Acts reduced, and others corrected: I shall point out the defects, yet with diffidence, and shall propose the amendments with all possible submission to the better judgment and enlightened prudence of the Members of the Committee. I shall also offer some suggestions which, to me at least, appear worthy the attention of the Committee.

## THE TOWN AND CITY.

1. The Ordinance of 1777, "To prevent Accidents by Fire," prohibits the erection, in the towns, of wooden buildings wherein fire is to be made, and only permits such structures in the suburbs. The destruction of the old walls of Montreal, and the concession to individuals of the ground occupied by them, as well as that of the external Military Reserves, has entirely obliterated those ancient and irregular limits of the town and suburbs; and the Ordinance remaining in force has become of difficult and contentious execution. This is an evil which urgently requires a remedy, and the mode of relief is easy. To the peculiar meaning of the prohibition intended by the Ordinance, that space of ground might be termed the town which is included within the limits hereinafter set forth: On the south east, the River St. Lawrence, from the centre of Lacroix Street to the mouth of the Little River between the town and the *Saurs Grises*; then that Little River, from its mouth to the centre of M<sup>c</sup>Gill Street: on the south west, the centre of M<sup>c</sup>Gill Street, Commissioners' Square and St. Radegonde Street to the intersection of the centre of Craig Street: on the north west, the centre of Craig Street, from St. Radegonde Street to the centre of Sanguinet Street, then the centre of that street from Craig Street to the centre of St. Louis Street, then the centre of the street last mentioned from Sanguinet Street to the centre of Lacroix Street; and finally, on the north east, the centre of Lacroix Street, from St. Louis Street to the River St. Lawrence.

2. The limits of the city, as fixed by Proclamation of Lieutenant Governor Alured Clarke, at the distance of sixty chains (of Gunter) from each of the gates of the town, are no longer to be distinguished on the spot, except by three boundary marks, placed by Mr. Saxé, in 1796,

on three of the sides of the Trapezium, which is the figure occupied by the city ; but the three lines parallel to the old walls, which those boundary marks are to designate, are not drawn and marked upon the spot by a series of pickets, and the want of these more certain and desirable indications which the Assessors would find in every street which those lines so marked might visibly intersect, exposes those public and sworn officers, every year, to commit acts of injustice to individuals, or to deprive the city of a certain income due by law. The Prosecutions in execution of the Road Acts, Rules of Police, &c. also require that those lines of division between the city and country be well known.

3. Many of the streets of the city had the same name. Some of them even had two or three different names. The Magistrates of Montreal, in 1817, thought proper to apply themselves to the fixing of the nomenclature of those streets for the future, as also the limits of each of those Suburbs. The object was to provide against visible inconveniences in the execution of the laws, and in the summonses in prosecutions, and to establish uniformity in the names given in notarial Acts. This project was received with pleasure by the public, and by some officers therein interested. It did good, but it also encountered opposition, and did not altogether succeed as it ought to have done. Would it not be expedient to empower the Magistrates to publish that nomenclature, and those defined limits of the suburbs, and to order the Sheriff, the Prothonotaries, and the Notaries henceforth to conform thereto ?

4. The 26th, 27th, and 28th sections of the Act of 1799, direct the making of the Plan of the City of Montreal, &c. That Plan was made by Mr. Charland, but was never ratified, so that the proprietors of land adjacent

to the granted lots divide those grounds as they chose, which occasions streets to be narrow or to be opened in quite a different direction from that already proposed by the city, or by proprietors disposed to sacrifice their views of private interest to the more elevated one of the public good, the embellishment of the city and the benefit of its inhabitants.\* If the Legislature should not think proper to renew these Sections of the Act of 1799, they might at least enact "that every person wishing so to concede, " should only do so after having submitted his plan of the " proposed distribution, to the Magistrates in Special or " Quarter Session, and having obtained the ratification " thereof;" also, that he shall not concede upon those legalized roads, until he shall have caused to be made, by the Surveyor of Roads, a ratified Plan and Procès-Verbal of the level of each of the approved roads.

5. The 44th and 45th sections of the Act of 1796 assign the mode of opening, widening and straightening the streets of the city. These improvements may be made upon the Report of a *Jury* of twelve householders of the district, sworn to that effect; and the breadth of the street is not to be less than 30 feet. Is it well understood that the streets of that breadth and more, which are offered *gratis*

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\*NOTE.—About three years ago, I believe, one J. M. Roi wished to concede for building lots, a meadow belonging to him in the Suburbs of St. Joseph. St. Bonaventure Street, necessary and indispensable to the distribution of that ground, was opened on the North East and South West of that meadow; all that was wanted there was to prolong its alignments already fixed. The proprietor, from motives doubtless known to himself alone, persisted in changing the direction of those alignments; and in opening the prolongation of the street upon his ground he did so, in such manner as to cause it to cross that part of the road already settled on the North East. The Town not choosing to permit the new proprietors to build upon such an alignment, (five houses were already building there,) was obliged to pay about £300 to purchase the ground upon which they were going to build, and which they acknowledged should form part of the natural situation of that continuation of St. Bonaventure Street.

to the Magistrates by the proprietors of the ground, may be received and declared to be *public streets* by the Magistrates, without, in the first instance, having their utility declared by a Jury? Many of our Justices of the Peace do not hold that they can receive such grants, without the formality last mentioned. All nevertheless perfectly agree, that when payment for the ground is to be proceeded to, and the assessment monies are accordingly to be applied to that purchase, the favorable report of a Jury is necessarily required—and in the latter case, is the verdict of a Jury final or not? or ought it not to be so? There are, at Montreal, some instances of streets which Juries have declared ought to be straightened, &c. and whose verdicts to that effect have been rejected by the Magistrates, who nevertheless had not inspected the spot as the Jury had done, nor taken the oath which the Jury takes in such matters. In addition to this, a Jury, a few years ago, returned a verdict for establishing Chaboillez Square, in the Suburbs of St. Joseph: the Magistrates approved the verdict, and I received an order to run the lines of that square, to fix pickets at the angles, and draw up a Procès-Verbal of my operation: the proprietor in consequence thereof granted lots upon that square, and fixed the boundaries at the lines which I had established, on taking possession thereof as above. He afterwards, (as he is by law entitled to do,) claimed of the Magistrates the price of his ground; it was refused—because, as it was alledged, “the ground is too low; it is liable to be overflowed; these facts have been ascertained since the Jury made their inspection, *which Jury ought never to have returned a verdict for establishing Chaboillez Square.*” The proprietor is not even now paid. The Magistrates doubtless have it in their power to refer to the Jury the Petition presented to them, for the grant of a street, a square, &c., or to reject it, and declare that they will not proceed thereon; but it appears to me that



their discretion ought to go no further, much less ought it to be exercised when all legal forms are complied with, as in the above cited case of Chaboillez Square.

Respecting the breadth of the streets, the words of the Act, "*not less than thirty feet*" ought to be struck out, and the word "forty," or the word "fifty," substituted; and in all cases I would leave it to the Magistrates, or to a Jury, to fix that breadth. The evil intentioned or rapacious proprietor would be prevented from restraining the liberal views either of a neighbour more enlightened than himself, or those of the town itself. Until now it has been the usage (and such also is the law) to indemnify in one way or in another, the proprietor for the ground furnished for a street. This, considering how confined is the generosity of some proprietors of extensive grounds, and especially the slender income of the city relatively to its wants, has much and powerfully retarded the establishment of several of our suburbs. Would it, for instance, be *too* unjust to order, that if in the town and in those parts of the suburbs in which the houses are crowded, all the ground of a street ought to be paid for to the proprietors, at least in places which are thinly settled, and for ground in the city (where streets might easily be opened one hundred feet wide,) proprietors shall, in future, only require indemnification for such ground taken from them, as shall exceed thirty feet in breadth? It is time to attend to the making upon these grounds, in the city, reserves in various places, as public squares, both for utility and embellishment. I conceive that the ground should be paid for, but I should wish the value thereof to be immediately ascertained by a Jury; and that it should not be paid for until the lots to be granted upon those squares shall be built upon.

Another source of impediments to the extension of the city is the prohibition made by the proviso of the 45th Section of the Act of 1796, "to pull down any house or

“ building, in any case whatever, nor to take away the ground of any court-yard, garden, or orchard, for the purpose of laying out any new street, &c., without the consent of the owner.” This proviso compelled the citizens of Montreal, in 1816, or 1817, to raise, by subscription among themselves, (a thing which was nevertheless done in three days,) the sum of one thousand two hundred and fifty pounds, in order to obtain a passage *through the court-yard of Mr. D. David*, for a new communication from St. Paul Street to the harbour; and all the ground offered and delivered thereafter, for that enormous sum, was only twenty-feet wide. Wherefore should not that proviso be struck out, and nothing further be left for the decision of a Jury than the *quantum* of the indemnification to be paid?

Many of our old streets are not thirty feet wide. In the suburbs, most of the buildings in those narrow streets are of wood. I am persuaded that, in a few years the new alignment of several of those streets would be rebuilt, were the new legal breadth fixed and ordered in front of the lot of every existing proprietor rebuilding his house or setting up his fence again, on condition of payment to him at the time, by the city, of the price of the ground so taken away in consequence of the new alignment—the price to be immediately fixed as aforesaid, and that of the buildings not to be included. A portion of the annual income of the city might be set aside every year for this purpose; and, if that fund should prove inadequate to the demands of the year, the difference might readily, I am sure, be supplied out of the private funds of our citizens. An instance of success in this respect assures it in others. In 1816, I believe, the magistrates determined that St. Louis Street, in the suburb of that name, the breadth of which was not every where the same, should thenceforth be 36 French feet broad. The new alignment passed through almost all the properties south-east of the street,

and in particular it took away ten feet from one house, and five feet from another, without any legal means of compelling the proprietors to cede the ground. The improvement was nevertheless completed in less than two years ; all the ground not built upon was given up *gratis* to the town, on condition only of replacing the fences in the new alignment, and the two houses have been placed in the line, in consideration of the moderate sum of one hundred and five pounds, of which the citizens furnished one half.

6. The sections of the Road Acts which prohibit galleries and other projections, ought to be transferred to the new Act consolidating the present ones ; but it also ought to be *expressly permitted* to have one step at least to every house, if the proprietor thinks fit to have one. The projection of such a step might even be limited to eight inches, but at least it ought to be permitted, the winter in this country renders it absolutely necessary. Let a perpendicular fall from the elbow to the ground, and it will plainly appear, that a step eight inches broad cannot be an impediment to foot passengers.

7. A Regulation of Police for Montreal obliges all proprietors of building lots, or other ground bounded by streets, to keep them enclosed with boards five feet high. This Regulation has been said to be illegal ; that it was at least unreasonable, and even tyrannical : inasmuch as it restrained the liberty of the subject, &c. Nevertheless the want of such enclosures on the streets which the town is causing to be levelled at Montreal, where the soil is so different from that of Quebec, may easily and speedily occasion the deterioration of works of that kind, either by the crumbling down of higher grounds upon the highway, or by the crumbling down of the highway itself upon the lower grounds. Besides, to maintain those en-

closures, is to compel the proprietors to cultivate the soil or to build upon it; whereby industry would have been excited and the public revenue augmented. Might not that Regulation form a Section of the new Act?

8. The reconstruction of wharves along Commissioners' street, towards the River St. Lawrence; the construction of a wharf along the beach, from the port to the Church of Bonsecours, and beyond it; the embanking of the Little River between the town and the Grey Sisters, and of that in Craig Street; the outletting of the Little River in the rear of the Quebec Suburbs, into the River St. Lawrence, by the *Papineau Road and Square*,\* and by *Monarque Street*, (of such easy execution); the construction of public drains under almost all the streets of the city, &c., are so many matters which it is urgently necessary to effect, and which would prove of the utmost possible benefit to the inhabitants of this city; but which the slenderness of the income does not allow to be undertaken. The double wharf required in front of the city might be made by the individuals whose lots are situated along the River St. Lawrence, on permitting the Magistrates to give them emphytheotic leases for a term of a few years; whence would arise a new fund available in future for the city. The embanking of the small rivers would already be in a great measure completed, (that in Craig street especially), by the proprietors of lots along that street, had it been in the power of the Magistrates to accede to their terms. They offered to advance all the money, in consideration of the annual remission of the amount assessed upon them, until the whole of their disbursements should be made good. With respect to the other works, the necessity for them is so great, that I have no doubt that the persons more immediately interested in their performance will be disposed voluntarily to contri-

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\* Now Victoria Road and Queen Square.

tribute towards the expense; but the town cannot assume the application of assistance of every kind at all those places at once, where it may be required: so many are the other wants from the relief of which a portion of their income cannot be withheld. Ought not the assessment to be therefore increased for a few years, or a loan of money to be sanctioned?

9. The 49th section of the Act of 1796 permits the Surveyor to remove from quarries whatever rubbish he requires for the repairs of the streets, &c. I should also wish, if there be no injustice in exacting it, that the rubbish, or broken and rejected stone, remaining from the construction or repairing of any wall within the city, should become the property of the town, and that the proprietor of the building, or the builder, should be obliged to remove them, at his expense, to such a street as the Surveyor should appoint. Might not workmen and builders be also required to keep their materials and scaffolding within a certain enclosure, as is elsewhere done?

10. The proviso in a parenthesis, "not being a garden or an orchard," in the 42d Section of the Act of 1796, out to be struck out. It is an impediment to the drainage of several of the streets in the suburbs.

11. The 48th section of the Act of 1796 *seems* to consider the Surveyors as the *sole judges* of encroachments on the public highway. It would be important to remove all doubt on this subject.

No impediments, the fewest delays, but little formality, are the basis of a good Police. The Road Acts and the Regulations of Police are defective in this point. There ought to be three or four places in the city where whatever encumbers the streets might be deposited, which to be done on view of a Magistrate, the Surveyor, or a

Constable, who, in such case, might forthwith employ, for the purpose, a carter, at the expense of the town. Let it be known that a regular sale twice or thrice every week, on a stated day and hour, takes place at those places of deposit of the wood, carriages, &c.. found in the streets. If the proprietor claim his property previous to the sale, let it be restored to him upon his paying to the Road Treasurer the amount of the expenses of detention and fine. If he claim it, within three days after the sale, let the balance be paid to him, deducting all expenses. If he do not claim it within those three days, let the whole proceeds of the sale belong to the town, and let the Treasurer keep a separate account of this new kind of revenue.

12. The 66th Section of the Act of 1796, enacts, "That the Surveyors of the Cities and Parishes of Quebec and Montreal, shall, and are hereby required, to the best of their judgment, to execute the orders they may from time to time receive from the Justices of the said cities and parishes respectively, for making, amending, and repairing the highways, streets," &c. And the 33d section of the Act of 1799, enacts, "that they shall, and are hereby required to obey the directions they may from time to time receive from the Justices of the aforesaid cities of Quebec and Montreal, regarding the works to be performed under the authority of this Act, or of the aforementioned Act, passed in the thirty-sixth year of his late Majesty's Reign."

During the first seven or eight years after my entrance into office, the Magistrates of Montreal, in the spring of every year, agreed among themselves, at a Special Meeting convened for the purpose, to divide among themselves the superintendance and management of the various duties imposed upon them by the Provincial Acts. They chose Committees of three members for the year; one of

them attended exclusively to the Markets, another to the Roads, &c. A General Meeting of the Magistrates, in the first instance, prescribed the works for the year; and, if, in the course of the year, it would appear that some other works than those prescribed, had been omitted, or were thought more urgent, important, &c., then extraordinary meetings of the Magistrates were convened to order them. This having been done, the execution remained with the Committee, which *alone* gave me orders, and to which alone I reported. I was certain to find this Committee every Saturday in the Magistrates apartments to receive my accounts, order their payment, &c.

This order of things, while it lasted, produced the best possible effects. It kept up the zeal of the members of the Committee, and excited the emulation of each of them. This plan would be an excellent one to be adopted and recommended in the new Act. It is the only way to avoid contrariety in the orders to the Surveyor, given by men, who, under the existing Acts, have equal power to give him orders. The election of such a Committee enables him to know whom *exclusively* he is to obey, to whom he should apply when he wants advice, either for the execution of certain works approved, whether for the repair of a street, or the immediate building of a bridge, upon its becoming unexpectedly bad or dangerous, &c.

Would it be possible in the new Act to define the duties and obligations of the Surveyors? what duties may be required of them for their salary of £200? and the kinds of work for which they may claim the benefit of the Tariff mentioned in the Act of 1817?

13. The town and city of Montreal, according to the limits fixed by the Proclamation of Lieutenant Governor A. Clarke, is a Trapezium 86 arpents long from north east to south west, and 42 arpents in its main breadth from south east to north west. It is intersected by more

than 140 streets and lanes. Such is the extent of the ground under my immediate inspection, both for the execution of the works ordered by the Road Acts and the enforcing the Regulations of Police. I am, besides, charged with the direction and superintendance of the overseers of the nine divisions of the parish of Montreal. The Committee knows the detail of my duties ; let them judge whether I do not require some assistance to fulfil them all, so as to give satisfaction to the public throughout so vast an extent. The Magistrates, at all times aware of the impossibility of my performing all such duty without aid, granted me an Assistant, with an allowance of £50, until last year. I had no Assistant in 1824, because few works remained to be done, and some Magistrates had called in question the legality of such an application of the funds. All are, nevertheless, of opinion that two Assistants rather than one would be necessary. They also took upon themselves to grant £50 a-year to the High Constable, for three years past, to assist me in carrying into effect the Rules of Police ; the Constables in general being required so to do by the Police Act, but without being compellable thereto, no salary being allowed them, nor any penalty for refusal or neglect imposed. I would, therefore, solicit the introduction of a section into the new Road Act, empowering the Magistrates to give me such Assistants, and to pay them out of the public funds.

In case of sickness, absence, urgent business, why might not I be permitted to choose, at my own expense, a Deputy *pro tempore*, having such powers as I have ?

14. Many persons think it sufficient to open streets upon their grounds, and to grant lots along their levels, to render those streets *public*, or henceforth liable to be repaired and kept in repair by the town. They so inform their grantees, who having an interest in believing it,



speedily require work to be done, and murmur if none be allowed them. This error is the subject of much outcry, ill humour, useless menace, and fruitless representations by the Grand Juries, or the citizens. The want of a Plan of the city, or of documents ascertaining what are the streets and public places *at the public charge*, has more than once exposed the Magistrates to the risk of acceding to unfounded claims, or of rejecting reasonable ones. I beg to suggest a plan, which I think might remedy more than one inconvenience of this kind.

Let the Magistrates be empowered to take, at the public charge, all the streets, lanes, squares laid and existing at the date of the passing of the new Act. Let the Surveyor be ordered to prepare a plan of each of them according to its length and breadth, and a Procès Verbal setting forth the dimensions and boundaries thereof, the date of the original and the progressive establishment thereof, by whom such portion thereof was given, such other portion sold, &c., in fine, every attainable information. I commenced such a work, a few years ago, with some success. Let him take out copies of the Title Deeds if he can procure them, and annex them to the Procès Verbal; and let him then proceed, (as is done by the Grand Voyer for the District), to deposit that Plan and Procès Verbal in the Office of the Peace, and to proceed for the ratification in the Courts of Quarter Session: documents would thus be provided for future use. If hereafter such streets be prolonged, or new ones opened, let such prolongations, new streets and new squares be deemed public only in so far as the formalities above prescribed shall have been fulfilled, with the addition, (if it should so be held proper), of the sanction of a Jury. Any of the streets, &c. at present existing, might also be straightened, widened, &c. upon inspection of the spot, and a Report thereupon by a Jury and by the Surveyor, according to the ratification of the Plan and Procès Verbal of the latter.

The Surveyor ought also alone to be entitled to give building alignments throughout the city, and the revision and correction of his operation ought only to belong to a Jury, whose verdict should be final, and be annexed to the Surveyor's Procès Verbal of alignment.

15. The plan of a Corporation here follows, which might perhaps obtain the approbation of the Legislature. Divide the town and city into ten wards; let the town contain two of them, as described in the first article of these remarks; one of Pointe-à-Callière and the St. Anne Suburbs together; one of St. Joseph and Recollet Suburbs; one of St. Antoine Suburbs; two of St. Lawrence Suburbs; one of St. Louis Suburbs, and another of Quebec and St. Mary Suburbs. Let citizens who are proprietors of land in each of those wards be chosen every two years, by the Grand Juries at the General Quarter Sessions of the Peace, or elected for two years by the tenants within those wards. Let the Magistrates at the general meeting, once every year, appoint three among themselves, concurrently with the ten citizens above named, to form a Committee, empowered to determine what works are to be done, and to superintend their execution with the Surveyor, each in his own ward; to regulate the rate of assessment, &c. Let the Clerk of the Peace be their Clerk, but let them appoint their own Treasurer. Let this Committee have charge of the watching and lighting of the city, the execution of the Rules of Police, and of the Ordinance for preventing accidents by fire. The other Magistrates not belonging to the Committee, ought to be charged with deciding on breaches of the laws, the ratification of the Plans and Procès Verbaux made by the Surveyor jointly with the Committee, should it be deemed fit to constitute the latter a permanent Jury for all cases requiring a Jury. Were the people invested with the right of electing those public officers, (who might be termed Commissioners or

Directors of the public works of the city), such election should be made upon notification by the Magistrates, (published by sound of bell and posted), at such places and such days and at such hour as they shall appoint; and the election ought to be proceeded to in the presence of a Magistrate or of the senior Militia Captain in town.

16. Ought not the composition money or any other levied upon each of the suburbs by assessment, &c., to be applied every year in each of those suburbs? then, in addition to this, the balance of the amount levied upon the town, after deducting a sum sufficient to defray the really urgent and indispensable expenses? A determinate portion of the annual revenue of the city should also every year be expended in the purchase of streets, public squares, &c., in these suburbs. It is by opening new communications that the population is encouraged to extend gradually the limits of the city; by ameliorating the old ones, and by causing repairs to be made, and proper assistance to be given to the greatest possible extent, at the places where they are necessary, (and indeed the whole of the city stands in need of these repairs), that it can be expected that the public in general can be satisfied, and the city funds rapidly replenished. There are instances, in Montreal, of streets in the suburbs being almost entirely rebuilt, and in a much handsomer style than before, since such streets have been levelled, or otherwise improved by side walks or macadamization. In the end the public chest has been the gainer by these repairs and expenses.

17. Might not the maintenance alone, or even the annual repairs of the summer roads, in certain parts of the city, be effected at a low rate and to the advantage of the public, if the Magistrates were empowered to enter into agreements with contractors to that effect? The Magistrates might contract with individuals for the yearly

maintenance or repair of different parts of the suburbs, for £20, £25, or £30 ; but in this case it would be necessary, in addition to the security which the city should require of the contractors, that a penalty should be imposed, recoverable in a summary manner, upon prosecution, either by the Surveyor or any other person, against any contractor becoming negligent or refractory.

18. The street sweeping is removed in summer by the Magistrates at the expense of the city, and in winter, the care of the maintenance and repairs of certain roads, is, by the 12th section of the Act of 1799 imposed on the Magistrates. (See this section of the Act which authorises the Magistrates to lay out for this purpose a sum, quite inadequate, not exceeding £20 annually). In like manner why should not the Magistrates be empowered to contract with individuals for the performance of the two kinds of work last mentioned ? Such individuals to be liable to a penalty, to be paid to the city, when convicted of negligence ; and such penalties to be recoverable in a summary manner.

19. The owners of large lots of ground in the city not built upon would readily open upon their respective lots more new streets or continuations of streets than they are now in the habit of doing, if they were freed from the burthen of keeping such streets or continuations of streets in repair in winter ; which they are now obliged to do so long as they remain in possession of the lots bordering on such streets. Might not the city undertake to maintain these new streets in good repair for a limited time ? The advantages resulting from this would be most beneficial to the city. Every thing that is carried into the country, or brought from it, now passes necessarily through few streets, the maintenance of which must in consequence be very expensive to the city. In proportion to the in-

creased number of new communications with the country, the number of passengers through these communications would be more generally divided among them ; the expense of repairs, &c. would be diminished ; the unoccupied land settled, and the public chest filled. This has been exemplified in a most striking manner in St. Joseph Suburb, where, since three different roads have been made in the same direction instead of one only, (which there formerly was between the town and the *Prud'homme* bridge,) many and extensive establishments have sprung up on each of these roads, and the cost of repairing and keeping them in order has dwindled to a mere nothing.

20. Government is in possession of a great deal of property within the city. Of this, part is under the management of the Naval Department, part under that of the Engineers, some intrusted to the Commissariat, some occupied by the Garrison. The Officers at the head of these Departments are changed every year and sometimes oftener, and the Surveyor never knows with certainty to whom to apply, when he is desirous of putting the Road Acts and Regulations of Police into execution. Might not the Town Major, or the Commandant of the Garrison or District, be rendered the persons solely responsible to the Public Officer for the maintenance and repairs of the streets on the whole of this property ? A house is sometimes occupied by several tenants, and also by the owner : might not the owner of such house be declared to be the only person responsible for offences against the Road Act with regard to such house, it being always more easy to know the owner than the tenants ? And in the case of large buildings of many stories height, occupied by many different tenants, (for the most part strangers in the country and poor,) might not all the tenants be declared jointly and severally responsible to the Public Officer for the due execution of the law ? A few years ago, as many

as 109 or 115 souls were living in one house, at the Pointe-à-Callière, belonging to P. Berthelet, Esquire, and there is more than one house in the same predicament, within the city. The proper person to be proceeded against in this case, were any breach of the Laws committed by the occupiers of the house, would be unknown. Might not *any one of such* tenants be declared liable to be prosecuted *indistinctly*, and also liable to imprisonment for a certain time, in default of paying the expenses incurred for their neglect?

The widows are also the cause of much difficulty, uncertainty and daily expense, and occasion the failure of many prosecutions. According to the present system, it is necessary that the summons should mention their christian names, maiden names, and the names of their deceased husbands; none of their neighbours, friends or acquaintances are disposed to give the necessary information to the public Officers: how then is it to be obtained? Might not such defaulters be sued under the names of their husbands, with the addition of *widow*, identifying the particular person meant, in a precise manner, by the description of their property, the number of the house, name of the street, &c. when there are two widows of the same name?

The Road Surveyors, the Officers appointed to prevent accidents by fire, the Inspectors of Weights and Measures, the Clerks of the Markets, and many other public officers of this class, who, by their prosecutions against delinquents, encrease the funds appropriated to defray the expenses of the different kinds of work required by the public, not being versed in the Law, are often liable to fail in their prosecutions, and thereby to lose money out of their own pockets, to deprive the public chest of fines lawfully incurred for infractions of the Laws satisfactorily proven, and finally to draw on themselves public odium; and all this arises for the most part from some trifling want

of formality. All these evils might doubtless be avoided, if the city were allowed to have and retain a Counsel; or if the Solicitor General or King's Counsels in the towns were empowered by the new Act to conduct these prosecutions.

21. If the rate of the assessment were increased in the towns; might not the citizens be discharged from the care of the roads in the winter, and these roads be let out to contractors of known solvency, liable to a pecuniary penalty in case of neglect?

22. The 21st Section of the Act of 1799, which allows personal labour, should be repealed, and the capitation tax put on a new footing, if it be proposed to continue it in the new Act. The clause in question imposing only a fine of 5s. in addition to the capitation tax, upon any person who *do not attend at the time and place appointed by the Road Surveyor, to work upon the Roads*, it follows that this *work (or corvée)* 's only performed by the *poor and the ignorant*; for he who *knows the Law, or can pay legal advice*, will always exempt himself from *working on the roads*. This clause is certainly both odious and unjust, and therefore should be struck out.

I should not however be of opinion to abolish the capitation tax, but should think it advisable to raise it to 5s. or 7s. 6d. a-head; payable *within eight days from the day on which the assessors shall have enrolled the names of the persons liable to pay the same; the masters paying for their servants*.

There are, at Montreal, from 1200 to 1500 persons liable to this tax, who would all be found at home in the eight days after the circuit of the assessors, and who, at 5s. a-head, would yield to the public fund a sum of from £300 to £375 annually, or if the tax were 7s. 6d. a-head, a sum of from £450 to £562 10s. It is, however, a

matter of doubt whether it be advisable to continue a tax, which bears almost exclusively on the poor.

23. A tax of 20s. on horses kept for pleasure, (which should be better defined than it is in the Act which already imposes a tax of 10s. on these animals); a tax of 10s. on all the dogs in the city, without exception; and a further tax of 20s. or 30s. more upon tavern licenses, would most powerfully contribute to augment the funds of our cities. Might not the 24th Section in the Act of 1799, with regard to horses kept by officers of the army, be repealed?

24. By means of the pipes that the Montreal Water-Works Company have laid and are still laying every day under our streets, to convey the water from the river into the several quarters of the town, it would be extremely easy to have public reservoirs almost every where. If our Magistrates were empowered to build, in our public squares and elsewhere, reservoirs of this description, at the same time that they would be an ornament to the city, they would prove highly useful to it, in case of fire, and be very useful for the watering of the streets in summer, &c.

25. The 33d section of the Act of 1796 should be extended to the Surveyors of the Cities and Parishes of Quebec and Montreal. The Commissioners appointed for the demolition of the old walls of Montreal, and the Commissioners of Internal Communications for the cities and counties of Quebec and Montreal, have in their possession papers, registers, &c., relative to their proceedings and the work performed by them, which should be deposited, if not in the hands of the Surveyors, at least in the Office of the Clerks of the Peace.



26. Your Committee will see by the copy of the Deed which I now submit, (1) that the inhabitants of the town of Montreal, (then known by the name of *Ville-Marie*), obtained from the Seigniors of the Island of Montreal, in 1651, a concession of forty arpents of land to be held for the purposes of a Common.

The obligation on the part of the Seigniors to give up this lot of land, is acknowledged by the Gentlemen Ecclesiastics of the Seminary of St. Sulpice, as your Committee will also find on reference to the annexed extract (2) from their Land Register or *Terrier*, No. 545.

By the Deed of Concession the Seigniors reserve to themselves the right of conceding or granting the lot of land then marked out for a common, on condition that they should grant a lot of similar extent for the same purpose elsewhere. The spot which was the Common in 1651 is now occupied by the buildings and property between St. Paul Street and the River, and the present Common is in the *Plaine Ste. Anne*. There has not, however, been found any Deed of Concession, or Deed of Exchange for the forty *arpents* in the Plain in question, if indeed there ever existed any deed of this description.

Different individuals have seized part of this Common and cultivate it, and it is even reported that Mr. M'Cord has conceded several *arpents* of it in small lots, (*emplacements*); but this rumour is not authenticated. (3) The Lachine Canal divides this Plain into equal parts. It is high time to think of obtaining possession of this land, and to vest the right of property and superintendance of it in the hands of persons well known, who may be both able and willing to render it of advantage to the city.

As the Magistrates, in the present order of things, appear to me to be the natural owners, or rather curators of

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(1) See Appendix A.

(2) See Appendix B.

(3) Since found untrue.

the public property of this description, I think it my duty to solicit your Committee to vest, without further delay, in their hands, authority to receive from the Seigniors the forty *arpents* for a Common, granted to the citizens of Montreal, either in the *Plaine Ste. Anne* or elsewhere; if the Seigniors still have the free disposal by virtue of titles subsequent in date to the year 1651, or by induction from that of 1651; the Magistrates to have power to prosecute all persons who may be found to have encroached upon this lot of land, and compel the owners of property adjoining the same to have a division line drawn by a Surveyor between them, and to turn this Common into a public square, or divide and let it out for the advantage of the city.

27. I shall take the liberty to suggest whether it might not be expedient to consolidate the two Road Acts, or, what would be still more desirable, to pass one Act for the towns and parishes of Quebec and Montreal, in particular, and another for the country parishes.

#### THE COUNTRY DISTRICT OF THE PARISHES.

28. The 26th section of the Act of 1799, says, "It shall be the duty of the Surveyor (in the towns) before he proceeds to the levelling, elevating, or paving any street, lane, or public square, or to the opening of any canal, water course or aqueduct, or to the erection of any bridge or causeway, within the said cities and parishes of Quebec and Montreal, to make a plan of such street, lane or public square, canal, water course or aqueduct, bridge or causeway, in which the level and declivity of the same shall be pointed out; such Plan to be accompanied by a Procès Verbal referring thereto, and pointing out the most easy and convenient method of performing the work therein proposed, which

“ Plan and Procès Verbal are to be deposited in the Of-  
 “ fice of the Clerk of the Peace of each of the Districts  
 “ of Quebec and Montreal respectively, and notice shall  
 “ be given in such manner as the Justices of the Peace  
 “ may judge more convenient to the owners of property,  
 “ houses or other buildings adjoining such street, lane  
 “ public square, canal, water course, aqueduct, bridge or  
 “ causeway, and to all other persons interested in the  
 “ same, that such Plan and Procès Verbal are so deposited  
 “ for their inspection, *gratis*, in order that they may,  
 “ within any time not exceeding one month from such  
 “ notice, lodge such observations or oppositions as they  
 “ may have to the contrary, that justice may be done in  
 “ that behalf, in default of which the said Plans and Pro-  
 “ cès Verbaux shall be homologated and put in execution  
 “ agreeably to their form and tenor.”

Many of our Magistrates, many even of the gentlemen  
 of the profession of the law at Montreal, alledge that the  
 word “ *Parishes*,” which is used in this clause, is a mere  
 slip of the pen, “ because (say they), there are no streets  
 “ lanes or public squares out of the towns, and conse-  
 “ quently the law could not have contemplated the level-  
 “ ing, elevating or paving of them.” “ Besides, (say  
 “ they), water courses or other such like *servitudes* as are  
 “ applicable only to the country, fall under the Jurisdic-  
 “ tion of the Court of King’s Bench, and it can never  
 “ have been intended to allow the Magistrates the right  
 “ of having cognizance of them.” But I, for my part,  
 who view this clause in the light of an enactment, the  
 result of the observations of the traveller, or of the man of  
 science, whose reading has taught him that the greatest  
 cities were originally no more than small villages, which  
 increasing and extending themselves on all sides, in the  
 course of ages have, in the end, reached and encircled  
 within their new vast precincts, the hamlets originally far  
 distant from them ; I view this section of the Act as one

of the wisest plans ever devised, as a proof of foresight expressly so intended by its author, and I am of opinion that if there were no such clause, with regard to the parishes in which the towns are situate, such a clause should be inserted in the new Act. The villages of St. Henri, Hochelaga, and Belair-Tannery, are included in the parish of Montreal. The city already extends as far as Hochelaga ; the concessions lately made by Mr. Cadieux on his land on the *Côte-d-Barron*, almost already unite the village of the Tanneries to the city ; the Lachine Canal, the concessions of Messrs. Quesnel and Guy on the Turnpike-road, have rendered the village of St. Henry considerably nearer to the town ; a few years more, and then the highways communicating from these villages to the town will become *streets*. It is necessary therefore that the owners of property situate in these villages, and in general that all the holders of land in the environs of a city, should have an opportunity of having their plans for laying out and dividing their property, approved of by the competent authority. And to whom are they to be referred, if it is not to the Corporation of the town itself, the foundation of part of which they are laying out in anticipation ? By what name are the communications which such persons might open on their property, laterally and perpendicularly, to be called, if it is not by the name of *streets* ? Why not reserve on such property sites for public squares ? Previous to conceding, why might not the proprietors of this land point out, to the persons taking the lots into which they are subdivided, the level which is afterwards to be established for the fronts of their houses ?

The same thing applies to water courses, if any there are on such lots, and to canals and aqueducts, if any are required under the streets. The same authority should regulate the performance of these kinds of labour and *servitudes*. Further ; why should not the Magistrates,

also, on their side, extend beyond the present limits of the towns (and consequently into the parishes in which they are situate) the streets belonging to the city, and which terminates at the boundary between the towns and the country? I consider this section so wise, so useful, that I should wish it to be well understood, that in default of such foresight on the part of the owner of lands and lots of land thus situated, the Magistrates might exact that plans of villages of the kind situated in the environs of the towns, should be submitted to them for their approval as soon as or even before such villages should become in any degree important, so as to correct any irregularities that may then exist; and to see that the streets be correctly laid out for the future, and that the reserves which the public utility or the embellishment of the place require, shall be made, and the owners of the lands compelled to observe these regulations in their concessions. I would most ardently beseech the committee to consider attentively this last suggestion, and to enquire whether it might not recommend, that the Magistrates of Montreal be authorized to cause, without further delay, plans to be made, in the manner above described, of the three villages in question, and this at the expense of the city.

29. The *Grand Voyers* of the districts, and their deputies, have no jurisdiction over the *parishes* of Quebec and Montreal. (See the 38th section of the Act of 1796, and the 4th section of that of 1799.) It is in the hands of the Justices of the Peace that is vested the power of regulating the highways and bridges in these parishes; but in cases where it is necessary to open, alter, straighten, extend, or take away such roads, to make water courses, to build bridges, &c., in a word, to perform any of the functions of the Grand Voyer in the parishes under his jurisdiction, how are the Justices of the Peace to proceed? It is extremely necessary to obtain a clear and

precise answer to this question. Let us compare these two Acts, the better to see in what points they differ.

#### Act of 1796.

The cities and parishes of Quebec and Montreal were but one and the same thing. The Justices of the Peace divided them into six wards, to each of which they appointed an Overseer. They also had the nomination of the Surveyor, with a salary of £40, and subject to different penalties and to be deprived of his office, if they should see fit. (39th, 40th and 41st sections.)

#### Act of 1799.

By this, the parishes are rendered distinct from the cities of Quebec and Montreal, and "are again made subject to the general regulations established for the country parishes." These parishes to be divided into such number of wards as shall appear necessary to the Justices of the Peace to establish, and Overseers are also appointed for them by election. The nomination of the Surveyor is taken from the Magistrates, and vested in the Governor, "inasmuch as the duties and responsibility of such Surveyor will necessarily become more important under this Act." His salary, by this Act, is increased to £100, and there is no mention made of any penalty against him. (1st, 5th, 7th and 26th sections.)

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Power is given to the Justices of the Peace, in the cities, to regulate the roads, streets and bridges in the parishes and cities of Quebec and Montreal. Over these the Grand Voyer has no Jurisdiction. (38th and 39th sections.)

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The same power is given to the Justices of the Peace, and the same exclusion of the Grand Voyer. (4th section.)

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The right of judging when it is necessary to open a road, street, &c. and to build a bridge in the cities and parishes, is vested in a Jury of 12 men domiciliated in the district. (44th and 45th sections.)

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The manner of opening a road or building a bridge both in the country parishes and in the towns, by the verdict of a Jury, seems to me altered, (if not expressly, at least such appears to be the intention of the Act,) by the 5th section, and to remain in force only with regard to the towns; inasmuch as the personal labour which was formerly required of the inhabitants of the country is done away by the 16th section, and is not now required, as well as the assessment of the people of the town. It is this 5th section which, by the incorrect manner in which it is penned (for the preamble and the

Personal labour is required of the inhabitants of the same "on the high roads, streets, market places & lanes within the cities and parishes of Quebec and Montreal," for the repairing, paving and maintaining the same. (52d and 53d sections. This personal labour of the inhabitants of the

towns and country parishes, liable to be commuted into the composition money. (54th and 55th sections.) The assessment is only laid on the owners of property in the towns for the necessary repairs to the streets, &c. of these same cities exclusively. (57th section.)

enacting clause seems to be repugnant to each other) divides the opinion of our Magistrates and Lawyers, and makes some think that I ought to open new roads with the formalities observed by the Grand Voyer on such occasions, and others that I have no such power at all. It is this also which requires a declaratory clause to set at rest for ever those doubts (whether well or ill founded) which suspend all ameliorations in the towns.

If, after a comparison of the two Acts, it is acknowledged that the evident intention of the Legislature in 1799 was to "place the parishes in which the towns are situate, " or the country parts of the district, (see 3d section), " under the general regulations established for the country " parishes by the Act of 1796," and, at the same time, that this Act did not allow "the Grand Voyers to have jurisdiction over these parishes," (see the 38th section), leaving the general superintendance of their roads and bridges to the Justices of the Peace in the city; it should also be enacted that the Surveyors of these cities and parishes are the only public officers, who, upon conforming to the rules which the Grand Voyer is obliged by law to follow, may and ought to plan out, open, widen, straighten, alter or change all roads that may be demanded or judged necessary, useful or advantageous to the inhabitants of the said cities and parishes; that it is they, and they alone, who may and ought to order the building, repairing or taking away of bridges within these parishes, the opening and keeping in order the public sewers and water courses, and, in a word, all the labour of every description which the inhabitants of the country parishes are bound to perform; and this upon the petition of one or more of the persons interested and according to a Procès Verbal and a plan homologated in the form used and followed by the said Grand Voyers. Besides, admitting that

the Surveyors have this right, or vesting such powers in them, if they have them not already, I should wish that they also had the power of homologating all roads already opened, and bridges already existing, which have never been homologated, or the *Procès-Verbaux* of which are oppressive, insufficient or lost, and to give a legal right to all *servitudes* of public utility and advantage, and the existence of which, according to the laws now in force, might appear doubtful, or perhaps unsupported by law: that their *Procès-Verbaux* should contain the nature of the work to be performed on the roads according to the nature of the soil and the local situation of the ground, whether the object of the work be to drain the land, or to level or straighten the roads, or to protect travellers, or to keep in order the work already performed; that they should make mention of any fences or ditches that it may be necessary to make; also the dimensions and materials of the bridges, &c., and finally by whom all this labour is to be performed, and the repairs and keeping in order of the roads to be done: that these Surveyors, in concert with the Grand Voyers, be empowered to compel the inhabitants of the parishes adjoining those in which the cities are situate, to make, keep in repair, and assist in repairing the roads and bridges within the parishes belonging to the cities, when and as often as these two officers (according to the spirit of the 15th section of the Act of 1793), might be of opinion that this work would be useful both to the town's people and to the country people, and too burthensome to the former, if performed by the former alone. Finally, all the power which is now vested in the Grand Voyers with regard to roads and bridges should be extended to the Surveyors within the parishes belonging to the towns: the duties and liabilities of each of these two officers should also be the same.

30. The 14th section of the Act of 1796 orders "that



“ no new road be projected or any old road widened or  
 “ its direction altered, so as in any manner to take in or  
 “ pass through any cultivated garden or orchard inclosed  
 “ with stone walls, or with boards, picketing, or hedges ;  
 “ and that no house, barn, mill, or other building whatso-  
 “ ever be thrown down or injured, and that no mill-dam or  
 “ canal belonging to a mill be injured, and the current of  
 “ any stream of water be changed without the consent of  
 “ the owners.” These restrictions are too general, at  
 least with regard to the parishes belonging to the towns.  
 I should desire to have them restrained to mills, mill-dams  
 or canals belonging to mills, and perhaps even to stone  
 houses. I would be for abolishing all the other restrictions,  
 and allowing a compensation for the damage done. A  
 small garden and a paltry out-house placed, out of spite, by  
 a proprietor of land, of the division of St. Marie, at Mon-  
 treal, in the continuation of the line proposed as the pro-  
 longation of the front-road of this division, and through  
 which it is impossible to pass (by reason of this section)  
 without submitting (as was done in the case of Mr. D.  
 David already mentioned when speaking of the towns) to  
 the cupidity of the proprietor, altogether spoil the appear-  
 ance of one of the finest avenues to the city, and have  
 defeated one of the best conceived designs of my predeces-  
 sor in office, Mr. Charland. (1) I have myself experienced  
 (and it is the travellers who suffer by it) the same incon-  
 venience in the opening a road of communication between  
 the divisions *des Neiges* and *St. Catherine*, in 1817, not  
 having authority to remove a *barn*. It appears also that  
 doubts exist as to the right of passing on or through a lot  
 of land (*emplacement*) in the country, for the purpose of  
 establishing a road.

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(1) This obstruction has since been removed, and the road con-  
 tinued straight.

31. The 16th section of the Act of 1796, orders that all bridges shall be of wood, and eighteen feet in breadth ; why might they not be built of stone ? or made thirty feet broad, when made of wood ?

Care should be taken to raise a small fund in the country parishes, to provide for the slighter kind of repairs of such of the bridges that are maintained by the public. For instance, the fines levied upon persons convicted of having obstructed the roads, and the money arising from the sale of timber, carts and other articles blocking up the roads, which belong to persons unknown, and which are not claimed within a certain time, might be one of the sources of this fund. Many of the divisions of our parishes in the towns, are either poor or thinly peopled. In the Act of 1799, separating the towns from the parishes, the Legislature has thought it just to enact " that the Justices of the Peace in the said towns, might order to be paid out of any sums of money that may be in the hands of the Road Treasurers, a sum not exceeding £100 annually, to be employed in the repairing and keeping in order the bridges (in these parishes) on the roads upon the hills which are liable to be repaired by the public." (See the 18th section.)

It is in the power of the Justices of the Peace to grant or withhold this sum, or any portion of the same, for which the country parishes may apply. Besides, this money can only be expended in the repairing and keeping in repair, and not in the building of bridges : it can also only be made use of in the repairing and keeping in repair the roads upon the hills which the public is bound to repair.

I should wish that each of these divisions of the parishes in the towns, might, each year, upon proof of the necessity of the application, to be made on the certificate of the Surveyor and his Overseers, obtain from the Road Treasurer the proportion of these £100 due to it, which

sum should be employed in ameliorating the public roads, without any restriction whatsoever.

32. The 6th section of the Act of 1799, empowers the Surveyors of the Towns to take out of the Public Chest the sums necessary for the repairing and keeping in order the parts of the roads, the care of which belongs to certain individuals in the parishes of Quebec and Montreal, and who have neglected to take such care of them ; and enacts that these advances and the costs of suit are to be recoverable by action of debt *in any of His Majesty's Courts of Justice*. I should wish to object to these Civil Courts, as they require the interposition of a Counsel, and bring in bills of costs and other incidental expenses ; and to recommend the Court of Quarter Sessions, if not the weekly sittings of the Magistrates.

33. The width of the different roads that the Provincial Statutes permit to be opened, is regulated by these Statutes. They all seem to me to be too narrow ; at least, such is my opinion. They should therefore be further widened by Legislative authority, if it is thought requisite to restrain the powers of the public officers in this respect ; or, if not, to vest in these officers a discretionary power to regulate such width by their *Procès-Verbaux*, under the sanction of the Court which is to homologate these *Procès-Verbaux*, and which may in this case decide on the sufficiency of the reasons alledged, for the proposed widening of any such road.

34. The Overseers might, upon notice previously given by the Grand Voyers or their Deputies, or by the Surveyors of the Towns and parishes of Quebec and Montreal, assemble in May or November of every year, to decide whether it would not be more advantageous to rent the maintenance (for the season) of the roads and

bridges, or of parts of the same within the parish, seigniory or township in question, to contractors of known solvency, and subject to a penalty in case of neglect, or refusing to perform their contract. As soon as such a resolution should be once passed by the majority of the officers present, notice should be given in the form prescribed by the law, of the day, place and hour, when and where such contract should be offered to bidders, and this should always be done in the presence of the Overseers. The amount required to pay such contract should be equally divided among the Overseers who should collect the money, and deposit it in the hands of the Surveyor, to be by the last paid over to the contractors, upon the certificate of the overseer, that such contractor has faithfully executed his contract. In case of the death of the contractor, or of his leaving the province, another notice should be given, and another adjudication of the contract made. Might not the same mode be adopted for the opening or repairing of new roads? In both cases it is the only method of putting into operation a uniform system of making and repairing the roads in this Province in an effectual manner.

35. Our large villages are, for the most part, badly divided, and their streets are irregular, too narrow, &c. Might not your Committee recommend to the Legislature to enact, "that when there shall be a cluster of thirty "houses standing near each other in any parish, "seigniory, or township, or within a space of so many "arpents in superficies, such cluster of houses shall then "be called a village, and shall be subject to certain regulations—such as to apply to the Grand Voyers (if in the "country), or to the Surveyor, (if in the parishes of Quebec and Montreal), for the purpose of having a plan of "the place made, and upon this a regular division thereof "into streets, public squares, building lots, &c.; such

“ division to be afterwards homologated according to the  
“ form and tenor of the Procès Verbal accompanying such  
“ Plan ; and that thereupon, the proprietors of land within  
“ such village shall be bound to conform to such regula-  
“ tions, under heavy penalties ; and the persons buying  
“ lots shall also conform to these regulations, upon pain  
“ of having any buildings that they might thereon erect,  
“ demolished, &c.”

I am of opinion that no compensation should be al-  
lowed for property taken for such streets, squares, &c.

Quebec, March 1825.

J. VIGER, R. S.

## APPENDIX A.

## TITLE DEED OF THE COMMON.

“We, Paul De Chomedey, by virtue of the authority and commissions to us given by the company associated for the conversion of the Indians in New France, within the island of Montreal and Seigniory thereof, Governor of the said island of Montreal in New France, aforesaid, have given and do give, by this our present concession, to Jean De St. Père, attorney and trustee of the body of persons inhabiting Ville-Marye in the said island of Montreal, forty arpents of land in extent, measure of this country, at the rate of one hundred perches to the arpent, and of eighteen feet to the perch, to be held, for the purposes of a common, by the said inhabitants as a pasture for their cattle; the said lot of land to be taken from along the great and little rivers which pass near the Fort of the said Ville-Marye, and which adjoins the concessions of inhabitants thereof; the said lot to be ten perches in breadth at its commencement between the said little river and the land belonging to Louis Prud’homme, one of the inhabitants of the said Ville-Marye; and to be of the same width, and running down along the said great and little rivers till it reaches the said extent of forty arpents, the said lot of land to be held by the said body of the said inhabitants of the said Ville-Marye, subject to the restrictions, reservations, and conditions hereinafter mentioned, and not otherwise, that is to say: First, that each of the members of the said body of inhabitants shall be bound and obliged to pay annually, to the said Seigniors of Montreal, six *deniers* for the use thereof, and that the said inhabitants shall not be allowed to sell, lend or exchange the said common for any cause whatsoever. Moreover, that the said Seigniors of Montreal shall have the liberty, when and as often as they may think it advantageous to the public, to allow the said inhabitants to build and establish themselves along the said great and little rivers within the said extent of ten perches, without let or impediment on the part of the said inhabitants, provided that the said Seigniors do grant a piece of ground of the same extent, and running along the said great river, as that so by them conceded to individuals out of the said common; which condition shall also be applicable

to the houses now built as well along the great as the little river. And, moreover, that when and as often as the said Seigniors of Montreal shall think it of advantage to the public, to make, on the said common, market places, or a dock for the reception of barges and boats, and even to widen the said little river, it shall be competent to them to do so without let or impediments on the part of the said inhabitants; provided that the said Seigniors do grant to the said inhabitants a space along the said great river similar in extent to that taken from the said common.

“ Given at Ville-Marye, in the Island of Montreal, in New France, the 2d of October, 1651.

“ AUGUSTIN HEBERT.

N. \_\_\_\_\_

B. RICHOMETT.

PAUL DE CHOMEDEY.

J. DE SAINT PERE.

P. GADOYS.”

A true copy taken from the original in possession of the Gentlemen Ecclesiastics of the Seminary of St. Sulpice, at Montreal.

J. VIGER.

February, 1825.

## APPENDIX B.

### EXTRACT FROM THE *Terrier*.

In the Land Register (*Terrier*) of the Seigniors of the Island of Montreal, is to be found what follows :

“ No. 545.—The Common at Montreal—on which is built St. Anne Chapel, belonging to the Seigniors, and a Windmill, also belonging to them.

“ All the inhabitants of Montreal have a right to the said common, for which they are bound to pay six *deniers* annually. It is to be reduced one-fourth. The said Common contains about forty arpents in superficies.

“ The space occupied by the St. Anne Chapel is one square arpent in extent, which was formerly conceded by Mr. Dolier to Mr. Pierre Leber, the 11th of May 1697, subject to pay five sols of cens.”

A true copy.

February, 1825.

J. VIGER.

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