UNIVERSITY OF ALBERTA
0 1620 00890 796

For Reference

NOT TO BE TAKEN FROM THIS ROOM

Ex libris
universitatis
albertaensis



UNIVERSITY OF ALBERTA
AUG 7 1973
DOCUMENTS
LIBRARY



British

Parliamentary Papers

PAPERS RELATING TO CANADA 1841

Colonies

Canada 15

IUP LIBRARY OF FUNDAMENTAL SOURCE BOOKS

EDITORIAL DIRECTOR T P O'Neill

RESEARCH UNIT DIRECTOR T F Turley

The IUP Series of British Parliamentary Papers

CHIEF EDITORIAL ADVISORS

Professor P Ford, Professor Emeritus, Southampton University
and Mrs G Ford

CONSULTANT EDITORS

Professor J H Smith, Dean of the Faculty of Social Sciences, Southampton University
Professor Oliver MacDonagh, University College, Cork
Christopher Townley, Librarian, University College, Galway
Colman Lyne, National Museum of Canada
Dan O'Keeffe, Librarian, University College, Cork

This Series
is published with the active co-operation of
SOUTHAMPTON UNIVERSITY

IRISH UNIVERSITY PRESS SERIES

OF

British Parliamentary Papers

CORRESPONDENCE AND OTHER PAPERS RELATING TO CANADA

1841

Colonies

Canada

15



SHANNON · IRELAND

PRINTER'S NOTE

The Printer wishes to draw attention to the many variations in the graphic quality of this series: broken type, ink set-off, poor impression and background blemishes are to be found in the original copy.

Every effort has been made to minimise these faults and to make the reprint copy as legible as possible.

© 1969

Irish University Press Shannon Ireland

Microforms

Microfilm, microfiche and other forms of micro-publishing
© Irish University Microforms Shannon Ireland

SBN 7165 0660 2

PUBLISHER'S NOTE

The Irish University Press Series of British Parliamentary Papers is a facsimile reproduction. The original documents in this volume have been reproduced by photo-lithography and are unabridged even to the extent of faithfully retaining the printer's imprint.

The contents of this volume have been printed in their entirety by Robert Hogg, Printer to the Irish University Press, Shannon, Ireland.

As a result of the arrangement of the documents in subject sets and of the bringing together in a single book of a number of papers, some volumes in the Irish University Press Series may include the imprints of more than one printer.

Irish University Press Shannon Ireland
DUBLIN CORK BELFAST LONDON NEW YORK
Captain T M MacGlinchey Publisher
Robert Hogg Printer

LIBRARY OF THE UNIVERSITY
OF ALBERTA

ACCOUNTS AND PAPERS:

NINETEEN VOLUMES.

—*(3.)*—

COLONIES.

Session

26 *January* —— 22 *June* 1841.

VOL. XV.

1841.

956283

ACCOUNTS AND PAPERS:

1841.

NINETEEN VOLUMES:—CONTENTS OF THE

THIRD VOLUME.

N. B.—*THE* Figures *at the* beginning of the line, *correspond with the* N° *at the foot of each* Paper; *and the* Figures *at the* end of the line, *refer to the* MS. Paging *of the Volumes arranged for The House of Commons.*

COLONIES:

Lower Canada:

13. Copy of Ordinances passed by the Governor and Special Council of *Lower Canada*, in the third and fourth Years of the Reign of Her Majesty Queen VICTORIA - - - - - - - - p. 1

[315.] Ordinances passed by the Governor and Special Council of *Lower Canada*, in the third and fourth Years of the Reign of Her Majesty Queen VICTORIA - - - - - - - - - 165

Canada:

68. Copy of a Despatch from the Governor-General of *British North America*, transmitting a Return from the Principal of the Seminary of *Montreal*, showing the Names of those who, since the passing of the Ordinance 3 VICT. c. 30, have commuted the Tenure of their Property; with a Statement of the Amount of that Property - - - - 357

128. Copy of a Despatch from Lord *Goderich* to Lord *Aylmer*, dated 13th September 1831 - - - - - - - - - 363

[298.] Correspondence relative to Emigration to *Canada* - - - 369

LOWER CANADA.

COPY OF

ORDINANCES

PASSED BY

THE GOVERNOR AND SPECIAL COUNCIL

OF

LOWER CANADA,

IN THE THIRD AND FOURTH YEARS OF THE REIGN OF
HER MAJESTY QUEEN VICTORIA.

(*Presented pursuant to Act 2 & 3 Vict., c. 53, s. 2.*)

Ordered, by The House of Commons, *to be Printed*,
3 *February* 1841.

LIST OF TITLES.

No.		Page
117.	An Ordinance to render permanent a certain Ordinance therein mentioned relative to the Improvement and Enlargement of the Harbour of Montreal	1
118.	An Ordinance to authorize the Commissioners for the Improvement and Enlargement of the Harbour of Montreal to borrow a further sum of Money, and for other purposes	2
119.	An Ordinance to revive and render permanent a certain Act made to restrain all persons from undermining the Cliffs on which the Fortifications at Quebec are constructed	5
120.	An Ordinance to amend a certain Ordinance therein mentioned relative to the Militia of this Province	6
121.	An Ordinance to provide for the Improvement during the winter season of the Queen's High Ways in this Province, and for other purposes	7
122.	An Ordinance to amend an Ordinance made and passed in the second year of Her Majesty's reign, intituled, "An Ordinance to authorize the Governor or Person administering the Government of this Province to appoint One or more Assistant Judges for the Courts of King's Bench for the Districts of Quebec and Montreal in this Province, and an Assistant Judge for the District of Three Rivers, in the case of Sickness, necessary Absence or Suspension from Office of any of the Justices of the said several Courts of King's Bench, or the resident Judge for the District of Three Rivers in the said Province"	9
126.	An Ordinance to amend and render permanent an Ordinance passed in the second year of Her Majesty's reign, intituled, "An Ordinance to authorize the Commissioners for making the Canal from St. John's to Chambly to borrow a certain sum of Money to complete the said Canal"	10
127.	An Ordinance to render permanent a certain Ordinance for more effectually preventing the administering or taking of unlawful Oaths, and for preventing treasonable and seditious Practices	12
128.	An Ordinance to render permanent the Ordinance therein mentioned relative to the Estates and Property in this Province occupied for the Ordnance Service	13
131.	An Ordinance further to continue for a limited Time certain Acts therein mentioned	14
132.	An Ordinance to continue for a limited Time Two certain Acts therein mentioned relative to the Erection of Court Houses and Gaols in the several Counties of this Province, and for other purposes therein mentioned	16
133.	An Ordinance to continue for a limited Time a certain Act therein mentioned in relation to secret Incumbrances on Lands	17
135.	An Ordinance further to continue for a limited Time an Ordinance passed in the first year of Her Majesty's reign, intituled, "An Ordinance to provide for the better Defence of this Province, and to regulate the Militia thereof"	18
136.	An Ordinance to render permanent certain Ordinances therein mentioned, providing for the indemnification of persons who may have acted in the suppression of unlawful Assemblies or of treasonable Practices, and for the attainder of persons against whom sentences may have been given by Courts-martial	19
137.	An Ordinance to amend and render permanent the Act therein mentioned, passed to facilitate the administration of Justice in Civil Matters in the Districts of Quebec, Montreal, Three Rivers, and St. Francis	20
139.	An Ordinance to render permanent, with the Amendment made therein by a certain Ordinance, certain Acts of the Legislature of this Province, relating to the establishment of Registry Offices	21
140.	An Ordinance to render permanent certain Acts therein mentioned	22
141.	An Ordinance to provide permanently for the want of notaries in the inferior Districts of Gaspé, and to remove the doubts therein mentioned	25
142.	An Ordinance to render permanent certain Acts therein mentioned relating to the administration of Justice in the inferior District of Gaspé	26
143.	An Ordinance to render permanent certain Acts of the Legislature of this Province relative to the District of St. Francis	27

No.		Page
144.	An Ordinance to provide for the easy and expeditious administration of Justice in Civil Causes and matters involving small pecuniary Value and Interest throughout this Province	26
145.	An Ordinance to establish new Territorial Divisions of Lower Canada, and to alter and amend the Judicature, and provide for the better and more efficient administration of Justice throughout this Province	39
147.	An Ordinance to incorporate the Montreal Public Bakery and Fuel Company	53
148.	An Ordinance to incorporate the City and Town of Quebec	58
149.	An Ordinance to incorporate the City and Town of Montreal	70
150.	An Ordinance to incorporate certain persons therein mentioned under the name of "The Montreal Fire Assurance Company"	83
151.	An Ordinance to amend and render permanent the Ordinance establishing a Board of Works in this Province	87
152.	An Ordinance to exempt certain Officers of Her Majesty's Army from the payment of the Rate or Assessment therein mentioned in the Cities of Quebec and Montreal	88
153.	An Ordinance for making a Railroad from the City of Montreal to the Province Line at or near Point à Beaudet	89
154.	An Ordinance to repeal in part, and to amend, and to render permanent as amended, a certain Ordinance therein mentioned relative to Taverns and Tavern Keepers, and to make further provision relative to the same subjects	109
155.	An Ordinance to repeal certain parts of an Ordinance therein mentioned, and to amend certain other parts of the said Ordinance, and to provide for the further protection of the Indians in this Province	110
156.	An Ordinance to provide more effectually for the safe storing and keeping of Gunpowder within and near the City and Town of Montreal	112
157.	An Ordinance for making a Railroad from Carillon to Grenville	113
158.	An Ordinance to repeal certain parts of an Ordinance therein mentioned, and to amend certain other parts of the said Ordinance, and to amend certain parts of another Ordinance therein mentioned, and make further provision for establishing and maintaining an efficient system of Police in the Cities of Quebec and Montreal, and the Town and Borough of Three Rivers	130
159.	An Ordinance to incorporate the Advocates' Library of Montreal	134
160.	An Ordinance to incorporate the Quebec Advocates' Library	137
161.	An Ordinance to incorporate the Quebec Library	140
163.	An Ordinance to provide for the Improvement of the Roads in the neighbourhood of and leading to the City of Montreal; and to raise a Fund for that purpose	142
164.	An Ordinance to incorporate the Ecclesiastics of the Seminary of St. Sulpice of Montreal, to confirm their Title to the Fief and Seigniory of the Island of Montreal, the Fief and Seigniory of the Lake of the Two Mountains, and the Fief and Seigniory of St. Sulpice, in this Province; to provide for the gradual extinction of Seignioral Rights and Dues within the Seignioral Limits of the said Fiefs and Seigniories; and for other purposes	150
129.	An Ordinance to extend the provisions of the Ordinance for establishing an efficient system of Police in the Cities of Quebec and Montreal to the District of St. Francis in this Province	158

Colonial Office, Downing-street,
28 January 1841.

R. VERNON SMITH.

ORDINANCES, &c.

(Copy.)

No. 117.

No. 117.

Improvement of Montreal Harbour.

An Ordinance to render permanent a certain Ordinance therein mentioned relative to the Improvement and Enlargement of the Harbour of Montreal. [Passed 13th May 1840.]

WHEREAS it is expedient to render permanent the Ordinance herein-after mentioned; be it therefore ordained and enacted by his Excellency the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Ordinance of his Excellency the Administrator of the Government of this Province, authorized to execute the Commission of the Governor thereof and of the Special Council for the Affairs of the said Province, passed in the First Year of Her Majesty's Reign, and intituled "An Ordinance to authorize the Commissioners appointed under a certain Act of the Legislature of this Province therein mentioned to borrow a further Sum of Money to be applied to the Improvement and Enlargement of the Harbour of Montreal, and for other Purposes," which would not otherwise, under the Provisions of the Act first above recited, remain in force beyond the First Day of November One thousand eight hundred and forty-two, shall be and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. POULETT THOMSON.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirteenth Day of May, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirteenth Day of May One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. LINDSAY,
Clerk Special Council.

No. 118.

Commissioners of Montreal Harbour to borrow a further Sum of Money.

(Copy.)

No. 118.

An Ordinance to authorize the Commissioners for the Improvement and Enlargement of the Harbour of Montreal *to borrow a further Sum of Money, and for other Purposes.* [Passed 13th May 1840.]

Whereas it is expedient to make further Provision for more fully carrying into effect a certain Act of the Legislature of this Province, passed in the Session held in the Tenth and Eleventh Years of the Reign of His Majesty King George the Fourth, and intituled "An Act to provide for the Improvement and Enlargement of the Harbour of Montreal," and a certain other Act of the said Legislature passed in the Second Year of the Reign of His late Majesty King William the Fourth, intituled "An Act to authorize the Commissioners appointed under a certain Act therein mentioned to borrow a further Sum of Money to be applied to the Improvement and Enlargement of the Harbour of Montreal, and for other Purposes;" be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That it shall be lawful for the Commissioners appointed under the Authority of the said Acts of the Provincial Legislature, for the Purpose of defraying the Expenses attending the Execution of the Works mentioned in the said Acts, and in other Acts and Ordinances relative to the said Harbour, and in this Ordinance, and all other Expenses hereby authorized, to borrow, with the Consent and Approbation of the Governor, Lieutenant Governor, or Person administering the Government of this Province for the Time being, at any Rate of Interest, whether greater or less than Six per Cent. per Annum (any Law to the contrary notwithstanding), but on the most advantageous Terms in their Power, and from Time to Time as the same may become necessary for the Purposes aforesaid, any Sum or Sums of Money not exceeding in the whole Twenty-three thousand Pounds Currency: Provided always, that no further or other Sum or Sums of Money than may have before the passing of this Ordinance been borrowed under the Authority of any Act or Acts, or any Ordinance of the Legislature of this Province, for the Purposes aforesaid, shall hereafter be borrowed under the Authority of any such Act or Ordinance.

And whereas it is expedient that Provision should be made for the due Payment of the Interest of the Money so borrowed until the Work shall be executed, and Wharfage and other Dues collected, out of which such Interest may be paid; be it therefore further ordained and enacted by the Authority aforesaid, That it shall be lawful for the Governor, Lieutenant Governor, or Person administering the Government of this Province for the Time being, from Time to Time to authorize, by Warrant under his Hand, the Advance to the said Commissioners of such Sums out of the unappropriated Monies in the Hands of the Receiver General as may be necessary to enable them to pay the said Interest, and such Advances shall be made in the Months of January and July of each and every Year, and the said Commissioners shall immediately pay over the Sums of Money so advanced to the Person or Persons to whom such Interest may be then due.

And be it further ordained and enacted by the Authority aforesaid, That it shall be lawful for the said Commissioners, from and after the passing of this Ordinance in and for the Improvement and Enlargement of the Harbour of Montreal, to proceed to the entire Execution of the Plan heretofore approved and sanctioned with reference to such Improvement and Enlargement of the said

No. 118.

Commissioners of Montreal Harbour to borrow a further Sum of Money.

said Harbour, and to the Completion of all and every the Works which may be necessary for such entire Execution of the said Plan, and of all and every the Works mentioned in the Ordinance herein last above cited.

And be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful for the said Commissioners, with the Consent and Approval of the Governor, Lieutenant Governor, or Person administering the Government of this Province for the Time being, to continue the Revêtement, Wall, and filling in from their present Termination at Grey Nuns Street upwards to the Entrance Lock of the Lachine Canal, and to make a double Ramp at Grey Nuns Street, and to purchase and hold so much of the Ground now belonging to Nahum Hall, Esquire, or his legal Representatives, as may be necessary for the said Purposes, or to make a wide and easy Access to the Wharves of the said Harbour from the said Canal, and to continue the said Revêtement, Wall, and filling in from their present lower Termination from Saint Gabriel Lane downwards to the Government Works at the Commissariat Store.

And be it further ordained and enacted by the Authority aforesaid, That the Steam-dredging Vessel, and all the Apparatus and Machinery thereunto belonging, mentioned in a certain Act of the Provincial Legislature passed in the Session held in the Tenth and Eleventh Years of the Reign of His Majesty King George the Fourth, and intituled "An Act to appropriate a certain Sum of Money for the Purchase of a Steam-dredging Vessel," and to defray the Expense of purchasing and constructing which divers Sums of the Public Money have been by the Act last cited and by other Acts and Ordinances appropriated, shall be and the said Steam-dredging Vessel, Machinery, and Apparatus are hereby placed in and under the Control, Management, Keeping, and Charge of the said Commissioners, subject to such Directions and Instructions as they may from Time to Time receive from the Governor, Lieutenant Governor, or Person administering the Government of this Province for the Time being, with regard to the same; and the said Commissioners shall, out of the Sum they are herein-after authorized to borrow for the said Vessel and Apparatus, pay all Debts due for or with regard to the same, and which the Sums heretofore appropriated for that Purpose may be insufficient to discharge.

And be it further ordained and enacted by the Authority aforesaid, That it shall be lawful for the said Commissioners to complete and keep in efficient Repair and working Order the said Steam-dredging Vessel, Machinery, and Apparatus, with the necessary Scows, Barges, and Boats, and to work and use the same within the said Harbour, and during the Years One thousand eight hundred and forty and One thousand eight hundred and forty-one, in such Manner and for such Purposes as they shall think best adapted to promote the public Good, subject always to such Instructions and Directions as aforesaid; any thing in any Act, Ordinance, or Law to the contrary notwithstanding.

And whereas it is expedient to provide for the Completion of the said Steam-dredging Vessel and rendering it efficient; be it therefore further ordained and enacted by the Authority aforesaid, That it shall be lawful for the said Commissioners to borrow, with the Consent and Approbation of the Governor, Lieutenant Governor, or Person administering the Government of the Province for the Time being, in like Manner as herein-before provided for the borrowing of the Sum and Sums of Money herein-before mentioned, any Sum or Sums of Money not exceeding the Sum of Five thousand Pounds Currency for completing and working the said Steam-dredging Vessel; and it shall be lawful for the said Governor, Lieutenant Governor, or Person administering the Government of this Province, from Time to Time to authorize the Advance of such Sums of Money out of the unappropriated Monies in the Hands of the Receiver General of this Province as may be necessary to enable the said Receiver General to pay the Interest of this said last-mentioned Sum and Sums of Money to be borrowed as last aforesaid, in like Manner as is herein-before provided for the Payment of the Interest on the Money mentioned in the Second Section of this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That all the Provisions of the Fifth, Sixth, Seventh, and Eighth Sections of a certain Ordinance passed in the First Year of Her Majesty's Reign, and

No. 118.

Commissioners of Montreal Harbour to borrow a further Sum of Money.

intituled " An Ordinance to authorize the Commissioners appointed under a certain Act of the Legislature of this Province therein mentioned to borrow a further Sum of Money to be applied to the Improvement and Enlargement of the Harbour of Montreal, and for other Purposes," shall extend and are hereby extended and shall apply to the Valuation and Purchase of, and Payment or Compensation for, any Land or Real Property which the said Commissioners are hereby authorized to acquire, as if they had been authorized to acquire the same under and by the said Ordinance; and such Land or Real Property, being so acquired, shall be vested in the Commissioners and their Successors, for the Purposes of this Ordinance, and of the said Ordinance, and the Acts of the Provincial Legislature relative to the said Harbour and hereinbefore cited and mentioned.

And be it further ordained and enacted by the Authority aforesaid, That it shall be lawful for the said Commissioners, or their Successors in Office, to pay such Price and Prices, Compensation and Compensations as may be finally agreed upon, fixed, and determined, for or with regard to any Land or Real Property acquired under the Authority of this Ordinance, and also to defray all Expenses attending the Execution of any Work or the doing of any thing hereby authorized, from and out of the Sum or Sums of Money to be borrowed in pursuance of the First Section of this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That the said Commissioners, or their Successors in Office, shall report their Doings, and account for all Monies by them borrowed or received under the Authority of this Ordinance, in such Manner and Form and at such Time or Times as the Governor, Lieutenant Governor, or Person administering the Government of this Province for the Time being shall direct.

And be it further ordained and enacted by the Authority aforesaid, That the due Application of all Public Monies hereby appropriated or expended under the Authority of this Ordinance shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the Time being, in such Manner and Form as Her Majesty, Her Heirs and Successors, shall direct.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirteenth Day of May, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirteenth Day of May One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 119.
To restrain the undermining of the Cliffs at Quebec.

No. 119.

An Ordinance to revive and render permanent a certain Act made to restrain all Persons from undermining the Cliffs on which the Fortifications at Quebec *are constructed.* [Passed 13th May 1840.]

WHEREAS it is expedient and necessary, for preventing serious Damage and Injury to the Fortifications and Military Works of the City of Quebec, to revive and render permanent the Act of the Provincial Legislature herein-after mentioned; be it therefore ordained and enacted by his Excellency the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Act of the Provincial Legislature passed in the Session held in the Tenth and Eleventh Years of the Reign of His late Majesty King George the Fourth, and intituled "An Act to restrain all Persons from undermining the Cliffs on which the Fortifications of Quebec are constructed," and every Clause, Provision, Power, Authority, Direction, Regulation, Matter, and Thing therein contained, (excepting only the last Section thereof, whereby the Duration of the said Act was limited to the First Day of May One thousand eight hundred and thirty-three, when it expired,) shall be and are hereby revived, and shall be and remain in full Force and Authority from and after the passing of this Ordinance, in as full and ample a Manner to all Intents and Purposes as if the same were repealed and re-enacted in the Body of this Ordinance, saving only in so far as they may be in anywise contrary to the Provisions of this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That the Words "City of Quebec" in the said Act and in this Ordinance shall be held and considered to mean and comprise the City and Banlieue of Quebec; any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance, and the Act hereby revived, shall be and are hereby made permanent, and shall be and remain in force until repealed or altered by competent Authority.

(Signed) C. POULETT THOMSON.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirteenth Day of May, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirteenth Day of May One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. LINDSAY,
Clerk Special Council.

No. 120.

Militia of the Province.

(Copy.)

No. 120.

An Ordinance to amend a certain Ordinance therein mentioned relative to the Militia of this Province. [Passed 13th May 1840.]

WHEREAS it is expedient to amend the Ordinance passed in the First Year of Her Majesty's Reign, and intituled "An Ordinance to provide for the better Defence of the Province, and to regulate the Militia thereof," in so far as regards the annual Muster of the several Companies of the said Militia, required by the Seventh Section of the said Ordinance; be it therefore ordained and enacted by the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That it shall be lawful for the Governor, Lieutenant Governor, or Person administering the Government of this Province for the Time being, by any Militia General Order to be by him made, published in the Quebec Gazette published by Authority, and directed to the Commanding Officers of each and every of the Battalions of Militia in this Province, to direct that the annual Muster of the Companies of Militia shall not take place on the Twenty-ninth Day of June of the Year in which such Order shall be made; and sufficient Notice of such General Order shall be given, before the Twenty-ninth Day of June to which it shall relate, by the Commanding Officer of each Battalion to the Captains or Officers commanding Companies therein, and shall be also notified by such Captains to each Militia-man, in the Manner prescribed by the Fifth Section of the said Ordinance; and such Order, being so given and notified, shall be obeyed by all Officers of Militia and Militia-men to whom it shall relate, under the Penalty imposed by the Fifteenth Section or by any other Section of the said Ordinance for each and every Act of Disobedience to such Provisions, any thing in the said Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and remain in force until the First Day of May One thousand eight hundred and forty-three, and no longer.

(Signed) C. POULETT THOMSON.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirteenth Day of May, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirteenth Day of May One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 121.

No. 121.

Improvement of the Highways in the Province.

An Ordinance to provide for the Improvement, during the Winter Season, of the Queen's Highways in this Province, and for other Purposes.

[Passed 13th May 1840.]

WHEREAS it is expedient to provide for the Improvement of the Queen's Highways throughout this Province during the Winter Season, and for the Introduction of more suitable Vehicles on the Winter Roads; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That from and after the Fifteenth Day of November One thousand eight hundred and forty no Winter Carriage or Vehicle without Wheels shall be used for the Conveyance of any other Load than Passengers, and their Baggage to the Amount of One Hundred Weight for each Passenger, on any or any Part of the Queen's Highways or Public Roads within this Province, except Sleighs or Sleds having Runners at least Six English Feet in Length on the straight Part of the Bottom thereof, and Eight and a Half Feet in Length, including the curved Part, and that have no Part of the Bottom of the Sleigh or Sled, or of the cross Beams that support the Bottom thereof, lower than Ten English Inches above the Bottom of the Runners, such Sleigh or Sled to have an open Space between the Runners and the Raves on which the Body rests, except where such Space is broken by the perpendicular Knees between the said Raves and Runners, and a clear Distance of at least Two and a Half English Feet between the Inside of the Runners at the Bottom thereof, nor shall the Shafts or Pole be attached to the Body of the Sleigh or Sled or Runners thereof at a lower Height than Ten English Inches above the Bottom of the Runners, nor shall any such Sleigh or Sled be used on any such Queen's Highway or Public Road unless the Horse or Horses or other Beast of Draught be harnessed abreast or so attached to it that one or both of the Runners shall follow in the Track or Tracks made by such Horse or Horses or other Beasts of Draught; provided always, that if there be only One Horse or Beast of Draught, or if no Two of the Horses or Beasts of Draught be harnessed abreast, then the left Runner shall follow in the Track of such Horse or Horses or other Beasts of Draught; and provided always, that the Length herein-before prescribed for the Runners of the said Sleighs or Sleds shall not affect the Sleds used for Saw-logs or heavy Timber commonly called Bob-sleds.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That nothing in this Ordinance shall extend to prevent any Kind of Winter Carriage from being used for crossing any such Queen's Highway or public Road, or proceeding along it, for a Distance not exceeding Six Arpents, for the Purpose of passing from one Part to another of the Property of the Owner or Owners of such Carriage.

Provided also, and be it further ordained and enacted by the Authority aforesaid, That no Cariole, Train, Berline, or other Winter Carriage, other than such Sleighs or Sleds as are herein-before described and permitted, shall be used on any such Queen's Highway or Public Road within this Province, for the Conveyance of Passengers and their Baggage as aforesaid, unless the Horse or Horses or other Beast or Beasts of Draught drawing such Carriage shall be harnessed thereto in the Manner herein-before prescribed with regard to

No. 121.

Improvement of the Highways in the Province.

Sleighs or Sleds hereby permitted to be used, nor unless the Shafts of such Carriage (if any there be) shall be attached to such Cariole, Train, Berline, or other Winter Carriage at the Height above the Bottom of the Runners hereinbefore prescribed, and fixed otherwise than under the Bottom thereof.

And be it further ordained and enacted by the Authority aforesaid, That when Two Winter Vehicles meet, or a Winter Vehicle meets a Person on Horseback, travelling on the same beaten Track of Snow, that it shall be the Duty of the Driver or Drivers of such Vehicle or Vehicles to drive their Horse or Horses or other Beast or Beasts of Draught to the Right, so that while passing but One of the Runners of such Vehicle or of each of such Vehicles shall occupy the beaten Track.

And be it therefore ordained and enacted by the Authority aforesaid, That all and every the Provisions of this Ordinance shall extend and be applicable to all Public Roads defined and laid out, during the Winter Season, by lawful Authority, on the Rivers and other Waters when frozen, and on Land: Provided always, that the said Provisions shall not, during Three Years from the passing of this Ordinance, extend nor be construed to extend to any Public Road in the District of Quebec, except the main Public or Post Road by which Communication is had between the Town of Three Rivers and the City of Quebec.

And be it further ordained and enacted by the Authority aforesaid, That each and every Person offending against the Provisions of this Ordinance shall for each such Offence incur a Penalty of Ten Shillings Currency, on Conviction thereof before any Justice of the Peace for the District, on the Oath of One credible Witness other than the Informer; and such Justice of the Peace may, if such Penalty be not forthwith paid with the Cost of the Prosecution, commit the Offender to the Common Gaol of the District for a Period not exceeding Eight Days.

And be it further ordained and enacted by the Authority aforesaid, That one Moiety of all pecuniary Penalties recovered under the Authority of this Ordinance shall be paid over to the Receiver General, and shall belong to Her Majesty for the public Uses of the Province, and the other Moiety shall belong to and be paid over to the Informer; and the due Application of all Monies so paid over for the public Use, or appropriated by this Ordinance, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of the Treasury for the Time being, in such Manner and Form as Her Majesty, Her Heirs and Successors, shall direct.

And be it further ordained and enacted by the Authority aforesaid, That Copies of this Ordinance shall be sent to each of the Grand Voyers for the District of Quebec, Montreal, and Three Rivers, who shall, within One Month from the passing of this Ordinance, forward one of such Copies to one of the Surveyors of Highways in each Parish in his District through which any Queen's Highway or Public Road passes, and such Surveyor shall cause it to be read at the Door of the Church of his Parish or Township immediately after Divine Service in the Forenoon, or at some other public Place if there be no Church, on the Three Sundays immediately following the Time at which he shall receive such Copy.

And be it further ordained and enacted by the Authority aforesaid, That an Ordinance passed in the Second Year of Her Majesty's Reign, Chapter Thirty-four, intituled "An Ordinance to provide for the Improvement, during the Winter Season, of the principal Post Roads from various Parts of the Province to Montreal, and for other Purposes," shall be and the same is hereby repealed.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirteenth Day of May, in the Third Year of the Reign of Our Sovereign Lady Victoria, by the Grace

No. 121.

Improvement of the Highways in the Province.

Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirteenth Day of May One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 122.

No. 122.

Appointment of Assistant Judges in case of Sickness, &c.

An Ordinance to amend an Ordinance made and passed in the Second Year of Her Majesty's Reign, intituled "An Ordinance to authorize the Governor or Person administering the Government of this Province to appoint One or more Assistant Judges for the Courts of King's Bench for the Districts of Quebec *and* Montreal *in this Province, and an Assistant Judge for the District of* Three Rivers, *in the Case of Sickness, necessary Absence, or Suspension from Office of any of the Justices of the said several Courts of King's Bench, or the Resident Judge for the District of* Three Rivers *in the said Province."*

[Passed 13th May 1840.]

Whereas it is expedient to amend a certain Ordinance made and passed by the Administrator of the Government of this Province, authorized to execute the Commission of Governor thereof, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, in the Second Year of Her Majesty's Reign, intituled "An Ordinance to authorize the Governor or Person administering the Government of this Province to appoint One or more Assistant Judges for the Courts of King's Bench for the Districts of Quebec and Montreal in this Province, and an Assistant Judge for the District of Three Rivers, in the Case of Sickness, necessary Absence, or Suspension from Office of any of the Justices of the said several Courts of King's Bench, or the Resident Judge for the District of Three Rivers in the said Province;" be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue of and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada;" and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Assistant Judges who have been or may hereafter be appointed, under the Authority of the said Ordinance, in the Place and Stead of any of the Justices of the Courts of King's Bench for the Districts of Quebec and Montreal, shall respectively have the same Jurisdiction, Power, and Authority, as well in Term and in Court as out of Term and out of Court, and in Vacation, as the Justices of the said Courts of King's Bench respectively by Law have and may exercise, and shall and may hold Circuit Courts, and sit and act as Judges on the Circuits, in the said Districts respectively, in the same Manner as the said Justices of the said Courts of King's Bench respectively may or can

 do,

No. 122.

Appointment of Assistant Judges in case of Sickness, &c.

do, and shall and may have the same Jurisdiction, Power, and Authority in the District of Three Rivers and in the District of St. Francis, in the Courts of King's Bench for the said Districts, as well in Term and in Court as out of Term and out of Court, and in Vacation, as the Justices of the said Courts of King's Bench for the Districts of Quebec and Montreal respectively now by Law have in the said Districts of Three Rivers and St. Francis respectively.

And in order to remove all Doubts respecting the Validity of the Judgments, Proceedings, and Acts of the Assistant Judges who have been appointed in pursuance of the Ordinance herein-before mentioned, or in which they have participated or concurred, be it further ordained and enacted by the Authority aforesaid, That all Rules, Orders, Judgments, Proceedings, and Acts of the said Assistant Judges, or either of them, as well singly as in conjunction with another Judge or other Judges, and as well in Term and in Court as out of Term and out of Court, and in Vacation, in the Districts of Quebec, Montreal, Three Rivers, and St. Francis respectively, and on the Circuits in the said Districts of Quebec and Montreal respectively, or otherwise, shall be held and taken to have been made, rendered, done, had, and performed by and before legal and competent Authority, and shall have the same Force and Effect as if the same had been made, rendered, done, had, and performed, or concurred in by the Judges of the Courts of King's Bench for the said Districts of Quebec and Montreal respectively; nor shall any such Rules, Orders, Judgments, Proceedings, or Acts be liable or be subject to be called in question for any alleged or supposed Want of Jurisdiction, Power, or Authority of the said Assistant Judges in that Capacity to exercise all or any of the Powers, and to perform all or any of the Acts, which might be legally exercised and performed by the Judges of the said Courts of King's Bench respectively.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance, and the Ordinance hereby amended, shall be and are hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirteenth Day of May, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirteenth Day of May One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 126.

No. 126.

Commissioners for the Canal from St. John's to Chambly authorized to borrow Money.

An Ordinance to amend and render permanent an Ordinance passed in the Second Year of Her Majesty's Reign, intituled "An Ordinance to authorize the Commissioners for making the Canal from Saint John's *to* Chambly *to borrow a certain Sum of Money to complete the said Canal."* [Passed 12th May 1840.]

Whereas it is expedient to alter, amend, and render permanent an Ordinance passed by the Governor of this Province, with the Advice and Consent

No. 126.

Commissioners for the Canal from St. John's to Chambly authorized to borrow Money.

Consent of the Special Council for the Affairs of the said Province, intituled "An Ordinance to authorize the Commissioners for making the Canal from Saint John's to Chambly to borrow a certain Sum of Money to complete the said Canal;" be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That it shall be lawful for the Commissioners now named and appointed or hereafter to be named and appointed to borrow a Sum or Sums of Money not exceeding Thirty-five thousand Pounds Currency, for the Purposes in the said Ordinance mentioned, at such Rate of Interest (exceeding the legal Rate of Interest if the Loan of the said Sum or Sums of Money cannot be otherwise effected) as may be agreed upon, and payable within such Period or Periods as may also be agreed on, and not sooner, without the Consent of the Lender or Lenders of such Sum or Sums of Money, and subject nevertheless to the Payment of the Interest on such Loans half-yearly.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That no Contract or Obligation for the Loan of Money for the Purposes aforesaid to bear Interest at any Rate greater than Six per Cent. shall be valid without the Sanction and Confirmation of the Governor, Lieutenant Governor, or Person administering the Government, signified through his Secretary.

Provided also, and be it further ordained and enacted by the Authority aforesaid, That all Monies arising from any Rates, Tolls, Duties, Income, or Revenue of any Kind to be levied or collected on or for the Use of the said Canal shall be paid, by the Person or Persons who shall receive such Monies, into the Hands of the Receiver General of this Province, and, being so paid, shall be and are hereby specially appropriated to the Payment of the Principal and Interest of each and every Sum of Money borrowed by the said Commissioners under the Authority of this Ordinance or of the Ordinance hereby amended, and of the necessary Expense of repairing and maintaining the said Canal and of collecting the said Monies, nor shall any Part thereof be paid for or appropriated to any other Purpose whatsoever until the said Principal and Interest be wholly paid and discharged: Provided further, that if at any Time before any Sum or Sums so borrowed as aforesaid, and then unpaid, shall be redeemable, it shall happen that the Monies hereby appropriated to the Payment of the Principal and Interest thereof, then in the Hands of the Receiver General, shall be more than sufficient for the Purposes for which they are hereby appropriated, it shall be lawful for the Governor, Lieutenant Governor, or Person administering the Government, for the Time being, to pay off any Part of the said Principal which any Party to whom the same may be due shall be willing to receive, and by Warrant under his Hand to authorize the Receiver General to pay to such Party, and out of the Monies hereby appropriated, such Sum (whether greater or less than the Amount of the Principal so to be paid off) as such Party may be willing to receive in Payment of such Principal; any thing in the said Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance, and the Ordinance hereby amended, shall be and are hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twelfth Day of

 May

No. 126.

Commissioners for the Canal from St. John's to Chambly authorized to borrow Money.

May, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By His Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twelfth Day of May One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 127.

No. 127.

An Ordinance to render permanent a certain Ordinance for more effectually preventing the administering or taking of unlawful Oaths, and for preventing treasonable and seditious Practices.

[Passed 12th May 1840.]

Preventing the administering unlawful Oaths, and treasonable and seditious Practices.

Whereas it is expedient to render permanent the Ordinance herein-after mentioned; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Ordinance of his Excellency the Administrator of the Government of this Province, authorized to execute the Commission of the Governor thereof, and of the Special Council for the Affairs of the said Province, made and passed in the Second Year of Her Majesty's Reign, and intituled "An Ordinance for more effectually preventing the administering or taking of unlawful Oaths, and for better preventing treasonable and seditious Practices," which would otherwise expire on the First Day of November One thousand eight hundred and forty-two, shall be and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent Authority; any thing in the said Ordinance to the contrary notwithstanding.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twelfth Day of May, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By His Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twelfth Day of May One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 128.

No. 128.

Estates and Property occupied for the Ordnance Service.

An Ordinance to render permanent the Ordinance therein mentioned relative to the Estates and Property in this Province occupied for the Ordnance Service. [Passed 12th May 1840.]

WHEREAS it is expedient to render permanent the Ordinance herein-after mentioned, which would otherwise expire on the First Day of November One thousand eight hundred and forty-two; be it therefore ordained and enacted by his Excellency the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Ordinance of the Governor of this Province and of the Special Council for the Affairs thereof, passed in the Second Year of Her Majesty's Reign, and intituled "An Ordinance for vesting all the Estates and Property in the Province of Lower Canada occupied for the Ordnance Service in the principal Officers of Her Majesty's Ordnance, and for granting certain Powers to the said principal Officers, and for other Purposes therein mentioned," shall be and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in the said Ordinance to the contrary notwithstanding.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That nothing contained in the Ordinance hereby rendered permanent shall extend or be construed to extend to diminish, derogate from, or affect in any Manner any Right or Prerogative of Her Majesty, Her Heirs or Successors, excepting such only as are expressly mentioned and affected in and by the said Ordinance.

(Signed) C. POULETT THOMSON.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twelfth Day of May, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eigh hundred and forty.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twelfth Day of May One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. LINDSAY,
Clerk Special Council.

No. 131.
Continuing certain Acts.

(Copy.)

No. 131.

An Ordinance further to continue for a limited Time certain Acts therein mentioned. [Passed 30th April 1840.]

Whereas it is expedient further to continue for a limited Time certain Acts herein-after mentioned; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Act passed in the Ninth Year of the Reign of His late Majesty King George the Fourth, and intituled "An Act to prevent fraudulent Debtors evading their Creditors in certain Parts of this Province," which has been revived and continued by subsequent Acts until the First Day of May One thousand eight hundred and forty, when it would otherwise expire, shall be and the said Act is hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Act or in any other Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act passed in the Ninth Year of the Reign of His said Majesty King George the Fourth, and intituled "An Act for the Preservation of the Salmon Fisheries in the Counties of Cornwallis and Northumberland," which has been continued by subsequent Acts until the First Day of May One thousand eight hundred and forty, when it would otherwise expire, shall be and the said Act is hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Act or in any other Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act passed in the First Year of the Reign of His late Majesty King William the Fourth, intituled "An Act to encourage the Destruction of Wolves," which has been continued by subsequent Acts until the First Day of May One thousand eight hundred and forty, when it would otherwise expire, shall be and the said Act is hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Act or in any other Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act passed in the Second Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act to repeal a certain Act therein mentioned, and to provide for the more certain and expeditious Distribution of the printed Acts of the Legislature of this Province," and also a certain Ordinance passed in the Second Year of the Reign of Her present Majesty, intituled "An Ordinance to provide for the Distribution of the printed Copies of the Ordinances passed by the Governor of this Province and the Special Council for the Affairs thereof," which would otherwise expire on the First Day of May One thousand eight hundred and forty, shall be and the said Act and Ordinance are hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Act or Ordinance or in any other Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act passed in the Fourth Year of the Reign of His said late Majesty King William the Fourth, and intituled "An Act to make more ample Provision for the

No. 131.
Continuing certain Acts.

the Encouragement of Agriculture," which would otherwise expire on the First Day of May One thousand eight hundred and forty, shall be and the said Act is hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act passed in the Sixth Year of the Reign of His said late Majesty King William the Fourth, and intituled "An Act to regulate the Fees of Persons employed by Justices of the Peace in the Country Parishes as Clerks or Bailiffs in certain Cases," which would otherwise expire on the First Day of May One thousand eight hundred and forty, shall be and the said Act is hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act passed in the Sixth Year of the Reign of His said late Majesty King William the Fourth, and intituled "An Act to regulate and establish the Salaries of the Officers of the Customs at the inland Ports of this Province, and for other Purposes therein mentioned," which would otherwise expire on the First Day of May One thousand eight hundred and forty, shall be and the said Act is hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act passed in the Sixth Year of the Reign of His said late Majesty King William the Fourth, and intituled "An Act to provide for the medical Treatment of sick Mariners," which would otherwise expire on the First Day of May One thousand eight hundred and forty, shall be and the said Act is hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature passed in the Second Year of the Reign of His late Majesty King William the Fourth, intituled "An Act for the Protection of Copyrights," shall be and the said Act is hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature passed in the Tenth and Eleventh Years of the Reign of His late Majesty King George the Fourth, and intituled "An Act to amend an Act passed in the Thirty-fourth Year of the Reign of His late Majesty King George the Third, intituled 'An Act for the Division of the Province of Lower Canada, to amend the Judicature thereof, and to repeal certain Laws therein mentioned, inasmuch as the same relates to the Courts of Criminal Jurisdiction,'" shall be and the said Act is hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Act or in any other Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature passed in the Ninth Year of the Reign of His late Majesty King George the Fourth, Chapter Twenty-eight, intituled "An Act to facilitate the Proceedings against the Estates and Effects of Debtors in certain Cases," shall be and the said Act is hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Act to the contrary notwithstanding.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirtieth Day of April, in the Third Year of the Reign of our Sovereign Lady Victoria, by

No. 131.

Continuing certain Acts.

the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirtieth Day of April One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 132.

No. 132.

Erection of Court Houses and Gaols.

An Ordinance to continue for a limited Time Two certain Acts therein mentioned relative to the Erection of Court Houses and Gaols in the several Counties of this Province, and for other Purposes therein mentioned. [Passed 30th April 1840.]

Whereas it is expedient further to continue for a limited Time the Acts herein-after mentioned, which would otherwise expire on the First Day of May One thousand eight hundred and forty; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, constituted and assembled by virtue of and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Act of the Provincial Legislature passed in the Second Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act to authorize the Erection of Court Houses and Gaols in the Counties of this Province, and for other Purposes therein mentioned," and the Act of the said Legislature passed in the Fourth Year of the Reign of His said late Majesty, and intituled "An Act to amend the Act passed in the Second Year of His Majesty's Reign, for the Erection of Court Houses and Gaols in the Counties of this Province," shall be and the said Acts are hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer, any thing in the said Acts or either of them to the contrary notwithstanding.

And to remove all Doubt with regard to the Effect of the Expiration of the said Acts in the Case herein-after mentioned, be it declared and further ordained and enacted by the Authority aforesaid, That after the Expiration of the said Acts the Property of any Land whereon any Court House or Gaol, or Building intended to serve as such, shall have been erected or commenced under the Provisions of the said Acts or of either of them, or which shall have been conveyed to any Trustees elected or to be elected under such Provisions, or to any Commissioner or Commissioners, or to any Person or Persons whomsoever, as a Site for any such Building as aforesaid, shall, together with such Building or Buildings (if any there be), become the Property of Her Majesty, and be vested in Her Majesty, Her Heirs and Successors for ever, for the

No. 132.
Erection of Court Houses and Gaols.

the public Uses of the Province, as shall also all Property whatsoever, Real or Personal, vested in any such Trustees as aforesaid, or in any Commissioner or Commissioners or other Person or Persons whomsoever, under the Provisions of the said Acts or either of them, in Trust for the Purposes thereof, and for the public Use at the Time of the Expiration thereof.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirtieth Day of April, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirtieth Day of April One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 133.

No. 133.
Secret Incumbrances on Lands.

An Ordinance to continue for a limited Time a certain Act therein mentioned in relation to secret Incumbrances on Lands.

[Passed 30th April 1840.]

Whereas the Act herein-after mentioned has been attended with very salutary Effects, and it is expedient to continue the same; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this said Province, constituted and assembled by virtue of and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Act passed in the Ninth Year of His Majesty King George the Fourth, and intituled "An Act to provide for the more effectual Extinction of secret Incumbrances on Land than was heretofore in use in this Province," which said Act has been since continued in force by other Acts until the First Day of May One thousand eight hundred and forty, when it would otherwise expire, shall be and the said Act is hereby continued and shall remain in force until the First Day of November One thousand eight hundred and forty-five, and no longer.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirtieth Day of April, in the Third Year of the Reign of our Sovereign Lady Victoria,

No. 133.

Secret Incumbrances of Lands.

Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirtieth Day of April One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 135.

Providing for the Defence of the Province, and regulating the Militia.

No. 135.

An Ordinance further to continue for a limited Time an Ordinance passed in the First Year of Her Majesty's Reign, intituled "An Ordinance to provide for the better Defence of this Province, and to regulate the Militia thereof." [Passed 30th April 1840.]

Whereas it is expedient to continue for a limited Time the Ordinance herein-after mentioned, which would otherwise expire on the First Day of May One thousand eight hundred and forty; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Ordinance of his Excellency the Administrator of the Government of this Province authorized to execute the Commission of the Governor thereof, and of the Special Council for the Affairs of the said Province, passed in the First Year of Her Majesty's Reign, and intituled "An Ordinance to provide for the better Defence of this Province, and to regulate the Militia thereof," shall be and it is hereby continued and shall remain in force until the First Day of May One thousand eight hundred and forty-three, and no longer, any thing in the said Ordinance to the contrary notwithstanding.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirtieth Day of April, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirtieth Day of April One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 136.

No. 136.

Indemnification of Persons having acted in suppressing unlawful Assemblies, and Attainder of Persons sentenced by Courts-martial.

An Ordinance to render permanent certain Ordinances therein mentioned providing for the Indemnification of Persons who may have acted in the Suppression of unlawful Assemblies or of treasonable Practices, and for the Attainder of Persons against whom Sentences may have been given by Courts-martial. [Passed 30th April 1840.]

Whereas it is expedient that the Ordinances herein-after mentioned should be made permanent; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled, "An Act to make temporary Pro- "vision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Ordinance of his Excellency the Administrator of the Government of this Province, authorized to execute the Commission of the Governor thereof, and of the Special Council for the Affairs of the said Province, passed in the First Year of Her Majesty's Reign, and intituled, "An Ordinance for indemnifying Persons who since the First Day of October One thousand eight hundred and thirty-seven have acted in apprehending, imprisoning, or detaining in custody Persons suspected of High Treason or treasonable Practices, and in the Suppression of unlawful Assemblies, and for other Purposes therein mentioned," and the Ordinance of his Excellency the Administrator of the Government of this Province authorized to execute the Commission of the Governor thereof, and of the Special Council for the Affairs of the said Province, passed in the Second Year of Her Majesty's Reign, intituled "An Ordinance for indemnifying Persons who since the First Day of November One thousand eight hundred and thirty-eight have acted in apprehending, imprisoning, or detaining in custody Persons suspected of High Treason or treasonable Practices, and in the Suppression of unlawful Assemblies, and for other Purposes therein mentioned," and the Ordinance of the Governor of this Province, and of the Special Council for the Affairs thereof, passed in the Second Year of Her Majesty's Reign, intituled "An Ordinance for indemnifying Persons who since the Twenty-first Day of December One thousand eight hundred and thirty-eight have acted in apprehending, imprisoning, or detaining in custody Persons suspected of High Treason or treasonable Practices, and in the Suppression of unlawful Assemblies, and for other Purposes therein mentioned," which said Ordinances would not otherwise, under the Provisions of the Act herein first above cited, remain in force beyond the First Day of November One thousand eight hundred and forty-two, shall be and the said Ordinances are and each of them is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

And be it further ordained and enacted by the Authority aforesaid, That the Ordinance of his Excellency the Administrator of the Government of this Province authorized to execute the Commission of the Governor thereof, and of the Special Council for the Affairs of the said Province, passed in the Second Year of Her Majesty's Reign, intituled "An Ordinance for the Attainder of Persons against whom Sentences or Judgments of Courts-martial shall be given under and by virtue of an Ordinance passed in the Second Year of Her Majesty's Reign, intituled 'An Ordinance for the Suppression of the Rebellion which unhappily exists within this Province of Lower Canada, and for the Protection of the Persons and Properties of Her Majesty's faithful Subjects within the same,'" and of another Ordinance passed in the said Second Year of Her Majesty's Reign, intituled "An Ordinance to declare and define the Period when the Rebellion now unhappily existing in this Province shall be taken and held to cease, and for other Purposes," shall be, and the said Ordinance, which

No. 136.

Indemnification of Persons having acted in suppressing unlawful Assemblies and, Attainder of Persons sentenced by Courts-martial.

would not otherwise under the Provisions of the Act herein first above cited remain in force beyond the First Day of November One thousand eight hundred and forty-two, is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirtieth Day of April, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirtieth Day of April One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 137.

Administration of Justice in the Districts of Quebec, Montreal, Three Rivers, and Saint Francis.

No. 137.

An Ordinance to amend and render permanent the Act therein mentioned, passed to facilitate the Administration of Justice in Civil Matters in the Districts of Quebec, Montreal, Three Rivers, *and* St. Francis.

[Passed 30th April 1840.]

Whereas it is expedient to amend and render permanent the Act hereinafter mentioned, which has been continued in force by subsequent Acts until the First Day of May One thousand eight hundred and forty, when it would otherwise expire; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament, passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Act of the Provincial Legislature passed in the First Year of the Reign of His late Majesty William the Fourth, and intituled "An Act to facilitate the Administration of Justice respecting Enquêtes in Civil Matters before the Courts of King's Bench for the Districts of Quebec, Montreal, Three Rivers, and the Inferior District of St. Francis," as hereby amended, shall be, and the said Act, so amended as aforesaid, is hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in the said Act to the contrary notwithstanding.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That the Provincial Judge for the District of St. Francis shall be and is hereby authorized, in all Cases of Trial by Jury in Civil Causes pending before the Court of King's Bench for the said District, to try the Issue of Fact and receive the Verdict of Juries in Vacation, between the Terms of the said Court, on such Days as the said Court shall, during Term, have appointed for that Purpose.

(Signed) C. Poulett Thomson.

Ordained

No. 137.

Administration of Justice in the Districts of Quebec, Montreal, Three Rivers, and Saint Francis.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirtieth Day of April, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirtieth Day of April One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 139.

No. 139.

Establishment of Registry Offices.

An Ordinance to render permanent, with the Amendment made therein by a certain Ordinance, certain Acts of the Legislature of this Province relating to the Establishment of Registry Offices.

[Passed 30th April 1840.]

Whereas it is expedient to render permanent, with the Amendment herein-after mentioned, the Acts of the Legislature of this Province, also herein-after mentioned, which have been continued in force until the First Day of November One thousand eight hundred and forty-two by a certain Ordinance of his Excellency the Administrator of the Government of this Province authorized to execute the Commission of the Governor thereof, and the Special Council for the Affairs of the said Province, and would otherwise expire on the Day last above mentioned; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Act of Parliament, That the Act of the Legislature of this Province passed in the Tenth and Eleventh Years of the Reign of His Majesty King George the Fourth, and intituled "An Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Stanstead, Shefford, and Missisquoi," as amended by the Acts herein-after mentioned, and the Act of the said Legislature passed in the First Year of the Reign of His late Majesty King William the Fourth, intituled "An Act to amend an Act passed in the Eleventh Year of the Reign of His late Majesty, intituled 'An Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Stanstead, Shefford, and Missisquoi,'" as amended by the permanent Act of the said Legislature passed in the Second Year of His said late Majesty's Reign, and intituled "An Act to extend the Period limited by an Act passed in the First Year of His Majesty's Reign, Chapter the Third, for enregistering certain Acts or Deeds in Law, or Instruments in Writing, therein mentioned," and the Act of the said Legislature passed in the Fourth Year of His said late Majesty's Reign, intituled "An Act to extend the Provisions of the Act

No. 139.

Establishment of Registry Offices.

to establish Registry Offices, in the Counties of Drummond, Sherbrooke, Stanstead, Shefford, and Missisquoi, to Lands held in free and common Soccage in the County of Two Mountains and Acadie," shall be and the said Acts are hereby made permanent, and shall remain in force until repealed or altered by competent Authority; any thing in any Law, Statute, or Ordinance to the contrary notwithstanding.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That the Registry Office to be kept for the County of Stanstead under the Provisions of the Provincial Act herein first above cited shall not be kept at Georgeville in the said County, but shall be kept at Stanstead Plain, also in the said County, as it is ordained and enacted in and by a certain Ordinance of the Governor of this Province and of the Special Council for the Affairs thereof, passed in the Second Year of Her Majesty's Reign, and intituled "An Ordinance to change the Place of the Registry Office for the County of Stanstead," the Provisions of which said Ordinance would not otherwise, under those of the Act of the Imperial Parliament herein-first above cited, remain in force beyond the First Day of November One thousand eight hundred and forty-two.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirtieth Day of April, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirtieth Day of April One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 140.

No. 140.

Rendering permanent certain Acts.

An Ordinance to render permanent certain Acts therein mentioned.

[Passed 30th April 1840.]

Whereas it is expedient to render permanent the Acts of the Provincial Legislature herein-after mentioned; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Act of the Provincial Legislature passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act to revive, amend, and continue for a limited Time a certain Act concerning the Police of William Henry and other Villages," and the Act revived, amended, and continued by the said last-mentioned Act, and passed in the Fourth Year of the Reign of His late Majesty King George the Fourth, and

No. 140.

Rendering permanent certain Acts.

and intituled "An Act to repeal a certain Act therein mentioned, and to provide for the Police of the Borough of William Henry, and certain other Villages in this Province," so amended as aforesaid, shall be and the said Acts are hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Legislature of this Province passed in the Seventh Year of the Reign of His late Majesty King George the Fourth, intituled "An Act more effectually to provide for the Maintenance of good Order in Churches, Chapels, and other Places of public Worship, and for other Purposes therein mentioned," which said Act has since been continued in force by other Acts of the said Legislature until the First Day of May One thousand eight hundred and forty, when it would otherwise expire, shall be and the said Act is hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in the said Act or in any other Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act passed in the Ninth Year of the Reign of His late Majesty King George the Fourth, and intituled "An Act to increase the Number of Assessors for the Cities of Quebec and Montreal," shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act passed in the Second Year of His late Majesty King William the Fourth, and intituled "An Act to compel Wharfingers and others to advertise unclaimed Goods in their Possession," shall be and the said Act is hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature passed in the Fourth Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act to make Provision for indemnifying Pilots while detained in Quarantine," shall be and the said Act is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act to authorize the Sale and Disposal of certain Goods unclaimed, and remaining in the Possession of the Clerks of the Peace in this Province," shall be and the said Act is hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing therein contained to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act for making certain Regulations respecting the Office of Sheriff," shall be and the said Act is hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act to prevent the fraudulent Seizure and Sale of Lands and other Real Property within this Province," shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act to repeal certain Acts therein mentioned, and to consolidate the Provisions therein made for the Encouragement of useful Arts in this Province," shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in the said Act to the contrary notwithstanding.

No. 140.

Rendering permanent certain Acts.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act to regulate the Measurement of Coal," shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act to afford Relief during a limited Time to Insolvent Debtors," shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in the said Act to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature made and passed in the Sixth Year of the Reign of His late Majesty, intituled "An Act to provide less expensive Means for the Recovery of Wages due to Seamen of Vessels belonging to or registered in this Province," which would otherwise expire on the First Day of November One thousand eight hundred and forty-two, to which Day it has been continued by an Ordinance of his Excellency the Administrator of the Government of this Province, authorized to execute the Commission of the Governor thereof, and of the Special Council for the Affairs of the said Province, passed in the First Year of Her Majesty's Reign, shall be and the said Act of the Provincial Legislature is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Legislature of this Province passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act for the Transportation of certain Offenders from this Province to England, to be thence again transported to New South Wales or Van Diemen's Land," which would otherwise expire on the First Day of November One thousand eight hundred and forty-two, to which Day it has been continued by an Ordinance of his Excellency the Administrator of the Government of this Province authorized to execute the Commission of the Governor thereof, and of the Special Council for the Affairs of the said Province, passed in the First Year of Her Majesty's Reign, shall be and the said Act is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

And be it further ordained and enacted by the Authority aforesaid, That the Act of the Provincial Legislature made and passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, and intituled "An Act for the more easy and less expensive Decision of Differences between Masters and Mistresses and their Servants, Apprentices, and Labourers, in the Country Parts of this Province," shall be and the said Act is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirtieth Day of April, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirtieth Day of April One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 141.

Notaries in Inferior District of Gaspé.

No. 141.

An Ordinance to provide permanently for the Want of Notaries in the Inferior District of Gaspé, *and to remove the Doubts therein mentioned.*

[Passed 30th April 1840.]

WHEREAS in and by the Tenth Section of a certain Act made and passed in the Fourth Year of the Reign of His Majesty King George the Fourth, intituled "An Act to render valid certain Acts, Agreements in Writing, and Contracts of Marriage, Contrats de Mariage sous Seing Privé, heretofore executed in the Inferior District of Gaspé, and to provide for the Want of Notaries in the said Inferior District," it is enacted, that certain Deeds and Acts, and legal Instruments and Documents in Writing, therein specified, shall, if executed in the said Inferior District within the Period and in the Manner provided by the said Section, and if all the Provisions and Requirements thereof be complied with in regard to the same, have the same Effect in certain respects therein mentioned as if the same had been executed before Notaries: And whereas the Period so fixed by the said Act was intended to be extended by divers other Acts until the First Day of May One thousand eight hundred and thirty-five, when it expired, and was afterwards again intended to be renewed and extended by the Act passed in the Sixth Year of the Reign of His late Majesty, intituled "An Act further to provide during a limited Time for the Want of Notaries in the Inferior District of Gaspé," from the Day of the passing of the said Act until the First Day of May One thousand eight hundred and forty, but it was in effect provided in and by the said last-mentioned Act that the Extension of the Period in the said Section mentioned should cease whenever there should be Notaries Public resident and practising at Carleton, New Richmond, and New Carlisle, in the County of Bonaventure, and at Percé and La Grande Grève, or Gaspé Basin, in the County of Gaspé: And whereas Doubts have arisen and may arise as to the true Intent and Meaning of the Provision last above cited, and as to the legal Construction of the Terms used in the Acts whereby the said Period was intended to be extended as aforesaid: And whereas divers Deeds, Acts, and legal Instruments and Documents in Writing may have been executed in the Manner by the said Section provided, between the First Day of May One thousand eight hundred and thirty-five and the passing of the Act herein last above cited, to which it is desirable to give Effect as if the same had been so executed during the Period in the said Section mentioned; therefore, and to remove all such Doubts as aforesaid, and to make permanent Provision for the Want of Notaries in the said Inferior District, be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby declared and enacted by the Authority of the said Acts of Parliament, That any Will, Act, or Agreement in Writing, Inventory, Partage, Donation, or Contract of Marriage, Contrat de Mariage, which may or shall have been executed within the said Inferior District of Gaspé between the Time of the passing of the Provincial Act herein first above cited and the First Day of May One thousand eight hundred and forty, in the Manner prescribed by the Tenth Section of the Act last mentioned, and with regard to which all the Requirements of the said Section may or shall have been complied with, has borne and shall bear Hypothec, and has had and shall have the same legal Effect, according to its Tenor, as if it had been executed before Notaries, and shall, as well as the Copies thereof duly certified, be taken and received as sealed and authentic in all Her Majesty's Courts of Law in this Province as if executed before Notaries; any Law, Statute, or Usage to the contrary notwithstanding.

(4.) And

No. 141

Notaries in Inferior District of Gaspé.

And be it further ordained and enacted by the Authority aforesaid, That any Will, Act, or Agreement in Writing, Inventory, Partage, Donation, or Contract of Marriage, executed within the said Inferior District of Gaspé after the said First Day of May One thousand eight hundred and forty, in the Manner prescribed by the said Tenth Section of the Act last mentioned, and with regard to which all the Requirements of the said Section shall have been complied with, shall bear Hypothec, and shall have the same legal Effect according to its Tenor as if it had been executed before Notaries, and shall, as well as the Copies thereof duly certified, be taken and received as valid and authentic in all Her Majesty's Courts of Law in this Province as if executed before Notaries: Provided always, that this Section shall have no Force or Effect with regard to any Will, Act, or Agreement in Writing, Inventory, Partage, Donation, or Contract of Marriage, so executed, if there shall have been Two Notaries resident and practising in the County in which the same shall have been executed at the Time of the Execution thereof and during Two Months before that Time; but the Proof that there were Two Notaries so residing and practising shall in all Cases lie upon the Party disputing the Validity of any such Act or Instrument as aforesaid; and if such Proof be not adduced, it shall be held and considered that there were not Two Notaries so resident and practising at the Time such Act or Instrument was executed.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirtieth Day of April, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirtieth Day of April One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 142.

No. 142.

Administration of Justice in Inferior District of Gaspé.

An Ordinance to render permanent certain Acts therein mentioned relating to the Administration of Justice in the Inferior District of Gaspé.

[Passed 30th April 1840.]

Whereas it is expedient to render permanent the several Acts of the Provincial Legislature herein-after mentioned; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted

No. 142.

Administration of Justice in Inferior District of Gaspé.

enacted by the Authority of the said Acts of Parliament, That a certain Act passed in the Second Year of the Reign of His Majesty King George the Fourth, Chapter Five, intituled "An Act to extend the Provisions of a certain Act therein mentioned as far as the same relates to the Judicature of the Inferior District of Gaspé, and more effectually to provide for the due Administration of Justice in the said District," as amended by the Acts herein-after mentioned, and a certain other Act passed in the Fourth Year of the Reign of His said Majesty, Chapter Seven, intituled "An Act to amend a certain Act therein mentioned, and further to extend the Jurisdiction of the Provincial Court of the Inferior District of Gaspé," as amended by the Acts herein-after mentioned, and a certain other Act passed in the Sixth Year of the Reign of His said Majesty, Chapter Twenty-five, intituled "An Act to amend and continue for a limited Time Two certain Acts therein mentioned relating to the Judicature in the Inferior District of Gaspé," as amended by the Act herein-after mentioned, and a certain other Act passed in the Second Year of the Reign of His late Majesty King William the Fourth, intituled "An Act to continue and amend certain Acts relating to the Judicature of the Inferior District of Gaspé," which said Acts have since been continued in force by other Acts of the Provincial Legislature, and by an Ordinance of the Governor of this Province and of the Special Council for the Affairs thereof, passed in the Second Year of Her Majesty's Reign, Chapter Twenty, until the First Day of November One thousand eight hundred and forty-two, when they would otherwise expire, shall be, and the said Acts, so amended as aforesaid, are hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in any of the Acts or in the said Ordinance to the contrary notwithstanding.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirtieth Day of April, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirtieth Day of April One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.

No. 143.

No. 143.

Rendering permanent certain Acts relative to the District of St. Francis.

An Ordinance to render permanent certain Acts of the Legislature of this Province relative to the District of Saint Francis.

[Passed 13th April 1840.]

Whereas it is expedient to render permanent the Acts of the Legislature of this Province herein-after mentioned, which have been continued in force by a certain Ordinance of his Excellency the Administrator of the Government of this Province, authorized to execute the Commission of the Governor thereof, and of the Special Council for the Affairs of the said Province, passed in the First Year of Her Majesty's Reign, intituled "An Ordinance to continue for a limited Time certain Acts of the Legislature of this Province relative to the District of Saint Francis," until the First Day of November One thousand eight

No. 143.

Rendering permanent certain Acts relative to the District of St. Francis.

hundred and forty-two, when they would otherwise expire; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue of and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Act of the Legislature of this Province passed in the Third Year of the Reign of His late Majesty King George the Fourth, and intituled "An Act to erect certain Townships therein mentioned into an Inferior District, to be called the District of Saint Francis, and to establish Courts of Judicature therein," as amended by the Acts herein-after mentioned, and the Act of the said Legislature passed in the Tenth and Eleventh Years of the Reign of His said late Majesty, intituled "An Act to continue for a limited Time a certain Act passed in the Third Year of His Majesty's Reign, intituled 'An Act to erect certain Townships therein mentioned into an Inferior District, to be called the Inferior District of Saint Francis, and to establish Courts of Judicature therein,' and to make further Provision for the due Administration of Justice in the said District," as amended by the Acts herein-after mentioned, and the Act of the said Legislature passed in the Second Year of the Reign of His said Majesty King William the Fourth, intituled "An Act to make better Provision with regard to Appeals from the Provincial Court of the Inferior District of Saint Francis, to establish Circuits therein, and to extend the Benefit of the Trial by Jury to the said Inferior District," as amended by the Act herein-after mentioned, and the Act of the said Legislature passed in the Third Year of the Reign of His said late Majesty, intituled "An Act further to continue for a limited Time, and to amend, a certain Act therein mentioned relating to the Inferior District of Saint Francis," shall be and the said Acts are hereby made permanent, and shall remain in force until repealed or altered by competent Authority, any thing in the said Acts or Ordinance to the contrary notwithstanding.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirtieth Day of April, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Thirtieth Day of April One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

Copy.)

No. 144.

No. 144.

Administration of Justice in Civil Causes and Matters involving small pecuniary Value.

An Ordinance to provide for the easy and expeditious Administration of Justice in Civil Causes and Matters involving small pecuniary Value and Interest throughout this Province. [Passed 25th June 1840.]

Whereas it is expedient and necessary to provide for the efficient Administration of Justice in Civil Causes and Matters involving small pecuniary Value and Interest, by the Establishment of limited local Jurisdictions throughout this Province, to which easy Access may be afforded to Her Majesty's Subjects, for the Attainment of Justice in such Cases expeditiously and at little Expense; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the same, That this Province of Lower Canada shall, for the Purposes of Judicature and of this Ordinance, be divided into such Number of Districts as by the Governor of this Province, by and with the Advice of the Executive Council for the same, shall be deemed fit and expedient; and to this end it shall be lawful for the said Governor, with such Advice as aforesaid, on or before the First Day of December now next ensuing, to issue a Proclamation under the Great Seal of this Province, whereby this Province shall be divided into such Districts as aforesaid, and the Limits of such Districts shall be fixed and appointed.

And be it further ordained and enacted, That in the said several Districts into which this Province shall be divided as aforesaid there shall be a Court of Record of Civil Jurisdiction, to be called the District Court, which Court shall be held by and before the Sheriff of each of the said Districts, or his Deputy, at such Places in the said Districts respectively as the Governor of this Province, in his said Proclamation to be issued as aforesaid, shall appoint.

And be it further ordained and enacted, That it shall be lawful for the Governor of this Province for the Time being to appoint a Sheriff for each and every of the said Districts in which a Court is established as aforesaid, and from Time to Time to remove such Sheriffs, and appoint others in the Places of such of them as may be removed, or may die, or resign their Offices.

And be it further ordained and enacted, That the said District Courts to be held as aforesaid shall severally have Cognizance of, and full Power, Jurisdiction, and Authority to hear, try, and determine, in a summary Manner, all Civil Suits or Actions (those purely of Admiralty Jurisdiction excepted) wherein the Sum of Money, or the Value of the Thing demanded, shall not exceed Twenty Pounds Sterling: Provided always, and be it further enacted, that if any such Suit or Action shall relate to any Fee of Office, Duty, or Rent, Revenue, or any Sum of Money payable to Her Majesty, Titles to Lands or Tenements, Annual Rents, or such like Matters or Things, where the Rights in future may be bound, it shall be lawful for the Defendant or Defendants, before making his or their Defence to any such Action, to make and tender an Exception to the Jurisdiction of the said Court, and thereby require that the said Action be removed and carried to Hearing, Trial, and Judgment, in the Superior Terms of the Court of Common Pleas of this Province, in the Division thereof that may sit in the Territorial Division in which such District Court shall be established; and every such Exception shall be filed and entered of Record, and the said Action shall thereupon be removed into the Superior Terms of the said Court of Common Pleas; which last-mentioned Court shall proceed to determine, in a summary Manner, whether the said Exception be well founded; and if the said last-mentioned Court should maintain the said Exception, and adjudge the same to be well founded, Proceedings shall there-

No. 144. Administration of Justice in Civil Causes and Matters involving small pecuniary Value.

upon be had, in the said last-mentioned Court, to Trial, Judgment, and Execution, according to the Rules of the said last-mentioned Court; and if the said Exception should be over-ruled, the said Action shall be remitted to the said District Court, there to be heard, tried, and finally determined.

And be it further ordained and enacted, That no Person shall be appointed by any Sheriff of a District to be or act as the Deputy of such Sheriff in pursuance of and under the Authority of this Ordinance, unless such Person be, at the Time of his Appointment as aforesaid, an Advocate of Five Years standing at the Bar in this Province, and unless he shall first have been approved by the Governor of this Province for the Time being.

And be it further ordained and enacted, That every Sheriff of a District and every Deputy Sheriff shall, within Ten Days after his Appointment, and before proceeding to exercise any Authority under this Act, take the following Oath, before one of the Justices of the Court of Queen's Bench or Common Pleas for this Province, who is hereby authorized to administer the same; that is to say,

'I *A.B.* do swear, That I will well and truly, according to the best of my 'Skill and Knowledge, fulfil and execute the Trust, Powers, and Authority 'vested in me as Sheriff of the District of [*or* Deputy Sheriff, *as* '*the Case may be*,] by an Ordinance or Law passed in the Year of 'Her Majesty's Reign, intituled "An Ordinance to provide for the easy and 'expeditious Administration of Justice in Civil Causes and Matters involving 'small pecuniary Value and Interest throughout this Province," and that I will 'not deny or delay Justice, and will not by myself, or knowingly by any other 'Person or Persons, receive or take, or cause or permit or suffer to be received 'or taken, any greater or other Fees in my said Office than such as are directed 'to be taken in and by the said Ordinance or Law. So help me God.'

Which Oath shall be reduced to Writing, and signed by such Sheriff or Deputy Sheriff, and, being attested by the Justice before whom it shall be taken, shall be filed and enregistered in the first District Court to be held by such Sheriff or Deputy Sheriff, after taking the same.

And be it further ordained and enacted, That it shall and may be lawful for the Sheriffs of the said several Districts in which a District Court is established as aforesaid, or their Deputies respectively, to hold such District Courts as aforesaid, at the Places to be appointed by the Governor of this Province as aforesaid, on the first Six Judicial Days of each and every Month in each and every Year, save and except in the Districts in which the Cities of Quebec and Montreal shall be situated, in which last-mentioned Districts respectively it shall be lawful for the Sheriffs thereof, or their Deputies respectively, to hold such District Courts on the first Ten Judicial Days of each and every Month in each and every Year.

And be it further ordained and enacted, That the Sheriffs of the said Districts, or their Deputies respectively, shall from Time to Time appoint a sufficient Number of responsible, fit, and proper Persons to be and act as Bailiffs for the Service and Execution of the Process of the said District Courts respectively, which Bailiffs shall be removeable by the said Sheriffs or their Deputies for culpable Neglect or Misconduct, and shall be entitled, while engaged in the said Office, to the Fees and Emoluments specified in the Second Schedule to this Ordinance subjoined, and no other or greater Fees or Emoluments shall be taken or received by them or any of them.

And be it further ordained and enacted, That every Person to be appointed a Bailiff as aforesaid, before he shall act as such, shall enter into a Bond with Two Sureties to Her Majesty, Her Heirs and Successors, in the Penalty of Two hundred Pounds, conditioned for the due Performance of the Duties of the said Office; and it shall be incumbent on the said Sheriffs of the said Districts, or their Deputies respectively, to inquire and ascertain when such Sureties may die or become insolvent, and in such Case or Cases to require such Bailiffs to give other and further Security as aforesaid, and the Bond and Bonds so given shall stand and be as and for a Security to the Amount thereof for the Damages which may be sustained by any Person or Persons by reason of the culpable Negligence or Misconduct of any such Bailiff.

And be it further ordained and enacted, That the said District Courts hereby established shall severally have and use, as Occasion may require, a Seal bearing a Device and Impression of Her Majesty's Royal Arms, with an Inscription

No. 144.

Administration of Justice in Civil Causes and Matters involving small pecuniary Value.

Inscription thereon expressing that it is the Seal of the particular District Court to which it may belong, which Seal shall be kept in the Custody of the Sheriff of the District in which every such District Court shall be held, or of his Deputy; and all Precepts, Writs, and Processes to be issued from the said District Courts respectively shall run and be in the Name and Style of Her Majesty, Her Heirs or Successors, and shall be sealed with the Seal of the District Court from which the same shall issue, and shall bear the Attestation of the Sheriff of the District in which such District Court shall be held, or his Deputy, and shall be signed by the Clerk of the said District Court whose Duty it shall be to prepare and make out the same.

And be it further ordained and enacted, That in all Actions to be brought in the said District Courts hereby established, the first Process to be issued for bringing the Defendant before the said Courts to answer such Actions shall be a Summons, in which shall be briefly stated the Cause of Action of the Plaintiff, which Summons may be in the Form contained in the First Schedule to this Ordinance subjoined.

And be it further ordained and enacted by the Authority aforesaid, That the said Summons to be issued as aforesaid shall be served at least Six Days before the Day fixed for the Return thereof, in the same Manner as is by Law required for the Service of a Summons issuing out of Her Majesty's Superior Courts of Civil Jurisdiction in this Province in Actions instituted therein.

And be it further ordained and enacted, That if there be Two or more Defendants in any such Action, it shall be sufficient, to give Jurisdiction over all the Defendants to the District Court in which such Action may be brought, that any One of the said Defendants be domiciliated, or have been legally served with Process, within the District in which such Court shall be established: Provided always, that all the said Defendants be served with such Process.

And be it further ordained and enacted, That if the Defendant in any such Action should not appear personally, or by his Attorney or Agent, on the Day fixed for the Return of the said Summons, his Default shall be recorded, and it shall be lawful for the said District Courts respectively, after due Proof of the Service of the said Summons on the Defendant, in a summary Manner to receive Evidence and hear the Plaintiff in support of his Demand in such Action, and thereupon make and render such Judgment as Law and Justice may require; and if the Defendant should appear in any such Action, and the Plaintiff should not appear personally, or by his Attorney or Agent, or appearing should not prosecute his Action, or prosecuting it should fail in establishing his Demand, such Action shall be dismissed with Costs to the Defendant against the Plaintiff; and if the Plaintiff in any such Action should establish his Demand, he shall be entitled to recover the Sum of Money or Thing by him demanded, with Costs against the Defendant.

And be it further ordained and enacted, That all and every the Issue and Issues of Fact joined in any Action instituted in and cognizable by the said District Courts hereby constituted, wherein the Sum of Money or Value of the Thing demanded shall exceed Ten Pounds Sterling, may be tried and determined, and Damages thereon assessed, by the Verdict of a Jury, at the Option and Choice of any or either of the Parties in any such Action; and the Trial by Jury, when so chosen and required, shall be had, and the Verdict of the Jury rendered and taken, in conformity with the Provisions of Law by which Trials by Jury in the Cases wherein they are now allowed in Her Majesty's Courts of Civil Jurisdiction in this Province are regulated, and in like Manner as such Trials are now had, in so far as the Provisions aforesaid are applicable to the said District Courts, except in the Particulars which are differently regulated by this Ordinance.

And be it further ordained and enacted, That, for the Trial of Issues of Fact and the Assessment of Damages thereon in the said District Courts respectively, in Cases where Trial by Jury shall be chosen as aforesaid, and appointed by the Court, it shall be lawful for the Sheriff of each and every District in which a District Court is established as aforesaid, or his Deputy, at such Times as it may by him be deemed necessary, to issue his Precept to one of the Bailiffs of any such District Court, requiring him to summon, and such Bailiff shall and is hereby required, on the Receipt of such Precept, to summon not less than Twenty-four nor more than Thirty-six Jurors living within the District, to be and appear before the said District Court on a Day in such

No. 144.

Administration of Justice in Civil Causes and Matters involving small pecuniary Value.

Precept to be appointed, from whom a Jury shall be taken for the Trial of each of the Issues of Fact, in respect of which Trial by Jury shall have been chosen as aforesaid, and appointed by the Court; and each Juror for the Trial of every Issue as aforesaid shall be entitled to receive One Shilling and no more for his Service, to be paid by the Plaintiff, and included in the subsequent Taxation of Costs, if Costs should be awarded to him.

And be it further ordained and enacted, That the Clerks of the said District Courts respectively shall make a List of the Jurors summoned as aforesaid, with their Places of Abode and Additions, and shall cause their Names to be written severally on Slips of Paper and put into a Box; and the Names of the Jurors for the Trial of Causes in the said District Courts shall be drawn out of the Box by the Clerks of such District Courts respectively, and each Party may, until no more than Twelve remain, object to any Person whose Name shall be drawn out, without assigning any Cause; and if any Objection be made to the Twelve so remaining, the same shall be allowed or overruled as by such Court may be deemed legal and proper; and if any such Objection be allowed, the Names of the Jurors rejected without Cause assigned shall be returned to the Box, and drawn again, until a sufficient Number be found to make a Jury of Twelve, and such Jury of Twelve shall be the Jury sworn for the Trial: Provided always, that if there shall not be Twelve Persons attending as Jurors, or against whom no Objection shall have been allowed, it shall be lawful for every such Court to order the requisite Number of Persons, from among the By-standers, to be summoned, by the Clerk of such Court, and sit on the said Jury, subject to any Objections which may be made, or Causes assigned, except for Want of Qualification or Want of Summons.

And be it further ordained and enacted, That it shall be lawful for every such District Court, if it shall see fit, to direct the Clerk of such Court to divide the List of the Jurors summoned as aforesaid into Two Lists, and to require the Persons in the One List to attend and serve for so many Days, at the Beginning of the Sittings, as the said Court shall order, and those in the other List to attend and serve for the Residue of the Sittings, according as the said Court shall think fittest for the Convenience of the said Jurors.

And be it further ordained and enacted, That it shall be lawful for the said District Courts respectively, after a Verdict in any Suit or Suits therein depending, to grant a new Trial, or arrest Judgment, in such Suit or Suits, for sufficient legal Cause.

And be it further ordained and enacted, That it shall be lawful for the Sheriff, or his Deputy, by whom any such District Court shall be held as aforesaid, in any Action depending in the said Court, to authorize and require the Examination of any or either of the Parties on Interrogatories on Facts and Articles (Faits et Articles), or on the Juramentum Litis Decisorium, or on the Juramentum Judiciale, in the same and like Cases and Circumstances in which such Examinations may lawfully be required and had in other Her Majesty's Courts of Civil Jurisdiction in this Province, and under and subject to the Rules of Law in such Cases provided; and in like Manner to issue Commissions Rogatories, or Commissions in the Nature of Commissions Rogatories, for the Examination of Witnesses not resident within the District in which such District Court shall be held, in the same and like Cases and Circumstances in which such Commissions may lawfully be issued by other Her Majesty's Courts of Civil Jurisdiction in this Province, and under and subject to the Rules of Law in such Cases provided.

And be it further ordained and enacted, That it shall be lawful for the Sheriffs of the several Districts in which a District Court is established as aforesaid, and their Deputies respectively, in Civil Causes and Matters legally cognizable in such District Courts, to issue Writs of Attachment, Saisie Arrêt, Saisie Gagerie, and Saisie Revendication, to be made returnable in the said District Courts respectively, in the same and like Cases and Circumstances in which such Writs may lawfully be issued from and be made returnable in other Her Majesty's Courts of Civil Jurisdiction in this Province, and under and subject to the Rules of Law in such Cases provided.

And be it further ordained and enacted, That in every Case where Judgment shall be rendered by any such District Court as aforesaid awarding or adjudging the Payment of any Sum or Sums of Money, it shall and may be lawful for the Sheriff, or his Deputy, by whom such District Court shall be held,

No. 141.

Administration of Justice in Civil Causes and Matters involving small pecuniary Value.

held, at the Expiration of Eight Days after the rendering of any such Judgment, to issue a Precept under his Hand and the Seal of the said Court, in the Nature of a Writ of Fieri facias, against Goods and Chattels, which Precept shall be directed to any of the Bailiffs of the said District Court in which such Judgment shall have been rendered, who is hereby authorized to levy the Sum or Sums of Money mentioned in such Precept upon and from the Goods and Chattels of the Party against whom such Judgment shall have been rendered, in the same Manner and according to the same Rules and Regulations of Law by and under which any Sheriff may levy Money by virtue of a Writ of Fieri facias issuing out of Her Majesty's Courts of Civil Jurisdiction in this Province.

And be it further ordained and enacted, That in all Actions in which the Sum of Money or the Value of the Thing demanded shall be above Ten Pounds Sterling, and shall not exceed Twenty Pounds Sterling, and in which neither of the Parties shall make the Option of Trial by Jury, it shall not be necessary to reduce the Depositions of the Witnesses examined in any such Action to Writing, but the said Witnesses shall be examined vivâ voce in open Court, and sufficient Notes of their Evidence shall be taken in Writing by the Sheriff or his Deputy by and before whom such District Court as aforesaid shall be held, in like Manner as Notes are taken by a Judge presiding at a Trial by Jury, which Notes shall be kept and preserved by such Sheriff or his Deputy, to answer the Purposes of Justice in the event of an Appeal from the Judgment, to be rendered in any such Action as herein-after provided.

And be it further ordained and enacted, That an Appeal shall lie from the Judgments of the said District Courts hereby constituted to the Court of Common Pleas for this Province in the Division thereof sitting in the Territorial Division in which any such District Court shall be established, in all Suits and Actions in which the Sum of Money or the Value of the Thing demanded shall be above Ten Pounds Sterling, and shall not exceed Twenty Pounds Sterling, and in which neither of the Parties shall have made the Option of Trial by Jury.

Provided always, and be it further ordained and enacted, That the Party desirous of appealing from any such Judgment as aforesaid shall, within Ten Days after the rendering of the same, make known to the Sheriff of the District, or his Deputy, by and before whom such Judgment shall have been rendered, his Intention to appeal from the same, and shall at the same Time give good and sufficient Security, to the Satisfaction of such Sheriff or his Deputy, that he will effectually prosecute the said Appeal, and answer the Condemnation, and also pay such Costs and Damages as shall be awarded by the said Court of Common Pleas if the Judgment appealed from should be affirmed.

And be it further ordained and enacted, That for the Purpose of obviating Delay and Expense in the Prosecution of such Appeals from the Judgments of District Courts as aforesaid, the said Appeals shall be prosecuted, and Proceedings thereon had in a summary Manner, by Petition of the Appellant to the said Court of Common Pleas in the Division thereof to which such Appeal shall lie as aforesaid, setting forth succinctly the Grounds of Appeal, and praying for the Reversal of the Judgment appealed from, and the rendering of such Judgment as by the Court below ought to have been rendered, a Copy of which Petition, with a Notice of the Time at which it is to be presented, shall be served on the adverse Party or Parties, or his or their Attorney or Attorneys, within Fifteen Days from the tendering of any such Judgment so appealed from; and the said Petition shall be presented on the First Day of the Term of the said Division of the said Court of Common Pleas next succeeding the rendering of any such Judgment, if there shall be an Interval of Twenty Days between the rendering of such Judgment and the said First Day of the said Term, and if not then on the Day of the said Term next following the Expiration of such Interval.

And be it further ordained and enacted, That it shall be the Duty of the Sheriff or his Deputy, by and before whom any Judgment appealed from as aforesaid shall have been rendered, within Fourteen Days after the giving of Security on any Appeal as aforesaid, to certify, under the Seal of the District Court held by him, to the Division of the Court of Common Pleas to which such Appeal may lie, and cause to be filed in the Office of the Prothonotary of such Division, the Judgment, Record, and Proceedings to which such Appeal

No 144. Administration of Justice in Civil Causes and Matters involving small pecuniary Value.

shall relate, together with the Notes of the Evidence which may have been taken in any such Case as aforesaid, to the end that Hearing and Judgment on every such Appeal may be had and obtained without Delay.

And be it further ordained and enacted, That after the filing of such Petition by and on the Part of the Appellant as aforesaid, and the Transmission of the Judgment, Record, and Proceedings, and Notes of Evidence as aforesaid, every such Appeal shall, without any other or further Formality, be summarily heard, and Judgment thereon rendered as to Law and Justice may appertain.

And be it further ordained and enacted, That the Judgments to be rendered by the said Court of Common Pleas on Appeals from the District Courts as aforesaid shall be final and conclusive, and from such Judgments no other or further Appeal shall lie.

And be it further ordained and enacted, That in any Action which shall or may be brought in the said District Courts, in which the Sum of Money or the Value of the Thing demanded shall exceed Ten Pounds Sterling, it shall be lawful for the said Courts respectively in their Discretion, when they may deem it expedient or proper for the Ends of Justice, to require the Plaintiffs in such Actions, at or after the Return of the Summons therein, to file a Declaration setting forth in a sufficient Manner the Grounds and Causes of Action of such Plaintiffs, to which Declaration the Defendant in every such Action shall be held to plead, and on which other and further Proceedings shall be had in due legal Course.

And be it further ordained and enacted, That the said District Courts respectively, and the said Sheriffs and Deputy Sheriffs respectively, as well in Court as out of Court, shall have the same Power and Authority within the said Districts respectively as any Judge of the Court of Common Pleas for this Province in the several Divisions of the said Court hath and may lawfully exercise in what respects the Election and Appointment of Tutors or Guardians and Curators, and the taking of the Counsel and Opinion of Relations and Friends, in Cases where the same are by Law required to be taken, the closing of Inventories, Attestations of Accounts, Insinuations, affixing and taking off Seals of safe Custody, and other Acts of the same Nature requiring Despatch.

And be it further ordained and enacted, That the Sheriffs of the said District Courts, and their Deputies respectively, shall not, during their Continuance in Office, practise as Advocates, Proctors, or Attornies; and the Clerks of the said Courts respectively shall not, while they hold their said Offices, practise as Advocates, Proctors, or Attornies, in any such Courts, or in any other Court of Law in this Province.

And be it further ordained and enacted, That in all Actions and Proceedings in the said District Courts respectively, and under their Authority, the Fees specified in the Second Schedule to this Ordinance subjoined shall be deemed and taken to be the lawful Fees for the Discharge of the several Duties therein mentioned, and no other Fees or Emoluments shall be received or taken upon any Pretence whatever for any Act or Service done or performed under the Authority of this Ordinance; and if any Officer or Person shall receive any other or greater Fee, Emolument, or other Consideration than is specified in the said Schedule, for the Duties aforesaid, or any of them, or for any Act or Service done or performed as aforesaid, he shall forfeit and pay the Sum of Twenty Pounds Sterling for every such Offence, which Penalty shall and may be recovered in such District Courts respectively, or in any Court of Record in this Province, one Half of which Penalty shall belong to Her Majesty, Her Heirs and Successors, and the other Half thereof to the Person who shall sue for the same.

And be it further ordained and enacted, That every Clerk of a District Court established as aforesaid shall cause to be continually exposed, as well in his Office as also in some conspicuous Place in the Hall or Apartment in which such District Court shall be held, a fair and legible Table of the Fees aforesaid payable in all Actions and Proceedings in the said District Court, and likewise the Penalty to which any Person may become liable for receiving any other or greater Fee than is set forth in the said Schedule, and in default of so doing shall be deemed and held to be guilty of a Misdemeanor, and be punished accordingly.

And be it further ordained and enacted, That from and after the passing of this Ordinance the Offices of Sheriffs for the Districts of Quebec, Montreal,

Three

No. 141.

Administration of Justice in Civil Causes and Matters involving small pecuniary Value.

Three Rivers, and Saint Francis, and for the Inferior District of Gaspé, shall be and they are hereby abolished; and all and every the Powers and Duties which might lawfully be exercised and performed by the said Sheriffs respectively within the respective Districts and Inferior Districts aforesaid shall and may be exercised and performed by the Sheriffs of the Districts into which this Province shall be divided by Proclamation as aforesaid, in like Manner as the same might, up to the Time of the passing of this Ordinance, be exercised and performed by the said Sheriffs of the said Districts of Quebec, Montreal, Three Rivers, and Saint Francis, and of the said Inferior District of Gaspé, respectively, within the same; and all Writs and Process issuing out of the Courts of Judicature in this Province which, up to the Time of the Commencement of this Ordinance, ought to be directed to and executed by the Sheriffs of the said last-mentioned Districts and Inferior District respectively, shall thenceforward be directed to and executed by the Sheriffs of the said respective Districts into which this Province shall be divided by Proclamation as aforesaid.

And be it further ordained and enacted, That it shall be lawful for the Governor of this Province, on any Claim which may be made by any of the Persons holding Offices which will become and be abolished under the Provisions of this Ordinance, for Compensation for Loss by reason of such Abolition of the said Offices, to determine, by and with the Advice of the Executive Council of this Province, whether such Claim have or have not a reasonable Foundation, and if such Claim be admitted to be well founded and just, to assess and award thereupon such Compensation as by the said Governor, with such Advice as aforesaid, may be deemed reasonable and proper, regard being had to the Tenure under which the said Offices have been held, and to the Appointment which might be made of the said Persons if qualified to Offices of a similar Nature to be filled under the Provisions of this Ordinance, and to all such Circumstances as may and ought to be considered in relation to such Claim; and the Compensation that may be assessed and awarded as aforesaid shall be paid out of any of the unappropriated Monies for public Uses in the Hands of the Receiver General of this Province.

And be it further ordained and enacted, That a certain Act of the Legislature of this Province passed in the Sixth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act to provide for the summary Trial of small Causes," and also a certain Ordinance made and passed by the Governor of this Province, by and with the Advice of the Special Council for the Affairs thereof, in the Second Year of Her Majesty's Reign, intituled "An Ordinance to establish Circuit Courts of Requests in the Districts of Quebec, Montreal, and Three Rivers, and for other Purposes," shall from and after the Commencement of this Ordinance be and the same are hereby repealed.

And be it further ordained and enacted, That the Registers, Muniments, recorded official Acts and Papers, judicial and other Proceedings of the Circuit Courts of Requests in the several Districts of Quebec, Montreal, and Three Rivers, shall forthwith after the Period appointed for the Commencement of this Ordinance be transmitted into and make Part of the Records, Registers, Muniments, and judicial and other Proceedings of the Court of Common Pleas for this Province, in the Inferior Terms thereof; that is to say, all the Registers, Muniments, recorded official Acts and Papers, judicial and other Proceedings of the Circuit Court of Requests for the District of Quebec, shall be transmitted into the Court of Common Pleas for this Province in the Division thereof appointed to sit in the Territorial Division of Quebec; and all the Registers, Muniments, recorded official Acts and Papers, judicial and other Proceedings of the Circuit Court of Requests for the Districts of Montreal and Three Rivers, shall be transmitted into the said Court of Common Pleas in the Division thereof appointed to sit in the Territorial Division of Montreal.

And be it further ordained and enacted, That no Judgment, Order, Rule, or Act of the said respective Circuit Courts of Requests, legally pronounced, had, or done before the Period appointed for the Commencement of this Ordinance, shall be hereby avoided, but shall remain in full Force as if this Ordinance had not been passed; nor shall any Action, Suit, Cause, or Proceeding depending in the said Circuit Courts of Requests respectively be abated, discontinued, or annulled, but the same shall be transferred in their present Condition respectively to and subsist

No. 144.

Administration of Justice in Civil Causes and Matters involving small pecuniary Value.

and depend in the several and respective Divisions of the said Court of Common Pleas into which the Registers, Muniments, recorded official Acts and Papers, judicial and other Proceedings of the said Circuit Courts of Requests, are to be transmitted as aforesaid; and other and further Proceedings shall be thereon had in the said respective Divisions of the said Court of Common Pleas, in the Inferior Terms thereof, to Judgment and Execution, as might have been had in the said Circuit Courts of Requests respectively, or in the Inferior Terms of the said Divisions of the said Court of Common Pleas, in Causes or Proceedings commenced and depending before the said Court of Common Pleas in the said Inferior Terms thereof.

Provided always, and be it further ordained and enacted, That nothing in this Ordinance contained shall derogate from or in any Manner abridge or affect the Prerogative of the Crown to erect, constitute, and appoint Courts of Civil and Criminal Jurisdiction within this Province, as Her Majesty, Her Heirs or Successors, shall think proper, or any other Prerogative or Right of the Crown whatsoever.

And be it further ordained and enacted, That the Words "Governor of this Province," wherever they occur in the foregoing Enactments, are to be understood as meaning and comprehending the Governor, or the Person authorized to execute the Commission of Governor, within this Province, for the Time being.

And be it further ordained and enacted, That this Ordinance, and the several Provisions herein contained, shall commence and have Execution and Effect from and after the First Day of December now next ensuing.

And be it further ordained and enacted, That this Ordinance, and the Provisions herein contained, shall not cease or expire on the First Day f November which will be in the Year of our Lord One thousand eight hundred and forty-two, but shall be and remain a permanent Law, and in full Force, until the same shall be repealed or altered by competent Legislative Authority.

SCHEDULE No. 1. referred to in the foregoing Ordinances.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith To the Bailiffs of our District Court in and for the District of severally and respectively, greeting: We command you and each of you that you summon *A. B.* of to appear, in Person or by his Attorney, in our District Court in and for the District of to be holden at in the said District on the Day of to answer *C. D.* of a Plea of [*Nature of Action*], for that, &c. [*here set forth briefly the Plaintiff's Cause of Action*]. Herein fail not.

Witness *E. F.* Esquire, Sheriff [*or* Deputy Sheriff, *as the Case may be*,] of our District of at in our said District, this Day of in the Year of our Lord and in the Year of our Reign.

SCHEDULE No. 2. referred to in the foregoing Ordinance.

TABLE of FEES to be taken in ACTIONS under Ten Pounds Sterling.

By the Judge.

	£	s.	d.
On every Summons or Attachment (Saisie Gagerie, Saisie Arrêt, or Saisie Revendication), One Shilling and Sixpence - -	0	1	6
On every Affidavit, One Shilling - - - - -	0	1	0
On every final Judgment, Two Shillings and Sixpence - -	0	2	6

By the Clerk.

For every Summons or Attachment (Saisie Gagerie, Saisie Arrêt, or Saisie Revendication), One Shilling and Sixpence - -	0	1	6
For every Copy of the same, Sixpence - - - -	0	0	6
For every Subpœna, One Shilling - - - - -	0	1	0
For every Copy of Subpœna, Sixpence - - - -	0	0	6
For entering every Judgment and Copy thereof, One Shilling and Sixpence - - - - - - - -	0	1	6

For

	£	s.	d.
For every Precept of the Nature of a Fieri facias, One Shilling and Sixpence	0	1	6
For entering and filing every Opposition or Intervention, One Shilling	0	1	0
For every Judgment on an Opposition or Intervention, and Copy thereof, One Shilling and Sixpence	0	1	6

By the Bailiffs.

For Service of Process, Rules, or Orders, and Certificate thereof, One Shilling	0	1	0
For the Seizure of Goods and Chattels under Execution, and all incidental Trouble, travelling not included, Three Shillings and Nine-pence	0	3	9
For the Sale of Goods and Chattels under Execution, and all incidental Trouble, including Publications of Sale, Notices, &c., travelling not included, Three Shillings and Nine-pence	0	3	9
Returning Writs of Execution, One Shilling	0	1	0
Mileage on the Service of Process, at the Rate of Four-pence per Mile, without any Charge for the Distance gone over in returning, and without any Charge for Mileage on more than One Process against the same Defendant.			

By the Crier.

For calling each Cause, Sixpence	0	0	6

TABLE of FEES to be taken in ACTIONS above Ten Pounds and under Twenty Pounds Sterling.

By the Judge.

On every Summons or Attachment, Saisie Gagerie, Saisie Arrêt, or Saisie Revendication, Two Shillings and Sixpence	0	2	6
On every Verdict of a Jury, Seven Shillings and Sixpence	0	7	6
For taking a Recognizance, Two Shillings	0	2	0
For taking every Affidavit, One Shilling	0	1	0
On entering every final Judgment, and taxing Costs, Seven Shillings and Sixpence	0	7	6

By the Attorney.

Taking Instructions to sue or defend, Five Shillings	0	5	0
For conducting the Case of the Plaintiff to final Judgment, in Cases in which Trial by Jury is not required	0	5	0
Drawing, engrossing, serving, and filing Declaration when specially required by an Order of the Court, Five Shillings	0	5	0
For filing Appearance for Defendant, General Issue, and on Proceedings to final Judgment, Five Shillings	0	5	0
For every Special Plea, Copy, Service, and filing, Five Shillings	0	5	0
For every Replication or other Pleading rendered necessary by a Special Plea, Copy, Service, and filing, Five Shillings	0	5	0
For suing out a Commission for the Examination of Witnesses, including the Interrogatories, and all incidental Trouble, Seven Shillings and Sixpence	0	7	6
Every necessary Notice, One Shilling	0	1	0
Every necessary Attendance, One Shilling	0	1	0
Drawing and engrossing Affidavit, Copy thereof, and Service, Two Shillings and Sixpence	0	2	6
For conducting Case of Plaintiff or Defendant on a Trial by Jury, Ten Shillings	0	10	0
Drawing and engrossing Bill of Costs, Copy, Service, and Attendance at Taxation, Two Shillings	0	2	0

By the Clerk.

For every Summons or Attachment, (Saisie Gagerie, Saisie Arrêt, or Saisie Revendication,) and filing Præcipe for it, Two Shillings and Sixpence	0	2	6
For every Copy of the same, One Shilling and Sixpence	0	1	6

No. 144.

Administration of Justice in Civil Causes and Matters involving small pecuniary Value.

	£	s.	d.
For every Subpœna, One Shilling	0	1	0
For every Copy of Subpœna, Sixpence	0	0	6
For a Commission for the Examination of Witnesses, Two Shillings and Sixpence	0	2	6
For swearing Jury and taking Verdict, Three Shillings	0	3	0
For filing every Exhibit or Paper, Four-pence	0	0	4
For entering and filing every Opposition or Intervention, Two Shillings and Sixpence	0	2	6
For entering Judgment on every Opposition or Intervention, and Copy thereof, Three Shillings and Sixpence	0	3	6
For entering final Judgment, and Copy thereof, Three Shillings and Sixpence	0	3	6
For every Precept of the Nature of a Fieri facias, and filing Præcipe, Three Shillings and Sixpence	0	3	6

By the Bailiff.

For the Service of Process, Rules, or Orders, and a Certificate thereof, Two Shillings	0	2	0
For the Seizure of Goods and Chattels under Execution, and all incidental Trouble, travelling not included, Five Shillings	0	5	0
For the Sale of Goods and Chattels under Execution, and all incidental Trouble, including Publications of Notices, travelling not included, Five Shillings	0	5	0
Returning Writ of Execution, One Shilling	0	1	0
Mileage on the Service of Process, at the Rate of Four-pence per Mile, without any Charge for the Distance gone over in returning, and without any Charge for Mileage on more than One Process against the same Defendant.			

By the Crier.

For calling each Cause, Sixpence	0	0	6
On the swearing of a Jury, One Shilling	0	1	0

Fees to be taken by the Clerks of the District Courts on certain extra-judicial Proceedings.

On the Appointment of a Tutor or Guardian, and Subrogé Tutor or a Curator, (Acte de Tutille or Curatille,) and Copy thereof, Seven Shillings and Sixpence	0	7	6
On the closing of every Inventory, Five Shillings	0	5	0
For the Registration of written Instruments subject to Registration (Insinuation), at the Rate of Sixpence for every Hundred Words.			
For Certificate of Registry, One Shilling	0	1	0

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-fifth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-fifth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 145.

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice

An Ordinance to establish new Territorial Divisions of Lower Canada, *and to alter and amend the Judicature, and provide for the better and more efficient Administration of Justice throughout this Province.*

[Passed 26th June 1840.]

Whereas the Provisions of Law under which the existing Courts of Judicature in this Province have been established are, and have been found by Experience to be, altogether insufficient and inadequate for the due Administration of Justice, and other and further Provisions in this Behalf, as well as a corresponding Alteration in the Division of this Province, for the Purposes of Judicature, have become necessary; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That so much of an Act of the Legislature of this Province passed in the Thirty-fourth Year of the Reign of His late Majesty King George the Third, intituled "An Act for the Division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned," as enacts that the said Province shall consist of Three Districts, to be called the District of Quebec, the District of Montreal, and the District of Three Rivers, and determines the Extent and Boundaries of the said Three Districts; and also so much of the said last-mentioned Act as erects the County of Gaspé into an Inferior District, to be called the Inferior District of Gaspé; and also so much of an Act of the Legislature of this Province passed in the Third Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to erect certain Townships therein mentioned into an Inferior District, to be called the Inferior District of Saint Francis," as erects certain Townships and Parts of Townships therein mentioned into an Inferior District, to be called the Inferior District of Saint Francis; and also so much of another Act of the same Legislature passed in the Third Year of the Reign of His late Majesty King William the Fourth, intituled "An Act to continue for a limited Time, and to amend, a certain Act therein mentioned, relating to the Inferior District of Saint Francis," as enacts that the said Inferior District shall be called the District of Saint Francis; and also a certain Act of the Legislature of this Province, passed in the Session held in the Tenth and Eleventh Years of the Reign of His late Majesty King George the Fourth, intituled "An Act to repeal certain Parts of an Act passed in the Thirty-fourth Year of His late Majesty's Reign, intituled 'An Act for the Division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned, and to ascertain the Boundaries of the District of Three Rivers;'" and also so much of the said Act passed in the Thirty-fourth Year of the Reign of His said late Majesty King George the Third as in any Manner relates to the Establishment and Jurisdiction of Courts of King's Bench in the Districts of Quebec, Montreal, and Three Rivers, and to the Establishment and Jurisdiction of Provincial Courts in the District of Three Rivers and in the Inferior District of Gaspé, and to the Establishment of Annual Circuits in the said Districts of Quebec, Montreal, and Three Rivers, and to the Establishment and Jurisdiction of the Provincial Court of Appeals in the said Province; and also so much of the said Act passed in the Third Year of the Reign of His said late Majesty King George the Fourth as in any Manner relates to the Appointment of a Judge in and for the said Inferior District of Saint Francis, and to the Establishment and Jurisdiction of a Provincial Court therein, and so much as

 confers

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

confers any Powers on the said Judge, or on the said Provincial Court, in or out of Term; and also so much of a certain other Act of the Legislature of this Province passed in the Session of the said Legislature held in the Tenth and Eleventh Years of the Reign of His said late Majesty King George the Fourth, intituled "An Act to continue further for a limited Time a certain Act passed in the Third Year of His Majesty's Reign, intituled 'An Act to erect certain Townships therein mentioned into an Inferior District, to be called the Inferior District of Saint Francis, and to establish Courts of Judicature therein, and to make further Provision for the due Administration of Justice in the said Inferior District,'" as relates to the Establishment and Jurisdiction of a Court of King's Bench in the said District of Saint Francis, and so much thereof as confers any Powers on the said Court of King's Bench, or the Judges thereof, in Term or in Vacation; and also so much of any other Statutes or Laws now in force in this Province as confers Jurisdiction or Powers on the said Courts of King's Bench and Provincial Courts herein-before mentioned, or any of them respectively, or on the Judges thereof, shall be and the same are hereby repealed: Provided always, that the Repeal of the said Acts, and Parts and Provisions of Acts, of the Legislature of this Province as aforesaid, shall not have the Effect of reviving or giving any Force whatever to any Act, Ordinance, or Law, or Part of any Act, Ordinance, or Law, which shall by such Acts, and Parts and Provisions of Acts, have been repealed or determined.

And be it further ordained and enacted, That this Province of Lower Canada shall, for the Purposes of Judicature, be divided into Four principal Territorial Divisions or Parts, to be called respectively the Territorial Division of Quebec, the Territorial Division of Montreal, the Territorial Division of Sherbrooke, and the Territorial Division of Gaspé, which said Territorial Divisions respectively shall be limited and bounded as follows; that is to say, the said Territorial Division of Quebec shall be bounded to the Westward by the South-western Boundary Line of the Seigniory of Batiscan as far as it extends, and thence by a due North-west Line to the Northern Boundary of this Province on the North Side of the River Saint Lawrence, and by the North-eastern Boundary Lines of the Seigniory of Saint Pierre les Becquêts and the Township of Blandford until intersected by the River Beçancour; thence Easterly up the said River to the Western Line of the Township of Somerset; thence Southerly along the South-western Boundary Line of the County of Megantic to the River Chaudiere; thence Southerly up the said River to Lake Megantic; thence through the Middle of the said Lake to the Mouth of Arnold River; thence Southerly up the said River to the Southern Boundary of this Province on the South Side of the River Saint Lawrence, and to the Eastward on the North Side of the River Saint Lawrence by the Eastern Boundary of this Province, and on the South Side of the said River by the Western Boundaries of the Counties of Bonaventure and Gaspé; and the said Territorial Division of Quebec shall comprehend all that Part of this Province which lies to the Eastward of the aforesaid Western Boundary Line of the said Territorial Division on the North Side of the River Saint Lawrence, and all that Part of this Province which lies between the aforesaid Western and Eastern Boundary Lines on the South Side of the River Saint Lawrence; and the said Territorial Division of Montreal shall be bounded to the Eastward by the South-western Boundary Line of the Seigniory of Batiscan as far as it extends, and thence by a due North-west Line to the Northern Boundary of this Province on the North Side of the River Saint Lawrence, and to the South by a Prolongation South-easterly of the said South-western Boundary Line of the Seigniory of Batiscan to the Middle of the River Saint Lawrence; thence up the Middle of the said River to a Point to be intersected by the South-easterly Prolongation of the North-eastern Boundary Line of the Seigniory of Maskinongé; thence South in a direct Line to the Entrance of the Bay of Yamaska or La Villiere; thence South-westerly up the Middle of the said Bay until intersected by the South-western Boundary Line of the Seigniory of Yamaska; thence South-easterly along the said Line until intersected by the River Yamaska; thence Southerly up the said River to the North-eastern Boundary Line of the Seigniory of Saint Charles; thence South-easterly along the said Line, and the North-eastern Boundary of the Seigniory of De Ramsay, to the Eastern Angle of the said Seigniory of De Ramsay; thence Southerly along the

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

the Eastern Boundaries of the Counties of Saint Hyacinthe and Rouville to the Southern Boundary of this Province on the South Side of the River Saint Lawrence; and the said Territorial Division of Montreal shall comprehend all that Part of this Province which lies to the Westward of the aforesaid Eastern Boundary Lines of the said Territorial Division; and the said Territorial Division of Sherbrooke shall be bounded to the Eastward by the Western Boundary Line of the Territorial Division of Quebec, and to the Westward by the Eastern Boundary Line of the said Territorial Division of Montreal, on the North by the said Southern Boundary Line of the said Territorial Division of Montreal, and on the South by the Southern Boundary of this Province; and the said Territorial Division of Sherbrooke shall comprehend all that Part of this Province which lies between the Boundaries last aforesaid; and the said Territorial Divisions of Montreal and Sherbrooke shall respectively comprehend all the Islands in the River Saint Lawrence opposite and nearest to the Shores thereof; and the said Territorial Division of Gaspé shall comprehend all that Part of this Province which lies to the Eastward of the Eastern Boundary Line of the said Territorial Division of Quebec, comprising the Counties of Bonaventure and Gaspé, on the South Side of the River Saint Lawrence; and the Village of Sherbrooke, situated in the said Territorial Division of Sherbrooke, shall henceforward be called the Town of Sherbrooke; and New Carlisle, situated in the said Territorial Division of Gaspé, shall thenceforward be called the Town of New Carlisle.

And be it further ordained and enacted, That there shall be and is hereby established in this Province of Lower Canada a Superior Court of Record of Civil Jurisdiction, to be called the Court of Common Pleas for the Province of Lower Canada, which Court shall consist of Nine Justices, and the said Justices composing the said Court shall be appointed from Time to Time by Her Majesty, Her Heirs or Successors, by Letters Patent under the Great Seal of this Province.

And be it further ordained and enacted, That the said Court of Common Pleas hereby constituted shall have original Civil Jurisdiction throughout this Province of Lower Canada, with full Power and Authority to take cognizance of, hear, try, and determine in due Course of Law all Civil Pleas, Causes, and Matters whatsoever, as well those in which the Queen may be a Party as all others, excepting those purely of Admiralty Jurisdiction, which shall be and remain subject to that Jurisdiction, and excepting also certain Matters over which Jurisdiction is herein-after given to the Court of Queen's Bench hereby constituted.

And be it further ordained and enacted, That all and every the Powers, Authorities, and Jurisdictions in Pleas, Causes, Matters, and Things of a Civil and not Criminal Nature, of what Kind soever, which by Law are vested in and are required to be exercised by the several Courts of King's Bench in the several Districts of this Province as now constituted, or any or either of them, and in and by the several Justices of the said Courts, or any or either of them, and in and by the Provincial Courts in the Districts of Three Rivers and Saint Francis, and in the Inferior District of Gaspé, and by the Judges of the said Provincial Courts, or any or either of them, as well in Term as in Vacation, excepting nevertheless such of the said Powers, Authorities, and Jurisdictions as are herein-after vested in the Court of Queen's Bench hereby constituted, shall, from and after the Period herein-after appointed for the Commencement of this Ordinance, become and be vested in the Court of Common Pleas hereby constituted, and shall and may be as fully and effectually exercised by the said Court of Common Pleas and the Justices thereof, severally and respectively, as well in Term as in Vacation, as the same might have been exercised and enjoyed by the said Courts of King's Bench, and any or either of them, and the several Justices thereof or any of them, in Term or Vacation, if this Ordinance had not been passed.

And be it further ordained and enacted, That the said Justices of the said Court of Common Pleas, in the Exercise of their Judicial Power, shall and may sit in Divisions, at the Times and Places herein-after mentioned, which Divisions shall be distinguished by Numbers, and be designated and known as the First Division, the Second Division, the Third Division, and the Fourth Division.

And be it further ordained and enacted, That the First of the said Divisions of the said Court of Common Pleas shall sit at the City of Quebec, in the said

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

Territorial Division of Quebec, at the Times herein-after mentioned, and shall consist of Three or more of the Justices of the said Court; and that the Second Division of the said Court shall sit at the City of Montreal, in the said Territorial Division of Montreal, at the Times herein-after mentioned, and shall consist of Three or more of the Justices of the said Court; and that the Third Division of the said Court shall sit in the Town of Sherbrooke, in the said Territorial Division of Sherbrooke, and shall consist of Two or more of the Justices of the said Court; and that the Fourth Division of the said Court shall sit in the said Town of New Carlisle, and at Carleton, Percé, and Douglas Town, in the said Territorial Division of Gaspé, at the Times herein-after mentioned, and shall consist of One or more of the Justices of the said Court.

And be it further ordained and enacted, That in each of the said Divisions of the said Court of Common Pleas respectively, composed of Two or more Justices, it shall be lawful for the Governor of this Province for the Time being, by an Instrument under his Hand and Seal at Arms, from Time to Time, as Occasion may require, to appoint One of the Justices of the said Court to preside, and in case of his Death, Absence, or Incapacity to attend in such Division, the senior Justice present shall preside therein until another President shall be appointed as aforesaid.

And be it further ordained and enacted, That it shall be lawful for the Governor of the said Province for the Time being, from Time to Time, to designate and nominate such of the said Justices of the said Court of Common Pleas as he may think fit to sit in the Divisions aforesaid of the said Court, and act therein as Justices as aforesaid.

And be it further ordained and enacted, That the said Court of Common Pleas hereby constituted, in each of its Divisions, severally and respectively, shall have and use, as Occasion may require, a Seal bearing a Device and Impression of Her Majesty's Royal Arms, with an Inscription thereon, expressing that it is the Seal of the particular Division of the said Court for which it is intended and to which it may belong; which Seal shall be kept in the Custody of the President of the said last-mentioned Division, or in case of his Absence, or a Vacancy of that Office, in the Custody of the senior Justice of the said last-mentioned Division.

And be it further ordained and enacted, That all Writs and Process to be issued from and out of each of the Divisions of the said Court of Common Pleas hereby constituted respectively shall run and be in the Name and Style of Her Majesty, Her Heirs or Successors, and shall be sealed with the Seal belonging to the Division of the said Court from which the same shall issue, and shall bear the Attestation of the President of such Division, or in case of Vacancy of that Office, of the senior Justice of the said Division, and shall be signed by the proper Officer whose Duty it shall be to prepare and make out the same.

And be it further ordained and enacted, That when a Division of the said Court of Common Pleas hereby constituted shall consist of Three or more Justices, any Two of them shall constitute a Quorum; provided always, that if there be only Two of such Justices present, and they shall be divided in Opinion, the Matter shall abide the future Judgment of the said Court in such Division.

And be it further ordained and enacted, That when a Division of the said Court of Common Pleas hereby constituted shall consist of Two Justices, the President of such Division, in case of a Difference of Opinion between the said Two Justices, shall have a double or casting Voice.

And be it further ordained and enacted, That a Prothonotary or Chief Clerk shall from Time to Time, as Occasion may require, be appointed, by the Governor of this Province for the Time being, for each of the said Divisions of the said Court of Common Pleas respectively.

And be it further ordained and enacted, That the said Court of Common Pleas hereby constituted in its separate Divisions aforesaid, severally and respectively, shall have and hold cognizance of Cases only where the Defendant or Defendants may have a Domicile or be legally served with Process within the Territorial Division in which the particular Division of the said Court resorted to by the Plaintiff shall sit; provided always, that if there be Two or more Defendants, it shall be sufficient, to give Jurisdiction to the particular Division of the said Court in which they may be sued or impleaded,

that

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

that any One of the said Defendants be domiciliated or have been legally served with Process within the Territorial Division in which such particular Division of the said Court may sit.

And be it further ordained and enacted, That the Justices of the said Court of Common Pleas, sitting in separate Divisions as aforesaid, or so many of them as shall constitute a Quorum thereof as aforesaid, shall have, hold, and exercise, in each of the said Divisions respectively, the Power, Authority, and Jurisdiction of the whole of the said Court and of the Justices composing the same.

And be it further ordained and enacted, That in each of the said Territorial Divisions of Quebec, Montreal, and Sherbrooke the Justices of the said Court of Common Pleas hereby constituted, or any Two or more of them, shall sit and hold Terms or Sessions of the said Court of Common Pleas for the Cognizance of all Civil Pleas, Causes, and Matters which are now cognizable in the Superior Terms of the Courts of King's Bench, as now constituted, in the several Districts of this Province respectively, and which are hereby made cognizable in the said Court of Common Pleas; and the said Terms or Sessions of the said Court of Common Pleas shall be held in the said Territorial Divisions respectively as follows; that is to say, in each of the said Territorial Divisions of Quebec, Montreal, and Sherbrooke, from the First to the Twentieth Day of the Months of February, April, June, and October, both Days inclusive, Sundays and Holidays excepted.

Provided always, and be it further ordained and enacted, That the said Court of Common Pleas in its several Divisions aforesaid, in the said Terms thereof, shall only take cognizance of Suits or Actions wherein the Value of the Matter in dispute shall exceed the Sum of Twenty Pounds Sterling, unless the said Suits or Actions respectively shall relate to any Fee of Office, Duty, Rent, Income, or any Sum or Sums of Money payable to Her Majesty, Titles to Lands or Tenements, annual Rents, or such like Matters or Things, where the Rights in future may be bound.

And be it further ordained and enacted, That in the said Territorial Division of Gaspé the said Justices of the said Court of Common Pleas hereby constituted, or any One or more of them, shall sit and hold Terms and Sessions of the said Court of Common Pleas for the Cognizance of all Civil Pleas, Causes, and Matters whatsoever, which are cognizable in the said Court of Common Pleas, as follows; that is to say, at the said Town of New Carlisle, from the First to the Twentieth Day of March, and from the Eleventh to the Thirtieth Day of September of each Year; and at Carleton, from the First to the Tenth Day of July of each Year; and at Percé, from the First to the Tenth Day of August of each Year; and at Douglas Town, from the Sixteenth to the Twenty-fifth Day of August of each Year; the first and last Days of each of the said Periods being included, and Sundays and Holidays being excepted.

And be it further ordained and enacted, That in each of the said Territorial Divisions of Quebec, Montreal, and Sherbrooke there shall be held, by One or more of the Justices of the said Court of Common Pleas, Inferior Terms or Sessions thereof in each Year until the Fifteenth Day of January which will be in the Year of our Lord One thousand eight hundred and forty-three, and no longer, which Terms shall be held in and for the said Territorial Divisions respectively at the Places and Times herein-after mentioned; that is to say, at each of the said Cities of Quebec and Montreal, and in the said Town of Sherbrooke, from the Twenty-first to the Thirty-first Day of January, from the Eleventh to the Nineteenth Day of March, from the Twenty-first to the Thirty-first Day of May, from the Twenty-fourth to the Thirtieth Day of June, from the Twenty-first to the Thirty-first Day of August, and from the Twenty-first to the Thirtieth Day of November of each and every Year, the first and last Days of the said Periods being included, and Sundays and Holidays excepted; and that the said Court of Common Pleas, in the said several Divisions thereof respectively, shall, in the said Inferior Terms thereof, have the same Jurisdiction, Powers, and Authority which by Law are now vested in the said Courts of King's Bench for the Districts of Quebec and Montreal, as now constituted, in the Inferior Terms thereof, and subject to the same Evocation and Removal of certain Suits or Actions from the said Inferior Terms of the said Court of Common Pleas to the Superior Terms thereof as are now authorized

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

rized and may be obtained from the Inferior Terms of the said last-mentioned Courts of King's Bench for the Districts of Quebec and Montreal respectively to the Superior Terms thereof, and under the same Rules which now govern such Proceedings in the Inferior and Superior Terms of the said Courts of King's Bench.

Provided always, and it is hereby further ordained and enacted, That the said Court of Common Pleas, in the said Inferior Terms to be held in the said Territorial Divisions of Quebec, Montreal, and Sherbrooke as aforesaid, shall and may have and hold cognizance of, hear, try, and determine in a summary Manner, without Appeal, Suits and Actions of the Nature of those now cognizable in the Inferior Terms of the said last-mentioned Courts of King's Bench, wherein the Sum demanded shall not exceed the Sum of Twenty Pounds Sterling, in the same Manner and under and subject to the same Rules and Regulations as now obtain in the said Inferior Terms of the said Courts of King's Bench in Suits and Actions wherein the Amount claimed does not exceed Ten Pounds Sterling.

Provided also, and be it further ordained and enacted, That the said Court of Common Pleas hereby constituted, in the Inferior Terms thereof to be held in the said Territorial Divisions of Quebec, Montreal, and Sherbrooke as aforesaid respectively, shall have and hold cognizance of Cases only where the Defendant or Defendants may have a Domicile or be legally served with Process within the Territorial Division in which the particular Division of the said Court resorted to by the Plaintiff in the Inferior Terms thereof shall sit, unless there be Two or more Defendants, in which Case it shall be sufficient, to give Jurisdiction to the particular Division of the said Court, in the Inferior Terms thereof in which they may have been sued or impleaded, that any One of the said Defendants be domiciliated or have been legally served with Process within the Territorial Division in which such particular Division of the said Court in the Inferior Terms thereof may sit.

And be it further ordained and enacted, That an Appeal and Writ of Error shall lie from the Judgments of the said Court of Common Pleas hereby constituted in the several Divisions aforesaid, in the Terms thereof aforesaid, other than the said Inferior Terms, to the Court of Queen's Bench herein-after constituted, in every Case in which an Appeal or Writ of Error now by Law lies from the Judgments of the Courts of King's Bench in the several Districts of this Province, in the Civil Superior Terms thereof, to the Provincial Court of Appeals, as heretofore established and subsisting at the Period herein-after appointed for the Commencement of this Ordinance, upon the same Terms and Conditions, and under and subject to the same Restrictions, Limitations, Rules, and Regulations as are now established and obtained in Appeals from the said Courts of King's Bench to the said Provincial Court of Appeals.

And be it further ordained and enacted, That it shall and may be lawful to and for the said Court of Common Pleas, in its several Divisions aforesaid, by Commission or Commissions under the Seal of such Divisions respectively, to authorize and appoint any fit or proper Person or Persons, either generally or in any particular Case, or for One or more Term or Terms only, to receive the Acknowledgments or Recognizances of Bail on Bail Process and to administer Oaths for the Justification of Bail, and for receiving and taking the Declaration on Oath of any Garnishee or Garnishees, and for receiving and taking the Answers of any Party or Parties on Interrogatories on Facts and Articles (Faits et Articles), or on the Juramentum Litis Decisorium, or on the Juramentum Judiciale, and for the Examination of any Witness or Witnesses upon Interrogatories, and for the taking of any Affidavit, Declaration on Oath, or Affirmation, in any Suit, Matter, or Proceeding which may be depending or about to be instituted in the said Court of Common Pleas, upon such Occasions as the said Court shall think fit to issue the said Commissions.

And be it further ordained and enacted, That, for the Purpose of establishing Uniformity in the Practice and Proceedings of the said Court of Common Pleas in its several Divisions, it shall be lawful for the Justices of the said Court, or any Six of them, to meet, at any Time or Times after the Period herein-after appointed for the Commencement of this Ordinance, for the Purpose of framing and adopting Rules to govern the Practice and Forms of Proceedings and Process of the said Court with Uniformity in its several Divisions, and that the said Rules so framed and adopted by the said Justices, or any Six of them,

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

them, not being repugnant to this Ordinance, or to the Law of the Land, shall, after Publication thereof in the said Divisions respectively, become and be the Rules of Practice of each and every of the said Divisions, and shall continue to be binding and observed therein until the same may be rescinded, altered, or modified by the said Justices, or any Six of them, at any subsequent Meeting or Meetings of the said Justices, or any Six of them, to be for that Purpose had, and the Publication in the said Divisions of the said Court respectively of the new Rules or Orders by which the same shall or may be rescinded, altered, or modified.

And be it further ordained and enacted, That all and singular the Laws of this Province, which before and at the Period herein-after mentioned for the Commencement of this Ordinance were and shall be in force to govern and direct the Proceedings and Practice of the Courts of King's Bench in the several Districts of this Province, as now constituted, in the Exercise of the Civil Jurisdiction of the said Courts, as well in the Superior as the Inferior Terms thereof respectively, and which are not expressly repealed or varied by this Ordinance, shall continue to be in force and be observed in and by the said Court of Common Pleas in its several Divisions aforesaid, as well in the Superior as the Inferior Terms thereof respectively.

And be it further ordained and enacted, That all and every the Records, Registers, Muniments, and Judicial and other Proceedings of the Courts of King's Bench in the several Districts of this Province, in Civil Matters, shall forthwith, after the Period herein-after appointed for the Commencement of this Ordinance, be transmitted into and make Part of the Records, Registers, Muniments, and Judicial and other Proceedings in the said Court of Common Pleas hereby constituted in the respective Divisions thereof, to and by which the Powers of the said Courts of King's Bench respectively have been transferred, and in pursuance of this Ordinance are to be exercised; that is to say, all the Records, Registers, Muniments, and Judicial and other Proceedings of the said Court of King's Bench for the District of Quebec shall be transmitted into the said Court of Common Pleas in the aforesaid First Division thereof; and all the Records, Registers, Papers, and Judicial and other Proceedings of the said Court of King's Bench for the District of Montreal shall be transmitted into the aforesaid Second Division thereof; and all the Records, Registers, Papers, and Judicial and other Proceedings of the said Court of King's Bench for the District of Three Rivers shall be transmitted into the said Court of Common Pleas in the aforesaid Second Division thereof; and all the Records, Registers, Papers, and Judicial and other Proceedings of the said Court of King's Bench for the said District of Saint Francis shall be transmitted into the said Court of Common Pleas in the aforesaid Third Division thereof; and all the Records, Registers, Papers, Judicial and other Proceedings of the said Provincial Court of the said Inferior District of Gaspé shall be transmitted into the said Court of Common Pleas in the aforesaid Fourth Division thereof.

And be it further ordained and enacted, That no Judgment, Order, Rule, or Act of the said Courts of King's Bench respectively, legally pronounced, given, had, or done before the Commencement of this Ordinance, shall be hereby avoided, but shall remain in full Force and Virtue as if this Ordinance had not been passed; nor shall any Action, Information, Suit, Cause, or Proceeding, depending in the said Courts respectively, be abated, discontinued, or annulled, but the same shall be transferred, in their present Condition respectively, to and subsist and depend in the several and respective Divisions of the said Court of Common Pleas hereby established, into which the Records, Registers, Muniments, and other Judicial Proceedings of the said Courts of King's Bench respectively, and of the said Provincial Court of the said Inferior District of Gaspé, are to be transmitted as aforesaid, as if they had respectively been commenced, brought, or recorded in the said Court of Common Pleas hereby established, and other and further Proceedings shall be therein had in the said respective Divisions of the said Court of Common Pleas to Judgment and Execution as might have been had in the said Court of King's Bench and Provincial Court respectively, or in the said Court of Common Pleas in Cases or Proceedings commenced and depending before the said Court of Common Pleas.

And be it further ordained and enacted, That every Writ or Process which is or shall be returnable into any of the said Courts of King's Bench, in the

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

several Districts of this Province as now constituted, at any Day subsequent to the Period herein-after appointed for the Commencement of this Ordinance, shall be returned into that Division of the said Court of Common Pleas into which the Records, Registers, and Proceedings of the Court of King's Bench from which such Writ or Process may have been or be issued are by this Act directed and required to be transmitted; and every such Writ and Process shall be held and considered to be returnable on the First Day of the Term of the Division of the said Court of Common Pleas to which it is hereby made returnable next following the Day on which such Writ or Process shall have been issued.

And be it further ordained and enacted, That there shall be held Four Times in every Year, in each of the said Territorial Divisions of Quebec, Montreal, Sherbrooke, and Gaspé, a General Session of the Peace, by the Justices of the Peace of the said Territorial Divisions respectively, or any Three of them, whereof One shall be of the Quorum, who shall hear, try, and determine all Matters relating to the Conservation of the Peace, and all Crimes and Criminal Offences, Causes, and Matters which are or may be cognizable in and by a General or Quarter Session of the Peace, according to the Laws in force in this Province; and the said Sessions of the Peace for the said Territorial Divisions of Quebec, Montreal, Sherbrooke, and Gaspé shall respectively be held as follows; that is to say, at the Cities of Quebec and Montreal and the Town of Sherbrooke, in and for the said Territorial Divisions of Quebec, Montreal, and Sherbrooke respectively, from the Tenth to the Nineteenth Day of each of the Months of January and July, and from the Twenty-first to the Thirtieth Day of each of the Months of April and October, the first and last Days of each of the said Periods being included, and Sundays and Holidays excepted; and at the Town of New Carlisle aforesaid, in and for the said Territorial Division of Gaspé, from the Eleventh to the Sixteenth Day of January, and from the Twenty-first to the Twenty-sixth Day of July of each Year, both Days inclusive, and Sundays and Holidays excepted; and at Carleton, Percé, and Douglas Town, in and for the said Territorial Division, during the Six Days immediately following the Terms or Sessions herein-before appointed for the holding of the said Court of Common Pleas in the said Territorial Division of Gaspé; and the said Justices of the Peace in their said General Sessions of the Peace, to be held as aforesaid, shall be vested with and shall and may exercise, within the Territorial Divisions aforesaid respectively, all and every the Powers, Authorities, and Jurisdiction which at the Commencement of this Ordinance shall by Law be vested in and required to be exercised by the General Sessions of the Peace in the several Districts of Quebec, Montreal, and Saint Francis, and in the aforesaid Inferior District of Gaspé respectively.

Provided always, and be it further ordained and enacted, That it shall be lawful for the Governor of this Province, from Time to Time and at such Times as in his Discretion he may deem expedient, to issue Commissions of the Peace for any or every District or County or any City or Town within the said Territorial Divisions respectively as if this Ordinance had not been passed, any thing herein contained to the contrary notwithstanding; and when any such Commissions of the Peace may be issued, the General or Quarter Sessions of the Peace to be held by virtue and under the Authority of the same shall be held at the several and respective Times herein-before appointed for the holding of the General or Quarter Sessions of the Peace in and for the said Territorial Divisions of Quebec, Montreal, and Sherbrooke respectively, and at the Places that may be appointed for the holding of the District Courts in the said Divisions respectively.

And be it further ordained and enacted, That all and every the Powers and Authorities which by any Law of this Province in force at the Time of the Commencement of this Ordinance, or by or under any Commission under the Great Seal of this Province, or under the Seal at Arms of the Governor of this Province, or by any other legal and competent Authority, shall have been granted or established, or shall be required to be or may or might lawfully be exercised within the said Districts of Quebec, Montreal, and Saint Francis, and in the said Inferior District of Gaspé, respectively, shall continue to subsist in the same Force and with the same Effect, and shall and may be exercised in like Manner, within the said Territorial Divisions of Quebec, Montreal, Sherbroke, and Gaspé, respectively, as they would have subsisted and might have been

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

been exercised in the said Districts and Inferior District respectively if this Ordinance had not been passed, except in so far as such Powers and Authorities may be abrogated, revoked, or annulled by or may be inconsistent with the Provisions of this Ordinance.

And be it further ordained and enacted, That, from and after the Period herein-after appointed for the Commencement of this Ordinance, there shall be erected and established in this Province a Supreme Court of Record, to be called the Court of Queen's Bench for the Province of Lower Canada, and the said Court shall consist of and be holden by and before the Chief Justice of this Province for the Time being and Two Puisné Justices, to be named and appointed from Time to Time by Her Majesty, Her Heirs or Successors, by Letters Patent under Her or Their Great Seal of this Province.

And be it further ordained and enacted, That the said Court of Queen's Bench hereby constituted shall have original Criminal Jurisdiction throughout this Province of Lower Canada, in like Manner as Her Majesty's Court of Queen's Bench in that Part of Great Britain called England hath and may lawfully exercise Criminal Jurisdiction throughout the said Part of Great Britain called England, with full Power and Authority to take cognizance of, hear, try, and determine, in due Course of Law, all Pleas of the Crown, Treasons, Murders, Felonies, and Misdemeanors, Crimes and Criminal Offences whatsoever, heretofore had, done, or committed, or which shall hereafter be had, done, or committed, or whereof Cognizance may lawfully be taken within this Province of Lower Canada, save and except such as may be cognizable by the Jurisdiction of the Admiralty.

And be it further ordained and enacted, That all and every the Powers, Authorities, and Jurisdictions in Pleas of the Crown, Crimes and Criminal Offences, of what Nature and Kind soever, which by Law are required to be exercised and may or might be exercised by and are vested in the several Courts of King's Bench in the several Districts of this Province as now constituted, or any or either of them, and by the several Justices of the said Courts, or any or either of them, as well in Term as in Vacation, shall, from and after the Commencement of this Ordinance, become and be vested in the said Court of Queen's Bench hereby constituted, and shall and may be as effectually exercised by the said Court of Queen's Bench hereby constituted, and the Justices thereof, severally and respectively, as the same might have been exercised and enjoyed by the said Courts of King's Bench, and any or either of them, and the several Justices thereof, or any of them, if this Ordinance had not been passed.

And be it further ordained and enacted, That the said Chief Justice of the Province, and the said Puisné Justices of the said Court of Queen's Bench for the Time being, shall severally and respectively be and they are hereby appointed to be Justices and Conservators of the Peace, and Coroners, within and throughout this Province of Lower Canada.

And be it further ordained and enacted, That the said Court of Queen's Bench hereby constituted, and the Justices thereof, shall have, hold, and exercise a Supreme Appellate Civil Jurisdiction, and also the Jurisdiction of a Supreme Court of Error, within and throughout this Province of Lower Canada, with full Power and Authority to take cognizance of, hear, try, and determine, in due Course of Law, all Cases, Matters, and Things appealed and to be appealed, or removed and to be removed by Writ of Error, from all, each, and every Judge and Judges, Court and Courts, wherein an Appeal or Writ of Error by Law lies or is allowed, or hereafter may by Law lie or be allowed.

And be it further ordained and enacted, That all and every the Powers, Authorities, and Jurisdictions which by Law are required to be exercised and may or might be exercised by and are vested in the Provincial Court of Appeals as now constituted in and for this Province of Lower Canada, and by or in the several Judges or Members of the said Provincial Court of Appeal, or any of them, as well in Term as in Vacation, shall from and after the Commencement of this Ordinance become and be vested in the said Court of Queen's Bench hereby constituted, and shall and may be as effectually exercised by the said Court of Queen's Bench hereby constituted, and the Justices thereof, severally and respectively, in Term or in Vacation, as the same might have been exercised and enjoyed by the said Provincial Court of Appeals, and the several Judges

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

or Members thereof, or any of them, in Term or in Vacation, if this Ordinance had not been passed.

And be it further ordained and enacted, That Courts and Magistrates, and all other Persons, Bodies Politic and Corporate, within this Province of Lower Canada, shall be subject to the superintending and reforming Power, Order, and Control of the said Court of Queen's Bench, and of the Justices thereof, in such Sort, Manner, and Form as Courts and Magistrates, and other Persons, Bodies Politic and Corporate, of and in the aforesaid Part of Great Britain called England, are by Law subject to the superintending and reforming Power, Order, and Control of the Court of Queen's Bench in the said Part of Great Britain called England, and the Justices thereof, in Term or in Vacation, and shall have Power to award and issue Writs of Mandamus, Certiorari, Procedendo, Prohibition, Quo warranto, and Error, to be directed to such Courts, Magistrates, and Persons, Bodies Politic and Corporate, as the Case may require, in like Manner and for the same and like Causes for which such Writs may or might be legally awarded and issued by and from the Court of Queen's Bench in the said Part of Great Britain called England, and the Justices thereof, or any of them, and for which the Courts of King's Bench in the several Districts of this Province, and the Justices thereof, or any of them, before the passing of this Ordinance, may have awarded and issued the same, and shall have Power to punish any Contempt of the said Writs or wilful Disobedience thereto by Attachment, Fine, and Imprisonment.

And be it further ordained and enacted, That the said Court of Queen's Bench hereby constituted shall have, and use as Occasion may require, a Seal bearing a Device and Impression of Her Majesty's Royal Arms within an Exergue, and a Label surrounding the same, with this Inscription "The Seal of the Court of Queen's Bench" (or King's Bench, according as the Sovereign on the Throne may be King or Queen,) "of Lower Canada," which Seal shall be kept in the Custody of the said Chief Justice of the Province, and in case of Vacancy of the Office of Chief Justice the same shall be kept in the Custody of the Person who shall be senior Puisné Judge during such Vacancy.

And be it further ordained and enacted, That all Writs, Precepts, and Process to be issued from and out of the said Court of Queen's Bench shall run and be in the Name and Style of Her Majesty, Her Heirs or Successors, and shall be sealed with the Seal of the said Court of Queen's Bench, and shall have and bear the Attestation of the Chief Justice, or, in the Vacancy of that Office, of the senior of the Puisné Justices, and shall be signed by the proper Officer whose Duty it shall be to prepare and make out the same respectively.

And be it further ordained and enacted, That all Judgments, Rules, Orders, and Acts of Authority or Power whatsoever, to be made or done by the said Court of Queen's Bench hereby constituted, shall be made or done with and by the Concurrence of the said Three Judges, or any Two of them, on such Occasions assembled, or sitting as a Court.

And be it further ordained and enacted, That whenever any One or more of the Justices of the said Court of Queen's Bench hereby constituted shall be disqualified or rendered incompetent to sit in the said Court of Queen's Bench, by reason of Interest, Consanguinity, Sickness, Absence, or other Cause, it shall be lawful for the Governor of this Province for the Time being, by an Instrument under his Hand and Seal, to nominate and appoint any One or more of the Justices of the said Court of Common Pleas hereby constituted to sit in the said Court of Queen's Bench in the Place and Stead of the Justice or Justices so disqualified or rendered incompetent as aforesaid; and such Justice and Justices, so appointed, shall have the same Powers and Authority, during the Continuance of such Appointment, as the Justice or Justices so disqualified or rendered incompetent would otherwise have had: Provided always, that nothing herein contained shall give Power or Authority to any Justice or Justices of the said Court of Queen's Bench to sit in, hear, try, or determine any Appeal or Appeals, Cause or Causes in Error, in which he or they shall have sat in the Court whose Judgment or Judgments has or have been appealed from.

And be it further ordained and enacted, That the Justices of the said Courts of Queen's Bench hereby constituted, or any Two or more of them, shall sit and hold Terms or Sessions of the said Court of Queen's Bench at such Place within this Province as may, by Proclamation of the Governor of this Province,

by

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

by and with the Advice of the Executive Council thereof, be appointed for the Exercise of the Criminal and Civil Jurisdiction of the said Court, and of all and every the Powers and Authorities hereby vested in the said Court, which Terms or Sessions of the said Court shall be held Four Times in each Year; that is to say, on the first Fifteen Juridical Days of January, on the first Fifteen Juridical Days of May, on the first Fifteen Juridical Days of August, and on the first Fifteen Juridical Days of November.

And be it further ordained and enacted, That it shall be lawful for the said Court of Queen's Bench hereby constituted to grant and issue Writs of Nisi Prius for the Trial of Issues joined in the said Court, or Indictments for Treason, Felony, Misdemeanor, or other Crime or Criminal Offences, in any District or County, Districts or Counties, in this Province of Lower Canada, in like Manner as Writs of Nisi Prius by Law may be and are granted and do issue in such Cases from the Court of Queen's Bench in the said Part of Great Britain called England, and do exercise the same Powers and Authorities in respect of such Writs of Nisi Prius, and the Proceedings thereon, as may or might be lawfully exercised in the said Part of Great Britain called England by the Court of Queen's Bench there, in relation to such Writs issued from that Court.

And be it further ordained and enacted, That an Appeal shall lie from the Judgments of the said Court of Queen's Bench hereby constituted to Her Majesty, Her Heirs or Successors, in Her or their Privy Council, in the said Part of Great Britain called England, in all, each, and every of the Causes, Matters, and Things for and in respect of which an Appeal, before and at the Period herein-after appointed for the Commencement of this Ordinance, lay and shall lie from the Judgments of the Provincial Court of Appeals aforesaid to Her Majesty in Her Privy Council, upon the same Terms and Conditions, and in the same Manner and Form, and under and subject to the same Restrictions, Rules, and Regulations, as have been and now are established and obtain in Appeals from the said Provincial Court of Appeals to Her Majesty in Her Privy Council.

And be it further ordained and enacted, That it shall and may be lawful for the said Court of Queen's Bench hereby constituted, by Commission or Commissions under the Seal of the said Court, to authorize and appoint any fit or proper Person or Persons, either generally or in any particular Case, or for One or more Turn or Turns only, for the taking of any Affidavit or Affirmation in any Suit, Matter, or Proceeding which may be depending or about to be instituted in the said Court, upon such Occasions as the said Court shall think fit to issue such Commissions; provided that nothing herein contained shall extend to authorize the issuing of any Commission or Commissions for the Examination of any Witness or Witnesses upon any Indictment or Information for any Offence whatever to be tried and determined by and before the said Court.

And be it further ordained and enacted, That all and every the Laws of this Province which, before and at the Period herein-after appointed for the Commencement of this Ordinance, were and shall be in force to govern and direct the Proceedings and Practice of the Courts of King's Bench in the several Districts in this Province in the Exercise of their Criminal Jurisdiction, and to govern and direct the Proceedings and Practice of the Provincial Court of Appeals aforesaid, and which are not expressly repealed or varied by this Ordinance, shall continue to be in force and be observed in and by the said Court of Queen's Bench hereby constituted, in the same Manner as the same would have been observed in the said Courts of King's Bench, and in the said Provincial Court of Appeals respectively, if this Ordinance had not been passed.

And be it further ordained and enacted, That all and every the Records, Registers, Muniments, and judicial and other Proceedings of the several Courts of King's Bench in the several Districts of this Province, in Criminal Matters, and appertaining to the Criminal Jurisdiction of the said Courts, and all and every the Records, Registers, Muniments, and judicial and other Proceedings of the Provincial Court of Appeals aforesaid, shall forthwith, after the Period herein-after appointed for the Commencement of this Ordinance, be transmitted into and made Part of the Records, Registers, Muniments,

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

and judicial and other Proceedings of the said Court of Queen's Bench hereby constituted.

And be it further ordained and enacted, That no Judgment, Order, Rule, or Act of the said Court of King's Bench in the several Districts of this Province respectively, in Criminal Matters, and appertaining to the Criminal Jurisdiction of the said Courts, or of the Provincial Court of Appeals aforesaid, legally pronounced, given, had, or done before the Period herein-after appointed for the Commencement of this Ordinance, shall be hereby avoided, but shall remain in full force and virtue as if this Ordinance had not been passed; nor shall any Indictment, Information, Suit, Appeal, Writ of Error, or Proceeding, depending in the said last-mentioned Courts of King's Bench and in the said Provincial Court of Appeals, be abated, discontinued, or annulled, but the same shall be transferred, in their then present Condition respectively, to, and subsist and depend in, the said Court of Queen's Bench hereby established, according to the several Jurisdictions hereby given to the said Court severally and respectively, to all Intents and Purposes as if they had been respectively commenced, brought, found, presented, or recorded in the said Court of Queen's Bench hereby constituted; and the said Court of Queen's Bench hereby constituted shall have full Power and Authority to proceed accordingly, on and in all such Indictments, Informations, Suits, Appeals, Writs of Error, and Proceedings, to Judgment and Execution, and to make such Rules and Orders respecting the same as the said Courts of King's Bench or Provincial Court of Appeals might have made, or as the said Court of Queen's Bench hereby established is hereby empowered to make, in Causes, Suits, Appeals, Writs of Error, or Proceedings commenced or depending before the said Court of Queen's Bench hereby established.

And be it further ordained and enacted, That every Writ or Process which is or shall be returnable into any of the said Courts of King's Bench as now constituted, in the Exercise of their Criminal Jurisdiction, or into the said Provincial Court of Appeals, on any Day subsequent to the Commencement of this Ordinance, shall be returned into the said Court of Queen's Bench hereby constituted, and shall be held and considered to be returnable on the first Day of the Term of the said Court of Queen's Bench next following the Day on which such Writ or Process shall have been issued.

And be it further ordained and enacted, That all and every the Powers and Authority which, before and at the Period herein-after appointed for the Commencement of this Ordinance, were and shall be by Law vested in the several Courts of King's Bench in the several Districts of this Province, and in the Chief Justice and the Justices thereof respectively, relating in any Manner or Way to the Writ of Habeas Corpus, as well in Criminal as in Civil Cases, and to the awarding or issuing or Return thereof, and to the hearing or determining in due Course of Law of any Question, Issue, or Matter thence arising or incident thereto, shall be and the same are hereby vested in the said Court of Queen's Bench hereby constituted, concurrently with the said Court of Common Pleas hereby constituted, and in the said last mentioned Courts, severally and respectively, and in each and every of the Justices of the said last-mentioned Courts of Queen's Bench and Common Pleas respectively, as well in Term as in Vacation; which said Justices respectively shall be subject and liable to the same Penalty for denying in Vacation Time any Writ or Writs of Habeas Corpus as is provided by a certain Ordinance passed by the Governor and Legislative Council of the late Province of Quebec, intituled "An Ordinance for securing the Liberty of the Subject, and for the preventing of Imprisonment out of this Province," for the Denial of a Writ of Habeas Corpus in Vacation Time by the Chief Justice, Commissioners for executing the Office of Chief Justice, or Judge of the Court of King's Bench, in the said Ordinance mentioned; and the said Penalty shall be recovered from the said Chief Justice of the Province, and the Justices of the said Court of Queen's Bench hereby constituted, and the Justices of the said Court of Common Pleas hereby constituted, respectively, in the like Cases and Circumstances and in the same Manner as is provided in and by the said last-mentioned Ordinance in respect of the Chief Justice, Commissioners for executing the Office of Chief Justice, and Judges in the said Ordinance last aforesaid mentioned.

And

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

And in order to provide for the more prompt and convenient Administration of Justice in Criminal Matters throughout this Province, be it further ordained and enacted, That it shall be lawful for the Governor of this Province, and he is hereby required, at least Twice in each Year, and oftener if Circumstances should render it fit and expedient, to issue Commissions of Oyer and Terminer and General Gaol Delivery into each and every of the Districts or Counties of this Province in which Court Houses and Gaols now are or hereafter may be erected, by which Commissions the Commissioners therein named shall be invested with and have the like Jurisdiction, Power, and Authority in the Execution of the Laws of this Province as Commissioners or Justices of Oyer and Terminer and General Gaol Delivery by Law have or may lawfully exercise in the aforesaid Part of Great Britain called England, under Commissions of Oyer and Terminer and General Gaol Delivery, in execution of the Laws there.

And whereas it is expedient that the Benefit of Trial by Jury should be extended and facilitated, and the Administration of Justice assimilated to that which obtains in the said Part of Great Britain called England, in what respects the Establishment of Circuits, and the holding of Assizes, and the Exercise of Jurisdiction, Powers, and Authorities similar to those exercised by Commissioners or Justices of Assize and Nisi Prius under Commissions of Assize and Nisi Prius in the said Part of Great Britain called England; be it therefore ordained and enacted, That from and after the Period herein-after appointed for the Commencement of this Ordinance all and every the Issue and Issues of Fact joined in any Action, personal, real, or mixed, which may be instituted in the said Court of Common Pleas hereby constituted, may be tried and determined by the Verdict of a Jury, at the Option and Choice of any or either of the Parties in any such Action; and the Trials by Jury, when so chosen and required, shall be had, and the Verdict of the Jury rendered and taken, in conformity with the Provisions of Law by which Trials by Jury in the Cases wherein they are now allowed are regulated, and in like Manner as such Trials are now had.

And be it further ordained and enacted, That it shall be lawful for the Governor of this Province, by and with the Advice of Her Majesty's Executive Council thereof, when Circumstances may render it expedient, to divide this Province into Circuits, to be respectively denominated, limited, and established by an Order of the said Governor in Council in this Behalf; and it shall also be lawful for the said Governor from Time to Time to designate and nominate the Justices of the said Courts of Queen's Bench and Common Pleas respectively by whom the said Circuits shall be travelled and gone over, and the Duties of Judges on such Circuits performed.

And be it further ordained and enacted, That Assizes shall be held on the said Circuits, when and as soon as Circumstances may permit, at such Places as may from Time to Time be appointed by an Order of the Governor of this Province in Council; and by the same Authority the Places so appointed for holding the said Assizes may be altered, and other Places substituted for them, as to the Governor of this Province for the Time being, by and with the Advice of the Executive Council of this Province, shall seem expedient.

And be it further ordained and enacted, That the said Assizes shall be held under Commissions of Oyer and Terminer, General Gaol Delivery, and Nisi Prius, similar to and for like Purposes as those under which the Assizes are held in the said Part of Great Britain called England, except in so far as the Difference in the Laws of the Two Countries may require a Difference in the said Commissions; and the Form of the said Commissions previous to the issuing of the same shall be settled and determined by the Chief Justice of the Province, and the Puisné Justices of the said Court of Queen's Bench, or any Two of them, and when so settled shall be valid and binding, to all Intents and Purposes whatsoever.

And be it further ordained and enacted, That the Commissioners to be named and appointed in and by such Commissions of Nisi Prius shall have Power and Authority to try all Issues of Fact joined in any Action, personal, real, or mixed, in the said Court of Common Pleas hereby constituted, or in any of the Divisions thereof in which any or either of the Parties shall have made the Option of Trial by Jury, and in which such Trial shall by the said Court be appointed to be had, in like Manner as Issues of Fact joined in

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

Actions in the Superior Courts of Westminster in the said Part of Great Britain called England are triable or may or might be tried, by Commissioners of Assize and Nisi Prius, or any or either of such Commissioners, under Commissions of Assize and Nisi Prius, or any or either of such Commissions, in the said Part of Great Britain called England, and shall, in respect of such Trials to be had as aforesaid, and all Matters thereunto relating, have and exercise the same and like Jurisdiction, Power, and Authority as are or may be lawfully exercised by Commissioners or Justices of Assize and Nisi Prius, or any or either of such Justices, in the said Part of Great Britain called England.

And be it further ordained and enacted, That it shall be lawful for the said Court of Common Pleas hereby constituted, in the several Divisions thereof aforesaid, to award and issue the Judicial Writ of Nisi Prius for the Trial of any Issue of Fact that may be joined in any Action, personal, real, or mixed, depending in the said Court, or any of the Divisions thereof wherein the Option of Trial by Jury may have been made by any of the Parties, and such Trial appointed by the Court before the Commissioners or Justices of Nisi Prius to be appointed by the Commissions to be issued as herein-before mentioned, at the Assizes to be held in this Province as aforesaid, in like Manner as the Courts of King's Bench and Common Pleas in the said Part of Great Britain called England are authorized to award and issue, and may lawfully award and issue, such Writs of Nisi Prius for the Trial of Issues joined in the said Courts respectively before Justices of Assize and Nisi Prius, or any or either of such Justices, at the Assizes held in the said Part of Great Britain called England.

And be it further ordained and enacted, That the Commissioners to be named in the said Commissions of Oyer and Terminer, General Gaol Delivery, and Nisi Prius shall respectively have the same and like Jurisdiction, Powers, and Authority, by virtue of the said Commissions, both in Civil and Criminal Matters, in execution of the Laws of this Province, as are vested in and are or might be lawfully exercised by Commissioners or Justices of Assize, Oyer and Terminer, General Gaol Delivery, and Nisi Prius, in the said Part of Great Britain called England, under Commissions of Assize, Oyer and Terminer, General Gaol Delivery, and Nisi Prius issued there, in execution of the Laws of the said Part of Great Britain called England.

And be it further ordained and enacted, That Commissions for holding the Assizes as aforesaid shall be issued after Court Houses and Gaols shall have been built in sufficient Number in different Parts of the Country to render the holding of such Assizes convenient and proper, and when Circumstances, in the Opinion of the Governor of this Province for the Time being, shall render it expedient.

Provided always, and be it further ordained and enacted, That nothing in this Ordinance contained shall extend or be construed to extend to prevent the Governor of this Province for the Time being from issuing, at any Time or Times when he may deem it expedient or necessary for the Ends of public Justice, General or Special Commissions of Oyer and Terminer and General Gaol Delivery for any District, or One or more County or Counties in any District, or for any City or Town within this Province, nor to derogate from or in any Manner abridge or affect the Prerogative and Right of the Crown to erect, constitute, and appoint Courts of Criminal and Civil Jurisdiction within this Province, as Her Majesty, Her Heirs or Successors, shall think proper, nor to derogate from, abridge, or affect any Prerogative or Right of the Crown whatsoever.

And be it further ordained and enacted, That it shall be lawful for the Governor of this Province, on any Claim which may be made by any of the Persons holding Offices which will become and be abolished under the Provisions of this Ordinance, for Compensation for Loss by reason of such Abolition of the said Offices, to determine, by and with the Advice of the Executive Council of this Province, whether such Claim have or have not a reasonable and just Foundation, and, if such Claim be admitted to be well founded and just, to assess and award thereupon such Compensation as by the said Governor, with such Advice as aforesaid, may be deemed reasonable and proper, regard being had to the Tenure under which the said Offices have been held, and to the Appointment which might be made of the said Persons, if

qualified,

No. 145.

New Territorial Divisions of Lower Canada, and more efficient Administration of Justice.

qualified, to Offices of a similar Nature, to be filled under the Provisions of this Ordinance, and to all such Circumstances as may and ought to be considered in relation to any such Claim; and the Compensation that may be assessed and awarded as aforesaid shall be paid out of any of the unappropriated Monies for public Uses in the Hands of the Receiver General of this Province.

And be it further ordained and enacted, That the Name "Court of Queen's Bench," applied and used in the foregoing Enactments, shall be understood to be the Name of the Court to which it is herein-before applied as aforesaid while the Sovereign on the Throne of the United Kingdom of Great Britain and Ireland is a Queen, and that when the Sovereign on the Throne may be a King the Name of the said Court shall be the Court of King's Bench; and that the Words "Governor of this Province," whenever they occur in the said Enactments, are to be understood as meaning and comprehending the Governor, or the Person authorized to execute the Commission of Governor, within this Province for the Time being.

And be it further ordained and enacted, That this Ordinance, and the several Provisions herein contained, shall commence and have Execution and Effect from and after the First Day of December now next ensuing.

And be it further ordained and enacted, That this Ordinance, and the Provisions therein contained, shall not cease or expire on the First Day of November which will be in the Year of our Lord One thousand eight hundred and forty-two, but shall be and remain a permanent Law and in full Force in this Province until the same shall be repealed or altered by competent Legislative Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-sixth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-sixth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 147.

No. 147.

Incorporating Montreal Public Bakery and Fuel Company.

An Ordinance to incorporate the Montreal *Public Bakery and Fuel Company.* [Passed 16th June 1840.]

Whereas a Joint Stock Association hath been formed in the City of Montreal, under the Name of "The Montreal Public Bakery for the Purpose of supplying the Poor and others with good and wholesome Bread at the cheapest possible Rate:" And whereas the several Persons herein-after mentioned, being the Persons who formed the said Association, have, by their Petition to his Excellency the Governor of this Province, declared their Intention of establishing in like Manner a Fuel Yard for supplying the Poor with Fuel at the Cost Price thereof, and have prayed that they may be incorporated for the Purposes aforesaid: And whereas the useful Purposes of the said Association will be much

No. 147.

Incorporating Montreal Public Bakery and Fuel Company.

much promoted and the public Good advanced by granting the Prayer of the said Petition; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That Norman Bethune, Oliver Berthelet, Adam Ferrie, James Crawford, Henry Vennor, Charles H. Castle, William Workman, John E. Mills, Alexis Laframboise, William Porson, James Potts, James Ferrier, and such other Persons as may be at the Time of the passing of this Ordinance Stockholders in the said Association or Company, their several and respective Heirs, Successors, Executors, Curators, Administrators, and Assigns, and all such Persons as may under the Provisions of this Ordinance become Proprietors and Stockholders in and of the said Association, shall be and they are hereby ordained, constituted, and declared to be a Body Corporate and Politic, by the Name of the "Montreal Public Bakery and Fuel Company," and shall by that Name have uninterrupted Succession and a Common Seal, with Power to break or change the said Seal at their Pleasure, and, as such Body Corporate and Politic, shall and may hold and possess all and every the Monies, Capital Stock, Debts Active, and Goods and Chattels, to the said Association, Proprietors, and Stockholders belonging at the Time of the passing of this Ordinance, and shall and may by the same Name sue and be sued, answer and be answered unto, in all Courts and Places whatsoever, and shall and may require, take and receive, by Gift, Donation, Legacy, or otherwise, all and every Sum and Sums of Money, and all Goods and Chattels, and Lands and immoveable Property, subject always to the Provisions herein-after made with regard to the Amount of the Capital and Funds of the said Corporation, and to the said Lands and immoveable Property.

And be it further ordained and enacted by the Authority aforesaid, That the Capital Stock of the said Corporation shall at no Time exceed the Sum of Four thousand Pounds Current Money of Lower Canada, divided into Three thousand two hundred Shares of One Pound Five Shillings each.

And be it further ordained and enacted by the Authority aforesaid, That no individual Association, Company, or Body Corporate or Politic shall hold more than Forty Shares of the Stock of the said Corporation.

And be it further ordained and enacted by the Authority aforesaid, That as soon as One thousand Shares of the Stock shall have been subscribed for, a General Meeting of the Stockholders shall be called by public Advertisement, for the Purpose of electing a Committee of Management for conducting the Affairs of the said Corporation; and the Committee elected at such Meeting shall continue in Office until the First Monday in the Month of May One thousand eight hundred and forty-one, or until another Committee be duly elected in their Stead: Provided always, that, save and except for the Purpose of convening the First General Meeting, and electing Officers as herein provided, this Ordinance, or the Capacities, Powers, or Authority hereby conferred, shall not be in force or in any Manner operative or available to the said Association, or to any Person or Persons whatsoever, until the whole Capital Stock of the said Association shall be paid in.

And be it further ordained and enacted by the Authority aforesaid, That such Committee of Management shall consist of Twelve Members of the said Corporation, each of whom shall be Proprietor of at least Five Shares of the Stock of the said Corporation; and such Committee shall be elected annually on the First Monday in the Month of May in each and every Year, or if such Monday be a Holiday, or if from any Cause such Election be not had on that Day, then the Election may be had on any Day thereafter, and the Committee elected at the then next preceding Election shall continue in Office until another be duly elected in its Stead, and in the event of the Death, Sickness, or Absence from the Province for more than Three consecutive Months of any Member or Members

Members of the said Committee of Management, his or their Places may be held and filled by a Person or Persons to be appointed by the remaining Members of the Committee of Management, without calling a Meeting of Stockholders for that Purpose, and the Person or Persons so appointed shall have the same Power and Authority as if they had been elected Members of the said Committee in the Manner aforesaid; and any Three Members of the said Committee shall form a Quorum thereof for the Transaction of Business, and may do all Things which the said Committee may do: Provided always, that if the Chairman of the Committee be not one of them, a Chairman for the Time being shall be chosen by the Members present.

And be it further ordained and enacted by the Authority aforesaid, That the said Committee of Management shall elect a Chairman from among themselves, and shall have Power and Authority to appoint, and pay out of the Funds of the Corporation, a Secretary, Treasurer, or Manager, and all other Officers and Servants by them deemed necessary, and to do, execute, and perform all Acts, Matters, and Things generally which shall or may by them be deemed requisite and necessary for carrying on and prosecuting the Business of the said Corporation, under and subject to the Provisions of this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That the Committee of Management shall have Power to call upon the Stockholders for the whole Amount of Stock subscribed, by giving Thirty Days Notice thereof in Two or more of the public Newspapers published in the City of Montreal; and in case of Nonpayment of the said Capital Stock by any Subscriber or Subscribers, the said Committee, under the Name and Style of the said Corporation, may recover the Amount by Action at Law in any Court of competent Jurisdiction, or may, at their Option, after Notice as aforesaid, cause the Share or Shares of the Subscriber or Subscribers so in default to be forfeited to the said Corporation at a General Meeting of the Stockholders thereof.

And be it further ordained and enacted by the Authority aforesaid, That the Committee of Management shall have Power and Authority to purchase, acquire, and hold, in the Name of and for the Use and Benefit of the Corporation, Landed Estate within the Parish of Montreal, and not elsewhere, without Her Majesty's Letters of Mortmain, and such Landed Estate shall be used and appropriated solely for the Purpose of carrying on the Business of the said Corporation under the Provisions of this Ordinance, by the Erection of Ovens, Dwelling Houses, Storehouses, and other Buildings and Works thereon as may be necessary for the Purposes aforesaid, and no other, and so that the Real Property held by the said Corporation at any One Time shall not exceed in Value the Sum of One thousand five hundred Pounds Currency aforesaid; and the said Committee of Management for the Time being shall have Power and Authority, in the Name of the Corporation, and by Deed or Deeds under their Hands and the Seal of the Corporation, to sell, alienate, and dispose of any and all such Landed Estate and Property, and good and sufficient Deeds of Sale and Titles to grant thereof, whenever they shall deem and consider it advantageous to the Interests of the Corporation, and other Landed Estate in lieu thereof to acquire or purchase for the Purposes aforesaid, and subject always to the Provisions aforesaid as to the Value thereof.

And be it further ordained and enacted by the Authority aforesaid, That the Committee of Management shall have Power to make such Rules and Regulations for the internal Government of the said Corporation and the Affairs thereof as may by them be deemed requisite and necessary, and they shall assize or fix the Price of the Bread to be sold by the said Corporation once in each Week.

And be it further ordained and enacted by the Authority aforesaid, That the Shares of the Stock of the said Corporation shall be transferrable by an Assignment thereof, under the Hand of the Party assigning the same, and a Certificate upon or relating to such Assignment, signed by the Chairman of the Committee of Management for the Time being, and showing that such Assignment has been recorded in a Book to be kept for that Purpose by the Corporation.

And be it further ordained and enacted by the Authority aforesaid, That each Holder of One Share of the Stock of the Corporation shall have One Vote at all General Meetings and Elections to be held under the Authority of this Ordinance; and each Holder of Five Shares or more, but of less than Ten, shall have Two Votes; and each Holder of Ten Shares and less than Fifteen

No. 147.

Incorporating Montreal Public Bakery and Fuel Company.

shall have Three Votes; and each Holder of Fifteen Shares or more shall have One additional Vote for every Five Shares over and above Ten, except in certain Cases herein-after provided for; but no Person shall be allowed to vote by Proxy.

And be it further ordained and enacted by the Authority aforesaid, That it shall be the Duty of the Committee of Management to call a General Meeting of the Stockholders to be held on the First Monday of the Month of May in each and every Year, provided such Monday be not a Holiday, and if it be such Holiday, or if the Election be not held on that Day, then on such Day next thereafter as shall not be a Holiday, for the Purpose of electing a Committee of Management for the ensuing Year; and the Votes at all such Meetings shall be taken by Ballot; and the Committee of Management shall at all such General Meetings lay before the Stockholders a clear, detailed, and distinct Report, Statement, and Account of the Affairs of the Corporation, a Copy whereof shall be transmitted to the Governor, Lieutenant Governor, or Person administering the Government: Provided always, that the Governor, Lieutenant Governor, or Person administering the Government, may from Time to Time, and as often as he shall deem fit, require and obtain from the Committee for the Time being a clear and detailed Report, Statement, and Account, under Oath, of the Affairs and Transactions of the said Corporation, which said Report, Statement, and Account, whether rendered at a General Meeting or upon such Requirement as aforesaid, shall be published in at least Two of the Newspapers of the City of Montreal.

And be it further ordained and enacted by the Authority aforesaid, That if, from the said Accounts, Reports, or Statements so to be rendered as aforesaid, or any of them, or in any other Manner, it shall appear that the Committee for the Time being have created or incurred Debts or Liabilities to or in favour of any Person or Persons, Body or Bodies Politic or Corporate, to an Amount exceeding the Capital Stock actually in the Hands of and available to the said Corporation, such Committee, and the Persons who may compose or may have composed the same, and their Heirs, Assigns, and lega Representatives, shall be held jointly and severally liable in their private Capacities for such Amount of Debts or Liabilities so exceeding the said Capital Stock; and an Action or Actions for the Recovery of the same may be had and prosecuted to Judgment and Execution by the Person or Persons, Body or Bodies Politic, to and in whose favour such Debts and Liabilities shall have been created and incurred, or by their Assigns or legal Representatives, according to the Laws of this Province.

And be it further ordained and enacted by the Authority aforesaid, That the said Corporation shall not at any Time or in any Way divide among the Stockholders any Dividend, Bonus, Profit, or Emolument of any Kind, exceeding the Rate of Six per Centum per Annum on the Amount of the said Capital Stock as aforesaid, nor shall any such Dividend be taken out of the Profits of the Corporation until after all Debts owing by the Corporation, and all Expenses necessary for carrying on the Business and Affairs thereof, shall have been deducted and paid; nor shall any Profits be reserved in the Hands of the Corporation, or of any Party for them, so as at any Time to increase the Funds of the said Corporation to more than the said Sum of Four thousand Pounds Currency, and Twenty-five per Cent. thereon.

And be it further ordained and enacted by the Authority aforesaid, That any further surplus Profits which may remain in the Possession of the Committee of Management, after paying such Dividend or Dividends to the Stockholders as they may think proper to declare from Time to Time (provided that the same shall not exceed the Rate of Six per Centum per Annum as aforesaid), shall be applied to charitable Purposes, in such Way as the Committee of Management for the Time being may think proper and advisable; and in order to enable the Committee of Management more fully to extend the Usefulness of the said Corporation to the poorer Classes of Society, they are hereby authorized to borrow a Sum of Money, not exceeding One thousand five hundred Pounds Currency in Amount, upon the Security of the said Corporation, for the Purposes of investing the same in Fire-wood and other Fuel, for the Purpose of selling and disposing of the said Fire-wood and Fuel to the poorer Classes of Persons residing within the Limits of the Banlieue of the City of Montreal, in preference to all other Persons, at the Price which the same may have cost, adding thereto the Interest of the Money paid

No. 147.

Incorporating Montreal Public Bakery and Fuel Company.

paid for it, and other necessary Expenses incurred about it; and whenever the Profits of the Corporation shall become sufficient to enable the Committee of Management to lay in a Stock of Fuel by means thereof, they shall be at liberty to apply such Profits, or so much thereof as they think may be so applied most advantageously to the Poor, for that Purpose; and the said Committee of Management shall at all Times have discretionary Power to give away to the Poor a Portion of the surplus Profits of the Corporation, either in Fuel or otherwise, as to them may seem fit.

And be it further ordained and enacted by the Authority aforesaid, That a General Meeting of the Stockholders may be called at any Time, by the Committee of Management, or by a Requisition signed by at least Forty of the Stockholders, and inserted in Two or more of the Newspapers published in the City of Montreal, giving at least Fifteen Days Notice thereof, and stating the Object of the Meeting.

And be it further ordained and enacted by the Authority aforesaid, That the said Corporation shall, in any Case, be dissolved, cease, and determine at the End of Twenty-one Years from the passing of this Ordinance, but may be dissolved at any Time by the Votes of the Proprietors of Two Thirds in Amount of the whole Stock of the Corporation (in which Case only One Vote shall be allowed for each Share of Stock) at a Special Meeting to be for that Purpose called by at least Forty Stockholders, after they shall have given at least Thirty Days previous Notice of such Meeting in Two or more of the Newspapers published in the City of Montreal, stating the Object of such Meeting; but no such voluntary Dissolution shall take effect until after the Stockholders shall have indemnified the Committee of Management for the Time being for all Engagements which they may have entered into on behalf of the Corporation, nor until all the Debts and Liabilities of the Corporation shall have been paid and satisfied in full, or adequate Provision made and Security given for the Payment and Satisfaction of all such Debts and Liabilities as from any Cause whatever cannot then be legally discharged.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be a public Ordinance, and as such shall be taken notice of by all Judges, Justices, Persons, and Bodies Corporate whomsoever, without being specially pleaded.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and it is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Sixteenth Day of June, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Sixteenth Day of June One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

No. 148.

Incorporating the City and Town of Quebec.

(Copy.)

No. 148.

An Ordinance to incorporate the City and Town of Quebec.

[Passed 25th June 1840.]

WHEREAS, for the better Protection, Care, and Management of the local Interests of the Inhabitants of the City and Town of Quebec, and for the Municipal Government and the Improvement thereof, it is expedient that the said City and Town be incorporated; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Inhabitants of the said City and Town of Quebec, and their Successors, Inhabitants of the same, shall be and they are hereby constituted a Body Corporate and Politic, in Fact and in Name, by and under the Name, Style, and Title of "The Mayor, Aldermen, and Citizens of the City of Quebec," and as such shall have perpetual Succession, and a Common Seal, with Power to break, renew, change, and alter the same at pleasure, and shall be capable of suing and being sued, and of impleading and being impleaded, in all Courts of Law and Equity, and other Places, in all manner of Actions, Causes, and Matters whatsoever, and of accepting, taking, purchasing, and holding Goods and Chattels, Lands, and Tenements, real and personal, moveable and immoveable Estates, and of granting, selling, alienating, assigning, demising, and conveying the same, and of entering into and becoming a Party to Contracts, and of granting and accepting any Bills, Bonds, Judgments, or other Instruments or Securities, for the Payment or securing of the Payment of any Money borrowed or lent, or for the Performance or securing the Performance of any other Duty, Matter, or Thing whatsoever.

And be it further ordained and enacted, That the Tract of Land which in and by a certain Proclamation of his Excellency Sir Alured Clarke, Lieutenant Governor of the Province of Lower Canada, issued under the Great Seal of the said Province, and bearing Date the Seventh Day of May in the Year of our Lord One thousand seven hundred and ninety-one, was and is described as being comprehended within the City and Town of Quebec, and which it was therein declared should be thenceforward called by that Name, shall, from and after the passing of this Ordinance, constitute and be and be called the City of Quebec.

And be it further ordained and enacted, That for the Purposes of this Ordinance the said City of Quebec shall be and is hereby divided into Six Wards, to be called respectively Saint Louis's Ward, Palace Ward, Saint Peter's Ward, Champlain Ward, Saint Roch's Ward, and Saint John's Ward.

And be it further ordained and enacted, That the Boundaries and Limits of the said Six Wards of the City of Quebec shall be as follows; that is to say, First, Saint Louis's Ward shall comprise all that Part of the Upper Town within the Fortifications, and South of a Line drawn from Prescott Gate to Saint John's Gate, along the Middle of Mountain Street, Buade Street, Fabrique Street, and Saint John Street; Second, Palace Ward shall comprise all that Part of the Upper Town within the Fortifications, and not included in Saint Louis's Ward; Third, Saint Peter's Ward shall comprise all that Part of the lower Town bounded on the South by a Line drawn down the Middle of Sous-le-Fort Street, and prolonged in the same Direction to the River Saint Lawrence at the one End and to the Cliff under the Castle of Saint Louis at the other, and on the West by the Eastern Limit of the Parish of Saint Roch; Fourth, Champlain Ward shall comprise all that Part of the Lower Town lying between

No. 148.

Incorporating the City and Town of Quebec.

between Saint Peter's Ward and the Limits of the said City; Fifth, Saint Roch's Ward shall comprise all that Part of the Parish of Saint Roch which lies within the Limits of the said City of Quebec; Sixth, Saint John's Ward shall comprise all that Space bounded by Saint Roch's Ward, the Fortifications, the Limits of the said City, and the Cime-du-Cap on the Bank of the Saint Lawrence.

And be it further ordained and enacted, That there shall be appointed and elected in the Manner herein-after mentioned one fit Person who shall be and be called the Mayor of the said City of Quebec, and a certain Number of fit Persons who shall be and be called Aldermen of the said City, and a certain Number of other fit Persons who shall be and be called Councillors of the said City, and such Mayor, Aldermen, and Councillors for the Time being shall be and be called the Council of the said City.

And be it further ordained and enacted, That it shall be lawful for the Governor of this Province for the Time being, by Letters Patent under the Great Seal of this Province, to nominate and constitute a fit and proper Person to be the first Mayor of the said City of Quebec, who shall be and continue in that Office until the First Day of December which will be in the Year of our Lord One thousand eight hundred and forty-two, and from that Time until another Person into the said Office shall be elected and sworn according to the Provisions herein-after expressed and declared; and also, by the same Letters Patent, to nominate and constitute Six fit and proper Persons to be the first Aldermen of the said City who shall be and continue in that Office until the Day and Year last mentioned, and from that Time until other fit and proper Persons shall be elected and sworn into the said Office in their Places according to the Provisions herein-after expressed; and likewise, by the same Letters Patent, to nominate and constitute Twelve fit and proper Persons to be the first Councillors of the said City of Quebec aforesaid, who shall be and continue in that Office until the Day and Year last mentioned, and from that Time until other fit and proper Persons shall into the said Office be elected and sworn according to the Provisions herein-after expressed.

And be it further ordained and enacted, That in case a Vacancy or Vacancies should occur in the said Offices of Mayor, Alderman, and Councillor, or any of them, at any Time previous to the said First Day of December which shall be in the Year of our Lord One thousand eight hundred and forty-two, it shall be lawful for the said Council of the said City of Quebec to elect a fit Person or Persons to fill up any such Vacancy or Vacancies of the said Offices of Mayor, Alderman, or Councillor, who shall be and continue in such Office or Offices until the Day and Year last aforesaid, and from that Time until another Person or Persons shall be elected and sworn into such Office or Offices according to the Provisions herein-after expressed.

And be it further ordained and enacted, That it shall be lawful for the said Council of the said City, from Time to Time, and at such Times as they may deem fit previous to the said First Day of December in the Year of our Lord One thousand eight hundred and forty-two, to appoint One Assessor for each of the said Wards of the said City respectively, who shall continue in Office for such Period of Time as by the said Council shall be fixed and limited, not extending beyond the Day and Year last mentioned; and it shall also be lawful for the said Council to prescribe the Duties of such Assessors.

And be it further ordained and enacted, That no Person shall be capable of being appointed or elected an Alderman of the said City of Quebec unless he shall have been a resident Householder within the said City for One Year next before such Appointment or Election, and unless he shall be seised or possessed to his own Use of Real or Personal Estate, or both, within the said City, after Payment or Deduction of his just Debts, of the Value of One thousand Pounds Currency.

And be it further ordained and enacted, That no Person shall be capable of being appointed or elected a Councillor of the said City of Quebec unless he shall have been a resident Housholder within the said City for One Year next before such Appointment or Election, and unless he shall be seised or possessed to his own Use of Real or Personal Estate, or both, within the said City, after Payment of his just Debts, of the Value of Five hundred Pounds Currency.

And be it further ordained and enacted, That the Councillors of the said City of Quebec, at the Periods herein-after appointed, shall be chosen by the

No. 148.

Incorporating the City and Town of Quebec.

Majority of Votes of such Persons, being Inhabitant Householders within the Ward for which such Election shall be had, as shall severally be possessed at the Time of the Election of a Dwelling House within the said Ward, held by them respectively in Freehold, or for a Term of Years, or for a Term not less than One Year, and who shall have been resident within the said City during One Year or more previous to any such Election, and who shall have resided within the particular Ward for which such Election shall be had not less than Three Months next before such Election; and Part of a Dwelling House in which an Inhabitant shall reside as a Householder, and not as a Boarder or Lodger, and having an outer Door by which a separate Communication with the Street may be afforded, shall be considered a Dwelling House within the Meaning of this Enactment: Provided always, that when and so soon as any Rate or Rates, Assessment or Assessments, shall be laid by and under the Authority of this Ordinance, no such Inhabitant Householder shall be entitled to vote at the Election of Councillors as aforesaid unless he shall have been rated to and in respect of the Rates or Assessments laid as aforesaid: And provided also, that after any such Rate or Assessment shall have been laid as aforesaid, every Male Person, though not a Householder, who shall have been resident in the said City during Three Years next preceding any such Election of Councillors, and who shall have occupied any Warehouse, Counting-house, or Shop within any of the said Wards of the said City during Three Months next preceding such Election, and shall have been rated for not less than One Year in respect of such Premises for such Rate or Assessment as aforesaid, shall be entitled to vote at the Election of Councillors to be had in the Ward in which such Premises shall be situated: And provided also, that no such Inhabitant Householder, or Occupier of a Warehouse, Counting-house, or Shop within the said City, shall be entitled to vote at any such Election of Councillors unless he shall have paid the Amount of all Rates and Assessments within the said City of Quebec that may have been due and payable by him before the holding of any such Election.

And be it further ordained and enacted, That no Person shall be capable of being appointed or elected Mayor, Alderman, or Councillor of the said City of Quebec, or of voting at any Election of City Officers, who shall not be a natural-born or naturalized Subject of Her Majesty, and of the full Age of Twenty-one Years; nor shall any Person be capable of voting, or of being elected at any such Election, who shall have been attainted for Treason or Felony in any Court of Law within any of Her Majesty's Dominions.

And be it further ordained and enacted, That no Person being in Holy Orders, or being a Minister or Teacher of any Dissenting or Religious Sect or Congregation, nor any Judge or Judges, Clerk or Clerks of any Court, nor any of the ministerial Law Officers of the Crown, nor any Person accountable for the City Revenues, or receiving any pecuniary Allowance from the City for his Services, nor any Officer or Person presiding at an Election of a Councillor or Councillors while so presiding, nor any Clerk or Assistant employed by him at any such Election, while so employed, shall be capable of being appointed or elected a Councillor for the said City.

And be it further ordained and enacted, That on the First Day of December which will be in the Year of our Lord One thousand eight hundred and forty-two, and on the same Day in every succeeding Year, the Inhabitant Householders, and Persons qualified to vote as aforesaid, shall openly assemble in the several Wards aforesaid, and elect from the Persons qualified to be Councillors Three fit and proper Persons to be Councillors for each of such Wards respectively, or so many as shall be required to supply the Places of those who shall then go out of Office, and also One fit and proper Person to be Assessor for each of the said Wards respectively: Provided always, that if the Day so appointed for such Election shall in any Year happen to be Sunday, or a Holiday, such Election shall take place the next following Day.

And be it further ordained and enacted, That on the First Day of December in the Year of our Lord One thousand eight hundred and forty-two, and in every succeeding Year, One Third of the Number appointed as aforesaid to be the Number of Councillors for the said City of Quebec shall go out of Office; and in the Year One thousand eight hundred and forty-three those who shall go out of Office shall be the Councillors who shall have been elected, under the Provisions of this Ordinance, by the smallest Number of Votes in the

the preceding Year; and in the Year One thousand eight hundred and forty-four those who shall go out of Office shall be the Councillors who shall have been elected, under the Provisions of this Ordinance, in the said Year One thousand eight hundred and forty-two, by the next smallest Number of Votes; and if any Two or more of the said Councillors shall have been elected by an equal Number of Votes, then it shall be determined by the Majority of the whole Council which of the said Councillors so elected shall then go out of Office, and thereafter those who shall go out of Office shall always be the Councillors who shall have been for the longest Time in Office without Re-election: Provided always, that any Councillor so going out of Office shall be capable of being forthwith re-elected if then qualified as required by this Ordinance.

And be it further ordained and enacted, That the first Election of Councillors to be had as aforesaid on the First Day of December which will be in the Year of our Lord One thousand eight hundred and forty-two, and all subsequent Elections of Councillors to be had under the Provisions of this Ordinance, shall be held at convenient Places in the said several Wards of the said City, and shall respectively be held by and before such of the Aldermen or Councillors of the said City as may by the Mayor of the said City for the Time being be appointed, or, in case of Vacancy in the Office of Mayor, by the Council of the said City.

And be it further ordained and enacted, That at Elections of Councillors as aforesaid the Poll shall be opened at Nine o'Clock in the Forenoon, and shall continue open till Four o'Clock in the Afternoon of the same Day; and the Name of each Elector voting at such Election shall be written in Poll Lists to be kept at such Election, by the Officer or Person holding the same; and after finally closing the Poll at any such Election, the Officer or Person by whom the same shall be held shall forthwith proceed publicly to declare the Number of Votes given for each Candidate or Person for whom Votes shall have been taken, and shall declare the Person or Persons having the Majority of Votes in his or their Favour to be duly elected Councillor or Councillors as aforesaid; and if there should be, at the final closing of the Poll as aforesaid, an equal Number of Votes polled for Two or more Persons to be Councillors as aforesaid, it shall be lawful for the Officer or Person holding such Election, and he is hereby required, whether otherwise qualified or not, to give a Vote for one or other of the Persons having such Equality of Votes, in order to give a Majority to one of them, and determine the Election; and the Poll Lists kept at such Elections shall, by the Officers or Persons holding the same, be delivered, within Three Days after the Conclusion of every such Election, to the Clerk of the City, to remain in his Office, where they shall be open to Inspection by any Elector, on the Payment of a Fee of One Shilling.

And be it further ordained and enacted, That Persons entitled to vote at the Election of Councillors as aforesaid shall vote within the particular Ward in which the Property constituting their Qualification to vote shall be situated, and not otherwise; and if any such Person shall be possessed of Property entitling him to vote in Two or more Wards, he shall be entitled to vote in that Ward only in which he may reside.

And be it further ordained and enacted, That it shall be lawful for the said Council of the said City, by a Bye Law or Bye Laws to be enacted in this Behalf, to make Provision for the making of Lists, and a Registration of all Persons qualified to vote at Elections of Councillors and other City Officers in the said City, whereby the Right to vote at such Elections may be determined; and until such Provisions shall have been made by such Bye Law or Bye Laws, every Person desirous of voting at any Election of Councillors as aforesaid shall, before he be permitted to vote, if required by the Officer or Person holding any such Election, or by any Person qualified to vote at the same, make Oath to the Particulars of his Qualification, and that he has not before voted at such Election, which Oath the Officer or Person holding such Election is hereby authorized and required to administer.

And be it further ordained and enacted, That after Provision shall have been made, by a Bye Law or Bye Laws as aforesaid, for the making of Lists, or a Registration of Persons qualified to vote, whereby the Right in Individuals to vote may be determined as aforesaid, every Person desirous of voting at

No. 148.

Incorporating the City and Town of Quebec.

any Election of a Councillor or Councillors as aforesaid shall, before he be permitted to vote, produce a Certificate under the Hand of the proper Officer of his Qualification, pursuant to any such Bye Law, and shall, if required by the Officer or Person holding such Election, or by any Person qualified to vote at the same, take the following Oath, which the said Officer or Person holding such Election is hereby authorized and required to administer; that is to say:

'I do swear that I am the Person described in the Certificate that I now 'produce, and that I have not before voted at this Election. So help me God.'

And be it further ordained and enacted, That if any Person shall knowingly swear falsely as to any of the Particulars of his alleged Qualification, in pursuance of the preceding Nineteenth Section of this Ordinance, or if he shall knowingly swear falsely in taking the Oath prescribed by the preceding Twentieth Section of this Ordinance, he shall be deemed guilty of wilful and corrupt Perjury, and suffer the Pains and Penalties provided by Law in Cases of wilful and corrupt Perjury.

And be it further ordained and enacted, That if at any Election of a Councillor or Councillors as aforesaid any Person shall be elected a Councillor for more than One Ward of the said City, he shall, within Three Days after Notice thereof, make his Option, or, on his Default, the Mayor of the said City shall declare for which one of the said Wards such Person shall serve as Councillor, and thereupon such Person shall be held to have been elected in that Ward only, and in no other.

And be it further ordained and enacted, That on the First Day of December which will be in the Year of our Lord One thousand eight hundred and forty-two the Councillors who shall be first elected under the Provisions of this Ordinance, and on the Ninth Day of December in the Year One thousand eight hundred and forty-five, and in every succeeding Third Year, the said Council of the said City for the Time being shall elect, from the Councillors composing the said Council, Six Persons to be Aldermen of the said City, or so many as shall be required to supply the Places of those who shall go out of Office, according to the Provisions herein-after contained; and that on the Ninth Day of December in the Year One thousand eight hundred and forty-five, and in every succeeding Third Year, One Half of the Number appointed as aforesaid to be the entire Number of Aldermen of the said City shall go out of Office; and the Councillors composing the said Council, immediately after the first Election of Aldermen to be had as aforesaid, shall designate the Aldermen who shall go out of Office in the Year One thousand eight hundred and forty-five, and thereafter those who shall go out of Office shall always be those who have been Aldermen for the longest Time without Re-election: Provided always, that any Aldermen so going out of Office may be forthwith re-elected if then qualified as required by this Ordinance: And provided also, that the Aldermen so going out of Office shall not be entitled to vote in the Election of the Aldermen who are to supply their Places: And provided also, that if the Ninth Day of December in any Year in which Elections are to be had as aforesaid shall happen to be Sunday, or a Holiday, such Elections respectively shall be had on the next following Day.

And be it further ordained and enacted, That the Mayor and Aldermen to be elected according to the Provisions of this Ordinance shall, during their respective Offices, continue to be Members of the Council of the said City, notwithstanding the Provisions herein contained by which the Duration of the Office of Councillor is limited to a certain Time.

And be it further ordained and enacted, That on the Ninth Day of December in the Year One thousand eight hundred and forty-two, and in every succeeding Year, the Members of the said Council shall elect, from Persons qualified to be Councillors, by a Majority of Votes, Two Persons who shall be and be called Auditors of the said City of Quebec, and every such Auditor shall continue in Office until the Ninth Day of December in the Year following his Election: Provided always, that in every such Election of Auditors, no Member of the said Council shall vote for more than One Person to be such Auditor as aforesaid: And provided also, that no Member of the said Council, nor the Clerk, nor the Mayor of the said City, shall be capable of being elected an Auditor as aforesaid.

And

And be it further ordained and enacted, That if any extraordinary Vacancy shall occur in the Office of Councillor of the said City after the first Election of Councillors to be had as aforesaid, the Inhabitant Householders and Persons qualified to vote shall, on a Day to be fixed by the Mayor (such Day not being later than Ten Days after such Vacancy), elect, from the Persons qualified to be Councillors, another Person, duly qualified, to supply such Vacancy; and such Election shall be held and the voting and other Proceedings be conducted in the same Manner, and subject to the same Provisions, as are herein-before enacted with respect to the Elections of Councillors to be had as aforesaid; and every Person so elected shall hold such Office until the Period at which the Person in the Room of whom he shall have been chosen would in the ordinary Course have gone out of Office, when he shall go out of Office, but shall be capable of immediate Re-election if then qualified as required by this Ordinance: Provided always, that no Election shall take place to supply any such extraordinary Vacancy unless the Number of Councillors remaining after such Vacancy shall not exceed Two Thirds of the whole Number composing the Council.

And be it further ordained and enacted, That on the Ninth Day of December in the Year of our Lord One thousand eight hundred and forty-two, and on the same Day in every succeeding Year, the said Council of the said City shall elect, out of the Aldermen and Councillors of the said City, a fit Person to be Mayor of the said City, who shall continue in Office for One whole Year; and in case a Vacancy shall occur in the said Office of Mayor, by reason of any Person who shall have been elected to that Office not accepting the same, or by reason of his dying, or ceasing to hold the said Office, the said Council of the said City shall, within Ten Days after such Vacancy, elect, out of the Aldermen and Councillors of the said City, another fit Person to be Mayor thereof for the Remainder of the Period for which the Mayor whose Place is to be supplied was to serve.

And be it further ordained and enacted, That no Person appointed or elected to be Mayor, Alderman, Councillor, Auditor, or Assessor, as aforesaid, shall be capable of acting as such, except in administering the Oaths herein-after mentioned, until he shall have made and subscribed before any Two or more of such Aldermen or Councillors (who are hereby respectively authorized and required to administer the said Oaths to each other) the Oath of Allegiance to Her Majesty, Her Heirs and Successors, and also an Oath in the Words or to the Effect following; (that is to say,)

'I *A.B.* having been appointed or elected [*as the Case may be*] Mayor [*or* 'Alderman, Councillor, Auditor, *or* Assessor, *as the Case may be*,] for the 'City of Quebec, do sincerely and solemnly swear, That I will faithfully fulfil 'the Duties of the said Office, according to the best of my Judgment and 'Ability; and that I am seised or possessed for my own Use of Real or 'Personal Estate, or both, in the said City of Quebec, after the Payment or 'Deduction of my just Debts, of the Value of and that I have 'not fraudulently or collusively obtained the same, or a Title to the same, for 'the Purpose of qualifying myself to be appointed [*or* elected, *as the Case may* 'be,] Mayor [Alderman, Councillor, Auditor, *or* Assessor, *as the Case may be*,] 'as aforesaid. So help me God.'

And be it further ordained and enacted, That every Person, duly qualified, who shall be appointed or elected to the Office of Alderman, Councillor, or Assessor of the said City, and every Person, Alderman, or Councillor who shall be appointed or elected to the Office of Mayor of the said City, shall accept the Office to which he shall have been so appointed or elected, or shall, in default thereof, pay to the Treasurer of the said City, to and for the Use of the said City, a Fine, as follows: — for Non-acceptance of the Office of Alderman or Councillor a Fine of Fifty Pounds, for Non-acceptance of the Office of Auditor or Assessor a Fine of Fifty Pounds, and for Non-acceptance of the Office of Mayor a Fine of One hundred Pounds; and every such Fine, if not duly paid, shall be levied under the Authority of a Warrant of any Justice of the Peace having Jurisdiction within the said City, who is hereby required, on the Application of the said Council of the said City, to issue the same, by Distress and Sale of the Goods and Chattels of the Person so refusing to accept such Office, with the reasonable Charges of such Distress; and every Person so elected shall accept such Office by taking the Oath of Allegiance,

No. 145.

Incorporating the City and Town of Quebec.

and making and subscribing the Declaration herein-before mentioned, within Four Days after Notice of his Election, and in default thereof shall be liable to pay the Fine aforesaid as for his Non-acceptance of such Office, and such Office shall thereupon be deemed to be vacant, and shall be filled up by a new Election to be made in the Manner herein-before prescribed: Provided always, that no Person disabled by Lunacy or Imbecility of Mind shall be liable to such Fine as aforesaid; and provided also, that every Person so elected to any such Office who shall be above the Age of Sixty-five Years, or who shall already have served such Office, or paid the Fine for not accepting such Office, within Five Years next preceding the Day on which he shall be so re-elected, shall be exempted from accepting or serving the same Office, if he shall claim such Exemption within Five Days after Notice of his Election; and provided also, that no Military, Naval, or Marine Officer in Her Majesty's Service, on full Pay, nor the Members of the Legislature of this Province, the Members of the Executive Council, the Surveyor General, the Adjutant General of Militia, the Provincial Secretary, the Deputy Postmaster General and his Deputies, Custom House Officers, the Sheriffs and Coroners, the Clerks and Commissioned Officers of the Legislature and of the Executive Council, and Schoolmasters, shall be held or bound to accept any such Office as aforesaid, or any other Office in the said City.

And be it further ordained and enacted, That if any Person holding the Office of Mayor, Alderman, or Councillor shall be declared bankrupt, or shall apply to take the Benefit of any Act for the Relief of Insolvent Debtors, or shall compound by Deed with his Creditors, or, being Mayor, shall be absent from the said City for more than Two Calendar Months, or, being an Alderman or Councillor, for more than Six Months, at one and the same Time, (unless in case of Illness,) then and in every such Case such Person shall thereupon immediately become disqualified, and shall cease to hold such Office of Mayor, Alderman, or Councillor as aforesaid, and in the case of such Absence shall be liable to the same Fine as if he had refused to accept such Office, to be recovered and applied in the same Manner.

And be it further ordained and enacted, That the Mayor of the said City for the Time being shall be a Justice of the Peace for the City and District of Quebec; and it shall be lawful for the said Common Council, from and out of the Monies belonging to the said City, to grant and allow to the said Mayor for the Time being, in lieu of all Fees and Perquisites, such Salary, not exceeding Three hundred Pounds and not less than One hundred Pounds, as the said Council shall think fit.

And be it further ordained and enacted, That it shall be lawful for the said Council of the said City, from Time to Time as Occasion may require, to appoint a fit and proper Person, not being a Member of the Council, to be Clerk of the said City, and another fit Person, not being a Member of the said Council, and not being City Clerk, to be the Treasurer of the said City, One or more fit Person or Persons, not being of the Council, to be Clerk or Clerks of the Markets of the said City, and One Surveyor of Highways, Streets, and Bridges, and such Number of Overseers of Highways, Streets, and Bridges, as they may deem necessary, and One Collector for each of the Wards of the said City, One or more Pound-keeper or Pound-keepers for the said City, and such other Officers as they may think necessary to enable them to carry into execution the Powers vested in them by this Ordinance, and to prescribe and regulate the Duties of all such Officers respectively, and at their Pleasure to remove any such Officer, and appoint another in his Place; and the said Council shall take such Security for the due Execution of the Offices of City Clerk, Treasurer, or other Officer as they shall think proper, and shall and may grant and allow to the City Clerk, Treasurer, and other Officers to be appointed as aforesaid such Salary, Allowance, or other Compensation for their Services as they may think fit.

And be it further ordained and enacted, That the Treasurer of the said City shall not pay any Monies in his Hands as such Treasurer otherwise than upon an Order in Writing of the Council of the said City, signed by Three or more Members of the said Council, and countersigned by the Clerk of the City, or on the Order in Writing of a Court of Justice or Magistrate authorized by Law to make such Order.

And

And be it further ordained and enacted, That the Clerk, Treasurer, and other Officers of the said City, appointed by the Council as aforesaid, shall respectively, at such Times during their Continuance in Office, and within Three Months after they shall respectively cease to be in Office, and in such Manner as the said Council shall direct, deliver to the said Council, or to such Person as they shall authorize to receive the same, a true Account in Writing of all Matters committed to their Charge by virtue or in pursuance of this Ordinance, and also of all Monies which shall have been by them respectively received by virtue or for the Purposes of this Ordinance, and how much thereof shall have been paid and disbursed, and for what Purposes, together with proper Vouchers for such Payments; and every such Officer shall pay all such Monies as shall remain due from him to the Treasurer for the Time being, or to such Person as the said Council shall authorize to receive the same; and if any such Officer shall refuse or wilfully neglect to deliver such Account, or the Vouchers relating to the same, or to make Payment as aforesaid, or shall refuse or wilfully neglect to deliver to the said Council, or to such Person as they shall authorize to receive the same, within Three Days after being thereunto required by the said Council, all Books, Documents, Papers, and Writings in his Custody or Power, as such Officer as aforesaid, then and in every such Case, on Complaint made on behalf of the said Council, by such Person as they shall authorize for that Purpose, of any such Refusal or wilful Neglect as aforesaid, to any Justice of the Peace for the District or County wherein such Officer shall reside or be, such Justice of the Peace shall be and is hereby authorized and required to issue a Warrant under his Hand and Seal for bringing any such Officer before any Two Justices of the Peace for such District or County; and upon the said Officer not appearing, or not being found, it shall be lawful for the said Justices to hear and determine the Matter in a summary Manner; and if it shall appear to such Justices that any Monies remain due from such Officer, such Justices may and they are hereby authorized and required, on Nonpayment thereof, by Warrant under their Hands and Seals, to cause such Monies to be levied by Distress and Sale of the Goods and Chattels of such Officer, and if sufficient Goods and Chattels shall not be found to satisfy the said Monies and the Charges of the Distress, or if it shall appear to such Justices that such Officer has refused or wilfully neglected to deliver such Account, or the Vouchers relating thereto, or that any Books, Documents, Papers, or Writings which were or are in the Custody or Power of such Officer in his official Capacity have not been delivered as aforesaid, or are wilfully withheld, then and in every such Case such Justices shall and they are hereby required to commit such Offender to the Common Gaol or House of Correction for the District or County where such Officer shall reside or be, there to remain, without Bail, until he shall have paid such Monies as aforesaid, or shall have made Satisfaction to the said Council, or until he shall have delivered a true Account as aforesaid, together with such Vouchers as aforesaid, or until he shall have delivered up such Books, Documents, Papers, and Writings, or have given Satisfaction in respect thereof to the said Council: Provided always, that no Person so committed shall be detained in Prison for Want of sufficient Distress only for a longer Space of Time than Three Calendar Months; provided also, that nothing in this Ordinance contained shall prevent or abridge any Remedy by Action against any such Officer so offending as aforesaid, or against any Surety for any such Officer, but the Remedy afforded by this Ordinance and the Remedy by Action shall not be exercised for the same Cause.

And be it further ordained and enacted, That the Treasurer of the said City shall, in Books to be kept for that Purpose, enter true Accounts of all Sums of Money by him received and paid as such Treasurer, and of the several Matters for which such Sums shall have been received and paid; and the Books containing the said Accounts shall at all seasonable Times be open to the Inspection of any of the Aldermen or Councillors of the said City; and all the Accounts of the said Treasurer, with all Vouchers and Papers relating thereto, shall, in the Months of May and November in every Year, be submitted by such Treasurer to the Auditors elected for the said City as aforesaid, and to such Number of the said Council as the Mayor of the said City shall name, on the First Day of May in every Year, or, in case of any extraordinary Vacancy of Office, within Ten Days next after such Vacancy, for the Purpose of being examined and audited from the First Day of November in the Year preceding

No. 148.

Incorporating the City and Town of Quebec.

to the First Day of May, and from the First Day of May to the First Day of November, in the Year in which the said Auditors shall have been elected and named; and if the said Accounts shall be found to be correct, the Auditors shall certify the same to be so; and after the said Accounts shall have been so examined and audited in the Month of November in every Year, the Treasurer shall make out in Writing and cause to be printed a full Abstract of his Accounts for the Year, and a Copy thereof shall be open to the Inspection of all the Rate-payers of the said City, and Copies thereof shall be delivered to all Rate-payers of the said City applying for the same, on Payment of a reasonable Price for each Copy.

And be it further ordained and enacted, That in all Meetings of the said Council to be held in pursuance of this Ordinance a Majority of the Members present at such Meetings shall determine all Questions and Matters submitted to or under the Consideration of the said Council, provided that the Number present at the said Meetings be not less than One Third Part of the entire Number of Councillors composing the said Council; and at all such Meetings the Mayor of the said City, if present, shall preside, and in case of his Absence, such Alderman, or in the Absence of all the Aldermen, such Councillor as the Members of the Council so assembled shall choose to be Chairman of any such Meetings, shall preside at the same; and in case of an Equality of Votes the Mayor, or Chairman presiding, shall have a casting Vote.

And be it further ordained and enacted, That there shall be in each Year Four Quarterly Meetings of the said Council, which shall be held on the following Days; that is to say, on the Second Monday of the Months of December, March, June, and September in each and every Year, and the said Meetings shall not at any One Time be held for a longer Period than Three successive Days, in which Sunday shall not be included.

And be it further ordained and enacted, That it shall be lawful for the Mayor of the said City to call a Special Meeting of the said Council when and as often as he may deem it proper, after Three Days previous Notice thereof; and in case the Mayor should refuse to call any such Meeting after a Requisition for that Purpose, signed by Five or more Members of the said Council, it shall be lawful for such Five or more Members to call a Meeting of the said Council, after Three Days previous Notice, which Notice shall specify the Business for which the proposed Meeting is to be held, and shall be signed by the said Members; and in all Cases of such Special Meetings as aforesaid a Summons to attend the Council, specifying the Business to be transacted at such Meetings, and signed by the City Clerk, shall be left at the usual Place of Abode of every Member of the said Council, Three Days at least before such Meeting.

And be it further ordained and enacted, That Minutes of the Proceedings of all Meetings to be held as aforesaid shall be drawn up and fairly entered in a Book to be kept for that Purpose, and shall be signed by the Mayor, Alderman, or Councillor presiding at such Meeting; and the said Minutes shall be open to the Inspection of all Persons qualified to vote at the Election of Councillors, on Payment of a Fee of One Shilling, and the said Meetings shall be held with open Doors.

And be it further ordained and enacted, That it shall be lawful for the said Council to appoint, from and out of the Members composing such Council, such and so many Committees, consisting of such Number of Persons as they may think fit, for the better Transaction of the Business before such Council, and for the Discharge of such Duties within the Scope of their Powers as may by the said Council be prescribed, but subject in all Things to the Approval, Authority, and Control of the said Council.

And be it further ordained and enacted, That it shall be lawful for the said Council of the said City, at a Meeting or Meetings of the said Council composed of not less than Two Thirds of the Members thereof, to make such Bye Laws as to them shall seem meet for the good Rule, Peace, Welfare, and Government of the said City, and for raising, assessing, and applying such Monies as may be required for the Execution of the Powers with which the said Council is hereby invested, and for maintaining in the said City a good and efficient System of Police, in such Manner as may by Law be provided, either by imposing Tolls and Rates to be paid in respect of any Public Works within the said City, or by means of a Rate or Assessment to be assessed and levied

levied on Real or Personal Property, or both, within the said City or upon the Owners or Occupiers thereof, in respect of such Property, provided that such Assessment shall not in any One Year exceed One Shilling in the Pound on the assessed Value of the Property lying and being within the said City, or by imposing a Duty or Duties on Sales by Auction, not in any Case to exceed One per Cent. on such Sales, to be paid by the Purchaser, and on the Keepers of Houses of public Entertainment, and the Retailers of Spirituous Liquors, and on Hawkers, Pedlars, and Petty Chapmen within the said City; and to impose by such Bye Laws such Fines not exceeding Five Pounds, and such Imprisonment not exceeding Thirty Days, as they may deem proper for enforcing the same.

Provided always, and be it further ordained and enacted, That a Copy of every Bye Law to be made by virtue of this Ordinance shall be transmitted, with all convenient Speed after the making thereof, to the Governor of this Province for the Time being, and it shall be lawful for the said Governor, by and with the Advice of the Executive Council of this Province, within Three Months from and after the Receipt of such Copy, to disallow any such Bye Law, and such Disallowance shall without Delay be signified to the Mayor of the said City, and thenceforward such Bye Law shall be void and of no Effect: Provided also, that all Bye Laws repugnant to any Law of the Land, or to any Act of the Legislature of this Province, shall be null and void.

And be it further ordained and enacted, That all and every the Powers and Authorities which in and by any of the Acts of the Legislature of this Province, and in and by any Ordinance or Law in force in this Province, have been and are vested in the Court of Quarter Sessions of the Peace for the District of Quebec, and in any Special Sessions of the Peace for the same District, and in the Justices of the Peace for the said District of Quebec, or any of them, for, touching, or concerning the laying out, making, erecting, keeping in repair, and regulating the Highways, Bridges, Streets, Squares, Lanes, Causeways, Pavements, Drains, Ditches, Embankments, Watercourses, Sewers, Market Houses and Weigh-houses, and other public Erections and Works, in the said City of Quebec, or any of them; and for, touching, or concerning the dividing of the said City into Divisions, and the Appointment of Overseers of Highways, Streets, and Bridges in the said City; and for, touching, and concerning the laying, imposing, raising, levying, collecting, applying, paying, and accounting for a Rate or Rates of Assessment upon Occupiers of Lands, Lots, Houses, and Buildings, in proportion to the annual Value thereof, within the said City of Quebec; and for, touching, or concerning the making of Rules and Regulations of Police within the said City of Quebec; and for, touching, and concerning the making of Rules and Regulations to restrain, rule, and govern the Apprentices, Domestics, hired Servants, and Journeymen, and for the Conduct of Masters and Mistresses towards their said Apprentices, Domestics, hired Servants, and Journeymen, within the said City of Quebec; and for and touching the raising, receiving, Appropriation, and Application of any public Monies, by Assessment or otherwise, within the said City; and for, touching, or concerning the Improvement, Cleanliness, Health, internal Economy, and local Government of the said City of Quebec, shall, from and after the passing of this Ordinance, become and be vested in and exercised by the said Council of the said City of Quebec.

Provided always, and be it further ordained and enacted, That all and every the Rules, Orders, Regulations, and Acts of Authority, for, touching, or concerning the several Matters in the next preceding Section of this Ordinance, which may be in force at the Time of the passing of this Ordinance, shall continue, be, and remain in full force and virtue until the same shall be rescinded, repealed, or altered by the said Council of the said City of Quebec, under the Authority of this Ordinance, or by other competent legal Authority.

And be it further ordained and enacted, That all and every the public Monies raised by Assessment or otherwise in the said City of Quebec which at the Time of the passing of this Ordinance shall be in the Hands of the Road Treasurer of the said City, and all Monies which shall be due or payable on account of any Assessment or Composition for Statute Labour, or for the Use of the said City, and all Monies appropriated by Law for the watching and lighting of the said City, and all Real and Personal Property within the said City now subject to the Management, Control, or Authority of the Justices of the Peace for the said District of Quebec, or any of them, and all and every

No. 145.

Incorporating the City and Town of Quebec.

the Books of Assessment, Receipts, or Accounts of the Treasurers and Road Treasurers of the said City, Plans, Titles, Documents, and Papers relating to the said City, and of a public Nature, shall, from and after the passing of this Ordinance, become and be subject to the Power, Authority, Order, and Control of the said Council of the said City, and shall be paid and delivered up by the Officers and Persons in whose Custody or Possession they may now be, to such Person or Persons, and at such Time and Times, and in such Manner, as by the said Council may be ordered and directed.

Provided always, and be it further ordained and enacted, That all and every the public Monies raised or to be raised by Assessment as aforesaid, and all Monies due and payable as aforesaid, as well as all other Monies hereafter to be raised by and under the Authority of this Ordinance, shall be charged and chargeable with the Debts which have been legally contracted by the late Corporation of the City of Quebec, and remain due and unpaid, and with the Debts, Sum and Sums of Money, which have been or may be incurred and become payable from and out of the public Monies raised or to be raised for public Uses within and for the said City and Town of Quebec, or either of them, under the Provisions of Law in this Behalf made, or by or under the Authority of the Justices of the Peace for the District of Quebec, or any of them; and all such Debts and Sums of Money shall be payable from and out of the Monies aforesaid.

And be it further ordained and enacted, That it shall not be lawful for the said Council of the said City of Quebec to borrow on the Credit of the said City at one Time any Sum or Sums of Money exceeding the aggregate Amount of the Revenues of the said City for Five Years; nor shall any Sum or Sums of Money be so borrowed while the said City shall be in debt to such aggregate Amount, unless the said Council shall be authorized in this Behalf by an Act of the Legislature of this Province.

And be it further ordained and enacted, That so much of a certain Act passed in the Thirty-sixth Year of the Reign of His late Majesty King George the Third, intituled "An Act for making, repairing, and altering the Highways and Bridges within this Province, and for other Purposes," as provides for the Appointment of Assessors, and of a Road Treasurer for the said City of Quebec, and also a certain Act of the Legislature of this Province passed in the Ninth Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to increase the Number of Assessors for the Cities of Quebec and Montreal," and also so much of a certain other Act of the Legislature of this Province passed in the Thirty-ninth Year of the Reign of His late Majesty King George the Third, intituled "An Act to amend an Act passed in the Thirty-sixth Year of His present Majesty's Reign, intituled 'An Act for making, repairing, and altering the Highways and Bridges within this Province, and for other Purposes,'" as provides for the Appointment of a Surveyor of the Highways, Streets, Lanes, and Bridges in the said City of Quebec, by the Governor, Lieutenant Governor, or Person administering the Government of this Province, shall, from and after the passing of this Ordinance, be and the same are hereby repealed, and all and every the Powers, Authority, and Duties which in and by the said Acts and any other Act or Acts of the Legislature of this Province were and are vested in and imposed on the said Assessors appointed or to be appointed in pursuance of the Provisions of the said Act passed in the Thirty-sixth Year aforesaid, and the Power and Duties of the said Road Treasurer, and of the said Surveyor of Highways, Streets, and Bridges in the said City, appointed or that might be appointed under the said Act passed in the Thirty-sixth Year aforesaid, shall, from and after the passing of this Ordinance, become and be vested in and imposed on the Assessors to be elected and appointed in pursuance of this Ordinance, and on the Treasurer of the said City, and on the Surveyor of Highways for the said City of Quebec, to be appointed under the same Authority respectively.

Provided always, and be it further ordained and enacted, That nothing in this Ordinance contained shall extend or be construed to extend to the Repeal of any Law, or the Provisions of any Law, conferring Power or Authority on the Court of Quarter Sessions for the District of Quebec, or on the Justices of the Peace for the said District, or any of them, touching or in respect of all or any of those Parts of the Parish of Quebec not comprised in the City and Town of Quebec, and that all such Power and Authority shall continue to

subsist

No. 148.

Incorporating the City and Town of Quebec.

subsist in respect of such Parts of the said Parish and the Inhabitants thereof as if this Ordinance had not been passed.

And be it further ordained and enacted, That a certain Ordinance made and passed by the Governor of this Province, by and with the Advice and Consent of the Special Council for the Affairs thereof, in the Second Year of Her Majesty's Reign, intituled "An Ordinance to suspend for a limited Time certain Parts of Two Ordinances therein mentioned as far as the same relate to the City of Quebec, and to establish a Society therein for preventing Accidents by Fire," and all and singular the Provisions therein contained, and also so much of a certain Ordinance made and passed by the Captain General and Governor in Chief of the late Province of Quebec, by and with the Advice and Consent of the Legislative Council of the said Province, in the Seventeenth Year of the Reign of His late Majesty King George the Third, intituled "An Ordinance for preventing Accidents by Fire," as vests in the Governor, Lieutenant Governor, or other the Commander in Chief of the said Province, the Power of appointing an Overseer to prevent Accidents by Fire in the said City of Quebec, shall, at the Expiration of Nine Calendar Months from and after the passing of this Ordinance, be and remain repealed; and thenceforward it shall be lawful for the said Council of the said City of Quebec, from Time to Time and as Occasion may require, to appoint a fit and proper Person, not being a Member of the said Council, to be an Overseer to prevent Accidents by Fire in the said City of Quebec, and at their Pleasure to revoke such Appointment, and appoint another Person to be such Overseer as aforesaid; and all and every the Powers, Authority, and Duties which in and by the said last-mentioned Ordinance, and any other Ordinance or Law in force in this Province, were and are vested in and imposed on the Office of Overseer, to prevent Accidents by Fire in the said City of Quebec, shall become and be vested in and imposed on such Overseer to be appointed by the said Council in pursuance of this Ordinance as aforesaid.

And be it further ordained and enacted, That every Officer who may be in or entitled to any Office at the Time of the passing of this Ordinance under Appointments by the Executive Government of this Province, to which Office by the Provision herein contained the Power of Appointment is conferred on the Council of the said City, and which Office shall be abolished, or who shall not be continued in Office after the passing of this Ordinance, shall be entitled to a reasonable Compensation, to be assessed by the said Council, and paid out of the Funds of the said City, for the Salary, Fees, and Emoluments of the Office which he shall so cease to hold; and in case the Person claiming such Compensation should think himself aggrieved by the Determination of the said Council on his Claim, it shall be lawful for him to apply for and obtain a Revision of such Determination by the Governor of this Province in Council, who shall thereupon make such Order in Council as to him shall seem just, which Order shall be binding on the Parties respectively.

Provided always, and be it further ordained and enacted, That nothing in this Ordinance shall extend to revoke, alter, or abridge, or in any Manner affect, the Power and Authority now by Law vested or which may hereafter be vested in the Master, Deputy Master, and Wardens of the Trinity House of Quebec, in respect of the Port and Harbour of Quebec.

Provided also, and be it further ordained and enacted, That nothing in this Ordinance contained shall in any Manner derogate from or affect, or be construed to derogate from or affect, the Rights of Her Majesty, Her Heirs or Successors, except in so far as the same may be specially affected by the Provisions of this Ordinance.

And be it further ordained and enacted, That the Words "Governor of this Province," wherever they occur in the said Enactments, are to be understood as meaning and comprehending the Governor or Person authorized to execute the Commission of Governor within this Province for the Time being.

And be it further ordained and enacted, That this Ordinance, and the Provisions herein contained, shall not cease or expire on the First Day of November which will be in the Year of our Lord One thousand eight hundred and forty-two, but shall be and remain a permanent Law, and in full Force, until the same shall be repealed or altered by competent Legislative Authority.

No. 148.

Incorporating the City and Town of Quebec.

And be it further ordained and enacted, That this Ordinance shall be held and taken to be a Public Act, and shall be judicially taken notice of and have the Effect of a Public Act without being specially pleaded.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-fifth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-fifth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 149.

No. 149.

Incorporating the City and Town of Montreal.

An Ordinance to incorporate the City and Town of Montreal.

[Passed 25th June 1840.]

Whereas, for the better Protection, Care, and Management of the local Interests of the Inhabitants of the City and Town of Montreal, and for the Municipal Government and the Improvement thereof, it is expedient that the said City and Town be incorporated; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament, passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Inhabitants of the said City and Town of Montreal, and their Successors Inhabitants of the same, shall be and they are hereby constituted a Body Corporate and Politic, in Fact and in Name, by and under the Name, Style, and Title of "The Mayor, Aldermen, and Citizens of the City of Montreal," and as such shall have perpetual Succession, and a Common Seal, with Power to break, renew, change, and alter the same at pleasure, and shall be capable of suing and being sued, and of impleading and being impleaded, in all Courts of Law and Equity, and other Places, in all Manner of Actions, Causes, and Matters whatsoever, and of accepting, taking, purchasing, and holding Goods and Chattels, Lands and Tenements, real and personal, moveable and immoveable Estates, and of granting, selling, alienating, assigning, demising, and conveying the same, and of entering into and becoming a Party to Contracts, and of granting and accepting any Bills, Bonds, Judgments, or other Instruments or Securities, for the Payment or securing of the Payment of any Money borrowed or lent, or for the Performance or securing the Performance of any other Duty, Matter, or Thing whatsoever.

And

No. 149.

Incorporating the City and Town of Montreal.

And be it further ordained and enacted, That the Tract of Land which in and by a certain Proclamation of his Excellency Sir Alured Clarke, Lieutenant Governor of the Province of Lower Canada, issued under the Great Seal of the said Province, and bearing Date the Seventh Day of May in the Year of our Lord One thousand seven hundred and ninety-one, was and is described as being comprehended within the City and Town of Montreal, and which it was therein declared should be thenceforward called by that Name, shall from and after the passing of this Ordinance constitute and be and be called the City of Montreal.

And be it further ordained and enacted, That for the Purposes of this Ordinance the said City of Montreal shall be and is hereby divided into Six Wards, to be called respectively East Ward, Centre Ward, West Ward, Queen's Ward, Saint Lawrence Ward, and Saint Mary's Ward.

And be it further ordained and enacted, That the said Wards of the City of Montreal shall be divided, bounded, and limited as follows; that is to say, the East Ward of the said City, on the South-east, by that Part of the River Saint Lawrence opposite to and extending from Lacroix Street to the Extremity of Walker Lane; on the South-west by the Middle of Walker Lane and Saint Gabriel Street to Craig Street; on the North-west by the Middle of Craig Street from Saint Gabriel Street aforesaid to Sanguinet Street, and continuing down Sanguinet Street until it meet Saint Louis Street, from thence along the Middle of the said Saint Louis Street to where the said Saint Louis Street meets Lacroix Street aforesaid; lastly, on the North-east by the Centre of Lacroix Street from Saint Louis Street aforesaid to the River or Point of Departure. The Centre Ward of the said City shall be divided, bounded, and limited as follows; that is to say, on the South-east by that Part of the River Saint Lawrence opposite to and extending from the Middle of Walker Lane to the Middle of the Extremity of Callières Street; on the South-west by the Middle of said Callières Street, and crossing the Interval between said Callières Street and François Xavier Street, by the Middle of said François Xavier Street to Craig Street; on the North-west by the Middle of Craig Street to Gabriel Street; and lastly, on the North-east by the Middle of the said Gabriel Street and Walker Lane to the River or Point of Departure. The West Ward of the said City shall be divided, bounded, and limited as follows; that is to say, on the South-east by that Part of the River Saint Lawrence opposite to and extending from the Middle of the Extremity of Callières Street to the Middle of the Extremity of Grey Nuns Street; on the South-west by the Middle of the said Grey Nuns Street to the Middle of William Street, to the Bottom of M'Gill Street, continuing on the South-west by the Middle of M'Gill Street, and by the Middle of Commissioners Square, to Fortification or Glacis Lane, thence Westerly to where Fortification or Glacis Lane joins the Middle of Saint Radegonde Street, and thence by the Middle of Saint Radegonde Street to Craig Street; on the North-west by the Middle of Craig Street as far as Saint François Xavier Street; and lastly, on the North-east by the Middle of Saint François Xavier Street and Callières Street to the River or Point of Departure. The Queen's Ward shall be bounded as follows; the South-west Side of Grey Nuns Street, commencing at the River Saint Lawrence, and continuing to William Street, the North-west Side of William Street, thence to M'Gill Street, the South-west Side of M'Gill Street, thence to Commissioners Square, thence the South-east and South-west Sides of Commissioners Square, and the South-west Side of Saint Radegonde Street, to Lagauchetière Street, thence the North-west Side of Lagauchetière Street to Alexander Street, thence the South-west Side of Alexander Street to Saint Catherine Street, thence the South-east Side of Saint Catherine Street to City Councillors Street, thence the South-west Side of City Councillors Street to Sherbrooke Street, thence the North-west Side of Sherbrooke Street to Durocher Street, thence the South-west Side of Durocher Street and the Extension of the same to the City Boundary Line, thence along the same as far as it may extend towards the South-west, thence along the said Line in a South-east Direction to the River Saint Lawrence, and thence to the Place of Beginning. The Saint Lawrence Ward shall be bounded as follows; the North-west Side of Craig Street, commencing at Sanguinet Street, and continuing to Radegonde Street, thence the North-east Side of Radegonde Street to

No. 119.

Incorporating the City and Town of Montreal.

Lagauchetière Street, thence the South-east Side of Lagauchetière Street to Alexander Street, thence the North-east Side of Alexander Street to Saint Catherine Street, thence the Noth-west Side of Saint Catherine Street to City Councillors Street, thence the North-east Side of City Councillors Street to Sherbrooke Street, thence the South-east Side of Sherbrooke Street to Durocher Street, thence the North-east Side of Durocher Street to the City Boundary Line, thence along the said Line towards the North-east until the same joins the Extension of Sanguinet Street, thence the South-west Side of Sanguinet Street to Craig Street or the Place of Beginning. The Saint Mary's Ward shall be bounded as follows; all such Boundaries herein-after mentioned to be comprised within the said Ward; namely, the North-east Side of Lacroix Street, commencing at the River Saint Lawrence, and continuing to Saint Louis Street, from thence the North-west Side of Saint Louis Street to Sanguinet Street, from thence the North-east Side of Sanguinet Street with the Extension thereof to the City Boundary, thence along the City Boundary Line so far as the same may be found to extend towards the North-east, thence continuing the said Line in a South-east Direction until the same shall reach the River Saint Lawrence, and thence along the said River to the Place of Beginning.

And be it further ordained and enacted, That there shall be appointed and elected in the Manner herein-after mentioned One fit Person who shall be and be called the Mayor of the said City of Montreal, and a certain Number of fit Persons who shall be and be called Aldermen of the said City, and a certain Number of other fit Persons who shall be and be called Councillors of the said City, and such Mayor, Aldermen, and Councillors for the Time being shall be and be called the Council of the said City.

And be it further ordained and enacted, That it shall be lawful for the Governor of this Province for the Time being, by Letters Patent under the Great Seal of this Province, to nominate and constitute a fit and proper Person to be the first Mayor of the said City of Montreal, who shall be and continue in that Office until the First Day of December which will be in the Year of our Lord One thousand eight hundred and forty-two, and from that Time until another Person into the said Office shall be elected and sworn, according to the Provisions herein-after expressed and declared; and also, by the same Letters Patent, to nominate and constitute Six fit and proper Persons to be the first Aldermen of the said City, who shall be and continue in that Office until the Day and Year last mentioned, and from that Time until other fit and proper Persons shall be elected and sworn into the said Office in their Places, according to the Provisions herein-after expressed; and likewise, by the same Letters Patent, to nominate and constitute Twelve fit and proper Persons to be the first Councillors of the said City of Montreal aforesaid, who shall be and continue in that Office until the Day and Year last mentioned, and from that Time until other fit and proper Persons shall into the said Office be elected and sworn, according to the Provisions herein-after expressed.

And be it further ordained and enacted, That in case a Vacancy or Vacancies should occur in the said Offices of Mayor, Alderman, and Councillor, or any of them, at any Time previous to the said First Day of December which shall be in the Year of our Lord One thousand eight hundred and forty-two, it shall be lawful for the said Council of the said City of Montreal to elect a fit Person or Persons to fill up any such Vacancy or Vacancies of the said Offices of Mayor, Alderman, or Councillor, who shall be and continue in such Office or Offices until the Day and Year last aforesaid, and from that Time until another Person or Persons shall be elected and sworn into such Office or Offices, according to the Provisions herein-after expressed.

And be it further ordained and enacted, That it shall be lawful for the said Council of the said City, from Time to Time and at such Times as they may deem fit, previous to the said First Day of December in the Year of our Lord One thousand eight hundred and forty-two, to appoint One Assessor for each of the said Wards of the said City respectively, who shall continue in Office for such Period of Time as by the said Council shall be fixed and limited, not extending beyond the Day and Year last mentioned; and it shall also be lawful for the said Council to prescribe the Duties of such Assessors.

And

No. 149.

Incorporating the City and Town of Montreal.

And be it further ordained and enacted, That no Person shall be capable of being appointed or elected an Alderman of the said City of Montreal unless he shall have been a resident Householder within the said City for One Year next before such Appointment or Election, and unless he shall be seised or possessed to his own Use of Real or Personal Estate, or both, within the said City, after Payment or Deduction of his just Debts, of the Value of One thousand Pounds Currency.

And be it further ordained and enacted, That no Person shall be capable of being appointed or elected a Councillor of the said City of Montreal unless he shall have been a resident Householder within the said City for One Year next before such Appointment or Election, and unless he shall be seised or possessed to his own Use of Real or Personal Estate, or both, within the said City, after Payment of his just Debts, of the Value of Five hundred Pounds Currency.

And be it further ordained and enacted, That the Councillors of the said City of Montreal, at the Periods herein-after appointed, shall be chosen by the Majority of Votes of such Persons, being inhabitant Householders within the Ward for which such Election shall be had, as shall severally be possessed, at the Time of the Election, of a Dwelling House within the said Ward held by them respectively in Freehold, or for a Term of Years, or for a Term not less than One Year, and who shall have been resident within the said City during One Year or more, previous to any such Election, and who shall have resided within the particular Ward for which such Election shall be had not less than Three Months next before such Election; and Part of a Dwelling House in which an Inhabitant shall reside as a Householder, and not as a Boarder or Lodger, and having an outer Door by which a separate Communication with the Street may be afforded, shall be considered a Dwelling House within the Meaning of this Enactment: Provided always, that when and so soon as any Rate or Rates, Assessment or Assessments, shall be laid by and under the Authority of this Ordinance, no such inhabitant Householder shall be entitled to vote at the Election of Councillors as aforesaid unless he shall have been rated to and in respect of the Rates or Assessments laid as aforesaid: And provided also, that after any such Rate or Assessment shall have been laid as aforesaid, every Male Person, though not a Householder, who shall have been resident in the said City during Three Years next preceding any such Election of Councillors, and who shall have occupied any Warehouse, Counting-house, or Shop, within any of the said Wards of the said City, during Three Months next preceding such Election, and shall have been rated for not less than One Year in respect of such Premises for such Rate or Assessment as aforesaid, shall be entitled to vote at the Election of Councillors to be had in the Ward in which such Premises shall be situated: And provided also, that no such inhabitant Householder, or Occupier of a Warehouse, Counting-house, or Shop, within the said City, shall be entitled to vote at any such Election of Councillors unless he shall have paid the Amount of all Rates and Assessments within the said City of Montreal that may have been due and payable by him before the holding of any such Election.

And be it further ordained and enacted, That no Person shall be capable of being appointed or elected Mayor, Alderman, or Councillor of the said City of Montreal, or of voting at any Election of City Officers, who shall not be a natural-born or naturalized Subject of Her Majesty, and of the full Age of Twenty-one Years; nor shall any Person be capable of voting or of being elected at any such Election who shall have been attainted for Treason or Felony in any Court of Law within any of Her Majesty's Dominions.

And be it further ordained and enacted, That no Person being in Holy Orders, or being a Minister or Teacher of any dissenting or religious Sect or Congregation, nor any Judge or Judges, Clerk or Clerks of any Court, nor any of the ministerial Law Officers of the Crown, nor any Person accountable for the City Revenues, or receiving any pecuniary Allowance from the City for his Services, nor any Officer or Person presiding at an Election of a Councillor or Councillors while so presiding, nor any Clerk or Assistant employed by him at any such Election while so employed, shall be capable of being appointed or elected a Councillor for the said City.

And be it further ordained and enacted, That on the First Day of December which will be in the Year of our Lord One thousand eight hundred and forty-

No. 149.

Incorporating the City and Town of Montreal.

two, and on the same Day in every succeeding Year, the inhabitant Householders and Persons qualified to vote as aforesaid shall openly assemble in the several Wards aforesaid, and elect from the Persons qualified to be Councillors Three fit and proper Persons to be Councillors for each of such Wards respectively, or so many as shall be required to supply the Places of those who shall then go out of Office, and also One fit and proper Person to be Assessor for each of the said Wards respectively: Provided always, that if the Day so appointed for such Election shall in any Year happen to be Sunday or a Holiday such Election shall take place the next following Day.

And be it further ordained and enacted, That on the First Day of December in the Year of our Lord One thousand eight hundred and forty-two, and in every succeeding Year, One Third of the Number appointed as aforesaid to be the Number of Councillors for the said City of Montreal shall go out of Office, and in the Year One thousand eight hundred and forty-three those who shall go out of Office shall be the Councillors who shall have been elected under the Provisions of this Ordinance by the smallest Number of Votes in the preceding Year, and in the Year One thousand eight hundred and forty-four those who shall go out of Office shall be the Councillors who shall have been elected under the Provisions of this Ordinance in the said Year One thousand eight hundred and forty-two by the next smallest Number of Votes; and if any Two or more of the said Councillors shall have been elected by an equal Number of Votes, then it shall be determined by the Majority of the whole Council which of the said Councillors so elected shall then go out of Office; and thereafter those who shall go out of Office shall always be the Councillors who shall have been the longest Time in Office without Re-election: Provided always, that any Councillor so going out of Office shall be capable of being forthwith re-elected if then qualified as required by this Ordinance.

And be it further ordained and enacted, That the First Election of Councillors to be had as aforesaid on the First Day of December which will be in the Year of our Lord One thousand eight hundred and forty-two, and all subsequent Elections of Councillors to be had under the Provisions of this Ordinance, shall be held at convenient Places in the said several Wards of the said City, and shall respectively be held by and before such of the Aldermen or Councillors of the said City as may by the Mayor of the said City for the Time being be appointed, or, in case of Vacancy in the Office of Mayor, by the Council of the said City.

And be it further ordained and enacted, That at Elections of Councillors as aforesaid the Poll shall be opened at Nine o'Clock in the Forenoon, and shall continue open till Four o'Clock in the Afternoon of the same Day, and the Name of each Elector voting at such Election shall be written in Poll Lists to be kept at such Election by the Officer or Person holding the same; and after finally closing the Poll at any such Election the Officer or Person by whom the same shall be held shall forthwith proceed publicly to declare the Number of Votes given for each Candidate, or Person for whom Votes shall have been taken, and shall declare the Person or Persons having the Majority of Votes in his or their Favour to be duly elected Councillor or Councillors as aforesaid; and if there should be at the final closing of the Poll as aforesaid an equal Number of Votes polled for Two or more Persons to be Councillors as aforesaid, it shall be lawful for the Officer or Person holding such Election, and he is hereby required, whether otherwise qualified or not, to give a Vote for one or other of the Persons having such Equality of Votes, in order to give a Majority to one of them, and determine the Election; and the Poll Lists kept at such Elections shall, by the Officers or Persons holding the same, be delivered within Three Days after the Conclusion of every such Election to the Clerk of the City, to remain in his Office, where they shall be open to Inspection by any Elector, on the Payment of a Fee of One Shilling.

And be it further ordained and enacted, That Persons entitled to vote at the Election of Councillors as aforesaid shall vote within the particular Ward in which the Property constituting their Qualification to vote shall be situated, and not otherwise; and if any such Person shall be possessed of Property entitling him to vote in Two or more Wards he shall be entitled to vote in that Ward only in which he may reside.

And be it further ordained and enacted, That it shall be lawful for the said Council of the said City, by a Bye Law or Bye Laws to be enacted in this Behalf,

Behalf, to make Provision for the making of Lists, and a Registration of all Persons qualified to vote at Elections of Councillors and other City Officers in the said City, whereby the Right to vote at such Elections may be determined; and until such Provision shall have been made by such Bye Law or Bye Laws every Person desirous of voting at any Election of Councillors as aforesaid shall, before he be permitted to vote, if required by the Officer or Person holding any such Election, or by any Person qualified to vote at the same, make Oath to the Particulars of his Qualification, and that he has not before voted at such Election; which Oath the Officer or Person holding such Election is hereby authorized and required to administer.

And be it further ordained and enacted, That after Provision shall have been made by a Bye Law or Bye Laws as aforesaid for the making of Lists or a Registration of Persons qualified to vote, whereby the Right in Individuals to vote may be determined as aforesaid, every Person desirous of voting at any Election of a Councillor or Councillors as aforesaid shall, before he be permitted to vote, produce a Certificate, under the Hand of the proper Officer, of his Qualification, pursuant to any such Bye Law, and shall, if required by the Officer or Person holding such Election, or by any Person qualified to vote at the same, take the following Oath, which the said Officer or Person holding such Election is hereby authorized and required to administer; (that is to say,)

'I do swear, That I am the Person described in the Certificate that I now 'produce, and that I have not before voted at this Election.

'So help me GOD.'

And be it further ordained and enacted, That if any Person shall knowingly swear falsely as to any of the Particulars of his alleged Qualification, in pursuance of the preceding Nineteenth Section of this Ordinance, or if he shall knowingly swear falsely in taking the Oath prescribed by the preceding Twentieth Section of this Ordinance, he shall be deemed guilty of wilful and corrupt Perjury, and suffer the Pains and Penalties provided by Law in Cases of wilful and corrupt Perjury.

And be it further ordained and enacted, That if at any Election of a Councillor or Councillors as aforesaid any Person shall be elected a Councillor for more than One Ward of the said City, he shall, within Three Days after Notice thereof, make his Option, or, on his Default, the Mayor of the said City shall declare for which One of the said Wards such Person shall serve as Councillor, and thereupon such Person shall be held to have been elected in that Ward only, and in no other.

And be it further ordained and enacted, That on the First Day of December which will be in the Year of our Lord One thousand eight hundred and forty-two the Councillors who shall be first elected under the Provisions of this Ordinance, and on the Ninth Day of December in the Year One thousand eight hundred and forty-five, and in every succeeding Third Year, the said Council of the said City for the Time being, shall elect from the Councillors composing the said Council Six Persons to be Aldermen of the said City, or so many as shall be required to supply the Places of those who shall go out of Office according to the Provisions herein-after contained; and that on the Ninth Day of December in the Year One thousand eight hundred and forty-five, and in every succeeding Third Year, One Half of the Number appointed as aforesaid to be the entire Number of Aldermen of the said City shall go out of Office; and the Councillors composing the said Council, immediately after the First Election of Aldermen to be had as aforesaid, shall designate the Aldermen who shall go out of Office in the Year One thousand eight hundred and forty-five, and thereafter those who shall go out of Office shall always be those who have been Aldermen for the longest Time without Re-election: Provided always, that any Alderman so going out of Office may be forthwith re-elected if then qualified as required by this Ordinance; and provided also, that the Aldermen so going out of Office shall not be entitled to vote in the Election of the Aldermen who are to supply their Places; and provided also, that if the Ninth Day of December in any Year in which Elections are to be had as aforesaid shall happen to be Sunday or a Holiday, such Elections respectively shall be had on the next following Day.

No. 149.

Incorporating the City and Town of Montreal.

And be it further ordained and enacted, That the Mayor and Aldermen to be elected according to the Provisions of this Ordinance shall, during their respective Offices, continue to be Members of the Council of the said City, notwithstanding the Provisions herein contained, by which the Duration of the Office of Councillor is limited to a certain Time.

And be it further ordained and enacted, That on the Ninth Day of December in the Year One thousand eight hundred and forty-two, and in every succeeding Year, the Members of the said Council shall elect from Persons qualified to be Councillors, by a Majority of Votes, Two Persons who shall be and be called Auditors of the said City of Montreal; and every such Auditor shall continue in Office until the Ninth Day of December in the Year following his Election: Provided always, that in every such Election of Auditors no Member of the said Council shall vote for more than One Person to be such Auditor as aforesaid; and provided also, that no Member of the said Council, nor the Clerk nor the Mayor of the said City, shall be capable of being elected an Auditor as aforesaid.

And be it further ordained and enacted, That if any extraordinary Vacancy shall occur in the Office of Councillor of the said City after the First Election of Councillors to be had as aforesaid, the Inhabitant Householders, and Persons qualified to vote, shall, on a Day to be fixed by the Mayor, (such Day not being later than Ten Days after such Vacancy,) elect from the Persons qualified to be Councillors another Person duly qualified to supply such Vacancy; and such Election shall be held, and the Voting and other Proceedings be conducted, in the same Manner, and subject to the same Provisions, as are herein-before enacted with respect to the Elections of Councillors to be had as aforesaid; and every Person so elected shall hold such Office until the Period at which the Person in the Room of whom he shall have been chosen would in the ordinary Course have gone out of Office, when he shall go out of Office, but shall be capable of immediate Re-election, if then qualified as required by this Ordinance: Provided always, that no Election shall take place to supply any such extraordinary Vacancy unless the Number of Councillors remaining after such Vacancy shall not exceed Two Thirds of the whole Number composing the Council.

And be it further ordained and enacted, That on the Ninth Day of December in the Year of our Lord One thousand eight hundred and forty-two, and on the same Day in every succeeding Year, the said Council of the said City shall elect, out of the Aldermen and Councillors of the said City, a fit Person to be Mayor of the said City, who shall continue in Office for one whole Year; and in case a Vacancy shall occur in the said Office of Mayor by reason of any Person who shall have been elected to that Office not accepting the same, or by reason of his dying or ceasing to hold the said Office, the said Council of the said City shall, within Ten Days after such Vacancy, elect out of the Aldermen and Councillors of the said City another fit Person to be Mayor thereof for the Remainder of the Period for which the Mayor whose Place is to be supplied was to serve.

And be it further ordained and enacted, That no Person appointed or elected to be Mayor, Alderman, Councillor, Auditor, or Assessor as aforesaid shall be capable of acting as such, except in administering the Oaths herein-after mentioned, until he shall have made and subscribed, before any Two or more of such Aldermen or Councillors (who are hereby respectively authorized and required to administer the said Oaths to each other), the Oath of Allegiance to Her Majesty, Her Heirs and Successors, and also an Oath in the Words or to the Effect following; (that is to say,)

'I *A. B.*, having been appointed [*or* elected, *as the Case may be*,] Mayor [*or* 'Alderman, Councillor, Auditor, *or* Assessor, *as the Case may be*,] for the 'City of Montreal, do sincerely and solemnly swear, That I will faithfully 'fulfil the Duties of the said Office according to the best of my Judgment 'and Ability, and that I am seised or possessed for my own Use of Real or 'Personal Estate, or both, in the said City of Montreal, after the Payment or 'Deduction of my just Debts, of the Value of Pounds, and 'that I have not fraudulently or collusively obtained the same, or a Title to 'the same, for the Purpose of qualifying myself to be appointed [*or* elected, '*as the Case may be*] Mayor [Alderman, Councillor, Auditor, *or* Assessor, '*as the Case may be*,] as aforesaid. So help me God.'

And

And be it further ordained and enacted, That every Person, duly qualified, who shall be appointed or elected to the Office of Alderman, Councillor, Auditor, or Assessor of the said City, and every Person, Alderman, or Councillor, who shall be appointed or elected to the Office of Mayor of the said City, shall accept the Office to which he shall have been so appointed or elected, or shall, in default thereof, pay to the Treasurer of the said City, to and for the Use of the said City, a Fine as follows; that is to say, for Non-acceptance of the Office of Alderman or Councillor a Fine of Fifty Pounds, for Non-acceptance of the Office of Auditor or Assessor a Fine of Fifty Pounds, and for Non-acceptance of the Office of Mayor a Fine of One hundred Pounds; and every such Fine, if not duly paid, shall be levied under the Authority of a Warrant of any Justice of the Peace having Jurisdiction within the said City, who is hereby required, on the Application of the said Council of the said City, to issue the same, by Distress and Sale of the Goods and Chattels of the Person so refusing to accept such Office, with the reasonable Charges of such Distress; and every Person so elected shall accept such Office, by taking the Oath of Allegiance, and making and subscribing the Declaration herein-before mentioned, within Four Days after Notice of his Election, and in default thereof shall be liable to pay the Fine aforesaid as for his Non-acceptance of such Office, and such Office shall thereupon be deemed to be vacant, and shall be filled up by a new Election, to be made in the Manner herein-before prescribed: Provided always, that no Person disabled by Lunacy or Imbecility of Mind shall be liable to such Fine as aforesaid; and provided also, that every Person so elected to any such Office who shall be above the Age of Sixty-five Years, or who shall already have served such Office, or paid the Fine for not accepting such Office, within Five Years next preceding the Day on which he shall be so re-elected, shall be exempted from accepting or serving the same Office, if he shall claim such Exemption within Five Days after Notice of his Election; and provided also, that no Military, Naval, or Marine Officer in Her Majesty's Service, on full Pay, nor the Members of the Legislature of this Province, the Members of the Executive Council, the Surveyor General, the Adjutant General of Militia, the Provincial Secretary, the Deputy Postmaster General and his Deputies, Custom House Officers, the Sheriffs and Coroners, the Clerks and Commissioned Officers of the Legislature and of the Executive Council, and Schoolmasters, shall be held or bound to accept any such Office as aforesaid, or any other Office in the said City.

And be it further ordained and enacted, That if any Person holding the Office of Mayor, Alderman, or Councillor shall be declared bankrupt, or shall apply to take the Benefit of any Act for the Relief of Insolvent Debtors, or shall compound by Deed with his Creditors, or being Mayor shall be absent from the said City for more than Two Calendar Months, or being an Alderman or Councillor for more than Six Months at one and the same Time, (unless in case of Illness,) then and in every such Case such Person shall thereupon immediately become disqualified, and shall cease to hold such Office of Mayor, Alderman, or Councillor as aforesaid; and in the Case of such Absence shall be liable to the same Fine as if he had refused to accept such Office, to be recovered and applied in the same Manner.

And be it further ordained and enacted, That the Mayor of the said City for the Time being shall be a Justice of the Peace for the City and District of Montreal; and it shall be lawful for the said Common Council, from and out of the Monies belonging to the said City, to grant and allow to the said Mayor for the Time being, in lieu of all Fees and Perquisites, such Salary not exceeding Three hundred Pounds and not less than One hundred Pounds, as the said Council shall think fit.

And be it further ordained and enacted, That it shall be lawful for the said Council of the said City, from Time to Time as Occasion may require, to appoint a fit and proper Person, not being a Member of the Council, to be Clerk of the said City; and another fit Person, not being a Member of the said Council, and not being City Clerk, to be the Treasurer of the said City; One or more fit Person or Persons, not being of the Council, to be Clerk or Clerks of the Markets of the said City; and One Surveyor of Highways, Streets, and Bridges, and such Number of Overseers of Highways, Streets, and Bridges as they may deem necessary; and One Collector for each of the Wards of the said City; One or more Pound Keeper or Pound Keepers for the said City, and such other

No. 149.

Incorporating the City and Town of Montreal.

Officers as they may think necessary, to enable them to carry into execution the Powers vested in them by this Ordinance, and to prescribe and regulate the Duties of all such Officers respectively, and at their Pleasure to remove any such Officer, and appoint another in his Place; and the said Council shall take such Security for the due Execution of the Offices of City Clerk, Treasurer, or other Officer, as they shall think proper, and shall and may grant and allow to the City Clerk, Treasurer, and other Officers to be appointed as aforesaid such Salary, Allowance, or other Compensation for their Services as they shall think fit.

And be it further ordained and enacted, That the Treasurer of the said City shall not pay any Monies in his Hands as such Treasurer otherwise than upon an Order in Writing of the Council of the said City, signed by Three or more Members of the said Council, and countersigned by the Clerk of the City, or on the Order in Writing of a Court of Justice or Magistrate authorized by Law to make such Order.

And be it further ordained and enacted, That the Clerk, Treasurer, and other Officers of the said City appointed by the Council as aforesaid shall respectively at such Times during their Continuance in Office, and within Three Months after they shall respectively cease to be in Office, and in such Manner as the said Council shall direct, deliver to the said Council, or to such Person as they shall authorize to receive the same, a true Account in Writing of all Matters committed to their Charge by virtue or in pursuance of this Ordinance, and also of all Monies which shall have been by them respectively received by virtue or for the Purposes of this Ordinance, and how much thereof shall have been paid and disbursed, and for what Purposes, together with proper Vouchers for such Payments; and every such Officer shall pay all such Monies as shall remain due from him to the Treasurer for the Time being, or to such Person as the said Council shall authorize to receive the same; and if any such Officer shall refuse or wilfully neglect to deliver such Account, or the Vouchers relating to the same, or to make Payment as aforesaid, or shall refuse or wilfully neglect to deliver to the said Council, or to such Person as they shall authorize to receive the same, within Three Days after being thereunto required by the said Council, all Books, Documents, Papers, and Writings in his Custody or Power as such Officer aforesaid, then and in every such Case, on Complaint made on Behalf of the said Council, by such Person as they shall authorize for that Purpose, of any such Refusal or wilful Neglect as aforesaid, to any Justice of the Peace for the District or County wherein such Officer shall reside or be, such Justice of the Peace shall be and is hereby authorized and required to issue a Warrant under his Hand and Seal for bringing any such Officer before any Two Justices of the Peace for such District or County; and upon the said Officer not appearing, or not being found, it shall be lawful for the said Justices to hear and determine the Matter in a summary Manner; and if it shall appear to such Justices that any Monies remain due from such Officer, such Justices may and they are hereby authorized and required, on Nonpayment thereof, by Warrant under their Hands and Seals to cause such Monies to be levied by Distress and Sale of the Goods and Chattels of such Officer; and if sufficient Goods and Chattels shall not be found to satisfy the said Monies, and the Charges of the Distress, or if it shall appear to such Justices that such Officer has refused or wilfully neglected to deliver such Account, or the Vouchers relating thereto, or that any Books, Documents, Papers, or Writings which were or are in the Custody or Power of such Officer in his official Capacity have not been delivered as aforesaid, or are wilfully withheld, then and in every such Case such Justices shall and they are hereby required to commit such Offender to the Common Gaol or House of Correction for the District or County where such Officer shall reside or be, there to remain, without Bail, until he shall have paid such Monies as aforesaid, or shall have made satisfaction to the said Council, or until he shall have delivered a true Account as aforesaid, together with such Vouchers as aforesaid, or until he shall have delivered up such Books, Documents, Papers, and Writings, or have given satisfaction in respect thereof to the said Council: Provided always, that no Person so committed shall be detained in Prison for Want of sufficient Distress only for a longer Space of Time than Three Calendar Months: Provided also, that nothing in this Ordinance contained shall prevent or abridge any Remedy by Action against any such Officer so offending as aforesaid,

or

or against any Surety for any such Officer, but the Remedy afforded by this Ordinance and the Remedy by Action shall not be exercised for the same Cause.

And be it further ordained and enacted, That the Treasurer of the said City shall, in Books to be kept for that Purpose, enter true Accounts of all Sums of Money by him received and paid as such Treasurer, and of the several Matters for which such Sums shall have been received and paid; and the Books containing the said Accounts shall at all seasonable Times be open to the Inspection of any of the Aldermen or Councillors of the said City; and all the Accounts of the said Treasurer, with all Vouchers and Papers relating thereto, shall, in the Months of May and November in every Year, be submitted by such Treasurer to the Auditors elected for the said City as aforesaid, and to such Number of the said Council as the Mayor of the said City shall name, on the First Day of May in every Year, or, in case of any extraordinary Vacancy of Office, within Ten Days next after such Vacancy, for the Purpose of being examined and audited, from the First Day of November in the Year preceding to the First Day of May, and from the First Day of May to the First Day of November in the Year in which the said Auditors shall have been elected and named; and if the said Accounts shall be found to be correct, the Auditors shall certify the same to be so; and after the said Accounts shall have been so examined and audited in the Month of November in every Year, the Treasurer shall make out in Writing, and cause to be printed, a full Abstract of his Accounts for the Year, and a Copy thereof shall be open to the Inspection of all the Rate-payers of the said City, and Copies thereof shall be delivered to all Rate-payers of the said City applying for the same, on Payment of a reasonable Price for each Copy.

And be it further ordained and enacted, That in all Meetings of the said Council to be held in pursuance of this Ordinance a Majority of the Members present at such Meetings shall determine all Questions and Matters submitted to or under the Consideration of the Council, provided that the Number present at the said Meetings be not less than One-third Part of the entire Number of Councillors composing the said Council; and at all such Meetings the Mayor of the said City, if present, shall preside, and in case of his Absence such Alderman, or in the Absence of all the Aldermen such Councillor, as the Members of the Council so assembled shall choose to be Chairman of any such Meetings, shall preside at the same; and in case of an Equality of Votes the Mayor or Chairman presiding shall have a casting Vote.

And be it further ordained and enacted, That there shall be in each Year Four Quarterly Meetings of the said Council, which shall be held on the following Days; that is to say, on the Second Monday of the Months of December, March, June, and September in each and every Year; and the said Meetings shall not at any One Time be held for a longer Period than Three successive Days, in which Sunday shall not be included.

And be it further ordained and enacted, That it shall be lawful for the Mayor of the said City to call a Special Meeting of the said Council, when and as often as he may deem it proper, after Three Days previous Notice thereof; and in case the said Mayor should refuse to call any such Meeting, after a Requisition for that Purpose signed by Five or more Members of the said Council, it shall be lawful for such Five or more Members to call a Meeting of the said Council after Three Days previous Notice, which Notice shall specify the Business for which the proposed Meeting is to be held, and shall be signed by the said Members; and in all Cases of such Special Meetings as aforesaid a Summons to attend the Council, specifying the Business to be transacted at such Meetings, and signed by the City Clerk, shall be left at the usual Place of Abode of every Member of the said Council Three Days at least before such Meeting.

And be it further ordained and enacted, That Minutes of the Proceedings of all Meetings to be held as aforesaid shall be drawn up, and fairly entered in a Book to be kept for that Purpose, and shall be signed by the Mayor, Alderman, or Councillor presiding at such Meeting; and the said Minutes shall be open to the Inspection of all Persons qualified to vote at the Election of Councillors, on Payment of a Fee of One Shilling; and the said Meetings shall be held with open Doors.

And be it further ordained and enacted, That it shall be lawful for the said Council to appoint, from and out of the Members composing such Council,

No. 149.

Incorporating the City and Town of Montreal.

such and so many Committees, consisting of such Number of Persons as they may think fit, for the better Transaction of the Business before such Council, and for the Discharge of such Duties within the Scope of their Powers as may by the said Council be prescribed, but subject in all things to the Approval, Authority, and Control of the said Council.

And be it further ordained and enacted, That it shall be lawful for the said Council of the said City, at a Meeting or Meetings of the said Council composed of not less than Two Thirds of the Members thereof, to make such Bye Laws as to them shall seem meet for the good Rule, Peace, Welfare, and Government of the said City, and for raising, assessing, and applying such Monies as may be required for the Execution of the Powers with which the said Council is hereby invested, and for maintaining in the said City a good and efficient System of Police, in such Manner as may by Law be provided, either by imposing Tolls and Rates to be paid in respect of any public Works within the said City, or by means of a Rate or Assessment to be assessed and levied on Real or Personal Property, or both, within the said City, or upon the Owners or Occupiers thereof, in respect of such Property, (provided that such Assessment shall not in any One Year exceed One Shilling in the Pound on the assessed Value of the Property lying and being within the said City,) or by imposing a Duty or Duties on Sales by Auction, not in any Case to exceed One per Cent. on such Sales, to be paid by the Purchaser, and on the Keepers of Houses of public Entertainment, and the Retailers of Spirituous Liquors, and on Hawkers, Pedlars, and Petty Chapmen, within the said City; and to impose by any such Bye Laws such Fines not exceeding Five Pounds, and such Imprisonment not exceeding Thirty Days, as they may deem proper for enforcing the same.

Provided always, and be it further ordained and enacted, That a Copy of every Bye Law to be made by virtue of this Ordinance shall be transmitted, with all convenient Speed after the making thereof, to the Governor of this Province for the Time being; and it shall be lawful for the said Governor, by and with the Advice of the Executive Council of this Province, within Three Months from and after the Receipt of such Copy, to disallow any such Bye Law; and such Disallowance shall, without Delay, be signified to the Mayor of the said City, and thenceforward such Bye Law shall be void and of no effect: Provided also, that all Bye Laws repugnant to any Law of the Land, or to any Act of the Legislature of this Province, shall be null and void.

And be it further ordained and enacted, That all and every the Powers and Authorities which in and by any of the Acts of the Legislature of this Province, and in and by any Ordinance or Law in force in this Province, have been and are vested in the Court of Quarter Sessions of the Peace for the District of Montreal, and in any Special Sessions of the Peace for the same District, and in the Justices of the Peace for the said District of Montreal, or any of them, for, touching, or concerning the laying out, making, erecting, keeping in repair, and regulating the Highways, Bridges, Streets, Squares, Lanes, Causeways, Pavements, Drains, Ditches, Embankments, Watercourses, Sewers, Market Houses and Weigh-houses, and other public Erections and Works in the said City of Montreal, or any of them; and for, touching, or concerning the dividing of the said City into Divisions, and the Appointment of Overseers of Highways, Streets, and Bridges in the said City; and for, touching, and concerning the laying, imposing, raising, levying, collecting, applying, paying, and accounting for a Rate or Rates of Assessment upon Occupiers of Lands, Lots, Houses, and Buildings, in proportion to the annual Value thereof, within the said City of Montreal; and for, touching, or concerning the making of Rules and Regulations of Police within the said City of Montreal; and for, touching, and concerning the making of Rules and Regulations to restrain, rule, and govern the Apprentices, Domestics, hired Servants, and Journeymen, and for the Conduct of Masters and Mistresses towards their said Apprentices, Domestics, hired Servants, and Journeymen, within the said City of Montreal; and for and touching the raising, receiving, Appropriation, and Application of any public Monies, by Assessment or otherwise, within the said City; and for, touching, or concerning the Improvement, Cleanliness, Health, internal Economy, and local Government of the said City of Montreal, shall, from and after the passing of this Ordinance, become and be vested in and exercised by the said Council of the said City of Montreal.

Provided

No. 149.

Incorporating the City and Town of Montreal.

Provided always, and be it further ordained and enacted, That all and every the Rules, Orders, Regulations, and Acts of Authority for, touching, or concerning the several Matters in the next preceding Section of this Ordinance, which may be in force at the Time of the passing of this Ordinance, shall continue, be, and remain in full force and virtue until the same shall be rescinded, repealed, or altered by the said Council of the said City of Montreal, under the Authority of this Ordinance, or by other competent legal Authority.

And be it further ordained and enacted, That all and every the public Monies raised by Assessment or otherwise in the said City of Montreal, which at the Time of the passing of this Ordinance shall be in the Hands of the Road Treasurer of the said City, and all Monies which shall be due or payable on account of any Assessment or Composition for Statute Labour, or for the Use of the said City, and all Monies appropriated by Law for the watching and lighting of the said City, and all Real and Personal Property within the said City now subject to the Management, Control, or Authority of the Justices of the Peace for the said District of Montreal, or any of them, and all and every the Books of Assessment, Receipts, Accounts of the Treasurers and Road Treasurers of the said City, Plans, Titles, Documents, and Papers relating to the said City, and of a public Nature, shall, from and after the passing of this Ordinance, become and be subject to the Power, Authority, Order, and Control of the said Council of the said City, and shall be paid and delivered up by the Officers and Persons in whose Custody or Possession they may now be, to such Person or Persons, and at such Time and Times, and in such Manner, as by the said Council may be ordered and directed.

Provided always, and be it further ordained and enacted, That all and every the public Monies raised or to be raised by Assessment as aforesaid, and all Monies due and payable as aforesaid, as well as all other Monies hereafter to be raised by and under the Authority of this Ordinance, shall be charged and chargeable with the Debts which have been legally contracted by the late Corporation of the City of Montreal, and remain due and unpaid, and with the Debts, Sum and Sums of Money, which have been or may be incurred and become payable from and out of the public Monies raised or to be raised for public Uses within and for the said City and Town of Montreal, or either of them, under the Provisions of Law in this Behalf made, or by or under the Authority of the Justices of the Peace for the District of Montreal, or any of them; and all such Debts and Sums of Money shall be payable from and out of the Monies aforesaid.

And be it further ordained and enacted, That it shall not be lawful for the said Council of the said City of Montreal to borrow on the Credit of the said City at One Time any Sum or Sums of Money exceeding the Aggregate Amount of the Revenues of the said City for Five Years, nor shall any Sum or Sums of Money be so borrowed while the said City shall be in Debt to such Aggregate Amount, unless the said Council shall be authorized in this Behalf by an Act of the Legislature of this Province.

And be it further ordained and enacted, That so much of a certain Act passed in the Thirty-sixth Year of the Reign of His late Majesty King George the Third, intituled "An Act for making, repairing, and altering the Highways and Bridges within this Province, and for other Purposes," as provides for the Appointment of Assessors and of a Road Treasurer for the said City of Montreal, and also a certain Act of the Legislature of this Province passed in the Ninth Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to increase the Number of Assessors for the Cities of Quebec and Montreal," and also so much of a certain other Act of the Legislature of this Province passed in the Thirty-ninth Year of the Reign of His late Majesty King George the Third, intituled "An Act to amend an Act passed in the Thirty-sixth Year of His present Majesty's Reign, intituled 'An Act for making, repairing, and altering the Highways and Bridges within this Province, and for other Purposes,'" as provides for the Appointment of a Surveyor of Highways, Streets, Lanes, and Bridges in the said City of Montreal, by the Governor, Lieutenant Governor, or Person administering the Government of this Province, shall, from and after the passing of this Ordinance, be and the same are hereby repealed; and all and every the Powers, Authority, and

No. 149.

Incorporating the City and Town of Montreal.

Duties which in and by the said Acts, and any other Act or Acts of the Legislature of this Province, were and are vested in and imposed on the said Assessors appointed or to be appointed in pursuance of the Provisions of the said Act passed in the Thirty-sixth Year aforesaid, and the Power and Duties of the said Road Treasurer and of the said Surveyor of Highways, Streets, and Bridges in the said City, appointed or that might be appointed under the said Act passed in the Thirty-sixth Year aforesaid, shall, from and after the passing of this Ordinance, become and be vested in and imposed on the Assessors to be elected and appointed in pursuance of this Ordinance, and on the Treasurer of the said City, and on the Surveyor of Highways for the said City of Montreal, to be appointed under the same Authority respectively.

Provided always, and be it further ordained and enacted, That nothing in this Ordinance contained shall extend or be construed to extend to the Repeal of any Law, or the Provisions of any Law, conferring Power or Authority on the Court of Quarter Sessions for the District of Montreal, or on the Justices of the Peace for the said District, or any of them, touching or in respect of all or any of those Parts of the Parish of Montreal not comprised in the City and Town of Montreal, and that all such Power and Authority shall continue to subsist in respect of such Parts of the said Parish and the Inhabitants thereof as if this Ordinance had not been passed.

And be it further ordained and enacted, That a certain Ordinance made and passed by the Governor of this Province, by and with the Advice and Consent of the Special Council for the Affairs thereof, in the Second Year of Her Majesty's Reign, intituled "An Ordinance to suspend for a limited Time certain Parts of Two Ordinances therein mentioned, as far as the same relate to the City of Montreal, and to establish a Society therein for preventing Accidents by Fire," and all and singular the Provisions therein contained, and also so much of a certain Ordinance made and passed by the Captain General and Governor in Chief of the late Province of Quebec, by and with the Advice and Consent of the Legislative Council of the said Province, in the Seventeenth Year of the Reign of His late Majesty King George the Third, intituled "An Ordinance for preventing Accidents by Fire," as vests in the Governor, Lieutenant Governor, or other the Commander in Chief of the said Province, the Power of appointing an Overseer to prevent Accidents by Fire in the said City of Montreal, shall, at the Expiration of Nine Calendar Months from and after the passing of this Ordinance, be and remain repealed; and thenceforward it shall be lawful for the said Council of the said City of Montreal, from Time to Time and as Occasion may require, to appoint a fit and proper Person, not being a Member of the said Council, to be an Overseer to prevent Accidents by Fire in the said City of Montreal, and at their Pleasure to revoke such Appointment, and appoint another Person to be such Overseer as aforesaid; and all and every the Powers, Authority, and Duties which in and by the said last-mentioned Ordinance, and any other Ordinance or Law in force in this Province, were and are vested in and imposed on the Office of Overseer to prevent Accidents by Fire in the said City of Montreal shall become and be vested in and imposed on such Overseer to be appointed by the said Council in pursuance of this Ordinance as aforesaid.

And be it further ordained and enacted, That every Officer who may be in or entitled to any Office at the Time of the passing of this Ordinance under Appointments by the Executive Government of this Province, to which Office by the Provisions herein contained the Power of Appointment is conferred on the Council of the said City, and which Office shall be abolished, or who shall not be continued in Office after the passing of this Ordinance, shall be entitled to a reasonable Compensation, to be assessed by the said Council, and paid out of the Funds of the said City, for the Salary, Fees, and Emoluments of the Office which he shall so cease to hold; and in case the Person claiming such Compensation should think himself aggrieved by the Determination of the said Council on his Claim, it shall be lawful for him to apply for and obtain a Revision of such Determination by the Governor of this Province in Council, who shall thereupon make such Order in Council as to him shall seem just, which Order shall be binding on the Parties respectively.

Provided always, and be it further ordained and enacted, That nothing in this Ordinance contained shall extend or be construed to extend to revoke, alter,

No. 149.

Incorporating the City and Town of Montreal.

alter, abridge, or in any Manner affect the Powers and Authority now by Law vested or which may hereafter be vested in the Master, Deputy Master, and Wardens of the Trinity House of Montreal, or in the Commissioners appointed or to be appointed for the Execution of divers Acts and Ordinances of the Legislature of this Province, relating to the Improvement and Enlargement of the Harbour of Montreal, or any of them, or in the Commissioners appointed or to be apppointed for making, superintending, repairing, and improving the Lachine Canal, nor to the Wharves and Slips erected and to be erected by the said first-mentioned Commissioners, nor to the Wharves and Grounds under the Direction of the said last-mentioned Commissioners.

Provided also, and be it further ordained and enacted, That nothing in this Ordinance contained shall in any Manner derogate from or affect, or be construed to derogate from or affect, the Rights of Her Majesty, Her Heirs or Successors, except in so far as the same may be specially affected by the Provisions of this Ordinance.

And be it further ordained and enacted, That the Words "Governor of this Province," wherever they occur in the said Enactments, are to be understood as meaning and comprehending the Governor or Person authorized to execute the Commission of Governor within this Province for the Time being.

And be it further ordained and enacted, That this Ordinance, and the Provisions herein contained, shall not cease or expire on the First Day of November which will be in the Year of our Lord One thousand eight hundred and forty-two, but shall be and remain a permanent Law, and in full Force, until the same shall be repealed or altered by competent Legislative Authority.

And be it further ordained and enacted, That this Ordinance shall be held and taken to be a Public Act, and shall be judicially taken notice of and have the Effect of a Public Act without being specially pleaded.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-fifth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the preceding to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-fifth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 150.

No. 150.

Incorporating the Montreal Fire Assurance Company.

An Ordinance to incorporate certain Persons therein mentioned, under the Name of "The Montreal *Fire Assurance Company."*

[Passed 5th June 1840.]

Whereas the Establishment of a Fire Assurance Company at the City of Montreal by Legislative Authority would be conducive to the Advancement of Commerce, and promote the Prosperity of the Province: And whereas divers loyal Subjects of Her Majesty in this Province, by their humble Petition in this Behalf, have represented that an Association hath been formed, in which they have become Subscribers and Stockholders, for the Purpose of establishing

No. 150.

Incorporating the Montreal Fire Assurance Company.

a Fire Assurance Company at the said City of Montreal, to carry on the Business of Assurance against Loss by Fire within this Province, under certain Articles of Agreement by which the Capital Stock of the said Association is limited to the Sum of Five hundred thousand Pounds Current Money of this Province, divided into Ten thousand Shares of Fifty Pounds each, with Power to commence the Business of Assurance as soon as One hundred thousand Pounds of the Capital Stock shall have been subscribed for, and that the said Sum of One hundred thousand Pounds has been already subscribed for, and is held by them; and have prayed that, for the effecting of the Purposes of their said Association, they, their Successors and Assigns, may be incorporated under certain Regulations and Provisions; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the same, and by virtue of the Powers in them vested by the said Acts of Parliament, That William Lunn, James Ferrier, John Mathewson, Kay, Whitehead and Company, John Redpath, Kidd, Cormack, and Company, James Smith, Duncas Fisher, John Molson, William Murray, Austin Cuvillier, John E. Mills, Oliver Bostwick, R. Latham, A. Galt, J. Miller, John Black, W. and S. Phillips, Adam Ferrie, A. H. Vass and Company, William Greig, Joseph Masson, Tobin and Murison, Robert Graham, Joseph Fraser, Mathewson and Rattray, Hugh Mathewson, Robert Armour, William Watson, William Dow, John Dougall, Robert Froste, Moss Moses, John Torrance and Company, Robert Kirkwood, Moses Hayes, S. Milligan, Thomas Jenkins, James M. Blackwood, Samuel Mathewson, William Workman, Murray and Sanderson, Thomas Mussen, John Mack, Alexander M'Gowan, Henry Myer, J. Rattray, John Orr, M. M'Culloch, Joseph N. Hall, Francis Rasco, Walter Benny, C. H. Castle, F. Mullins, William M'Intosh, James Scott senior, W. P. Smith, Archibald Hume, Richard Hall, James Thompson, James Connell and Company, Howard and Thompson, Henderson and Hooker, George Savage and Son, John Try, Isaac Valentine, Robert Campbell, Henry Dyer, Carter and Cowan, C. Hackett and Company, Colin Russell, J. G. M'Kenzie, Stanley Bagge, D. P. Ross, J. Glennon, George Johnstone, Hugh Brodie, Joseph M'Kay, John Smith, George D. Watson, James Cuthbertson, John Blackwood, James Jackson, F. Farish, Thomas B. Wragg, Charles Penner, H. C. M'Leod, George Rhynas, Benjamin Hart and Company, Dinning and Senior, John Carter, W. and J. Bell, James Shaw, Charles Brooke, Joseph Shuter, William Bradbury, William Ritchie, R. Watkins and Company, and M. Ramsay, and their several and respective Heirs, Executors, Curators, Administrators, Successors, and Assigns, shall be and are hereby ordained, constituted, and declared to be a Corporation, Body Corporate and Politic, by the Name of "The Montreal Fire Assurance Company," and shall so continue and have Succession till the First Day of May which will be in the Year of our Lord One thousand eight hundred and eighty; and shall and may by the said Name be capable in Law to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in all Courts and Places whatsoever; and shall also be able and capable in Law to purchase, acquire, hold, and enjoy, and retain to them and their Successors, Lands and Tenements, real or immoveable Estate, for the convenient Conduct and managing of the Business of the said Corporation, and for no other Purpose, not exceeding the yearly Value of Five hundred Pounds Current Money of this Province, and may sell, alienate, and dispose of such Lands, Tenements, real or immoveable Estate, and purchase others in their Stead, for the same Purpose, not exceeding the yearly Value aforesaid; and may also take and hold any Real Estate or Securities bonâ fide mortgaged or pledged to the said Corporation,

No. 150.

Incorporating the Montreal Fire Assurance Company.

poration, either to secure the Payment of the Share of the Capital Stock thereof, or to secure the Payment of any Debt which may be contracted with the said Corporation, and may also proceed on the said Mortgages and other Securities for the Recovery of the Monies thereby secured, either at Law or in Equity, or otherwise, in the same Manner as any other Mortgage is or shall be authorized to do: Provided always, that it shall not be lawful for the said Corporation to deal or use or employ any Part of the Stock, Funds, or Monies thereof in buying and selling any Goods, Wares, and Merchandizes, or in Traffic, Trade, or Commerce of any Kind, otherwise than herein-before specified and permitted, but nothing herein contained shall extend to prevent the said Corporation from investing in Bank Stocks or public Securities in this Province the Amount of Capital Stock paid in, or such Portion thereof as it shall be deemed advisable by the Directors so to invest; and the said Corporation may have a Common Seal; and may change and alter the same at their Pleasure; and may also, from Time to Time, at any General Meeting of the Stockholders, and by a Majority of the Votes given at such Meeting, ordain, establish, and put in execution Bye Laws, Ordinances, and Regulations, (the same not being contrary to the present Ordinance or to any Laws in force in this Province,) as may appear to them necessary or expedient for the Management of the said Corporation, and may from Time to Time alter and repeal the same, or any of them; and may by such Majority as aforesaid, elect and choose such Directors and other Officers, and vest in them such Powers, as to such Majority shall seem meet and right for the Purposes aforesaid, but the Directors appointed or to be appointed before any such General Meeting shall be held shall remain in Office until Directors shall be elected at some such General Meeting; and such Bye Laws, Ordinances, and Regulations shall be made by the Directors already appointed or who may be hereafter appointed, and shall be submitted to the Stockholders of the said Corporation for their Approval and Confirmation at a General Meeting called for that Purpose, to be held in the Manner herein-after mentioned, or at any General Annual Meeting; and the said Corporation shall and may do and execute by the Manner aforesaid all and singular other the Matters and Things touching the Management of the Business of the said Corporation which to them shall or may appertain to do, subject nevertheless to the Rules, Regulations, Stipulations, and Provisions herein prescribed and established.

And be it further ordained and enacted by the Authority aforesaid, That the Capital Stock of the said Fire Assurance Company hereby incorporated and established shall not exceed the Sum of Five hundred thousand Pounds Current Money aforesaid, divided into Ten thousand Shares of Fifty Pounds each, which Shares shall be and the same are hereby vested in the said several Persons herein-before named, their Successors and Assigns, and in those other Persons who shall or may hereafter become Stockholders in the said Corporation, according to the Shares and Interest which they may respectively have subscribed, purchased, or acquired and may have in the same; and that such Part of the said Sum of Five hundred thousand Pounds subscribed for as may not have been paid in by the Stockholders respectively by whom the same is due shall be paid by the said Stockholders by such Instalments, and at such Times and Places, as the Directors of the said Fire Assurance Company shall appoint, after Notice of no less than Thirty Days in this Behalf to be previously given in One or more of the public Newspapers published at the City of Montreal, of which the "Montreal Gazette" (if then published) shall be one; and all Executors, Curators, and Administrators who shall pay up the Instalments due by the Estate or Succession which they may respectively represent, in obedience to any Call made for that Purpose in the Manner aforesaid, shall be and they are hereby respectively indemnified.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That no Stockholder who shall not be a natural-born Subject of Her Majesty, or a Subject of Her Majesty naturalized by Act of the British Parliament, or of the Provincial Legislature or Legislative Authority of this Province, or who shall be a Subject of any Foreign Prince or State, shall either in Person or by Proxy vote for the Election of any Director to be elected, or shall vote at any Meeting of the said Stockholders for the Purpose of ordaining, establishing, or putting into execution any Bye Laws, Ordinances, or Regulations to be made under the Authority of this Ordinance, or shall assist in calling any Meeting of

No. 150.

Incorporating the Montreal Fire Assurance Company.

such Stockholders, or shall vote for any other Purpose or Purposes whatsoever, any thing herein contained to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Number of Votes to which each Stockholder or Stockholders, Copartnership, Body Politic or Corporate, holding Stock in the said Corporation, shall be entitled, on every Occasion when, in conformity to the Provisions of this Ordinance, Votes of the Members of the said Corporation are to be given, shall be in the Proportion following; (that is to say,) for One Share and not more than Two, One Vote; for every Two Shares above Two and not exceeding Ten, One Vote, making Five Votes for Ten Shares; for every Four Shares above Ten and not exceeding Thirty, One Vote, making Ten Votes for Thirty Shares; for every Six Shares above Thirty and not exceeding Sixty, One Vote, making Sixteen Votes for Sixty Shares; and for every Eight Shares above Sixty and not exceeding One hundred, One Vote, making Twenty Votes for One hundred Shares; but no Person or Persons, Copartnership, Body Politic or Corporate, being a Member or Members of the said Corporation, shall be entitled to a greater Number than Twenty Votes.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That the said Corporation shall not commence or carry on the said Business of insuring against Loss by Fire until a Sum equal to at least Ten per Cent. on the Amount of the Capital Stock of the said Corporation then subscribed for (which shall not in any Case be less than the said Sum of One hundred thousand Pounds, being the Capital Stock of the said Corporation to be subscribed for as aforesaid before they commence their said Business) shall have been paid up, and shall be in the Hands of the said Corporation, and at their Disposal; nor shall any Policy of Insurance be at any Time opened or renewed by the said Corporation unless a Sum equal to at least Ten per Cent. on their Capital Stock then subscribed for, after paying all lawful Demands on them, shall be then paid up, and in their Hands and at their Disposal as aforesaid; and for each and every Offence against the Provisions of this Section the said Corporation shall be liable to a Judicial Forfeiture of their Corporate Capacity, Rights, and Privileges, according to Law.

And for the better Security of the Public, be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful for the Governor, Lieutenant Governor, or Person administering the Government of this Province for the Time being, or for any or either Branch of the Provincial Parliament, from Time to Time to require from the President, Vice President, and Directors of the said Corporation Lists of the Names of all and each of the Stockholders who hold Shares in the Stock of the said Corporation, and a Statement or Account of the Assets and Liabilities of the said Corporation, mentioning more especially the Sum or Amount then paid up, and in the Hands and at the Disposal of the Corporation; which Lists, Statement, and Account the said President, Vice President, and Directors shall be bound to furnish, when required as aforesaid, upon Oath.

And be it further ordained and enacted by the Authority aforesaid, That the Stockholders who have now subscribed or those who may hereafter subscribe the said Capital Stock of the said Corporation shall not in any Manner whatsoever be liable for more than the Amount of Stock for which he or they shall have respectively subscribed his or their Names.

And be it further ordained and enacted by the Authority aforesaid, That nothing herein contained shall affect or be construed to affect in any Manner or Way the Rights of Her Majesty, Her Heirs or Successors, or of any Person or Persons, or of any Body Politic or Corporate, such only excepted as are herein mentioned.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be deemed a Public Ordinance, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and other Persons whomsoever, without being specially pleaded.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall not expire on the First Day of November One thousand eight hundred and forty-two, but shall remain in full Force and Effect until the First Day of May One thousand eight hundred and eighty.

(Signed) C. Poulett Thomson.

Ordained

No. 150.

Incorporating the Montreal Fire Assurance Company.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-fifth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-fifth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 151.

No. 151.

Amending the Ordinance establishing a Board of Works.

An Ordinance to amend and render permanent the Ordinance establishing a Board of Works in this Province. [Passed 25th June 1840.]

Whereas it is expedient to amend, and render permanent as amended, the Ordinance herein after mentioned; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, constituted and assembled by virtue of and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the same, and by virtue of the Powers in them vested by the said Acts of Parliament, That the Board of Works established by the Ordinance of the Governor of this Province, and of the Special Council for the Affairs thereof, passed in the Second Year of Her Majesty's Reign, and intituled "An Ordinance to establish a Board of Works in this Province," shall consist of such and so many Persons or Officers, not exceeding Five in Number, as the Governor, Lieutenant Governor, or Person administering the Government of this Province, shall have appointed, or shall hereafter from Time to Time appoint, to be Members of the said Board, any thing in the said Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforeseid, That the Chairman of the said Board shall receive a yearly Salary, and his actual Disbursements and travelling Expenses when away from his usual Place of Residence on the Business of the Board, and shall devote his whole Time to the Business of his Office, and shall not hold any other Place of Profit under the Provincial Government, or exercise any other Profession or Calling, while he shall be such Chairman, any thing in the said Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That so much of the said Ordinance as provides that any Two of the Members and the Chairman of the Board of Works shall be a Quorum, and so much of the said Ordinance as requires that all Writings and Documents, and the Certificate of

No. 151.

Amending the Ordinance establishing a Board of Works.

the Chairman, shall be countersigned by the Secretary, shall be and are hereby repealed, and shall have no Force or Effect in Law.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance, and the said Ordinance intituled "An Ordinance to establish a Board of Works in this Province," as hereby amended, shall be and are hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-fifth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-fifth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 152.

No. 152.

Exempting Officers of the Army from Payment of a certain Rate in Quebec and Montreal

An Ordinance to exempt certain Officers of Her Majesty's Army from the Payment of the Rate or Assessment therein mentioned, in the Cities of Quebec *and* Montreal. [Passed 25th June 1840.]

Whereas in and by a certain Act of the Legislature of this Province passed in the Thirty-ninth Year of the Reign of His Majesty King George the Third, and intituled "An Act to amend an Act passed in the Thirty-sixth Year of His present Majesty's Reign, intituled 'An Act for making, repairing, and altering the Highways and Bridges within this Province, and for other Purposes," it is, among other things, in effect enacted, that there shall be paid to the Road Treasurer of the Cities of Quebec and Montreal respectively, on or before the First Day of July in every Year, by every Person keeping a Horse or Horses within the aforesaid Cities, for each and every Horse (Colts excepted) that any such Person shall keep, the Sum of Seven Shillings and Sixpence, and that the Payment of the said Sum shall be held and taken instead of the Labour or Composition Money required for every Horse by a certain Act of the said Legislature passed in the Thirty-sixth Year of the Reign aforesaid, and intituled "An Act for making, repairing, and altering the Highways and Bridges within this Province, and for other Purposes:" And whereas by the Act first above cited it is provided that no Duty shall be required or received for any Horse or Horses kept by any Officer of any Regiment or Part of a Regiment or Corps in Garrison in the Cities of Quebec and Montreal for the Time being, unless that any such Officer be upon the Staff of the Army serving in this Province, or upon the Staff of the Garrison: And whereas it is expedient and right that such Officers of the Staff of the Army or of the Garrison should be exempt from the Payment of such Duty, in like Manner as other Officers of Her Majesty's Army in Garrison in either of the said Cities are exempt, subject to the Limitation herein-after provided: Be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the

No. 152.

Exempting Officers of the Army from Payment of a certain Rate in Quebec and Montreal.

the Advice and Consent of the Special Council for the Affairs of the said Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That from and after the passing of this Ordinance no Duty shall be required or received, under the Act of the Provincial Parliament herein first above cited, for any Horse or Horses kept by any Officer upon the Staff of the Army serving in this Province, or upon the Staff of the Garrison in either of the Cities of Quebec or Montreal, not exceeding the Number of Horses for which such Officer is entitled by the Regulations for Her Majesty's Army to draw Forage, nor shall any Labour or Composition Money be required or paid for any such Horse or Horses under the Act of the Provincial Legislature herein secondly above cited; any thing in the said Acts of the said Provincial Parliament to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-fifth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-fifth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 153.

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

An Ordinance for making a Railroad from the City of Montreal *to the Province Line at or near* Point à Beaudet. [Passed 25th June 1840.]

Whereas it is expedient to afford Facilities for the Transport and safe Conveyance of Passengers and Goods between the Two Provinces of Upper and Lower Canada: And whereas the several Persons herein-after named have petitioned to be authorized, under an Ordinance to be enacted, and whereby they may be incorporated, to make and maintain, at their own Costs and Charges, a Railroad between the City of Montreal and the Province Line at or near the Point à Beaudet, through the several intermediate Parishes, connecting the Island of Montreal with the Mainland at or near Vaudreuil by means of Bridges, with the view of thereafter effecting a Continuation of such Railroad to Dickinson's Landing, Brockville, or Prescott, in Upper Canada, and thereby to avoid the Detention and Difficulties experienced by reason of the present

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

Mode of Conveyance by Water; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That Charles Tait, Henry Griffin, Benjamin Holmes, John Simpson, Benjamin Hall, John Crawford M.D., Thomas A. Stayner, James Henry Lambe, Pierre Edrouad Leclerc, Arthur Ross, James Smith, Henry Stuart, Hugh Taylor, John Mathewson, John E. Mills, John G. Mackenzie, Thomas Wilson, Jeremiah Leaycraft, Havilland Lemesurier Routh, Benjamin Hart, Frederick Griffin, John T. Badgley, Charles Geddes, Joseph S. Kollmyer, John Blackwood, George Johnson, Adam Ferrie, James Logan, Charles T. Palsgrave, John M. Tobin, George D. Watson, Andrew Cowan, Charles H. Castle, Benjamin Brewster, Donald P. Ross, Robert Morris, Thomas Cringan, H. Edmond Barron, Charles Brooke, William Dow, Arthur Webster, James Duncan Gibb, James Ferrier, and Arthur Cruickshank Webster, together with such other Person and Persons as shall, under the Provisions of this Ordinance, become Subscribers to and Proprietors of any Share or Shares in the Railroad hereby authorized to be made, and their several and respective Heirs, Executors, Administrators, Curators, and Assigns, being Proprietors of any Share or Shares in the Railroad hereby authorized to be made, are and shall be and be united into a Company for the carrying on, making, constructing, completing, and maintaining the said intended Railroad, according to the Rules, Orders, and Directions herein-after expressed, and shall for that Purpose be One Body Politic and Corporate, by the Name of "The Canada Union Railroad Company," and by that Name shall have perpetual Succession, and shall have a Common Seal, and by that Name shall and may sue and be sued; and also shall and may have Power and Authority to purchase and hold Lands, Tenements, and Hereditaments, for them and their Successors and Assigns, for the Use of the said Railroad, without Her Majesty's Lettres d'Amortissement; saving nevertheless to the Seignior or Seigniors within whose Censive the Lands, Tenements, and Hereditaments so purchased may be situate, his, her, or their several and respective Droits d'Indemnité, and all other Seigniorial Rights whatever; and also to sell any of the said Lands, Tenements, and Hereditaments purchased for the Purposes aforesaid; and any Person or Persons, Bodies Politic or Corporate, or Communities, may give, grant, bargain, sell, and convey to the said Company of Proprietors any Lands, Tenements, or Hereditaments for the Purposes aforesaid, and the same may repurchase of the said Company, without Lettres d'Amortissement; and the said Company, and their Successors and Assigns, shall be and are hereby authorized and empowered, from and after the passing of this Ordinance, by themselves, their Deputies, Agents, Officers, Workmen, and Servants, to make and complete a Railroad, to be called "The Canada Union Railroad," from the City of Montreal, in as direct a Line as may be found practicable, and as local Situation and Circumstances and the Nature of the Ground will admit, to the Line dividing the Two Provinces of Lower and Upper Canada at or near Point à Beaudet, (keeping in view the Object of establishing a Continuation thereof, under Legislative Authority, in the said Province of Upper Canada, as far as Dickenson's Landing, Brockville, or Prescott,) whereby the Delays, Risk, and extra Expense at present experienced by Water Communication may at once be avoided; and for the Purposes aforesaid the said Company of Proprietors, their Deputies, Servants, Agents, and Workmen, are hereby authorized and empowered to enter into and upon the Lands and Grounds of the Queen's most Excellent Majesty, (doing no Damage to and creating no Obstruction or Impediment to the Use of any Canal or public Work of any Kind, except under some special and express Provision of this Ordinance,) or of any Person or Persons, Bodies Politic, Corporate, or Collegiate, or Communities, whatsoever; and to survey and

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

and take Levels of the same or any Part thereof, and to set out and appropriate such Parts thereof as they shall think necessary and proper for making the said intended Railroad, and all such other Works, Matters, and Conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining, and using the said intended Railroad and other Works; and also to bore, dig, cut, trench, get, remove, take, carry away, and lay, Earth, Stone, Clay, Soil, Rubbish, Gravel, Sand, Trees, Roots of Trees, and other Matters or Things which may be dug or got, in making the said intended Railroad or other Works, on or out of Lands or Grounds of any Person or Persons adjoining or lying convenient thereto, and which may be proper, requisite, or necessary for making or repairing the said intended Railroad, or Works incidental or relative thereto, or which may hinder, prevent, or obstruct the making, using, or completing, extending or maintaining the same respectively, according to the Intent and Purposes of this Ordinance; and to make, build, erect, and set up, in or upon the said intended Railroad, or upon the Lands adjoining or near the same respectively, such and so many Houses, Warehouses, Weighing Beams, Cranes, Fire Engines, Steam Engines, locomotive, stationary, or other Engines, Inclined Planes, Machines, and other Works, Ways, Roads, and Conveniences, as and when the said Company of Proprietors shall think proper, requisite, and convenient for the Purposes of the said Railroad; and also from Time to Time to alter, divert, repair, widen, enlarge, and extend the same, and to make, maintain, repair, and alter any Fences or Passages over, under, or through the said intended Railroad; and to construct, erect, and keep in repair any Piers, Arches, and other Works, upon or across any Rivers or Brooks, for the making, using, maintaining, and repairing the said intended Railroad (but neither doing any Damage or creating any Obstruction to the Use of any public Work, nor obstructing the Navigation of any River, except in such Way as may be hereby specially and expressly authorized); and to construct, erect, make, and do all other Matters and Things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing, and easy using of the said intended Railroad and other Works, in pursuance of and according to the true Intent and Meaning of this Ordinance; they the said Company of Proprietors doing as little Damage as may be in the Execution of the several Powers to them hereby granted, and making Satisfaction, in manner herein-after mentioned, to the Owners or Proprietors of or the Persons interested in the Lands, Tenements, or Hereditaments, Waters, Watercourses, Brooks, or Rivers respectively, which shall be taken, used, removed, prejudiced, or of which the Course shall be altered, or for all Damages to be by such Owners or Proprietors sustained in and by the Execution of all or any of the Powers granted by this Ordinance; and this Ordinance shall be sufficient to indemnify the said Company of Proprietors, and their Servants, Agents, or Workmen, and all other Persons whomsoever, for what they or any of them shall do by virtue of the Powers hereby granted, subject nevertheless to such Provisions and Restrictions as are herein-after mentioned.

And be it further ordained and enacted by the Authority aforesaid, That it shall be lawful for the Governor, Lieutenant Governor, or Person administering the Government of the Province for the Time being, by and with the Advice of the Executive Council, to grant to the said Company of Proprietors, in such Manner and for such Considerations as he shall see fit, the Right to use, for the Construction of the said Railroad or Ways, any Parts or Portions of the level Ground already made or established along any Canal, or along or upon any Dyke, Dam, or public Highway, belonging to or the Property of which is vested in Her Majesty, or in any public Officer or Body, for the public Uses of the Province, or made at the public Expense, or to intersect or cross the same, or any Stream or Watercourse, or to construct the said Railroad or Ways along, upon, or across such Canals, Dykes, Dams, public Highways, or other Things of like Description: Provided always, that the said Company or Corporation shall not in anywise injure the said Canals, Dykes, Dams, or public Highways, or in anywise impede or obstruct the Use of the same, or of any public Work or Thing therewith connected, all which the said Company shall leave in the same State in which they find them, as to Efficiency, Usefulness, and Convenience,

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

and shall not suffer the same to be in the least injured or deteriorated, or in anywise inconvenienced.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That where the said Railroad shall cross any public Highway, the Ledge or Flanch of such Railway for the Purpose of guiding the Wheels of the Carriages shall not rise above the Level of such Road nor sink below such Level more than One Inch, but the said Corporation may raise such Highway by a gradual Slope, not exceeding One Foot in Thirteen, to the Level of such Flanch, if such raising be necessary to preserve the Level of the said Railroad.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That where any Bridge shall be erected or made by the said Company for the Purpose of carrying the said Railroad over or across any public Highway, the Span of the Arch of any such Bridge shall be formed, and shall at all Times be and be continued, of such Breadth as to leave a clear and open Space under each and every such Arch of not less than Fifteen Feet, and a Height from the Surface of such public Highway to the Centre of such Arch of not less than Sixteen Feet, and the Descent under such Bridge shall not exceed One Foot in Thirteen Feet.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That in all Cases where it may be necessary to erect, build, or make any Bridge or Bridges for carrying any public Highway over the said Railroad, the Ascent of such Bridge for the Purpose of such Highway shall not be steeper than One Foot in Thirteen Feet, and a good and sufficient Fence shall be made by the said Company on each Side of each such Bridge, which Fence shall not be less than Four Feet above the Surface of such Bridge.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That in all Cases where the said intended Railway shall cross any public Highway on a Level therewith the said Company shall erect and at all Times maintain a good and sufficient Gate on each Side of such public Highway, which Gates shall be constantly kept shut, except at such Time as Waggons, Carts, and other Carriages passing along the said Railway shall have to cross such public Highway, and they shall be opened for the Purpose only of letting such Waggons, Carts, or other Carriages pass through; and every Driver or Person intrusted with the Care of any Waggon, Cart, or other Carriage, or with any Train of Waggons, Carts, or other Carriages, shall and he is hereby directed to cause the said Gates, and each of them, to be shut as soon as such Waggons, Carts, or other Carriages shall have passed through, under a Penalty of Five Shillings for each Offence, to be recovered in like Manner as other Penalties under this Ordinance may be recovered.

And be it further ordained and enacted by the Authority aforesaid, That for the Purposes of this Ordinance the said Company shall, by some sworn Land Surveyor in this Province, and by some Engineer by them to be appointed, cause to be taken and made Surveys and Levels of the Lands through which the said intended Railroad is to pass or be carried, and of the River or Rivers, or Branches of Rivers, over which the said Railroad is to pass, together with a Plan or Map of such Railroad, and of the Course and Direction thereof, and of the Lands through which the same is to pass, and also a Book of Reference for the said Railroad, in which shall be set forth a Description of the said several Lands, or such Parts thereof, through which the said Railroad shall pass, with the Names of the Owners, Occupiers, and Proprietors thereof, and in which shall be contained every thing necessary for the right Understanding of such Map or Plan; which said Map or Plan and Book of Reference shall be so made or caused to be made in Triplicate, and shall be certified by the Surveyor General or his Deputy, who shall deposit one Part thereof in the Office of the Prothonotary of the Court of King's Bench of and for the District of Montreal, one other in the Office of the Secretary of the Province, and the remaining one he shall deliver to the said Company of Proprietors; and all Persons shall have Liberty to resort to such Copies so to be deposited as aforesaid, and make Extracts or Copies thereof, as Occasion shall require, paying to the said Secretary of the Province or to the said Prothonotary at the Rate of Sixpence Current Money of this Province for each and every Hundred Words; and the said Copies of the said Map or Plan and Book of Reference, so certified, or a true Copy or Copies thereof, certified by the Secretary of the Province, or

by

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

by the said Prothonotary of the Court of King's Bench for the District of Montreal, shall severally be and are hereby declared to be good Evidence in all Courts of Law or elsewhere.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors, in making the said intended Railroad, shall not deviate more than Two Arpents from the Course or Direction delineated in the said Map or Plan, and set forth in the said Book of Reference, nor cut, carry, place, lay down, or convey the said Railroad into, through, across, under, or over any Part or Parts of the several Estates, Lands, or Grounds now or late belonging or reputed to belong to the said several and respective Persons named or described in the said Book of Reference, other than such Part or Parts as are mentioned in the said Book of Reference in that Behalf, (save in such Instances only as are particularly hereby provided for,) without the Approbation and Consent in Writing, signed by the Owner or Owners or Person or Persons for the Time being entitled to the Rents and Profits of such Estates, Lands, or Tenements respectively.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors shall and may make their intended Railroad through, across, or over the Lands or Grounds of any Person or Persons whomsoever into whose Estates, Lands, or Grounds such Deviations as aforesaid shall extend, although his, her, or their Name or Names is or are not mentioned in the said Book of Reference, or into the Estate, Lands, or Grounds of any Person or Persons whose Name or Names hath or have been by Mistake omitted, or that, instead of his, her, or their Name or Names, the Name or Names of some other Person or Persons to whom such last-mentioned Estates, Lands, or Grounds do not belong hath or have been by Mistake inserted in the said Book of Reference.

And be it further ordained and enacted by the Authority aforesaid, That the Lands or Grounds to be taken or used for such intended Railroad, and the Ditches, Drains, and Fences to separate the same from the adjoining Lands, shall not exceed Twenty-five Yards in Breadth, except in such Places where the said intended Railroad shall be raised more than Five Feet higher or cut more than Five Feet deeper than the present Surface of the Land, and in such Places where it shall be deemed necessary to have Offsetts for the locomotive or other Engines and Carriages using the said intended Railroad to lie or pass each other, and not above Two hundred Yards in Breadth or Two hundred Yards in Length in any such Place, and except where any Houses, Warehouses, Toll Houses, Watch-houses, Weighing-beams, Cranes, fixed Engines, or Inclined Planes may be erected, or Goods, Wares, or Merchandizes be delivered, and then not more than Two hundred and fifty Yards in Length and Two hundred Yards in Breadth, without the Consent of the Proprietors.

And be it further ordained and enacted by the Authority aforesaid, That after any Lands or Grounds shall be set out and ascertained in manner aforesaid, for making and completing the said Railroad and other Works, and other the Purposes and Conveniences herein mentioned, it shall and may be lawful for all Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Communities, Guardians, Curators, Executors, Administrators, and other Trustees or Persons whomsoever, not only for and in behalf of themselves, their Heirs and Successors, but also for and on behalf of those whom they represent, whether Issue unborn, Infants, Lunatics, Idiots, Femes Covert, or other Person or Persons, who are or shall be seised, possessed of, or interested in any Lands or Grounds which shall be so set out and ascertained as aforesaid, or any Part thereof, to contract for, sell, and convey unto the said Company of Proprietors, their Successors and Assigns, all or any such Lands or Grounds which shall from Time to Time be set out and ascertained as aforesaid; and that 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 anywise notwithstanding; and all Bodies Politic, Corporate, or Collegiate, or Communities, and all Persons whosoever, so conveying as aforesaid, are hereby indemnified for what he, she, or they, or any of them, shall respectively do by virtue or in pursuance of this Ordinance; and all such Contracts, Agreements, Sales, Conveyances, and Assurances, or notarial Copies thereof, shall, at the Expense of the said Cor-

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

poration, be deposited of Record in the Office of the Prothonotary of the Court of King's Bench for the District of Montreal, and Copies thereof, certified by the said Prothonotary (in like Manner as all authentic Copies thereof), shall be allowed to be good Evidence in all Courts whatsoever.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That any Body Politic, Community, Corporation, or other Person or Persons whosoever, who cannot, in common Course of Law, sell or alienate any Lands or Grounds so set out and ascertained, shall agree upon a fixed annual Rent as an Equivalent, and not a Principal Sum, to be paid for the Lands or Grounds so set out and ascertained as necessary for making the said Railroad, and other the Purposes and Conveniences relative thereto and connected therewith; and in case the Amount of such Rent shall not be fixed by voluntary Agreement or Compromise, or by Arbitration between the Parties, it shall be fixed by a Jury convened and qualified in the Manner herein-after prescribed, and all Proceedings and Litigations in Court shall in that Case be regulated as is herein-after prescribed; and for the Payment of the said annual Rent, and every other annual Rent agreed upon or ascertained for the Purchase of any Lands or Grounds, the said Railroad, and the Tolls to be levied and collected thereon, shall be and are hereby made liable and chargeable in preference to all other Claims or Demands thereon whatsoever.

And be it further ordained and enacted by the Authority aforesaid, That as soon as the said Map or Plan and Book of Reference shall have been made and deposited as aforesaid, it shall then be lawful for the said Company of Proprietors to apply to the several Owners of the Estates, Lands, and Grounds through which such Railroad is intended to be carried, and to agree with such Owners respectively touching the Compensation to be paid unto them by the said Company of Proprietors for the Purchase thereof, and for their respective Damages; and in case of Disagreement between the said Company and the said Owners, or any of them, then all Questions which shall arise between the said Company and the several Proprietors of and Persons interested in any Estates, Lands, or Grounds that shall or may be taken, affected, or prejudiced by the Execution of any of the Powers hereby granted, or with regard to any Indemnification for Damages which may or shall be at any Time or Times sustained by any Bodies Politic or Corporate, or Communities, or any other Person or Persons respectively, being Owners of or interested in any Estates, Lands, or Grounds, for or by reason of the making, repairing, or maintaining the said Railroad, or other Works or Machines incidental or relative thereto or connected therewith, shall and may be settled by Agreement of the Parties or by Arbitration; or if either of the Parties shall not be inclined to make an Agreement, or to appoint Arbitrators, or by reason of Absence shall be prevented from treating, or through Disability, by Non-age, Coverture, or other Impediment, cannot treat or make such Agreement or enter into such Arbitration, or shall not produce a clear Title to the Premises which they claim an Interest in, then and in every such Case the said Company of Proprietors may make Application to the Court of King's Bench for the District of Montreal, stating the Grounds for such Application; and such Court is hereby empowered and required, from Time to Time, upon such Application, to issue a Warrant, directed to the Sheriff for the District of Montreal for the Time being, commanding such Sheriff to impannel, summon, and return a Jury, qualified according to the Laws of this Province to be returned for Trials of Issues joined in Civil Cases in the said Court of King's Bench, to appear before the said Court at such Time and Place as in such Warrant shall be appointed; and all Parties concerned may have their lawful Challenge against any of the said Jurymen, but shall not challenge the Array; and the said Court is hereby empowered to summon and call before them all and every such Person and Persons as it shall be thought necessary to examine as Witnesses touching the Matters in question; and the said Court may authorize and order the said Jury, or any Six or more of them, to view the Place or Places or Matter in controversy, which Jury upon their Oaths (all which Oaths, as well as the Oaths to be taken by any Person or Persons who shall be called upon to give Evidence, the said Court is hereby empowered to administer,) shall inquire of, assess, and ascertain the distinct Sum or Sums of Money or annual Rent to be paid for the Purchase of such Lands or Grounds or Tenements, or the Indemnification to be

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

be made for the Damage that may or shall be sustained as aforesaid, and in so doing the said Jury shall take into consideration the Damage or Inconvenience which may arise by means of any Bridges, Roads, or other Communication made necessary by reason of the said Railroad, and assess separate Damage for the same; and the said Jury shall distinguish the Value set upon the Lands and the Money assessed or adjudged for Damages separate and apart from each other; and the said Court shall give Judgment for such Sum, Rent, or Indemnification so to be assessed by such Juries; which said Verdict, and the Judgment so thereupon pronounced, shall be binding and conclusive, to all Intents and Purposes, against the Queen's Majesty, Her Heirs and Successors, and against all Bodies Politic, Corporate, or Collegiate, or Communities, and all Persons whomsoever.

And be it further ordained and enacted by the Authority aforesaid, That in all Cases where a Verdict shall be given for more Money as an Indemnification or Satisfaction for any Lands, Grounds, or Hereditaments, or Property, or for any Damage done to any Lands, Grounds, Hereditaments, or Property, or for any annual Rent of any Lands, Grounds, Hereditaments, Rents, or Property, of any Person or Persons whomsoever, than had previously been offered by or on behalf of the said Company of Proprietors, then all the Expenses of summoning such Jury and taking such Inquest shall be settled by the Court, and defrayed by the said Company of Proprietors, but if any Verdict shall be given for the same or a less Sum than had been previously offered by and on behalf of the said Company of Proprietors, or in case no Damages shall be given by the Verdict when the Dispute is for Damages only, then and in every such Case the Costs and Expenses shall be settled in like Manner by the Court, and be borne and paid by the Party or Parties with whom the said Company of Proprietors shall have had such Controversy; which said Costs and Expenses, having been so settled, shall and may be deducted out of the Monies so assessed and adjudged, when the same shall exceed such Costs and Expenses, as so much Money advanced to and for the Use of such Person or Persons, and the Payment or Tender of the Remainder of such Money shall be deemed and taken to all Intents and Purposes to be a Payment or Tender of the whole Sum or Sums so assessed or adjudged as aforesaid.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That all and every Person and Persons making complaint, and requesting such Jury, shall, before the Issue of the Warrant or Warrants for the summoning such Jury as aforesaid, enter into a Bond before One of the Judges of the Court of King's Bench for the District of Montreal, with One sufficient Surety, to the Treasurer of the said Company of Proprietors or their Successors for the Time being, in the Penalty of Two hundred Pounds Currency, to prosecute his, her, or their Complaint, and to bear and pay the Costs and Expenses of summoning such Jury and taking such Inquest, in case no Damages shall be given by the Verdict to such Party, or in case a Verdict shall be given for no more or for a less Sum or Rent than had been offered by and on behalf of the said Company of Proprietors or their Successors, before the summoning or returning of the said Jury or Juries, as an Indemnification or Satisfaction for any Lands, Grounds, or Hereditaments, or for any annual Rent, or for any Damages as aforesaid.

And be it further ordained and enacted by the Authority aforesaid, That upon Payment or legal Tender of such Sum or Sums of Money or annual Rent as shall be contracted or agreed for between the Parties, or determined by Arbitrators, or assessed by Juries in manner respectively as aforesaid, to the Proprietors thereof, or other Person or Persons entitled to receive the same, or to the principal Officer or Officers of any such Body Politic, Corporate, or Collegiate, or Community, at any Time after the same shall have been so agreed for, determined, or assessed, such Lands, Grounds, and Hereditaments, or Property respectively, may be entered upon and taken possession of by the said Company of Proprietors, and applied to the Purposes of making and maintaining the said Railroad, and other Works and Conveniences thereunto appertaining.

And be it further ordained and enacted by the Authority aforesaid, That all Agreements, Sales, and Conveyances, and all Determinations by Arbitrators as aforesaid, or notarial Copies thereof when the same may be passed before Notaries, and also the said Verdicts and Judgments thereupon, shall be trans-

No. 153.

Making a Railroad from Montreal to Point a Beaudet.

mitted to and kept by the Prothonotary of the Court of King's Bench for the District of Montreal, to be kept among the Records of the said Court, and shall be deemed and taken to be Records of the said Court to all Intents and Purposes; and the same, or true Copies thereof, shall be allowed to be good Evidence in all Courts whatsoever in this Province; and all Persons shall have Liberty to inspect the same, paying for each Inspection the Sum of One Shilling Currency, and to have and obtain Copies thereof, paying for every Copy thereof not exceeding One hundred Words the Sum of Sixpence Currency, and so in proportion for any Number of Words; and immediately on such Payments of Purchase Money or Rents as aforesaid, and Entry of such Agreements, Sales, Conveyances, Determination by Arbitration, Verdicts, Judgments, or other Proceedings of the said Court and Juries, all the Estate, Right, Title, Interest, Use, Trust, Property, Claim, and Demand, in Law or Equity, of the Person and Persons for whose Use such Money or Rent shall be paid, in or arising out of the said Lands, Grounds, Tenements, Hereditaments, and Premises, shall vest in the said Company of Proprietors and their Successors, and they shall respectively be deemed in Law to be in actual Possession and Seisin of the same, to all Intents and Purposes whatsoever, as fully and effectually as if every Person having an Estate therein had been able to convey and had actually conveyed the same to them by the most effectual legal Conveyance; and such Payment shall bar all Right, Title, Interest, Claim, and Demand of the Person or Persons to whose Use the same shall be made, Bodies Politic, Corporate, or Collegiate, Ecclesiastical or Civil, Communities, Women subject to marital Authority, Minors, Persons interdicted, or Absentees, who may have or claim to have any Right, Title, Interest, Claim, or Demand therein, and of every other Person or Persons whomsoever, even for Dower not yet open (Douaire non encore ouvert), any Law to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That Application to the said Court for Indemnity for any Damage or Injury sustained by reason of the Powers and Authority given by this Ordinance shall be made within Six Calendar Months next after the Time of such supposed Damage sustained, or in case there shall be a Continuation of Damage, then within Six Calendar Months after the doing or committing such Damage shall cease, and not afterwards; and the Defendant or Defendants shall and may plead the General Issue, and give this Ordinance and the Special Matter in Evidence, at any Trial to be had thereupon, and may aver that the same was done in pursuance of and by Authority of this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That if any Person shall, by any Means or in any Manner or Way whatsoever, obstruct or interrupt the free Use of the said Railroad, or of the Carriages, Engines, or other Works incidental or relative thereto or connected therewith, such Person shall for every such Offence incur a Forfeiture or Penalty of not less than Five Pounds nor exceeding Ten Pounds Currency, which Penalty or Forfeiture may be recovered before One or more Justices of the Peace for the said District of Montreal, and one Moiety thereof shall go to the Prosecutor or Informer, and the other Moiety to Her Majesty, Her Heirs and Successors, and shall be paid into the Hands of the Receiver General, and shall remain at the Disposal of the Legislative Authority of this Province for the public Uses thereof.

And be it further ordained and enacted by the Authority aforesaid, That if any Person or Persons shall wilfully or maliciously, and to the Prejudice of the said Railroad authorized to be made by this Ordinance, break, throw down, damage, or destroy the same, or any Part thereof, or any of the Houses, Warehouses, Weighbeams, Cranes, Carriages, Engines, Inclined Planes, Machines, or other Works or Devices incidental and relative thereto or connected therewith, or do any other wilful Hurt or Mischief to obstruct, hinder, or prevent the carrying on, completing, supporting, and maintaining the said Railroad, such Person or Persons shall be adjudged guilty of Felony; and the Court by and before whom such Person or Persons shall be tried and convicted shall have Power and Authority to cause such Person or Persons to be punished in like Manner as Felons are directed to be punished by the Laws in force in this Province, or in mitigation thereof to award such Sentence as the Law directs in Cases of Petty Larceny, as to such Court shall seem fitting.

And to the end that the said Company of Proprietors may be enabled to carry on so useful an Undertaking, be it further ordained and enacted by the Authority

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

Authority aforesaid, That it shall and may be lawful to and for the said Company of Proprietors and their Successors to raise and contribute among themselves, in such Proportions as to them shall seem meet and fitting, a competent Sum of Money for the making and completing the said Railroad, and all such other Works, Matters, and Conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining, and using the said Railroad and other Works: Provided always, that the Members of the said Corporation whose Names are herein-before mentioned shall cause Books of Subscription to be opened in the said City of Montreal for receiving the Signatures of Persons willing to become Subscribers to the said Undertaking, and for this Purpose they shall be held and bound to give public Notice during at least Three successive Weeks in the Montreal Gazette and Montreal Herald, or if those Newspapers be not then published then in some Two other Newspapers published in the City of Montreal, and in such other Two public Newspapers in any other Part or Parts of this Province as they may deem advisable, of the Time and Place at which such Books shall be opened and ready for receiving Signatures as aforesaid, and of the Persons by them authorized to receive such Subscriptions; and every Person who shall write his or her Signature in such Book as a Subscriber to the said Undertaking, or shall authorize another Person so to do, and on his or her Behalf as his or her Attorney, shall thereby become a Member of the said Corporation, and shall have the same Rights and Privileges as such as are hereby conferred on the several Persons who are herein mentioned by Name as Members of the said Corporation; provided always, that the Sum so raised shall not exceed the Sum of One hundred thousand Pounds Currency of this Province in the whole, except as is herein-after mentioned, and that the same be divided into such Number of Shares as hereafter directed, at a Price not exceeding Twenty-five Pounds Currency aforesaid per Share; and the Money so to be raised is hereby directed and appointed to be laid out and applied, in the first place, for and towards the Payment, Discharge, and Satisfaction of all Fees and Disbursements for obtaining and passing this Ordinance, or incurred or made by or on behalf of the said Company on any Application for an Act of Incorporation to the late Legislature of this Province, and for making the Surveys, Plans, and Estimates incident thereunto, and all other Expenses relating thereunto; and all the Rest, Residue, and Remainder of such Money for and towards making, completing, and maintaining the said Railroad, and other the Purposes of this Ordinance, and to no other Use, Intent, or Purpose whatever.

And be it further ordained and enacted by the Authority aforesaid, That the said Sum of One hundred thousand Pounds Currency, or such Part thereof as shall be raised by the several Persons herein-before named, and by such other Person and Persons as shall or may become a Subscriber or Subscribers to the said Railroad, shall be divided and distinguished into Four thousand equal Parts or Shares, at a Price not exceeding Twenty-five Pounds Currency aforesaid per Share, and that the Shares be deemed Personal Estate, and shall be transferrable as such, and that the said Four thousand Shares shall be and are hereby vested in the said several Subscribers, and their several and respective Heirs, Executors, Curators, Administrators, and Assigns, to their and every of their proper Use and Behoof, proportionally to the Sum they and each of them shall severally subscribe and pay thereunto; and all and every the Bodies Politic, Corporate, or Collegiate, or Communities, and all and every Person and Persons, their several and respective Successors, Executors, Curators, Administrators, and Assigns, who shall severally subscribe and pay the Sum of Twenty-five Pounds Currency, or such Sum or Sums as shall be demanded in lieu thereof, towards carrying on and completing the said intended Railroad, shall be entitled to and receive, after the said Railroad, or so much thereof at least as shall extend from the City of Montreal aforesaid to Coteau du Lac shall be completed, and not before, the entire and net Distribution of the Four thousandth Part of the Profits and Advantages that shall and may arise and accrue by virtue of the Sum and Sums of Money to be raised, recovered, or received by the Authority of this Ordinance, and so in proportion for any greater Number of Shares; and every Body Politic, Corporate, or Collegiate, or Community, Person or Persons, having such Property of the Four thousandth Part or Share in the said Undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional Sum of Money

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

towards carrying on the said intended Undertaking in the Manner by this Ordinance directed and appointed.

And be it further ordained and enacted by the Authority aforesaid, That in case the said Sum of One hundred thousand Pounds Currency herein-before authorized to be raised shall be found insufficient for the Purposes of this Ordinance, then and in such Case it shall be lawful for the said Company of Proprietors to raise and contribute among themselves, in Manner and Form aforesaid, and in such Shares and Proportions as to them shall seem meet, or by the Admission of new Subscribers, a further or other Sum of Money for completing and perfecting the said intended Railroad, and other Works and Conveniences incidental or relative thereto, not exceeding the Sum of Twenty-five thousand Pounds Currency aforesaid; and every Subscriber towards raising such further or other Sum of Money shall be a Proprietor in the said Undertaking, and have a like Vote, by himself or herself, or his or her Proxy, in respect of every Share in the said additional Sum so to be raised, and shall also be liable to such Obligations, and stand interested in all the Profits and Powers of the said Undertaking, in proportion to the Sum he, she, or they shall or may subscribe thereto, as generally and extensively as if such other and further Sum had been originally raised, and a Part of the said first Sum of One hundred thousand Pounds; any thing herein contained to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Number of Votes to which each Proprietor of Shares in the said Undertaking shall be entitled on every Occasion when, in conformity to the Provisions of this Ordinance, the Votes of the said Company of Proprietors are to be given, shall be in the Proportion following; that is to say, for One Share and not more than Two, One Vote; for every Two Shares above Two and not exceeding Ten, One Vote, making Five Votes for Ten Shares; for every Four Shares above Ten and not exceeding Thirty, One Vote, making Ten Votes for Thirty Shares; for every Six Shares above Thirty and not exceeding Sixty, One Vote, making Fifteen Votes for Sixty Shares; for every Eight Shares above Sixty and not exceeding One hundred, One Vote, making Twenty Votes for One hundred Shares; and for every Ten Shares above One hundred Shares, and not exceeding One hundred and fifty, One Vote, making Twenty-five Votes for One hundred and fifty Shares; but no Person or Persons, Copartnership, Body Politic, Corporate, or Collegiate, or Community, being a Member or Members of the said Company, shall be entitled to a greater Number than Twenty-five Votes; and all Proprietors of Shares resident within the Province or elsewhere may vote by Proxy, if he, she, or they shall see fit; provided that such Proxy do produce from his Constituent or Constituents an Appointment in Writing, made and signed in the Presence of Two Witnesses, and in the Words and to the Effect following; that is to say,

'I of one of the Proprietors of "The Canada
'Union Railroad" do hereby nominate, constitute, and appoint
'of to be my Proxy, in my Name and in my Absence to
'vote or give my Assent or Dissent to any Business, Matter, or Thing relating
'to the said Undertaking that shall be mentioned or proposed at any Meeting
'of the Proprietors of the said Undertaking, or any of them, in such Manner
'as he the said shall think proper, according to his Opinion
'and Judgment, for the Benefit of the said Undertaking or any thing apper-
'taining thereto. In witness whereof I have hereunto set my Hand and
'Seal the Day of in the Year
'In the Presence of
'Signature of Witnesses (L. S.)'

And such Vote or Votes by Proxy shall be as valid as if such Principal or Principals had voted in Person; and whatever Question, Election of proper Officers, or Matters or Things, shall be proposed, discussed, or considered in any public Meeting of Proprietors to be held by virtue of this Ordinance, shall be determined by the Majority of Votes and Proxies then present and so given as aforesaid; provided nevertheless, that no Person shall act as Proxy at any Meeting for any absent Proprietors for more than One hundred and fifty Shares; and at every such Meeting one of the Proprietors present shall be appointed Chairman or President, and shall not only vote as a Proprietor, but in case of Equality of Votes shall have the decisive or casting Vote.

Provided

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That no Proprietor who shall not be a natural-born Subject of Her Majesty, or a Subject of Her Majesty naturalized by Act of the British Parliament, or by Act of the Parliament of this Province, or by Act or Ordinance of the Legislative Authority thereof for the Time being, shall be elected President, Treasurer, or Clerk, or One of the Committee of the said Corporation.

And be it further ordained and enacted by the Authority aforesaid, That the first General Meeting of Proprietors for putting this Ordinance into execution shall be held at the Court House in the City of Montreal within One Month after One thousand Shares in the said Undertaking shall have been subscribed, provided that public Notice thereof be given during Three consecutive Weeks in the Montreal Gazette (if then published), and if not then in some other public Newspaper published in the City of Montreal, and in some Newspaper published in the French Language in the said City (if any there be), and in some public Newspaper published in the City of Quebec; and the Second General Meeting shall be held at such Time and such Place as the said Proprietors, or Majority present at their said First Meeting, shall appoint; and the General Meeting shall be thereafter held twice in every Year, on the Tenth Day of January and on the Tenth Day of July, or if either of the said Days be a Sunday or a Holiday then on the next Day which shall not be so; and at the said First General Meeting the Proprietors assembled, together with such Proxies as shall be present, shall choose Nine Persons, being each a Proprietor of Ten or more Shares in the said Undertaking, (out of whom any Five or more of them shall be a Quorum,) to be a Committee for managing the Affairs of the said Company of Proprietors, in such Manner as is herein-after directed, and as shall from Time to Time be ordered by such General Meetings, which said Committee shall continue in Office until the Tenth Day of January following; and also upon each succeeding Tenth Day of January, being one of the semi-annual Meetings, (or upon the following Day, when the same shall fall on a Sunday or Holiday,) a new Committee for the ensuing Year shall in like Manner be elected; provided always, that at least Five of the Members of the Committee for the Year or Period then last past shall be re-elected; but if at any Time it shall appear to any Fifteen or more of such Proprietors, holding together Two hundred and fifty Shares at least, that for more effectually putting this Ordinance into execution a Special Meeting of Proprietors is necessary to be held, it shall be lawful for such Fifteen or more of them to cause Fifteen Days Notice at least to be given thereof in the Newspaper aforesaid, or in such other Manner as the Proprietors or their Successors shall at any General Meeting direct or appoint, specifying in such Notice the Time and Place and the Reason and Intention of such Special Meetings respectively; and the Proprietors are hereby authorized to meet pursuant to such Notice, and proceed to the Execution of the Powers by this Ordinance given them with respect to the Matters so specified only; and all such Acts of the Proprietors or a Majority of them at such Special Meetings so assembled, such Majority not having, either as Principals or Proxies, less than One thousand Shares, shall be as valid to all Intents and Purposes as if the same were done at General Meetings.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful for the said Company of Proprietors, at such Special Meetings, in like Manner as at General Meetings, in case of the Death, Absence, Resignation, or Removal of any Person named of the Committee to manage the Affairs of the said Company of Proprietors in manner aforesaid, to choose and appoint another or others in the Room or Stead of those of such Committee who may die, or be absent, resign, or be removed as aforesaid, any thing in this Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That if at any Time it shall happen that an Election of a Committee shall not take place on the Day when, in pursuance of this Ordinance, it ought to be made and take place, the said Corporation shall not be taken to be dissolved, but it shall be lawful at any other Time to make such Election at a General Meeting of Stockholders to be called in the Manner herein-after prescribed; and until such new Election shall be had the Committee for the Year or Period then last past shall continue in Office, and shall hold all their Powers, as if

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

elected under the Authority of this Ordinance for the Period ending at the Time of such new Election.

And be it further ordained and enacted by the Authority aforesaid, That no one Member of the said Committee, though he may be a Proprietor of many Shares, shall have more than One Vote in the said Committee, except the Chairman or President who shall be chosen by and out of the said Committee, and who, in case of a Division of equal Numbers, shall have the casting Vote, although he may have given One Vote before; provided always, that such Committee shall from Time to Time be subject to the Examination and Control of the said General and other Meetings of the said Proprietors as aforesaid, and shall pay due Obedience to all such Orders and Directions in and about the Premises as they shall from Time to Time receive from the said Proprietors at such General or other Meetings, such Orders and Directions not being contrary to any express Directions or Provisions in this Ordinance contained.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That no Person holding any Office, Place, or Employment, or being concerned or interested in any Contract or Contracts, under the said Company, shall be capable of being chosen a Member of the Committee for managing the Affairs of the said Company.

And be it further ordained and enacted by the Authority aforesaid, That every such General Meeting shall have Power to call for, audit, and settle all Accounts of Money laid out and disbursed on account of the said Undertaking with the Treasurer, Receiver and Receivers, and other Officer and Officers to be by them, or by any other Person or Persons whomsoever, employed by or concerned for or under them in and about the said Undertaking, and to that Purpose shall have Power to adjourn themselves over from Time to Time and from Place to Place as shall be thought convenient by the Persons entitled to a Majority of Votes in manner aforesaid; and every General Meeting or such Committee assembled by the Authority of this Ordinance shall have Power from Time to Time to make such Call or Calls of Money from the Proprietors of the said Undertaking, to defray the Expense of or to carry on the same, as they from Time to Time shall find wanting and necessary for this Purpose; provided, however, that no Call do exceed the Sum of Five Pounds Current Money of this Province for every Share of Twenty-five Pounds, and provided also that no Calls be made but at the Distance of One Calendar Month from each other; and such Committee shall have full Power and Authority to manage and direct all and every the Affairs of the said Company of Proprietors, as well in contracting for and purchasing Lands, Rights, and Materials for the Use of the said Undertaking, as in employing, ordering, and directing the Work and Workmen, and in placing and removing under Officers, Clerks, Servants, and Agents, and in making all Contracts and Bargains touching the said Undertaking, so that no such Purchase, Bargain, or other Matter be done or transacted without the Concurrence of a Majority of such Committee; and the Owner or Owners of One or more Share or Shares in the said Undertaking shall pay his, her, or their Shares and Proportion of the Monies to be called for as aforesaid to such Person or Persons and at such Time and Place as the said General Meeting or Committee shall from Time to Time appoint and direct, of which Three Weeks Notice at least shall be given in the Montreal Gazette or other Newspaper published in Montreal in the English Language, and also in a public Newspaper published in the said City in the French Language (if any such there be), and in a public Newspaper published in the City of Quebec, or in such other Manner as the said Proprietors or their Successors shall at any General Meeting direct or appoint; and if any Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionate Part or Share of the said Money to be called for as aforesaid, at the Time and Place appointed by such General Meeting or Committee, he, she, or they neglecting or refusing shall forfeit a Sum not exceeding Five Pounds for every One hundred Pounds of his, her, or their respective Share and Shares in the said Undertaking; and in case such Person and Persons shall neglect to pay his, her, or their rateable Calls as aforesaid, for the Space of Six Calendar Months after the Time appointed for the Payment thereof as aforesaid, then he, she, or they shall forfeit his, her, or their respective Share and Shares in the said Undertaking, and all the Profit and Benefit thereof,

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

thereof, all which Forfeitures shall go to the rest of the said Company of Proprietors of the said Undertaking, their Successors and Assigns, in Trust for and for the Benefit of the said Proprietors, in proportion to their respective Interests.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That no Advantage shall be taken of the Forfeiture of any Share or Shares of the said Undertaking, unless the same shall be declared to be forfeited at some General Meeting of the said Company of Proprietors assembled at any Time after such Forfeiture shall be incurred; and every such Forfeiture shall be an Indemnification to and for every Proprietor so forfeiting against all Action and Actions, Suits or Prosecutions whatever to be commenced or prosecuted for any Breach of Contract or other Agreement between such Proprietor and the other Proprietors with regard to carrying on the said Railroad or Undertaking.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors and their Successors shall always have Power and Authority, at any General Meeting assembled as aforesaid, to remove any Person or Persons chosen upon such Committee as aforesaid, and to elect others to be of the Committee in the Room of those who shall die, resign, or be removed, and to remove any other Officer or Officers under them, and to revoke, alter, amend, or change any of the Rules and Directions herein-before prescribed with regard to their Proceedings amongst themselves, (the Method of calling General Meetings, and their Time and Place of assembling, and the Manner of voting and of appointing Committees, only excepted,) and shall have Power to make such new Rules, Bye Laws, and Orders, not being contrary to the Provisions of this Ordinance, except as herein above expressly authorized, for the good Government of the said Company, and their Servants, Agents, and Workmen, for the good and orderly making, maintaining, and using the said Railroad and other Works connected therewith or belonging thereto, and for the well governing of all Persons whomsoever travelling upon or using the said Railroad and other Works, or transporting any Goods, Wares, Merchandizes, or other Commodities thereon; and to impose and inflict such reasonable Fines and Forfeitures upon the Persons guilty of a Breach of such Rules, Bye Laws, or Orders as to such General Meeting shall seem meet, not exceeding the Sum of Fifty Shillings Current Money of the Province for any One Offence, such Prices or Forfeitures to be levied and recovered by such Ways and Means as are herein-after mentioned; which said Rules, Bye Laws, and Orders, being put into Writing under the Common Seal of the said Company of Proprietors, shall be published at least twice in the said Montreal Gazette or other public Newspaper published in the City of Montreal, and in a Newspaper there published in the French Language (if any there be), and in a public Newspaper published in the City of Quebec, and affixed in the Office of the said Company of Proprietors, and in all and every of the Places where the Tolls are to be gathered, and in like Manner as often as any Change or Alteration shall be made to the same; and the said Rules, Bye Laws, and Orders, so made and published as aforesaid, shall be binding upon and observed by all Parties, and shall be sufficient in any Court of Law or Equity to justify all Persons who shall act under the same.

And be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful to and for the several Proprietors of the said Railroad or Undertaking to sell and dispose of his, her, or their Share or Shares therein, subject to the Rules and Conditions herein mentioned; and any Purchaser shall have a Duplicate Deed of Bargain and Sale and Conveyance made unto him or her or them before Two Witnesses; and one Part of such Deed, duly executed by the Seller and Purchaser, shall be delivered to the said Committee or their Clerk for the Time being, to be filed and kept for the Use of the said Company, and an Entry thereof shall be made in a Book or Books to be kept by the said Clerk for that Purpose, and the said Clerk is hereby required to make such Entry accordingly; and until such Duplicate of such Deed shall be so delivered to the said Committee or their Clerk, and filed and entered as above directed, such Purchaser or Purchasers shall have no Part or Share of the Profits of the said Undertaking, nor any Interest for the said Share or Shares paid unto him, her, or them, nor any Vote as a Proprietor or Proprietors.

(4.) And

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

And be it further ordained and enacted by the Authority aforesaid, That the Sale of the said Shares shall be in the Form following, varying the Names and Descriptions of the contracting Parties as the Case may require:

'I *A. B.*, in consideration of the Sum of in hand paid to me 'by *C. D.* of do hereby bargain, sell, and transfer to the said '*C. D.* Share [*or* Shares] of the Stock of "The Canada Union Rail-'road," to hold unto him the said *C. D.*, his Heirs, Executors, Curators, 'Administrators, and Assigns, subject to the same Rules and Orders, and on 'the same Conditions, that I held the same immediately before the Execution 'hereof: And I the said *C. D.* do hereby agree to accept the said 'Share [*or* Shares], subject to the same Rules, Orders, and Conditions.

'Witness our Hands and Seals this Day of in the 'Year .

'Signed and executed } (L.S.)
'in the Presence of } (L.S.)

And be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Company of Proprietors, and they are hereby authorized, from Time to Time to nominate and appoint or remove a Treasurer or Treasurers and a Clerk and Clerks to the said Company of Proprietors (taking such Security for the due Execution of his or their Office as the said Company of Proprietors shall think proper), who shall at all Times and from Time to Time while in Office account to the said Chairman and Committee touching all Matters and Things that may come into his Charge or under his Direction and Management, upon any Requisition made by the said Chairman on behalf of the said Committee, and who shall also render a just and true Account to the said Company at each and every semi-annual Meeting thereof, and shall keep perfect, just, and true Books of Account, subject at all Times to Inspection and Examination by the said President; and it shall be also lawful to and for the said Chairman and Committee, on behalf of the said Company, and they are hereby authorized, to name and appoint such Clerk or Clerks, Engineers, Overseers, and other Officers as may from Time to Time be requisite and necessary; and such Clerk or Clerks shall in a proper Book or Books enter and keep a true and perfect Account of the Names and Places of Abode of the several Proprietors of the said Railroad or Undertaking, and of the several Persons who shall from Time to Time become Owners and Proprietors of or entitled to any Share or Shares therein, and of all the other Acts, Proceedings, and Transactions of the said Company of Proprietors, and of the Committee for the Time being, by virtue of and under the Authority of this Ordinance, and at all Times shall be accountable to the said Committee, who may at any Time remove any such Clerk or Clerks or other Officer or Officers, and engage and appoint another or others in his or their Stead.

And be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful for the said Company of Proprietors to divide the said Route from Montreal to the Province Line aforesaid into Five Sections; to wit, from Montreal to Lachine to be Section Number One, from Lachine to St. Anne's to be Section Number Two, from St. Anne's to Vaudreuil to be Section Number Three, from Vaudreuil to Coteau du Lac to be Section Number Four, and from Coteau du Lac to Province Line to be Section Number Five; and the Company of Proprietors shall and may proceed with, finish, and complete all, any, or either of the said Sections as they shall deem advisable; and upon any One or more of the said Sections being so completed and made available for the Transportation and Conveyance of Property and Passengers they the said Company of Proprietors shall be and they are hereby authorized to open such Section or Sections for the Transportation and Conveyance of Property and Passengers, and therefor to exact, take, and receive Toll or Fare, but not to divide any Profit or Dividend until the said Railroad be completed from Montreal to Coteau du Lac as aforesaid, the whole under the Authority and Provisions of this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That for the Purpose of facilitating all Matters and Things relating to the said Undertaking, and until a Chairman and Committee shall be duly elected according to the Provisions of this Ordinance, it shall be lawful for the Persons herein-before named,

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

named, at a Meeting held for that Purpose, to constitute and appoint, by a Majority of Votes of such of the said Persons as shall be present thereat, a temporary Committee, to be chosen from among themselves, to consist of Five in Number, Three of whom shall form a Quorum, who shall be thereby authorized by virtue of this Ordinance to do, transact, and execute all Matters and Things needful and necessary towards carrying the present Ordinance into effect, until a Committee shall be duly elected at the First General Meeting as aforesaid. Provided always, and be it further ordained and enacted, by the Authority aforesaid, That nothing in this Ordinance contained shall extend or be construed to extend to oblige the said Company of Proprietors to make, finish, or complete the Fifth Section of the said Railroad, as herein-before defined, or to continue the said Railroad upwards beyond a good and safe Steam Boat Harbour at Coteau du Lac aforesaid, should they the said Company of Proprietors deem the Facilities of Transportation to the Province of Upper Canada sufficiently accomplished by terminating the said Railroad at Coteau du Lac ; and thereupon the said Railroad under and by virtue of this Ordinance shall be held, deemed, and considered as fully completed and finally accomplished as if the Distance had originally been made and intended to terminate at Coteau du Lac aforesaid, instead of the Province Line ; and that then and in that Case the said Company of Proprietors and their Successors shall be fully entitled to all and every the Benefits and Advantages to be derived to them under and by virtue of this Ordinance, which shall be held and considered in full and entire Force, Virtue, and Effect, any thing contained in this Ordinance to the contrary thereof notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Company of Proprietors, and their Successors and Assigns, from Time to Time and at all Times next after the Completion of the whole of the said Railroad (be the same at Coteau du Lac or at the Province Line, as the Case may be), or of any One or more of the said Sections thereof, to ask, demand, take and recover, to and for their own proper Use and Behoof, for all Goods, Wares, Merchandizes, and Commodities, of whatever Description, transported upon the said Railroad, at and after the Rate of Ten-pence Currency per Ton Weight or per Ton Measurement (at the Option of the said Company) for each and every Mile of Transport on the said Railroad, or such less Sum as the said Company of Proprietors shall from Time to Time appoint, and for every Passenger Three-pence Currency per Mile of Travel on the said Railroad, or such less Sum as the said Company of Proprietors shall from Time to Time appoint ; which said Rates shall be paid to such Person or Persons, and at such Place or Places on or near to the said Railroad, in such Manner, and under such Regulations as the said Company of Proprietors or their Successors shall direct and appoint ; and in case of Denial or Neglect of Payment of any such Rates or Dues, or any Part thereof, on Demand, to the Person or Persons appointed to receive the same as aforesaid, the said Company of Proprietors may sue for and recover the same in any Court having competent Jurisdiction, or the Person or Persons to whom the same Rates or Dues ought to be paid may and he is and they are hereby empowered to seize and detain such Goods, Wares, Merchandizes, or other Commodities for and in respect whereof such Rates or Dues ought to be paid, and detain the same until Payment thereof; and in the meantime such Goods, Wares, Merchandizes, or other Commodities shall be at the Risk and Expense of the Owner or Owners thereof ; and the said Company of Proprietors shall have full Power from Time to Time at any General Meeting to lower or reduce all or any of the said Rates or Dues, and again to raise the same, (not exceeding in any Case the Sums or Rates before mentioned,) as often as it shall be deemed necessary for the Interests of the said Company.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That in all Cases where there shall be a Fraction of a Mile in the Distance which Goods, Wares, Merchandizes, or other Commodities, or Passengers, shall be conveyed or transported on the said Railroad, such Fraction shall in ascertaining the said Rates be deemed and considered as a whole Mile ; and that in all Cases where there shall be a Fraction of a Ton in the Weight of any such Goods, Wares, Merchandizes, or other Commodities, a Proportion of the said Rates shall be demanded and taken by the said Company

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

of Proprietors to the Number of Quarters of a Ton contained therein, and in all Cases where there shall be a Fraction of a Quarter of a Ton such Fraction shall be deemed and considered as a whole Quarter of a Ton.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors shall and they are hereby required, at any Time and at all Times, to provide suitable Carriages, subject to the Approval of the Deputy Postmaster General, for the Conveyance of Her Majesty's Mail, and the Person or Persons in charge thereof, along the said Railroad, or such Sections thereof as shall then be completed and in use; nor shall any Carriage or Train of Carriages or Vehicles, whether for the Conveyance of Passengers or of Goods, proceed at any Time along such Railroad or Section thereof without such Carriage for the Conveyance of Her Majesty's Mail, except under the express written Licence and Instructions of Her Majesty's Deputy Postmaster General to the said Company, stating at what Time and on what Occasions he shall not require that the Mail be so conveyed; and to this end the said Company shall notify to the said Deputy Postmaster General the Days and Hours at which their Trains and Carriages will start from either End of such Railroad or of any Section thereof, and shall not change such Times of starting without giving at least Three Days Notice of such Change to the said Deputy Postmaster General; and the said Company shall not, for the Conveyance of the said Mail, and of the Person or Persons in charge thereof, and of the Carriage so to be provided for the Conveyance thereof as aforesaid, charge or demand a greater Rate than One Penny Currency per Mile for each Person in charge thereof, One Halfpenny Currency per Mile for each Conveyance of a Mail weighing One Hundred Weight or less, and a Farthing Currency per Mile for each Half Hundred Weight exceeding the first Hundred Weight, but no Charge for any Fraction of a Hundred Weight less than Half a Hundred Weight when the whole Mail shall exceed One Hundred Weight or One hundred and twelve Pounds; and for each and every Refusal or Neglect by the said Company to comply with the Requirements of this Section the said Company shall forfeit and pay to Her Majesty, Her Heirs and Successors, to and for the public Uses of the Province, a Sum not exceeding Twenty-five Pounds Currency, to be recovered, with Costs, in any Court having Jurisdiction to that Amount: Provided always, that nothing in this Section contained shall be construed to prevent the said Deputy Postmaster General from making such Arrangement and Agreement with, and granting such Permission or Authority to the said Company, with regard to the Conveyance of Her Majesty's Mail, as he shall deem expedient; and such Arrangement, Agreement, Permission, or Authority shall be good and valid, and shall be a sufficient Indemnification to the said Company for any thing done or omitted in pursuance thereof, any thing in this Section to the contrary notwithstanding.

And in order to ascertain the Amount of the clear Profits of the said Undertaking, be it further enacted and ordained by the Authority aforesaid, That the said Company, or the Committee for managing the Affairs of the said Company, shall and they are hereby required to cause a true, exact, and particular Account to be kept, and annually made up and balanced on the Tenth Day of January in each Year, of the Money collected and received by the said Company, or by the Committee or Treasurer of the said Company, or otherwise, for the Use of the said Company, by virtue of this Ordinance, and of the Charges and Expenses attending the erecting, making, supporting, maintaining, and carrying on the said Works, and of all other Receipts and Expenditure of the said Company or the said Committee; and at the semi-annual Meetings of the Proprietors of the said Undertaking to be from Time to Time holden as aforesaid, or at some Adjournment thereof, a Dividend shall, after the said Railroad shall have been completed from Montreal to Coteau du Lac as aforesaid, be made out of the clear Profits of the said Undertaking, unless such semi-annual Meetings shall declare otherwise; and such Dividends shall be at and after the Rate of so much per Share upon the several Shares held by the Members thereof of the Joint Stock of the said Company: Provided always, that no Dividend shall be made whereby the Capital of the said Company shall be in any Degree reduced or impaired, nor shall any Dividend be paid in respect of any Share, after a Day appointed for Payment of any Call for Money in respect thereof, until such Call shall have been paid.

And

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Company of Proprietors, their Successors and Assigns, from Time to Time, at any General Meeting of the said Proprietors, to make any such Bye Law or Bye Laws for ascertaining or fixing the Price or Sum or Sums of Money to be charged or taken for the Carriage of any Parcel not exceeding One hundred and twenty Pounds Weight upon the said Railroad, or any Part thereof, as to them shall seem fit and reasonable; and the said Company of Proprietors, and their Successors and Assigns, shall from Time to Time print and stick up, or cause to be printed and stuck up, in their Office, and in all and every of the Places where the Tolls, Rates, and Dues are to be collected, in some conspicuous Place there, a printed Paper, ascertaining and particularizing the Price or Sum or Sums of Money to be charged or taken for the Carriage of such Parcels, not exceeding One hundred and twenty Pounds Weight as aforesaid, upon the said Railroad, or upon any Part thereof.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors shall, within Six Calendar Months after any Lands shall be taken for the Use of the said Railroad or Undertaking, divide and separate, and keep constantly divided and separated, the Land so taken from the Lands or Grounds adjoining thereto, with a sufficient Post and Rail Fence, Hedge, Ditch, Trench, Bank, or other Fence sufficient to keep off Hogs, Sheep, and Cattle, to be set and made on the Lands or Grounds which shall be purchased by, conveyed to, or vested in the said Company of Proprietors as aforesaid, and shall at their own Costs and Charges from Time to Time maintain, support, and keep in sufficient Repair the said Posts, Rails, Hedges, Ditches, Trenches, Banks, and other Fences so set up and made as aforesaid; and the said Company of Proprietors, as soon as conveniently may be after each of the said Sections of the said Railroad shall be completed, before the same shall be opened to the Use of the Public as aforesaid, shall cause the said Railroad, or so much thereof as shall be so completed, to be measured, and Stones, with proper Inscriptions on the Side or Sides thereof, denoting the Distances, to be erected, and for ever after maintained, at the Distance of every Mile from each other.

And be it further ordained and enacted by the Authority aforesaid, That whenever any Farm or other Lands belonging to the same Person or Persons shall be divided and separated into Two Parts by the said Railroad, the said Company of Proprietors shall erect and place a Gate or other moveable Barrier on each Side of the said Railroad in such Manner as to allow to the said Person or Persons a convenient Passage and Communication to, with, and between the Parts of the said Farm or other Lands so divided and separated as aforesaid: Provided always, that it shall not be lawful for such Person or Persons to cross or in any Manner pass over the said Railroad save and except at the Place where such Gates or Barriers shall be so erected as aforesaid; and provided also, that it shall be lawful for the said Company of Proprietors to make such Rules and Bye Laws for the opening and closing, Regulation, keeping, and using of the said Gates or Barriers as may be necessary or expedient for securing to the said Company the safe and unobstructed Use of the said Railroad, and to impose for each Offence against such Rules and Bye Laws, or any of them, a Penalty not exceeding Five Shillings Currency, to be recovered in like Manner as other Penalties under this Ordinance may be recovered.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors, their Successors and Assigns, or the said Committee on their Behalf acting by their Chairman for the Time being, shall and are hereby required and directed to take a sufficient Security by One or more Bond or Bonds in a sufficient Penalty or Penalties from their Treasurer, Receiver, and Collector for the Time being, of the Monies to be raised by virtue of this Ordinance, for the faithful Execution by such Treasurer, Receiver, or Collector of his and their Office and Offices respectively.

And whereas several Persons have subscribed or may hereafter subscribe to advance Money towards carrying the Purposes of this Ordinance into execution; be it therefore further ordained and enacted by the Authority aforesaid, That the several Person and Persons who have subscribed or may hereafter subscribe to advance any Money for and towards making and maintaining the said Railroad and other Works connected therewith shall and they are hereby required

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

to pay the Sum or Sums of Money by them respectively subscribed for, or such Parts or Portions thereof as shall be called for from Time to Time by the said Company of Proprietors, under and by virtue of the Powers and Directions of this Ordinance, to such Person or Persons and at such Times and Places as shall be directed by the said Company of Proprietors, or the said Committee, in manner before mentioned; and in case any Person or Persons shall neglect or refuse to pay the same at the Time and in manner required for that Purpose, it shall be lawful for the said Company of Proprietors to sue for and recover the same in any Court of Law having competent Jurisdiction.

And be it further ordained and enacted by the Authority aforesaid, That all Fines and Forfeitures imposed by this Ordinance, or which shall be imposed by virtue of any Rule, Order, or Bye Law to be made in pursuance thereof, (of which Rule, Order, or Bye Law, when produced, all Justices are hereby required to take notice,) the levying and recovering of which Fines and Forfeitures are not particularly herein provided for, shall, upon Proof of the Offence before any One or more Justice or Justices of the Peace for the District of Montreal, either by the Confession of the Party or Parties, or by the Oath or Affirmation of any One credible Witness (which Oath or Affirmation such Justice or Justices are hereby empowered and required to administer without Fee or Reward), be levied by Distress and Sale of the Offender's Goods and Chattels by Warrant under the Hand and Seal or Hands and Seals of such Justice or Justices; and all such respective Fines, Forfeitures, and Penalties by this Ordinance imposed and inflicted, the Application whereof is not herein-before particularly directed, shall be paid into the Hands of the Treasurer or Receiver of the Monies to be raised by virtue of this Ordinance, and shall be applied and disposed of for the Use of the said Railroad or Undertaking, and the Overplus of the Money raised by such Distress and Sale, after deducting the Penalty and the Expenses of the levying and Recovery thereof, shall be paid over to the Owner of the Goods so distrained and sold; and for Want of sufficient Goods and Chattels whereof to levy the said Penalty and Expenses the Offender shall be committed to the Common Gaol for the District of Montreal, there to remain, without Bail or Mainprize, for such Term, not exceeding Two Weeks, as such Justice or Justices shall think proper, unless such Penalty or Forfeiture, and all Costs and Expenses attending the same, shall be sooner paid and satisfied: Provided always, that the Informer or Prosecutor shall be deemed and taken to be a competent Witness in any Prosecution under this Section, if such Informer shall, before giving his or her Evidence, renounce his or her Right to any Portion of the Penalty sued for, which Penalty shall in such Case belong wholly to Her Majesty, for the public Uses of the Province.

And be it further ordained and enacted by the Authority aforesaid, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done by any Justice or Justices of the Peace in pursuance of this Ordinance, every such Person or Persons may, within Four Calendar Months after the doing thereof, appeal to the Justices of the Peace at the General Quarter Sessions to be holden in and for the District of Montreal.

And be it further ordained and enacted by the Authority aforesaid, That if any Action or Suit shall be brought or commenced against any Person or Persons for any thing done or to be done in pursuance of this Ordinance, or in the Execution of the Powers and Authorities, or the Orders and Directions herein-before given or granted, every such Action or Suit shall be brought or commenced within Six Calendar Months next after the Fact committed; or in case there shall be a Continuation of Damage, then within Six Calendar Months next after the doing or committing such Damage shall cease, and not afterwards, and the Defendant or Defendants in such Action or Suit may plead the General Issue, and give this Ordinance and the special Matter in Evidence at any Trial to be held thereupon, and that the same was done in pursuance and by the Authority of this Ordinance, and if it shall appear to have been so done, or if any Action or Suit shall be brought after the Time so limited for bringing the same, or if the Plaintiff or Plaintiffs shall be nonsuit, or discontinue his, her, or their Action or Suit after the Defendant or Defendants shall have appeared, or if Judgment shall be given against the Plaintiffs, the Defendant or Defendants

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

fendants shall have full Costs, and shall have such Remedy for the same as any Defendant or Defendants hath or have for Costs of Suit in other Cases by Law.

And be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful for the said Company of Proprietors, in constructing and making the said Railroad, to connect the Island of Montreal, at or near St. Anne's, aforesaid, with the main Land at or near Vaudreuil aforesaid, by means of Bridges, and across the several intermediate Islands, by Bridges and Railroad crossing the Outlets of the Ottawa River at or near St. Anne's and Vaudreuil respectively, to be held and appropriated to the exclusive Use of this said Railroad or Undertaking, to the end of obtaining and securing a free and uninterrupted Communication by Rail-route, without the Necessity of Trans-shipment along the whole Route of the said Railroad from Montreal to the Termination thereof; and the said Company of Proprietors shall be and they are hereby further authorized to take and appropriate, for the Use of the said Railroad and Undertaking, so much of the Land covered with the Waters of the St. Lawrence and Ottawa Rivers respectively, or of their respective Beds, as may be found necessary for the making and completing or more conveniently using the same, and thereon to erect and construct such Wharves, Quays, Inclined Planes, Cranes, and other Works as to the said Company shall seem meet: Provided always, that the said Company shall not obstruct the free Navigation of the said Rivers Ottawa or St. Lawrence, or of any Outlet thereof, and shall in making such Bridge or Bridges leave such Opening or Openings of such Width and Height over the Channel or Channels of the said River or Outlets, and between the Piers of such Bridge or Bridges, as the Governor, Lieutenant Governor, or Person administering the Government shall direct, and shall construct such Bridge or Bridges, and use the Bed and Waters of the said River or Outlets, in such Manner only as they shall be authorized and empowered to do by an Instrument in Writing (accompanied by such Drawings and other Documents as may be necessary to the understanding thereof) to be prepared at the Expense of the said Company, and assented to and executed by the said Governor, Lieutenant Governor, or Person administering the Government, under his Hand and Seal, any thing in this Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors, to entitle themselves to the Benefit and Advantages to them granted by this Ordinance, shall and they are hereby required to make and complete the said Railroad from Montreal aforesaid to Coteau du Lac aforesaid, in manner aforesaid, within Five Years from the passing of this Ordinance; and that the Book and Plan hereby required to be prepared shall be prepared and deposited of Record within Eighteen Months next after the passing of this Ordinance; and if the same shall not be so completed and deposited respectively within the said Period, so as to be used by the Public as aforesaid, then this Ordinance, and every Matter and Thing therein contained, shall cease and be utterly null and void as far only as regards such of the aforesaid Sections of the aforesaid Route of the said Railroad as shall not be then completed and in use, but shall remain in full Force and Effect with regard to any Section or Sections of the said Railroad which shall be completed and in use to the Public within the said Term of Five Years, as fully as if the whole Distance to Coteau du Lac aforesaid were completed, any thing in this Ordinance contained to the contrary notwithstanding: Provided always, that if the said Railroad shall not have been commenced, or if the Sum of Twenty thousand Pounds Currency, or a greater Sum, shall not have been expended on the said Railroad and the Works thereunto appertaining, within Two Years and Six Months from the passing of this Ordinance, then this Ordinance, and every Matter and Thing therein contained, shall cease and become utterly null and void and of no effect, unless One Section at least of the said Railroad shall have been completed and in use before the Expiration of the said Term of Two Years from the passing of this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That at any Time before or after the making and completing the said Railroad or Undertaking it shall and may be lawful for Her Majesty, Her Heirs and Successors, to assume the Possession and Property of the same, and of all and every the Works and Dependencies thereunto belonging or in anywise appertaining,

No. 153.

Making a Railroad from Montreal to Point à Beaudet.

upon paying to the said Company of Proprietors, their Successors and Assigns, the full Amount of their respective Shares, or of the Sums furnished and advanced by such Subscriber towards making and completing the said Railroad and Works connected therewith, together with such further Sum as will amount to Twenty per Centum upon the Monies so advanced and paid, as full Indemnification to such Company of Proprietors, by annual Payments of at least Twenty per Cent., allowing moreover to the said Company Six per Cent. Interest upon the unredeemed Part of the Capital, but not allowing them any Interest upon the Advance of Twenty per Cent. which is allowed them as aforesaid; and the said Railroad or Undertaking, and all and every the Works and Dependencies thereunto belonging, shall, from the Time of such Assumption in manner aforesaid, appertain and belong to Her Majesty, Her Heirs and Successors, who shall from thenceforward be substituted in the Place and Stead of the said Company of Proprietors, their Successors and Assigns, for all and every the Purposes of this Ordinance, in so far as regards the said Railroad or Undertaking.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors shall, between the First Day of January and the Thirty-first Day of December in each and every Year, and at such Time within the said Periods as the Governor, Lieutenant Governor, or Person administering the Government of the said Province shall appoint, lay before him, or such Officer as he shall direct to receive the same, a detailed and particular Account, attested upon Oath, of all Monies by the said Company received or expended under the Authority of this Ordinance, with a Statement of the Amount of Tonnage and of Passengers conveyed along the said Railroad, or such Section or Sections thereof as shall then be completed and in use.

And be it further ordained and enacted by the Authority aforesaid, That nothing herein contained shall affect or be construed to affect in any Manner or Way whatsoever the Rights of Her Majesty, Her Heirs and Successors, or of any Person or Persons, or of any Bodies Politic, Corporate, or Collegiate, such only excepted as are herein mentioned.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be deemed and taken to be a Public Act or Ordinance, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and others, without being specially pleaded.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-fifth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-fifth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 154.

No. 154.

Amending an Ordinance relative to Taverns and Tavern Keepers.

An Ordinance to repeal in part, and to amend, and to render permanent as amended, a certain Ordinance therein mentioned, relative to Taverns and Tavern Keepers; and to make further Provision relative to the same Subjects. [Passed 25th June 1840.]

Whereas it is expedient to amend and render permanent a certain Ordinance passed in the Second Year of Her Majesty's Reign, and intituled "An Ordinance to amend a certain Act therein mentioned, and to provide for the better Regulation of Taverns and Tavern Keepers," and to make further Provision with regard to the same Subject; be it therefore ordained and enacted by his Excellency the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, and intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That any Complaint for any Offence against any of the Provisions of the Ordinance herein-before cited may be prosecuted before any Two Justices of the Peace residing in the County in which the Offence shall have been committed, and such Justices of the Peace shall, with regard to such Offender and to such Offence, and to all the legal Consequences thereof, have all the Powers, Authority, and Jurisdiction vested with regard to the same in any Two Justices of the Peace residing within the Parish, Seigniory, or Township in which the Offence may have been committed by the Seventeenth Section of the said Ordinance: Provided always, that no such Offender shall by such Justices of the Peace be enjoined to appear or to answer such Complaint at any Place out of the Limits of the Parish, Seigniory, or Township in which the Offence shall have been committed.

And be it further ordained and enacted by the Authority aforesaid, That no Person who shall after the passing of this Ordinance obtain a Licence to retail Wine, Brandy, Rum, or other spirituous Liquors (commonly called a Grocer's or Storekeeper's Licence), but shall have no Licence to keep a House of public Entertainment, and to retail spirituous Liquors therein, shall, under such Licence, or under any Pretext whatever, retail such Wine, Brandy, Rum, or other spirituous Liquors in less Quantity than Three Half-pints at one Time, any Law, Statute, or Ordinance to the contrary notwithstanding; and any Person or Persons who shall contravene the Provisions of this Section shall thereby incur the same Penalty (to be sued for, recovered, and levied in the same Manner and under the same Provisions) as by the Laws now in force in this Province is imposed on any Person or Persons selling Wine, Brandy, Rum, or other spirituous Liquors without a Licence.

And be it further ordained and enacted by the Authority aforesaid, That the Nineteenth Section of the Ordinance herein-before cited and hereby amended, which said Section is in the Words following: "And be it further ordained and enacted by the Authority aforesaid, That every Person keeping a House of public Entertainment, who shall be convicted of any Offence against this Ordinance, shall be thereby deprived of his Licence, which shall by such Conviction alone be cancelled and annulled, and such Person shall be incapable of holding any Licence for a like Purpose during the Continuance of this Ordinance," shall be and the said Section is hereby repealed.

And whereas it appears that from insufficient Information laid before the Justices of the Peace residing in the City of Montreal and the Suburbs or Banlieue thereof, at and before their Special Session held between the Twentieth and Thirtieth Days of January One thousand eight hundred and forty, the said Justices were induced to refuse Certificates of Qualification for keeping Houses of public Entertainment and retailing spirituous Liquors therein according to the Provisions of the Second Section of the Ordinance above cited to divers

No. 154.

Amending an Ordinance relative to Taverns and Tavern Keepers.

Persons to whom they would otherwise have granted such Certificates; for Remedy thereof, and for the Relief of the Persons to whom Certificates were so refused as aforesaid, be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful for the Justices of the Peace residing in the said City of Montreal, and the Suburbs or Banlieue thereof, at a Special Session which they are hereby authorized to hold on some Day in the Month of July in the present Year One thousand eight hundred and forty, to grant Certificates of Qualification for keeping Houses of public Entertainment, and for retailing spirituous Liquors therein, to all Persons to whom they were induced by insufficient Information to refuse such Certificates at the said Special Session held in the Month of January One thousand eight hundred and forty; and the Certificates to be so granted shall have the same Force and Effect, until the Twentieth Day of May One thousand eight hundred and forty-one as if they had been granted at the said Special Session in the said Month of January One thousand eight hundred and forty, any thing in the said Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance, and the Ordinance herein-before cited, as hereby amended, shall be and are hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-fifth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-fifth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 155.

No. 155.

Providing for the further Protection of the Indians in this Province.

An Ordinance to repeal certain Parts of an Ordinance therein mentioned, and to amend certain other Parts of the said Ordinance; and to provide for the further Protection of the Indians in this Province.

[Passed 25th June 1840.]

Whereas it is necessary to repeal certain Parts of an Ordinance herein-after mentioned, and to amend certain other Parts of the said Ordinance, and to make Provisions for the further Protection of the Indians in this Province; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That

No. 155.

Providing for the further Protection of the Indians in this Province.

That from and after the passing of this Ordinance so much of an Ordinance passed in the Seventeenth Year of the Reign of His late Majesty George the Third, intituled "An Ordinance to prevent the selling of strong Liquors to the Indians in the Province of Quebec, as also to deter Persons from buying their Arms or Clothing, and for other Purposes relative to the Trade and Intercourse with the said Indians," as is contained in the Fourth Clause thereof, shall be and the same is hereby repealed.

And be it further ordained and enacted by the Authority aforesaid, That it shall be lawful for the Governor of this Province, by a written Instrument, to order any Person who heretofore hath been, or now is, or may hereafter become resident in any of the Indian Villages in this Province, to remove from such Village; and in case of default by the said Person or Persons so to remove from such Indian Village, within Seven Days from such Order being signified to him, he shall forfeit the Sum of Five Pounds Currency for each and every Day after the said Seven Days during which he shall continue to reside or remain in such Indian Village, with all Costs of Prosecution, and shall suffer Imprisonment for a Period not less than One Month and not exceeding Two Months, and further until he shall have paid the said last-mentioned Penalty and Costs.

And be it further ordained and enacted by the Authority aforesaid, That all the Penalties imposed by the Second and Third Clauses of the said Ordinance for the Offences therein specified, and all the Penalties and Forfeitures imposed by this Ordinance, shall be recovered by Information on behalf of Her Majesty, Her Heirs or Successors, before any Two or more of Her Majesty's Justices of the Peace for the District or Division of the said Province in which the Offence shall have been committed, and such Two or more Justices of the Peace are hereby authorized and required to hear and determine such Information in a summary Manner, and upon the Oath of One credible Witness, and to levy the said Penalties, together with the Costs of suing for the same, by a Warrant to seize and sell the Goods and Chattels of the Person or Persons offending, and to inflict the said Imprisonment in the Manner herein-before provided; all which said Penalties and Forfeitures shall be paid into the Hands of Her Majesty's Receiver General for the public Uses of this Province.

And be it further ordained and enacted by the Authority aforesaid, That all Informations under and by virtue of this Ordinance shall be brought within Six Calendar Months from the Time that the Offence shall have been committed, and not afterwards.

And be it further ordained and enacted by the Authority aforesaid, That the Word "Governor" shall be taken and held to mean and comprehend as well the Governor as the Lieutenant Governor and Person administering the Government of this Province for the Time being.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and remain a permanent Law and in full Force until it shall be repealed by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-fifth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-fifth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay.
Clerk Special Council,

No. 156.

Safe keeping of Gunpowder within the City of Montreal.

(Copy.)

No. 156.

An Ordinance to provide more effectually for the safe storing and keeping of Gunpowder within and near the City and Town of Montreal.

[Passed 16th June 1840.]

Whereas it is expedient and necessary to make more effectual Provision for the safe storing and keeping of Gunpowder in and near the City and Town of Montreal; be it therefore ordained and enacted by his Excellency the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament, passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That, from and after the First Day of July now next ensuing, it shall not be lawful for any Person or Persons whomsoever to store, keep, or have, within the City or Town of Montreal, or within Three Miles from the Boundaries thereof, any Quantity of Gunpowder exceeding in Weight Twenty-five Pounds, at any One Time, in any House, Building, or Place, other than and except in a Building or Buildings constructed or to be constructed of Stone covered with Metal, made Fire-proof, and furnished with proper Lightning Rods or Conductors, and at the Distance of at least Two hundred Feet on every Side from any other Building whatever, which Building or Buildings, constructed and completed as aforesaid, before any Gunpowder shall be stored or kept therein, shall be certified by a Person of competent Skill to be sufficient for the safe storing and keeping of Gunpowder therein, and shall be approved of, as being sufficient for that Purpose, by Two or more of the Justices of the Peace resident in the said City or Town of Montreal.

And be it further ordained and enacted, That any Person or Persons who shall store, keep, or have any Quantity of Gunpowder exceeding the said Quantity of Twenty-five Pounds at any One Time, in any Building or Place within the Limits aforesaid, other than and except in a Building constructed, covered, furnished, and situated as aforesaid, shall forfeit to Her Majesty, Her Heirs and Successors, for every such Offence the Sum of Ten Pounds Sterling Money of Great Britain, and all and every such Gunpowder so stored or kept contrary to the Provisions of this Ordinance shall be and remain forfeited to Her Majesty, Her Heirs and Successors.

And be it further ordained and enacted, That One Half of the said Penalty of Ten Pounds, and of the Gunpowder forfeited in virtue of this Ordinance, shall belong to the Person who shall sue for the same within Three Months from the Commission of the Offence, and One Half thereof to Her Majesty, Her Heirs and Successors; and the said Penalty may be sued for and recovered, and the Forfeiture of Gunpowder in pursuance of this Ordinance be declared and adjudged, in any Court of Record in this Province, or by and before any Two Justices of the Peace for the District of Montreal, who may cause the said Penalty, with Costs, to be levied by and under their Warrant of Distress, after Convction of the Offender or Offenders, on the Oath of One or more credible Witness or Witnesses other than the Informer, and shall and may declare and adjudge such Forfeiture of Gunpowder as aforesaid, and that the same be sold, and the Proceeds thereof divided, under their Authority, according to the Provisions of this Ordinance.

And be it further ordained and enacted, That it shall be lawful for any Justice of the Peace for the District of Montreal, on Information and Complaint on Oath made before him, or on Complaint by any Two or more Householders, being Inhabitants within the said Limits, assigning a reasonable Cause for believing that any Quantity of Gunpowder exceeding in Weight Twenty-five Pounds is stored or kept within the Limits aforesaid, contrary to the Provisions

of

No. 156.

Safekeeping of Gunpowder within the City of Montreal.

of this Ordinance, to issue his Warrant under his Hand and Seal, to be directed to One or more Constables of the said City and Town of Montreal, for the Seizure of the said Gunpowder, and for the Conveyance of the same to a Place in which it may be lawfully stored and kept with Safety; and the Constable or Constables charged with the Execution of any such Warrant shall have full Power and Authority to enter into, and, if there shall be Occasion, to break open the Door of the House, Building, or Place mentioned in such Warrant, in the Day-time only, and there search for, seize, and secure such Gunpowder, to be conveyed as aforesaid, and to be detained until it shall be determined, in due Course of Law as aforesaid, whether the same hath been or shall be declared forfeited by virtue of this Ordinance.

Provided always, and be it further ordained and enacted, That this Ordinance, or any thing herein contained, shall not be construed in any Manner to relate to or affect any Storehouse or Magazine belonging to Her Majesty, Her Heirs or Successors, wherein Gunpowder or other Stores shall be kept for the Use of the Public, or to the Conveyance of Gunpowder to or from Her Majesty's Magazines, or by Her Majesty's Forces employed on a Military Service.

And be it further ordained and enacted, That this Ordinance, and the Provisions therein, shall not cease or expire on the First Day of November which will be in the Year of our Lord One thousand eight hundred and forty-two, but shall be and remain a permanent Law, and in full Force in this Province, until the same shall be repealed or altered by competent Legislative Authority, and shall also be held and taken to be a Public Act, and as such judicially taken notice of in all Courts, and by all Judges, Justices, and others, without specially pleading the same.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Sixteenth Day of June, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Sixteenth Day of June One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 157.

No. 157.

Making a Railroad from Carillon to Grenville.

An Ordinance for making a Railroad from Carillon *to* Grenville.

[Passed 26th June 1840.]

Whereas the several Persons herein-after mentioned have by their Petition represented the public Advantages which would arise from the Construction of a Railroad from Carillon, on the River Ottawa, to Grenville, also on the said River, so as to facilitate the Carriage of Passengers, Goods, Wares, and Merchandize between that Part of the said River lying below the Rapids of the Long Sault and that Part thereof lying above the same, and thereby to promote and encourage the Trade and Intercourse between the City of Montreal and those Places in this Province lying above the said Rapids, and also between

No. 157.

Making a Railroad from Carillon to Grenville.

this Province and the Province of Upper Canada; and have by the said Petition prayed to be incorporated, and that divers Powers and Privileges may be granted to them for the Purpose of enabling them to construct such Railroad: And whereas it is expedient to grant the Prayer of the said Petitioners, subject to the Enactments, Provisions, and Limitations herein-after set forth and contained; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the same, and by virtue of the Powers in them vested by the said Acts of Parliament, That Charles John Forbes, Edward Jones, John Lee, William Smith, Charles Forbes junior, William Jameson, Joseph Abbott, Horace Lee Forbes, Arthur Lloyd, George Morrison, and such others as may hereafter, under the Provisions of this Ordinance, become Subscribers to and Proprietors of any Share or Shares in the Railroad hereby authorized to be made, and their several and respective Heirs, Executors, Administrators, Curators, and Assigns, being Proprietors of any Share or Shares in the said Railroad, shall be and are hereby constituted a Corporation, Body Politic and Corporate, for the making, completing, carrying on, and maintaining the said Railroad according to the Provisions and Enactments of this Ordinance, by and under the Name and Style of "The Company of Proprietors of the Upper and Lower Ottawa Railroad," and by that Name shall have perpetual Succession, and shall have a Common Seal, and by that Name shall and may sue and be sued, and also shall and may have Power and Authority to purchase Lands, Tenements, and Hereditaments, construct or hire Wharves, Storehouses, or other Buildings for the Convenience of themselves, their Successors and Assigns, for all useful Purposes connected with the said Railroad, without Her Majesty's Lettres d'amortissement; and for the Purposes aforesaid the said Company of Proprietors, their Deputies, Servants, Agents, and Workmen, are hereby authorized and empowered to make and complete a Railroad, from a Point on or near the River Ottawa, and at or near Carillon aforesaid, to a Point on or near the said River at or near Grenville aforesaid, in as direct a Line as local Circumstances and the Nature of the Ground will permit, and are for that Purpose hereby authorized and empowered to enter into and upon the Lands and Grounds of the Queen's most Excellent Majesty (subject to the Limitations herein-after expressed), or of any Person or Persons, Bodies Politic, Corporate, or Collegiate, or Communities whatsoever, and to survey and take Levels of the same or any Part thereof, and to set out and ascertain such Parts thereof as they shall think necessary and proper for making the said intended Railroad, and all such other Works, Matters, and Conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining, and using the said intended Railroad and other Works, and also to bore, dig, cut, trench, get, remove, take, carry away, and lay Earth, Stone, Clay, Soil, Rubbish, Gravel, Sand, Trees, Roots of Trees, and other Matters or Things which may be dug or got in making the said intended Railroad or other Works, on or out of the Lands or Grounds of any Person or Persons adjoining or lying convenient thereto, and which may be proper, requisite, or necessary for making or repairing the said intended Railroad, or other Works incidental or relative thereto, or which may hinder, prevent, or obstruct the making, using, or completing, extending, or maintaining the same respectively, according to the Intent and Purposes of this Ordinance, and to make, build, erect, and set up, in or upon the said intended Railroad, or upon the Lands adjoining or near the same respectively, such and so many Houses, Warehouses, Weighing-beams, Cranes, Fire Engines, Steam Engines, locomotive, stationary, or other Engines, Inclined Planes, Machines, and other Works, Ways, Roads, and Conveniences, as and when the said Company of Proprietors shall

No. 157.

Making a Railroad from Carillon to Grenville.

shall think proper, requisite, and convenient for the Purposes of the said Railroad, and also from Time to Time to alter, divert, repair, widen, enlarge, and extend the same, and also to make, maintain, repair, and alter any Fences or Passages over, under, or through the said intended Railroad, and to construct, erect, and keep in repair any Piers, Arches, and other Works upon or across any Rivers or Brooks, for the making, using, maintaining, and repairing the said intended Railroad, and to construct, erect, make, and do all other Matters and Things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing, and easy using of the said intended Railroad and other Works, in pursuance of and according to the true Intent and Meaning of this Ordinance, they the said Company of Proprietors doing as little Damage as may be in the Execution of the several Powers to them hereby granted, and making satisfaction in manner herein-after mentioned to the Owners or Proprietors of or the Persons interested in the Lands, Tenements, or Hereditaments, Waters, Watercourses, Brooks, or Rivers respectively, which shall be taken, used, removed, prejudiced, or of which the Course shall be altered, or for all Damages to be by such Owners or Proprietors sustained in and by the Execution of all or any of the Powers granted by this Ordinance, and this Ordinance shall be sufficient to indemnify the said Company of Proprietors, and their Servants, Agents, or Workmen, and all other Persons whomsoever, for what they or any of them shall do by virtue of the Powers hereby granted, subject nevertheless to such Provisions and Restrictions as are herein-after mentioned.

And be it further ordained and enacted, by the Authority aforesaid, That, for the Purposes of this Ordinance, the said Company shall, by some sworn Land Surveyor in this Province, and by some Engineer by them to be appointed, cause to be taken and made Surveys and Levels of the Lands through which the said intended Railroad is to pass or be carried, together with a Plan or Map of such Railroad, and of the Course and Direction thereof, and of the Lands through which the same is to pass, and also a Book of Reference for the said Railroad, in which shall be set forth a Description of the said several Lands, or such Parts thereof through which the said Railroad shall pass, with the Names of the Owners, Occupiers, and Proprietors thereof, and in which shall be contained every thing necessary for the right understanding of such Map or Plan, which said Map or Plan, and Book of Reference, shall be so made or caused to be made in Triplicate, and shall be certified by the Surveyor General or his Deputy, who shall deposit One Part thereof in the Office of the Prothonotary of the Court of King's Bench of and for the District of Montreal, One other in the Office of the Secretary of the Province, and the remaining One he shall deliver to the said Company of Proprietors; and all Persons shall have Liberty to resort to such Copies so to be deposited as aforesaid, and make Extracts or Copies thereof, as Occasion shall require, paying to the said Secretary of the Province, or to the said Prothonotary, at the Rate of Sixpence Current Money of this Province for each and every Hundred Words; and the said Copies of the said Map or Plan and Book of Reference, so certified, or a true Copy or Copies thereof, certified by the Secretary of the Province, or by the said Prothonotary of the Court of King's Bench for the District of Montreal, shall severally be and are hereby declared to be good Evidence in all Courts of Law or elsewhere.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That where the said Railroad shall cross any public Highway the Ledge or Flanch of such Railroad for the Purpose of guiding the Wheels of the Carriages shall not rise above the Level of such Road nor sink below such Level more than One Inch.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That where any Bridge shall be erected or made by the said Company for the Purpose of carrying the said Railroad over or across any public Highway, the Space of the Arch of any such Bridge shall be formed, and shall at all Times be and be continued of such Breadth as to leave a clear and open Space under each and every such Arch of not less than Fifteen Feet, and a Height from the Surface of such public Highway to the Centre of such Arch of not less than Sixteen Feet, and the Descent under such Bridge shall not exceed One Foot in Thirteen Feet.

(4.) Provided

No. 157.

Making a Railroad from Carillon to Grenville.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That in all Places where it may be necessary to erect, build, or make any Bridge or Bridges for carrying any public Highway over the said Railroad, the Ascent of such Bridge, for the Purpose of such Highway, shall not be steeper than One Foot in Thirteen Feet; and a good and sufficient Fence shall be made by the said Company on each Side of each such Bridge, which Fence shall not be less than Four Feet above the Surface of such Bridge.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That in all Cases where the said intended Railway shall cross any public Highway on a Level therewith, the said Company shall erect and at all Times maintain a good and sufficient Gate on each Side of such public Highway where the said Railway shall communicate with such public Highway, which Gates shall be constantly kept shut, except at such Time as Waggons, Carts, and other Carriages passing along the said Railway shall have to cross such public Highway, and they shall be opened for the Purpose only of letting such Waggons, Carts, or other Carriages pass through; and every Driver or Person intrusted with the Care of any Waggon, Cart, or other Carriage, or with any Train of Waggons, Carts, or other Carriages, shall and he is hereby directed to cause the said Gates and each of them to be shut as soon as such Waggons, Carts, or other Carriages shall have passed through, under a Penalty of Five Shillings for each Offence, to be recovered in like Manner as other Penalties under this Ordinance may be recovered.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors, in making the said intended Railroad, shall not deviate more than Two Arpents from the Course or Direction delineated in the said Map or Plan, and set forth in the said Book of Reference, nor cut, carry, place, lay down, or convey the said Railroad into, through, across, under, or over any Part or Parts of the several Estates, Lands, or Grounds now or late belonging or reputed to belong to the said several and respective Persons named or described in the said Book of Reference, other than such Part or Parts as are mentioned in the said Book of Reference in that Behalf (save in such Instances only as are particularly hereby provided for), without the Approbation and Consent in Writing signed by the Owner or Owners or Person or Persons for the Time being entitled to the Rents and Profits of such Estates, Lands, or Tenements respectively.

Provided always, and be it hereby further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors shall and may make their said intended Railroad through, across, or over the Lands or Grounds of any Person or Persons whomsoever into whose Estates, Lands, or Grounds such Deviations as aforesaid shall extend, although his, her, or their Name or Names is or are not mentioned in the said Book of Reference, or into the Estate, Lands, or Grounds of any Person or Persons whose Name or Names hath or have been by Mistake omitted, or that instead of his, her, or their Name or Names the Name or Names of some other Person or Persons to whom such last-mentioned Estates, Lands, or Grounds do not belong hath or have been by Mistake inserted in the said Book of Reference.

And be it further ordained and enacted by the Authority aforesaid, That the Lands or Grounds to be taken or used for such intended Railroad, and the Ditches, Drains, and Fences to separate the same from the adjoining Lands, shall not exceed Twenty Yards in Breadth, except in such Places where the said intended Railroad shall be raised more than Five Feet higher or cut more than Five Feet deeper than the present Surface of the Land, and in such Places where it shall be deemed necessary to have Offsets for the locomotive or other Engines and Carriages using the said intended Railroad to lie or pass each other, and not above One hundred and fifty Yards in Breadth in any such Place, or where any Houses, Warehouses, Toll Houses, Watch-houses, Weighing-beams, Cranes, fixed Engines, or Inclined Planes may be erected, or Goods, Wares, or Merchandizes be delivered, and then not more than Two hundred Yards in Length by One hundred and fifty Yards in Breadth, without the Consent of the Proprietors.

And be it further ordained and enacted by the Authority aforesaid, That after any Lands or Grounds shall be set out and ascertained in manner aforesaid, for making and completing the said Railroad and other Works, and other the Purposes

No. 157.

Making a Railroad from Carillon to Grenville.

Purposes and Conveniences herein-before mentioned, it shall and may be lawful for all Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Communities, Guardians, Curators, Executors, Administrators, and other Trustees or Persons whomsoever, not only for and on behalf of themselves, their Heirs and Successors, but also for and on behalf of those whom they represent, whether Issue unborn, Infants, Lunatics, Idiots, Femes Covert, or other Person or Persons, who are or shall be seised, possessed of, or interested in any Lands or Grounds which shall be set out and ascertained as aforesaid, or any Part thereof, to contract for, sell, and convey unto the said Company of Proprietors, their Successors and Assigns, all or any such Lands or Grounds which shall from Time to Time be set out and ascertained as aforesaid; and that 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 anywise notwithstanding; and all Bodies Politic, Corporate, or Collegiate, or Communities, and all Persons whosoever, so conveying as aforesaid, are hereby indemnified for what he, she, or they, or any of them, shall respectively do by virtue or in pursuance of this Ordinance; and all such Contracts, Agreements, Sales, Conveyances, and Assurances, or notarial Copies thereof, shall, at the Expense of the said Corporation, be deposited of Record in the Office of the Prothonotary of the Court of King's Bench for the District of Montreal, and true Copies thereof shall be allowed to be good Evidence in all Courts whatsoever.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That any Body Politic, Community, Corporation, or other Person or Persons whosoever, who cannot in common Course of Law sell or alienate any Lands or Grounds so set out and ascertained, shall agree upon a fixed annual Rent as an Equivalent, and not on a Principal Sum, to be paid for the Lands or Grounds so set out and ascertained as necessary for making the said Railroad, and other the Purposes and Conveniences relative thereto and connected therewith; and in case the Amount of such Rent shall not be fixed by voluntary Agreement, or Compromise, or by Arbitration between the Parties, it shall be fixed by a Jury convened and qualified in the Manner herein-after prescribed, and all Proceedings and Litigations in Court shall in that Case be regulated as is herein-after prescribed; and for the Payment of the said annual Rent, and every other annual Rent agreed upon or ascertained for the Purchase of any Lands or Grounds, the said Railroad, and the Tolls to be levied and collected thereon, shall be and are hereby made liable and chargeable in preference to all other Claims or Demands thereon whatsoever.

And be it further ordained and enacted by the Authority aforesaid, That as soon as the said Map or Plan and Book of Reference shall have been made and deposited as aforesaid it shall then be lawful for the said Company of Proprietors to apply to the several Owners of the Estates, Lands, and Grounds through which such Railroad is intended to be carried, and to agree with such Owners respectively touching the Compensation to be paid unto them by the said Company of Proprietors for the Purchase thereof, and for their respective Damages; and in case of Disagreement between the said Company and the said Owners, or any of them, then all Questions which shall arise between the said Company and the several Proprietors of and Persons interested in any Estates, Lands, or Grounds that shall or may be taken, affected, or prejudiced by the Execution of any of the Powers hereby granted, or with regard to any Indemnification for Damages which may or shall be at any Time or Times sustained by any Bodies Politic or Corporate, or Communities, or any other Person or Persons respectively, being Owners of or interested in any Estates, Lands, or Grounds, for or by reason of the making, repairing, or maintaining the said Railroad or other Works, or Machines incidental or relative thereto or connected therewith, shall and may be settled by Agreement of the Parties or by Arbitration; or if either of the Parties shall not be inclined to make an Agreement, or to appoint Arbitrators, or by reason of Absence shall be prevented from treating, or through Disability by Nonage, Coverture, or other Impediment, cannot treat or make such Agreement, or enter into such Arbitration, or shall not produce a clear Title to the Premises which they claim an Interest in, then and in every such Case the said Company of Proprietors may make Application to the Court of King's Bench

No. 157.

Making a Railroad from Carillon to Grenville.

for the District of Montreal, stating the Grounds of such Application, and such Court is hereby empowered and required from Time to Time, upon such Application, to issue a Warrant directed to the Sheriff of the District of Montreal for the Time being, commanding such Sheriff to impannel, summon, and return a Jury, qualified according to the Laws of this Province to be returned for Trials of Issues joined in Civil Cases in the said Court of King's Bench, to appear before the said Court at such Time and Place as in such Warrant shall be appointed; and all Parties concerned may have their lawful Challenge against any of the said Jurymen, but shall not challenge the Array; and the said Court is hereby empowered to summon and call before them all and every such Person and Persons as it shall be thought necessary to examine as Witnesses touching the Matters in question; and the said Court may authorize and order the said Jury, or any Six or more of them, to view the Place or Places or Matter in controversy; which Jury upon their Oaths (all which Oaths, as well as the Oaths to be taken by any Person or Persons who shall be called upon to give Evidence, the said Court is hereby empowered to administer,) shall inquire of, assess, and ascertain the distinct Sum or Sums of Money or annual Rent to be paid for the Purchase of such Lands or Grounds or Tenements, or the Indemnification to be made for the Damage that may or shall be sustained as aforesaid; and in so doing the said Jury shall take into consideration the Damage or Inconvenience which may arise by means of any Bridges, Roads, or other Communication made necessary by reason of the said Railroad, and assess separate Damage for the same; and the said Jury shall distinguish the Value set upon the Lands, and the Money assessed or adjudged for Damages, separate and apart from each other; and the said Court shall give Judgment for such Sum, Rent, or Indemnification so to be assessed by such Juries; which said Verdict, and the Judgment so thereupon pronounced, shall be binding and conclusive to all Intents and Purposes against the Queen's Majesty, Her Heirs and Successors, and against all Bodies Politic, Corporate, or Collegiate, or Committees, and all Persons whomsoever.

And be it further ordained and enacted by the Authority aforesaid, That in all Cases where a Verdict shall be given for more Money as an Indemnification or Satisfaction for any Lands, Grounds, or Hereditaments, or Property, or for any Damage done to any Lands, Grounds, Hereditaments, or Property, or for any annual Rent of any Lands, Grounds, Hereditaments, Rents, or Property of any Person or Persons whomsoever, than had previously been offered by or on behalf of the said Company of Proprietors, then all the Expenses of summoning such Jury and taking such Inquest shall be settled by the Court and defrayed by the said Company of Proprietors; but if any Verdict shall be given for the same or a less Sum than had been previously offered by and on behalf of the said Company of Proprietors, or in case no Damages shall be given by the Verdict when the Dispute is for Damages only, then and in every such Case the Costs and Expenses shall be settled in like Manner by the Court, and be borne and paid by the Party or Parties with whom the said Company of Proprietors shall have had such Controversy; which said Costs and Expenses, having been so settled, shall and may be deducted out of the Monies so assessed and adjudged, when the same shall exceed such Costs and Expenses, as so much Money advanced to and for the Use of such Person or Persons, and the Payment or Tender of the Remainder of such Money shall be deemed and taken to all Intents and Purposes to be a Payment or Tender of the whole Sum or Sums so assessed or adjudged as aforesaid.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That all and every Person and Persons making complaint and requesting such Jury shall, before the Issue of the Warrant or Warrants for the summoning such Jury as aforesaid, enter into a Bond before One of the Judges of the Court of King's Bench for the District of Montreal, with One sufficient Surety, to the Treasurer of the said Company of Proprietors, or their Successors for the Time being, in the Penalty of Two hundred Pounds Currency, to prosecute his, her, or their Complaint, and to bear and pay the Costs and Expenses of summoning such Jury and taking such Inquest, in case no Damages shall be given by the Verdict to such Party, or in case a Verdict shall be given for no more or for a less Sum or Rent than had been offered by and on behalf of the said Company of Proprietors or their Successors before the summoning

No. 157.

Making a Railroad from Carillon to Grenville.

summoning or returning of the said Jury or Juries, as an Indemnification or Satisfaction for any Lands, Grounds, or Hereditaments, or for any annual Rent, or for any Damages as aforesaid.

And be it further ordained and enacted by the Authority aforesaid, That upon Payment or legal Tender of such Sum or Sums of Money or annual Rent as shall be contracted or agreed for between the Parties, or determined by Arbitrators, or assessed by Juries in manner respectively as aforesaid, to the Proprietors thereof or other Person or Persons entitled to receive the same, or to the principal Officer or Officers of any such Body Politic, Corporate, or Collegiate, or Community, at any Time after the same shall have been so agreed for, determined, or assessed, such Lands, Grounds, and Hereditaments, or Property respectively may be entered upon and taken possession of by the said Company of Proprietors, and applied to the Purposes of making and maintaining the said Railroad and other Works and Conveniences thereunto appertaining.

And be it further ordained and enacted by the Authority aforesaid, That all Agreements, Sales, and Conveyances, and all Determinations by Arbitrators as aforesaid, or notarial Copies thereof, when the same may be passed before Notaries, and also the said Verdicts and Judgments thereupon, shall be transmitted to and kept by the Prothonotary of the Court of King's Bench for the District of Montreal, to be kept among the Records of the said Court, and shall be deemed and taken to be Records of the said Court to all Intents and Purposes, and the same, or true Copies thereof, shall be allowed to be good Evidence in all Courts whatsoever in this Province, and all Persons shall have Liberty to inspect the same, paying for each Inspection the Sum of One Shilling Currency, and to have and obtain Copies thereof, paying for every Copy thereof not exceeding One hundred Words the Sum of Sixpence Currency, and so on in proportion for any Number of Words; and immediately on such Payments of Purchase Money or Rents as aforesaid, and Entry of such Agreements, Sales, Conveyances, Determination by Arbitration, Verdicts, Judgments, or other Proceedings of the said Court and Juries, all the Estate, Right, Title, Interest, Use, Trust, Property, Claim, and Demand, in Law or Equity, of the Person and Persons for whose Use such Money or Rent shall be paid, in or arising out of the said Lands, Grounds, Tenements, Hereditaments, and Premises, shall vest in the said Company of Proprietors and their Successors, and they shall respectively be deemed in Law to be in actual Possession and Seisin of the same, to all Intents and Purposes whatsoever, as fully and effectually as if every Person having an Estate therein had been able to convey, and had actually conveyed the same to them by the most effectual legal Conveyance; and such Payment shall bar all Right, Title, Interest, Claim, and Demand of the Person or Persons to whose Use the same shall be made, Bodies Politic, Corporate or Collegiate, Ecclesiastical or Civil, Communities, Women subject to marital Authority, Minors, Persons interdicted, or Absentees, who may have or claim to have any Right, Title, Interest, Claim, or Demand therein, and of every other Person or Persons whomsoever, even for Dower not yet open (Douaire non encore ouvert), any Law to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That Application to the said Court for Indemnity for any Damage or Injury sustained by reason of the Powers and Authority given by this Ordinance shall be made within Six Calendar Months next after the Time of such supposed Damage sustained, or in case there shall be a Continuation of Damage then within Six Calendar Months after the doing or committing such Damage shall cease, and not afterwards; and the Defendant or Defendants shall and may plead the General Issue, and give this Ordinance and the special Matter in Evidence at any Trial to be had thereupon, and may aver that the same was done in pursuance of and by Authority of this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That if any Person shall by any Means, or in any Manner or Way whatsoever, obstruct or interrupt the free Use of the said Railroad, or of the Carriages, Engines, or other Works incidental or relative thereto or connected therewith, such Person shall for every such Offence incur a Forfeiture or Penalty of not less than Five Pounds nor exceeding Ten Pounds Currency, which Penalty or Forfeiture may

No. 157.

Making a Railroad from Carillon to Grenville.

be recovered before One or more Justices of the Peace for the said District of Montreal; and one Moiety thereof shall go to the Prosecutor or Informer, and the other Moiety to Her Majesty, Her Heirs and Successors, and shall be paid into the Hands of the Receiver General, and shall remain at the Disposal of the Legislative Authority of this Province for the public Uses thereof.

And be it further ordained and enacted by the Authority aforesaid, That if any Person or Persons shall wilfully or maliciously, and to the Prejudice of the said Railroad authorized to be made by this Ordinance, break, throw down, damage, or destroy the same, or any Part thereof, or any of the Houses, Warehouses, Toll Houses, Weighbeams, Cranes, Carriages, Engines, Inclined Planes, Machines, or other Works or Devices incidental and relative thereto or connected therewith, or do any other wilful Hurt or Mischief to obstruct, hinder, or prevent the carrying on, completing, supporting, and maintaining the said Railroad, such Person or Persons shall be adjudged guilty of Felony, and the Court by and before whom such Person or Persons shall be tried and convicted, shall have Power and Authority to cause such Person or Persons to be punished in like Manner as Felons are directed to be punished by the Laws in force in this Province, or in mitigation thereof to award such Sentence as the Law directs in Cases of Petty Larceny, as to such Court shall seem fitting.

And to the end that the said Company of Proprietors may be enabled to carry on so useful an Undertaking; be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Company of Proprietors and their Successors to raise and contribute among themselves, in such Proportions as to them shall seem meet and fitting, a competent Sum of Money for the making and completing the said Railroad, and all such other Works, Matters, and Conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining, and using the said Railroad and other Works: Provided always, that the Members of the said Corporation whose Names are herein-before mentioned shall cause Books of Subscription to be opened in the said City of Montreal for receiving the Signatures of Persons willing to become Subscribers to the said Undertaking, and for this Purpose they shall be held and bound to give public Notice during at least Four successive Weeks in the Montreal Gazette, if then published, and any other public Newspaper in extensive Circulation, of the Time and Place at which such Books shall be opened and ready for receiving Signatures as aforesaid, and of the Persons by them authorized to receive such Subscriptions, and every Person who shall write his or her Signature in such Book as a Subscriber to the said Undertaking shall thereby become a Member of the said Corporation, and shall have the same Rights and Privileges as such as are hereby conferred on the several Persons who are herein mentioned by Name as Members of the said Corporation; provided always, that the Sum so raised shall not exceed Thirty thousand Pounds Currency of this Province in the whole except as is herein-after mentioned, and that the same be divided into such Number of Shares as hereafter directed at a Price not exceeding Fifty Pounds Currency aforesaid per Share, and the Money so to be raised is hereby directed and appointed to be laid out and applied in the first place for and towards the Payment, Discharge, and Satisfaction of all Fees and Disbursements for obtaining and passing this Ordinance, and for making the Surveys, Plans, and Estimates incident thereunto, and all other Expenses relating thereunto, and all the Rest, Residue, and Remainder of such Money for and towards making, completing, and maintaining the said Railroad and other the Purposes of this Ordinance, and to no other Use, Intent, or Purpose whatever.

And be it further ordained and enacted by the Authority aforesaid, That the said Sum of Thirty thousand Pounds Currency, or such Part thereof as shall be raised by the several Persons herein-before named, and by such other Person and Persons as shall or may at any Time within Twelve Calendar Months from the passing of this Ordinance become a Subscriber or Subscribers to the said Railroad, shall be divided and distinguished into Six hundred equal Parts or Shares, at a Price not exceeding Fifty Pounds Currency aforesaid per Share, and that the Shares be deemed Personal Estate, and shall be transferrable as such; and that the said Six hundred Shares shall be and are hereby vested in the said several Subscribers, and their several and respective Heirs, Executors, Curators, Administrators, and Assigns, to their and every of their proper Use and

No. 157.

Making a Railroad from Carillon to Grenville.

and Behoof, proportionally to the Sum they and each of them shall severally subscribe and pay thereunto; and all and every the Bodies Politic, Corporate, or Collegiate, or Communities, and all and every Person and Persons, their several and respective Successors, Executors, Curators, Administrators, and Assigns, who shall severally subscribe and pay the Sum of Fifty Pounds Currency, or such Sum or Sums as shall be demanded in lieu thereof, towards carrying on and completing the said intended Railroad, shall be entitled to and receive, after the said Railroad shall be completed, and not before, the entire and net Distribution of One Six-hundredth Part of the Profits and Advantages that shall and may arise and accrue by virtue of the Sum and Sums of Money to be raised, recovered, or received by the Authority of this Ordinance, and so in proportion for any greater Number of Shares; and every Body Politic, Corporate, or Collegiate, or Community, Person or Persons, having such Property of the One Six-hundredth Part or Share in the said Undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional Sum of Money towards carrying on the intended Undertaking in the Manner by this Ordinance directed and appointed.

And be it further ordained and enacted by the Authority aforesaid, That in case the said Sum of Thirty thousand Pounds Currency, herein-before authorized to be raised, shall be found insufficient for the Purposes of this Ordinance, then and in such Case it shall be lawful for the said Company of Proprietors to raise and contribute among themselves in manner and form aforesaid, and in such Shares and Proportions as to them shall seem meet, or by the Admission of new Subscribers, a further or other Sum of Money for completing and perfecting the said intended Railroad, and other Works and Conveniences incidental or relative thereto, not exceeding the Sum of Fifteen thousand Pounds Currency aforesaid; and every Subscriber towards raising such further or other Sum of Money shall be a Proprietor in the said Undertaking, and have a like Vote by himself or herself, or his or her Proxy, in respect of every Share in the said additional Sum so to be raised, and shall also be liable to such Obligations, and stand interested in all the Profits and Powers of the said Undertaking, in proportion to the Sum he, she, or they shall or may subscribe thereto, as generally and extensively as if such other and further Sum had been originally raised and a Part of the said first Sum of Thirty thousand Pounds, any thing herein contained to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Number of Votes to which each Proprietor of Shares in the said Undertaking shall be entitled on every Occasion when, in conformity to the Provisions of this Ordinance, the Votes of the Members of the said Company of Proprietors are to be given, shall be in the Proportion following; that is to say, for One Share and not more than Two, One Vote; for every Two Shares above Two and not exceeding Ten, One Vote, making Five Votes for Ten Shares; for every Four Shares above Ten and not exceeding Thirty, One Vote, making Ten Votes for Thirty Shares; for every Six Shares above Thirty and not exceeding Sixty, One Vote, making Fifteen Votes for Sixty Shares; for every Eight Shares above Sixty and not exceeding One hundred, One Vote, making Twenty Votes for One hundred Shares; and for every Ten Shares above One hundred Shares and not exceeding One hundred and fifty, One Vote, making Twenty-five Votes for One hundred and fifty Shares; but no Person or Persons, Copartnership, Body Politic, Corporate, or Collegiate, or Community, being a Member or Members of the said Company, shall be entitled to a greater Number than Twenty-five Votes; and all Proprietors of Shares, resident within the Province or elsewhere, may vote by Proxy, if he, she, or they shall see fit, provided that such Proxy do produce from his Constituent or Constituents an Appointment in Writing, made and signed in the Presence of Two Witnesses, and in the Words and to the Effect following; (that is to say,)

'I of one of the Proprietors of "The Upper and
'Lower *Ottawa* Railroad," do hereby nominate, constitute, and appoint
'of to be my Proxy, in my Name and in my Absence to vote or
'give my Assent or Dissent to any Business, Matter, or Thing relating to the
'said Undertaking that shall be mentioned or proposed at any Meeting of the
'Proprietors of the said Undertaking, or any of them, in such Manner as he
'the said shall think proper, according to his Opinion and Judg-

No. 157.

Making a Railroad from Carillon to Grenville.

'ment, for the Benefit of the said Undertaking, or any thing appertain 'ing thereto. In witness whereof I have hereunto set my Hand and Seal 'the Day of in the Year in the Presence 'of

'Signature of Witnesses (L. S.)'

And such Vote or Votes by Proxy shall be as valid as if such Principal or Principals had voted in Person; and whatever Question, Election of proper Officers, or Matters or Things, shall be proposed, discussed, or considered in any public Meeting of Proprietors to be held by virtue of this Ordinance, shall be determined by the Majority of Votes and Proxies then present and so given as aforesaid; provided nevertheless, that no Person shall act as Proxy at any Meeting for any absent Proprietors for more than One hundred and fifty Shares; and at every such Meeting one of the Proprietors present shall be appointed Chairman or President, and shall not only vote as a Proprietor, but, in case of Equality of Votes, shall have the decisive or casting Vote.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That no Proprietor who shall not be a natural-born Subject of Her Majesty naturalized by Act of the British Parliament, or by Act of the Parliament of this Province, or by Act or Ordinance of the Legislative Authority thereof for the Time being, shall be elected President, Treasurer, or Clerk, or one of the Committee of the said Corporation.

And be it further ordained and enacted by the Authority aforesaid, That the First General Meeting of Proprietors for putting this Ordinance into execution shall be held at such Place as shall be hereafter named within One Month after Three hundred Shares in the said Undertaking shall have been subscribed for, provided that public Notice thereof be given during Two consecutive Weeks in the Montreal Gazette (if then published) and any other Newspaper of extensive Circulation, and the Second General Meeting shall be held at such Time and at such Place as the said Proprietors or Majority present at their said First Meeting shall appoint; and the said General Meeting shall be thereafter held twice in every Year; and at the said First General Meeting the Proprietors assembled, together with such Proxies as shall be present, shall choose Nine Persons, being each a Proprietor of Five or more Shares in the said Undertaking, (out of whom any Five or more of them shall be a Quorum,) to be a Committee for managing the Affairs of the said Company of Proprietors, in such Manner as is herein-after directed, and as shall from Time to Time be ordered by such General Meetings; but if at any Time it shall appear to any Eleven or more of such Proprietors, holding together One hundred and twenty Shares at least, that for more effectually putting this Ordinance into execution a Special Meeting of Proprietors is necessary to be held, it shall be lawful for such Eleven or more of them to cause Fifteen Days Notice at least to be given thereof in the Newspapers aforesaid, or in such other Manner as the Proprietors or their Successors shall at any General Meeting direct or appoint, specifying in such Notice the Time and Place and the Reason and Intention of such Special Meetings respectively, and the Proprietors are hereby authorized to meet pursuant to such Notice, and proceed to the Execution of the Powers by this Ordinance given to them with respect to the Matters so specified only; and all such Acts of the Proprietors, or a Majority of them, at such Special Meetings so assembled, such Majority not having either as Principals or Proxies less than Two hundred Shares, shall be as valid to all Intents and Purposes as if the same were done at General Meetings.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful for the said Company of Proprietors at such Special Meetings, in like Manner as at General Meetings, in case of the Death, Absence, Resignation, or Removal of any Person named of the Committee to manage the Affairs of the said Company of Proprietors in manner aforesaid, to choose and appoint another or others in the Room or Stead of those of such Committee who may die, or be absent, resign, or be removed as aforesaid, any thing in this Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That if at any Time it shall happen that an Election of a Committee shall not take place on the Day when in pursuance of this Ordinance it ought to be made

and

No. 157.

Making a Railroad from Carillon to Grenville.

and take place, the said Corporation shall not be taken to be dissolved, but it shall be lawful at any other Time to make such Election at a General Meeting of Stockholders to be called in the Manner herein-after prescribed, and until such new Election shall be had the Committee for the Year or Period then last past shall continue in Office, and shall hold all their Powers as if elected under the Authority of this Ordinance for the Period ending at the Time of such new Election.

And be it further ordained and enacted by the Authority aforesaid, That no One Member of the said Committee, though he may be a Proprietor of many Shares, shall have more than One Vote in the said Committee, except the Chairman or President, who shall be chosen by and out of the said Committee, and who in case of a Division of equal Numbers shall have the casting Vote, although he may have given One Vote before: Provided always, that such Committee shall from Time to Time be subject to the Examination and Control of the said General and other Meetings of the said Proprietors as aforesaid, and shall pay due Obedience to all such Orders and Directions in and about the Premises as they shall from Time to Time receive from the said Proprietors at such General or other Meetings, such Orders and Directions not being contrary to any express Directions or Provisions in this Ordinance contained.

Provided always, and be it further ordained and enacted, by the Authority aforesaid, That no Person holding any Office, Place, or Employment, or being concerned or interested in any Contract or Contracts under the said Company, shall be capable of being chosen a Member of the Committee for managing the Affairs of the said Company.

And be it further ordained and enacted by the Authority aforesaid, That every such General Meeting shall have Power to call for, audit, and settle all Accounts of Money laid out and disbursed on account of the said Undertaking, with the Treasurer, Receiver and Receivers, and other Officer and Officers to be by them, or by their said Committee, or by any other Person or Persons whomsoever, employed by or concerned for or under them, in and about the said Undertaking, and to that Purpose shall have Power to adjourn themselves over from Time to Time and from Place to Place as shall be thought convenient by the Persons entitled to a Majority of Votes in manner aforesaid; and every General Meeting, or such Committee assembled by the Authority of this Ordinance, shall have Power from Time to Time to make such Call or Calls of Money from the Proprietors of the said Undertaking, to defray the Expense of or to carry on the same, as they from Time to Time shall find wanting and necessary for this Purpose; provided however, that no Call do exceed the Sum of Five Pounds Current Money of this Province for every Share of Fifty Pounds; and provided also, that no Calls be made but at the Distance of One Calendar Month from each other; and such Committee shall have full Power and Authority to manage and direct all and every the Affairs of the said Company of Proprietors, as well in contracting for and purchasing Lands, Rights, and Materials for the Use of the said Undertaking, as in employing, ordering, and directing the Work and Workmen, and in placing and removing under Officers, Clerks, Servants, and Agents, and in making all Contracts and Bargains touching the said Undertaking, provided that no such Purchase, Bargain, or other Matter be done or transacted without the Concurrence of a Majority of such Committee; and the Owner or Owners of One or more Share or Shares in the said Undertaking shall pay his, her, or their Shares and Proportion of the Monies to be called for as aforesaid, to such Person or Persons, and at such Time and Place, as the said General Meeting or Committee shall from Time to Time appoint and direct, of which Three Weeks Notice at least shall be given in the Montreal Gazette (if then published), and any other public Newspaper in extensive Circulation, or in such other Manner as the said Proprietors or their Successors shall at any General Meeting direct or appoint; and if any Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionate Part or Share of the said Money to be called for as aforesaid, at the Time and Place appointed by such General Meeting or Committee, he, she, or they neglecting or refusing shall forfeit a Sum not exceeding Five Pounds for every One hundred Pounds of his, her, or their respective Share and Shares in the said Undertaking; and in case such Person and Persons shall

No. 157.

Making a Railroad from Carillon to Grenville.

neglect to pay his, her, or their rateable Calls as aforesaid, for the Space of Two Calendar Months after the Time appointed for the Payment thereof as aforesaid, then he, she, or they shall forfeit his, her, or their respective Share and Shares in the said Undertaking, and all the Profit and Benefit thereof; all which Forfeitures shall go to the rest of the said Company of Proprietors of the said Undertaking, their Successors and Assigns, in Trust for and for the Benefit of the said Proprietors, in proportion to their respective Interests.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That no Advantage shall be taken of the Forfeiture of any Share or Shares of the said Undertaking, unless the same shall be declared to be forfeited at some General Meeting of the said Company of Proprietors assembled at any Time after such Forfeiture shall be incurred; and every such Forfeiture shall be an Indemnification to and for every Proprietor so forfeiting against all Action and Actions, Suits or Prosecutions whatever, to be commenced or prosecuted for any Breach of Contract or other Agreement between such Proprietor and the other Proprietors, with regard to carrying on the said Railroad or Undertaking.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors and their Successors shall always have Power and Authority, at any General Meeting assembled as aforesaid, to remove any Person or Persons chosen upon such Committee as aforesaid, and to elect others to be of the Committee in the Room of those who shall die, resign, or be removed, and to remove any other Officer or Officers under them, and to revoke, alter, amend, or change any of the Rules and Directions herein-before prescribed with regard to their Proceedings amongst themselves, (the Method of calling General Meetings, and their Time and Place of assembling, and the Manner of voting and of appointing Committees, only excepted,) and shall have Power to make such new Rules, Bye Laws, and Orders, for the good Government of the said Company, and their Servants, Agents, and Workmen, for the good and orderly making, maintaining, and using the said Railroad and other Works connected therewith or belonging thereto, and for the well-governing of all Persons whomsoever travelling upon or using the said Railroad and other Works, or transporting any Goods, Wares, Merchandizes, or other Commodities thereon, and to impose and inflict such reasonable Fines and Forfeitures upon the Persons guilty of a Breach of such Rules, Bye Laws, or Orders, as to such General Meeting shall seem meet, not exceeding the Sum of Fifty Shillings Current Money of the Province for any One Offence, such Fines or Forfeitures to be levied and recovered by such Ways and Means as are herein-after mentioned; which said Rules, Bye Laws, and Orders, being put into Writing under the Common Seal of the said Company of Proprietors, shall be published at least Twice in the said Montreal Gazette, if then published, and any other Newspaper in extensive Circulation, and affixed in the Office of the said Company of Proprietors, and in all and every of the Places where the Tolls are to be gathered, and in like Manner as often as any Change or Alteration shall be made to the same; and the said Rules, Bye Laws, and Orders, so made and published as aforesaid, shall be binding upon and observed by all Parties, and shall be sufficient in any Court of Law or Equity to justify all Persons who shall act under the same.

And be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful to and for the several Proprietors of the said Railroad or Undertaking to sell and dispose of his, her, or their Share or Shares therein, subject to the Rules and Conditions herein mentioned; and every Purchaser shall have a Duplicate Deed of Bargain and Sale and Conveyance made unto him or her or them, before Two Witnesses; and One Part of such Deed, duly executed by the Seller and Purchaser, shall be delivered to the said Committee or their Clerk for the Time being, to be filed and kept for the Use of the said Company, and an Entry thereof shall be made in the Book or Books to be kept by the said Clerk for that Purpose, for which no more than One Shilling and Three-pence shall be paid, and the said Clerk is hereby required to make such Entry accordingly; and until such Duplicate of such Deed shall be so delivered to the said Committee or their Clerk, and filed and entered as above directed, such Purchaser or Purchasers shall have no Part or Share of the Profits of the said Undertaking, nor any Interest for the said Share or Shares, paid unto him, her, or them, nor any Vote as a Proprietor or Proprietors.

And

No. 157.

Making a Railroad from Carillon to Grenville.

And be it further ordained and enacted by the Authority aforesaid, That the Sale of the said Shares shall be in the Form following, varying the Names and Descriptions of the contracting Parties as the Case may require:

'I *A.B.*, in consideration of the Sum of in hand paid to me 'by *C.D.* of do hereby bargain, sell, and transfer to the said '*C.D.* Share [*or* Shares] of the Stock of "The Upper and Lower 'Ottawa Railroad," to hold unto him the said *C.D.*, his Heirs, Executors, 'Curators, Administrators, and Assigns, subject to the same Rules and Orders 'and on the same Conditions that I held the same immediately before the 'Execution hereof; and I the said *C.D.* do hereby agree to accept the said ' Share [*or* Shares] subject to the same Rules, Orders, and Conditions. 'Witness our Hands and Seals this Day of in the 'Year

'Signed and executed } (L.S.)
'in Presence of - } (L.S.)

And be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Company of Proprietors, and they are hereby authorized from Time to Time, to nominate and appoint or remove a Treasurer or Treasurers and a Clerk and Clerks to the said Company of Proprietors (taking such Security for the due Execution of his or their Office as the said Company of Proprietors shall think proper); and such Clerk or Clerks shall in a proper Book or Books enter and keep a true and perfect Account of the Names and Places of Abode of the several Proprietors of the said Railroad or Undertaking, and of the several Persons who shall from Time to Time become Owners and Proprietors of or entitled to any Share or Shares therein, and of all the other Acts, Proceedings, and Transactions of the said Company of Proprietors, and of the Committee for the Time being, by virtue of and under the Authority of this Ordinance.

And in order to ascertain the Amount of the clear Profits of the said Undertaking, be it further enacted and ordained by the Authority aforesaid, That the said Company, or the Committee for managing the Affairs of the said Company, shall and they are hereby required to cause a true, exact, and particular Account to be kept, and annually made up and balanced on the Thirtieth Day of November in each Year, of the Money collected and received by the said Company, or by the Committee or Treasurer of the said Company, or otherwise, for the Use of the said Company, by virtue of this Ordinance, and of the Charges and Expenses attending the erecting, making, supporting, maintaining, and carrying on the said Works, and of all other Receipts and Expenditure of the said Company or the said Committee; and at the semi-annual Meetings of the Proprietors of the said Undertaking, to be from Time to Time holden as aforesaid, or at some Adjournment thereof, a Dividend shall be made out of the clear Profits of the said Undertaking, unless such semi-annual Meetings shall declare otherwise; and such Dividends shall be at and after the Rate of so much per Share, upon the several Shares held by the Members thereof, of the Joint Stock of the said Company, as such Meeting shall think fit to appoint and determine: Provided always, that no Dividend shall be made whereby the Capital of the said Company shall be in any degree reduced or impaired, nor shall any Dividend be paid in respect of any Share after a Day appointed for Payment of any Call for Money in respect thereof, until such Call shall have been paid.

And be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Company of Proprietors, and their Successors and Assigns, from Time to Time and at all Times hereafter, to ask, demand, take, and recover, to and for their own proper Use and Behoof, for all Goods, Wares, Merchandize, and Commodities, of whatever Description, transported upon the said Railroad, Nine Shillings Currency of this Province per Ton Weight, and for every Passenger Three Shillings Currency; and the said Rates shall be paid respectively for the whole Distance between Carillon and Grenville aforesaid, and so in proportion for each Mile of the said Distance, and shall be paid to such Person or Persons, and at such Place or Places on or near to the said Railroad, and in such Manner and under such Regulations, as the said Company of Proprietors or their Successors shall direct and appoint; and in case of Denial or Neglect of Payment of any such Rates or Dues, or any Part thereof, on Demand, to the Person or Persons appointed to receive the

No. 157.

Making a Railroad from Carillon to Grenville.

same as aforesaid, the said Company of Proprietors may sue for and recover the same in any Court having competent Jurisdiction, or the Person or Persons to whom the said Rates or Dues ought to be paid may and he is and they are hereby empowered to seize and detain such Goods, Wares, Merchandizes, or other Commodities for and in respect whereof such Rates or Dues ought to be paid, and detain the same until Payment thereof, and in the meantime such Goods, Wares, Merchandizes, or other Commodities shall be at the Risk and Expense of the Owner or Owners thereof; and the said Company of Proprietors shall have full Power, from Time to Time, at any General Meeting, to lower or reduce all or any of the said Rates or Dues, and again to raise the same (not exceeding in any Case the Sums or Rates before mentioned) as often as it shall be deemed necessary for the Interests of the said Undertaking.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That in all Cases where there shall be a Fraction of a Mile in the Distance which Goods, Wares, Merchandizes, or other Commodities, or Passengers, shall be conveyed or transported on the said Railroad, such Fraction shall, in ascertaining the said Rates, be deemed and considered as a whole Mile; and that in all Cases where there shall be a Fraction of a Ton in the Weight of any such Goods, Wares, Merchandizes, or other Commodities, a Proportion of the same Rates shall be demanded and taken by the said Company of Proprietors to the Number of Quarters of a Ton contained therein, and in all Cases where there shall be a Fraction of a Quarter of a Ton such Fraction shall be deemed and considered as a whole Quarter of a Ton.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors shall and they are hereby required, at any Time and at all Times, to provide suitable Carriages, subject to the Approval of Her Majesty's Deputy Postmaster General, for the Conveyance of Her Majesty's Mail, and the Person or Persons in charge thereof, along the said Railroad, when completed and in use; nor shall any Carriage or Train of Carriages or Vehicles, whether for the Conveyance of Passengers or of Goods, proceed at any Time along such Railroad or Section thereof without such Carriage for the Conveyance of Her Majesty's Mail, except under the express written Licence and Instructions of Her Majesty's Deputy Postmaster General to the said Company, stating at what Time and on what Occasions he shall not require that the Mail be so conveyed; and to this end the said Company shall notify to the said Deputy Postmaster General the Day and Hours at which their Trains and Carriages will start from either End of such Railroad, and shall not change such Times of starting without giving at least Six Days Notice of such Change to the said Deputy Postmaster General; and the said Company shall not, for the Conveyance of the said Mail, and of the Person or Persons in charge thereof, and of the Carriage so to be provided for the Conveyance thereof as aforesaid, charge or demand a greater Rate than One Penny Currency per Mile for each Person in charge thereof, One Halfpenny Currency per Mile for each Conveyance of a Mail weighing One Hundred Weight or less, and One Farthing Currency per Mile for each Half Hundred Weight of any such Mail above the first Hundred Weight, making no Charge for any Fraction of a Hundred Weight less than Half a Hundred Weight when the whole Weight of the Mail shall exceed One Hundred Weight, or One hundred and twelve Pounds Avoirdupoise; and for each and every Refusal or Neglect by the said Company to comply with the Requirements of this Section the said Company shall forfeit and pay to Her Majesty, Her Heirs and Successors, to and for the public Uses of the Province, a Sum not exceeding Twenty-five Pounds Currency, to be recovered, with Costs, in any Court having Jurisdiction to that Amount: Provided always, that nothing in this Section contained shall be construed to prevent the said Deputy Postmaster General from making such Arrangement and Agreement with and granting such Permission or Authority to the said Company, with regard to the Conveyance of Her Majesty's Mail, as he shall deem expedient; and such Arrangement, Agreement, Permission, or Authority shall be good and valid, and shall be a sufficient Indemnification to the said Company for any thing done or omitted in pursuance thereof, any thing in this Section to the contrary notwithstanding.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Company of Proprietors,

No. 157.

Making a Railroad from Carillon to Grenville.

Proprietors, their Successors and Assigns, from Time to Time, at any General Meeting of the said Proprietors, to make any such Bye Law or Bye Laws for ascertaining or fixing the Price or Sum or Sums of Money to be charged or taken for the Carriage of any Parcel, not exceeding One hundred and twenty Pounds Weight, upon the said Railroad or any Part thereof, as to them shall seem fit and reasonable; and the said Company of Proprietors, and their Successors and Assigns, shall from Time to Time print and stick up, or cause to be printed and stuck up in their Office, and in all and every of the Places where the Tolls, Rates, and Dues are to be collected, in some conspicuous Place there, a printed Paper, ascertaining and particularizing the Price or Sum or Sums of Money to be charged or taken for the Carriage of such Parcels, not exceeding One hundred and twenty Pounds Weight as aforesaid, upon the said Railroad, or upon any Part thereof.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors shall, within Six Calendar Months after any Lands shall be taken for the Use of the said Railroad or Undertaking, divide and separate, and keep constantly divided and separated, the Land so taken from the Lands or Grounds adjoining thereto, with a sufficient Post and Rail Fence, Hedge, Ditch, Trench, Bank, or other Fence sufficient to keep off Hogs, Sheep, and Cattle, to be set and made on the Lands or Grounds which shall be purchased by, conveyed to, or vested in the said Company of Proprietors as aforesaid, and shall at their own Costs and Charges from Time to Time maintain and support and keep in sufficient Repair the said Posts, Rails, Hedges, Ditches, Trenches, Banks, and other Fences so set up and made as aforesaid.

And be it further ordained and enacted by the Authority aforesaid, That whenever any Farm or other Lands belonging to the same Person or Persons shall be divided and separated into Two Parts by the said Railroad, the said Company of Proprietors shall erect and place a Gate or other moveable Barrier on each Side of the said Railroad, in such Manner as to allow to the said Person or Persons a convenient Passage and Communication to, with, and between the Parts of the said Farm or other Lands so divided and separated as aforesaid; provided always, that it shall not be lawful for such Person or Persons to cross or in any Manner pass over the said Railroad, save and except at the Place where such Gates or Barriers shall be so erected as aforesaid; and provided also, that it shall be lawful for the said Company of Proprietors to make such Rules and Bye Laws for the opening and closing, Regulation, keeping and using of the said Gates or Barriers, as may be necessary or expedient for securing to the said Company the safe and unmolested Use of the said Railroad, and to impose for each Offence against such Rules and Bye Laws, or any of them, a Penalty not exceeding Five Shillings Currency, to be recovered in like Manner as other Penalties under this Ordinance may be recovered.

And be it further ordained and enacted by the Authority aforesaid, That as soon as conveniently may be after the said Railroad or Undertaking shall be completed, the said Company of Proprietors shall cause the same to be measured, and Stones, with proper Inscriptions on the Side or Sides thereof, denoting the Distances, to be erected and for ever after maintained at the Distance of every Mile from each other.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors, their Successors and Assigns, shall and are hereby required and directed to take a sufficient Security, by One or more Bond or Bonds, in a sufficient Penalty or Penalties, from their Treasurer, Receiver, and Collector for the Time being of the Monies to be raised by virtue of this Ordinance, and for the faithful Execution by such Treasurer, Receiver, and Collector of his and their Office and Offices respectively.

And whereas several Persons have subscribed or may hereafter subscribe to advance Money towards carrying the Purposes of this Ordinance into execution; be it therefore further ordained and enacted by the Authority aforesaid, That the several Person and Persons who have subscribed or may hereafter subscribe to advance any Money for and towards making and maintaining the said Railroad and other Works connected therewith shall and they are hereby required to pay the Sum or Sums of Money by them respectively subscribed for, or such Parts or Portions thereof as shall be called for from Time to Time by the said Company of Proprietors, under and by virtue of the Powers and

No. 157.

Making a Railroad from Carillon to Grenville.

Directions of this Ordinance, to such Person or Persons, and at such Times and Places, as shall be directed by the said Company of Proprietors or the said Committee in manner before mentioned; and in case any Person or Persons shall neglect or refuse to pay the same at the Time and in the Manner required for that Purpose, it shall be lawful for the said Company of Proprietors to sue for and recover the same in any Court of Law having competent Jurisdiction.

And be it further ordained and enacted by the Authority aforesaid, That all Fines and Forfeitures imposed by this Ordinance, or which shall be imposed by virtue of any Rule, Order, or Bye Law to be made in pursuance thereof, (of which Rule, Order, or Bye Law, when produced, all Justices are hereby required to take notice,) the levying and recovering of which Fines and Forfeitures are not herein-after particularly provided for, shall, upon Proof of the Offence before any One or more Justice or Justices of the Peace for the District of Montreal, either by the Confession of the Party or Parties, or by the Oath or Affirmation of any One credible Witness (which Oath or Affirmation such Justice or Justices are hereby empowered and required to administer without Fee or Reward), be levied by Distress and Sale of the Offender's Goods and Chattels, by Warrant under the Hand and Seal or Hands and Seals of such Justice or Justices; and all such respective Fines, Forfeitures, and Penalties by this Ordinance imposed and inflicted, or authorized to be imposed or inflicted, the Application whereof is not herein-before particularly directed, shall be paid into the Hands of the Treasurer or Receiver of the Monies to be raised by virtue of this Ordinance, and shall be applied and disposed of for the Use of the said Railroad or Undertaking; and the Overplus of the Money to be raised by such Distress and Sale, after deducting the Penalty, and the Expenses of the levying and Recovery thereof, shall be paid over to the Owner of the Goods so distrained and sold; and for Want of sufficient Goods and Chattels whereof to levy the said Penalty and Expenses, the Offender shall be committed to the Common Gaol for the District of Montreal, there to remain, without Bail or Mainprize, for such Term not exceeding One Month as such Justice or Justices shall think proper, unless such Penalty or Forfeiture, and all Costs and Expenses attending the same, shall be sooner paid and satisfied.

And be it further ordained and enacted by the Authority aforesaid, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done by any Justice or Justices of the Peace in pursuance of this Ordinance, every such Person or Persons may, within Four Calendar Months after the doing thereof, appeal to the Justices of the Peace of the General Quarter Sessions to be holden in and for the District of Montreal.

And be it further ordained and enacted by the Authority aforesaid, That if any Action or Suit shall be brought or commenced against any Person or Persons for any thing done or to be done in pursuance of this Ordinance, or in the Execution of the Powers and Authorities or the Orders and Directions herein-before given or granted, every such Action or Suit shall be brought or commenced within Six Calendar Months next after the Fact committed, or in case there shall be a Continuation of Damage then within Six Calendar Months next after the doing or committing such Damage shall cease, and not afterwards; and the Defendant or Defendants in such Action or Suit may plead the General Issue, and give this Ordinance and the special Matter in Evidence at any Trial to be held thereupon, and that the same was done in pursuance and by the Authority of this Ordinance; and if it shall appear to have been so done, or if any Action or Suit shall be brought after the Time so limited for bringing the same, or if the Plaintiff or Plaintiffs shall be nonsuit, or discontinue his, her, or their Action or Suit after the Defendant or Defendants shall have appeared, or if Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have full Costs, and shall have such Remedy for the same as any Defendant or Defendants hath or have for Costs of Suit in other Cases by Law.

And be it further ordained and enacted by the Authority aforesaid, That at any Time before or after the making and completing the said Railroad or Undertaking it shall and may be lawful for Her Majesty, Her Heirs and Successors, to assume the Possession and Property of the same, and of all and every the Works and Dependencies thereunto belonging or in anywise appertaining, upon paying to the said Company of Proprietors, their Successors and Assigns,

No. 157.

Making a Railroad from Carillon to Grenville.

Assigns, the full Amount of their respective Shares, or of the Sums furnished and advanced by such Subscribers towards making and completing the said Railroad and Works connected therewith, together with such further Sum as will amount to Twenty-five per Centum upon the Monies so advanced and paid, as full Indemnification to such Company of Proprietors, by annual Payments of at least Twenty per Cent., allowing moreover to the said Company Six per Cent. Interest upon the unredeemed Part of the Capital, but not allowing them any Interest upon the Advance of Twenty-five per Cent. which is allowed them as aforesaid; and the said Railroad or Undertaking, and all and every the Works and Dependencies thereunto belonging, shall, from the Time of such Assumption in manner aforesaid, appertain and belong to Her Majesty, Her Heirs and Successors, who shall from thenceforward be substituted in the Place and Stead of the said Company of Proprietors, their Successors and Assigns, for all and every the Purposes of this Ordinance, in so far as regards the said Railroad or Undertaking.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors shall, between the First Day of January and the Thirty-first Day of December in each and every Year, and at such Time within the said Periods as the Governor, Lieutentant Governor, or Person administering the Government of this Province shall appoint, lay before him, or such Officer as he shall direct to receive the same, a detailed and particular Account, attested upon Oath, and made in such Form as he shall direct, of all Monies by the said Company received or expended under the Authority of this Ordinance, with a Statement of the Amount of Tonnage and of Passengers conveyed along the said Railroad during the Period for which the Account shall be rendered.

And be it further ordained and enacted by the Authority aforesaid, That it shall and may be lawful for the said Company of Proprietors, in constructing and making the said Railroad, to take and appropriate for the Use of the same so much of the Land covered with the Waters of the River Ottawa, or of its Bed, as may be found necessary for the making and completing or more conveniently using the same, and thereupon to erect such Wharves, Quays, Inclined Planes, Cranes, and other Works as to the said Company shall seem meet: Provided always, that the said Company of Proprietors shall not, under any Provision of this Section, or of any Part of this Ordinance, in any way obstruct or impede the free Navigation of the said River Ottawa or any Part thereof, or the Navigation or Use of the Canal commonly called the Grenville Canal, or of the Inlets or Outlets to the same, or the Use, Efficiency, or working of any public Work therewith connected, or of any public Work of any Kind whatever, nor shall the Powers vested by this Ordinance in the said Company extend to the taking or using of any Lands, Grounds, Beach, or Real Property whatever, the Property whereof is now vested in Her Majesty, without the Consent of the Governor, Lieutenant Governor, or Person administering the Government of this Province for the Time being, signified to the said Company under the Hand of the Civil Secretary of the Province.

And be it further ordained and enacted by the Authority aforesaid, That the said Company of Proprietors, to entitle themselves to the Benefit and Advantages to them granted by this Ordinance, shall and they are hereby required to make and complete the said Railroad from Carillon to Grenville in manner aforesaid within Three Years from the passing of this Ordinance; and that the Book and Plan hereby required to be prepared shall be prepared and deposited of Record within Twelve Months next after the passing of this Ordinance; and if the same shall not be so completed and deposited respectively within the said Period, so as to be used by the Public as aforesaid, then this Ordinance, and every Matter and Thing therein contained, shall cease and be utterly null and void.

And be it further ordained and enacted by the Authority aforesaid, That nothing herein contained shall affect or be construed to affect, in any Manner or Way whatsoever, the Rights of Her Majesty, Her Heirs and Successors, or of any Person or Persons, or of any Bodies Politic, Corporate, or Collegiate, such only excepted as are herein mentioned.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be deemed and taken to be a Public Act or Ordinance, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and others, without being specially pleaded.

No. 157.

Making a Railroad from Carillon to Grenville.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-sixth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-sixth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

No. 158.

Establishing a Police in Quebec, Montreal, and Three Rivers.

(Copy.)

No. 158.

An Ordinance to repeal certain Parts of an Ordinance therein mentioned, and to amend certain other Parts of the said Ordinance, and to amend certain Parts of another Ordinance therein mentioned, and make further Provision for establishing and maintaining an efficient System of Police in the Cities of Quebec *and* Montreal *and the Town and Borough of* Three Rivers. [Passed 26th June 1840.]

Whereas it is expedient to repeal certain Parts of an Ordinance made and passed in the Second Year of Her Majesty's Reign, intituled "An Ordinance for establishing an efficient System of Police in the Cities of Quebec and Montreal," and to amend certain other Parts of the said Ordinance, and also to amend a certain other Ordinance made and passed in the said Second Year of Her Majesty's Reign, intituled "An Ordinance to extend the Provisions of an Ordinance for establishing an efficient System of Police in the Cities of Quebec and Montreal," and to make further Provision for establishing and maintaining an efficient System of Police in the Cities of Quebec and Montreal, and the Town and Borough of Three Rivers; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That so much of the said Ordinance, intituled "An Ordinance for establishing an efficient System of Police in the Cities of Quebec and Montreal," as vests any Power or Authority in the Civil Secretary of the Governor of this Province, and so much of the said last-mentioned Ordinance as provides for the Appointment of fit and proper Persons to be Inspectors and Superintendents

No. 158.

Establishing a Police in Quebec, Montreal, and Three Rivers.

Superintendents of the Police for the said Cities, or for either of them, shall be and the same are hereby repealed.

And be it further ordained and enacted by the Authority aforesaid, That from and after the passing of this Ordinance it shall be lawful for the Governor of this Province to nominate and appoint a fit and proper Person to be Commissioner of Police for the Province of Lower Canada, to have, hold, exercise, and discharge all the Powers, Authority, and Duties in and by the said Ordinance, intituled "An Ordinance for establishing an efficient System of Police in the Cities of Quebec and Montreal," vested in the said Civil Secretary and in the Inspectors and Superintendents of Police for the said Cities respectively, and to receive and discharge the Duties of Commissioner of Police under the said last-mentioned Ordinance, and to have, hold, exercise, and discharge all the Powers, Authority, and Duties in and by the said Ordinance, intituled "An Ordinance to extend the Provisions of the Ordinance for establishing an efficient System of Police in the Cities of Quebec and Montreal," extended to and vested in the Inspector and Superintendent of Police, to be appointed for the Town and Borough of Three Rivers, together with such neighbouring District of the same, as the Governor shall at any Time direct, and to execute the Duties of Civil Secretary with reference to the same: Provided always, that the said Commissioner of Police shall not execute the Office of Justice of the Peace in either of the said Cities of Quebec and Montreal, or in the said Town or Borough of Three Rivers, or swear in the Men composing the Police Force in the said Cities, or either of them, or in the said Town and Borough aforesaid.

And be it further ordained and enacted by the Authority aforesaid, That it shall be lawful for such Commissioner of Police to be appointed as aforesaid to receive in the Manner herein-after provided the Sums of Money to be raised, assessed, and appropriated for the Maintenance of a good and efficient System of Police in the City of Quebec, under and by virtue of an Ordinance made and passed in the present Session of the Special Council of this Province, intituled "An Ordinance to incorporate the City and Town of Quebec," and to receive the Sums of Money to be raised, assessed, and appropriated for the Maintenance of a good and efficient System of Police in the City of Montreal, under and by virtue of an Ordinance made and passed in the present Session of the Special Council of this Province, intituled "An Ordinance to incorporate the City and Town of Montreal."

And be it further ordained and enacted by the Authority aforesaid, That so soon as this Ordinance shall come into effect it shall be lawful for the said Commissioner of Police forthwith, and so from Time to Time, subject to the Approbation of the Governor, to furnish to the respective City Clerks of the said Cities of Quebec and Montreal a Statement or Statements of the Monies required for the Maintenance of a good and efficient System of Police in the said Cities respectively, to be by the said respective City Clerks laid before the Councils of the said Cities of Quebec and Montreal respectively; and the said Commissioner of Police may by his Warrant or Warrants require the respective Councils of the said Cities of Quebec and Montreal, out of the Funds of the said Cities respectively, to pay the Amounts mentioned in the Statement or Statements so to be furnished as aforesaid, and the said Councils of the said Cities respectively shall thereupon cause the said Sum and Sums of Money in the said Warrant or Warrants mentioned to be paid to the said Commissioner of Police, through the Hands of the City Treasurer of each of the said Cities respectively, within Forty Days from the Delivery of such Warrant or Warrants to the City Clerk of each of the said Cities respectively; provided always, that the Sum and Sums of Money to be required and received from the said Council of the City of Quebec for the Purposes and in the Manner aforesaid shall not for any One Year exceed the Sum of Four thousand Pounds Currency, to be paid quarterly, and the Application and Expenditure thereof shall be accounted for by the said Commissioner of Police to the said Council of the City of Quebec on or before the Second Day of November of each and every Year; and that the Sum and Sums of Money so to be required and received from the said Council of the City of Montreal for the Purposes and in the Manner aforesaid shall not for any One Year exceed the Sum of Five thousand Pounds Currency, to be paid quarterly, and the Application and Expenditure thereof shall be

No. 158.

Establishing a Police in Quebec, Montreal, and Three Rivers.

accounted for by the said Commissioner of Police to the said Council of the City of Montreal on or before the Second Day of November of each and every Year.

And be it further ordained and enacted by the Authority aforesaid, That the Treasurer of the City of Quebec and the Treasurer of the City of Montreal respectively, at the Time and Times of making Payment to the said Commissioner of Police of any Sum or Sums of Money required and authorized to be paid to him by this Ordinance for the Purposes and in the Manner aforesaid, shall deliver to the said Commissioner of Police a Note in Writing, signed by the Treasurer by whom such Sum or Sums of Money shall be so paid, specifying the Sum or Sums so paid, which Note shall be kept by the said Commissioner of Police as a Voucher for his Receipt of such particular Sum or Sums; and the Receipt of the said Commissioner of Police, specifying the Sum or Sums paid to him by either of the said Treasurers, shall be a sufficient Discharge and Voucher to such Treasurer, and shall be allowed as such in passing his Accounts.

And be it further ordained and enacted by the Authority aforesaid, That the said Commissioner of Police for the Time being shall give Security to Her Majesty, in a Bond with Two Sureties, in such Sum as the Governor shall direct, such Bond to be conditioned for the faithful Performance of his Duty by such Commissioner of Police, and for the due Application of all Monies paid to him under the Ordinances herein-before mentioned; and the said Commissioner of Police for the Time being shall receive all Sums of Money applicable to the Purposes of the said Ordinances, and shall keep an exact and particular Account thereof, and shall immediately pay all Monies, Bills, and Notes by him received under this Ordinance into such Bank of the said Province as the Governor may appoint, and the same shall be placed to an Account in the Books of the said Bank which shall be entitled "The Account of the public Monies of the Commissioner of Police of Lower Canada," inserting the Name of the Commissioner of Police for the Time being; and the said Commissioner of Police shall draw out of such Bank from Time to Time such Sums of Money as may be necessary for the Payment of the Salaries, Wages, and Allowances to be paid to the Persons belonging to the Police Force of the said Cities of Quebec and Montreal respectively, as also for the Payment of all other Charges and Expenses for maintaining a good and efficient System of Police in the said Cities respectively; and all Drafts and Orders drawn and signed by the said Commissioner of Police shall be a sufficient Authority to the said Bank to pay the Amount thereof to the Persons named in them, or to the Bearer of them.

And be it further ordained and enacted by the Authority aforesaid, That it shall be lawful for the Governor of the said Province to appoint, by Commissions under the Great Seal of this Province, fit and proper Persons to be Police Magistrates to execute the Duties of Justices of the Peace at the Police Offices and elsewhere in each of the said Cities, and fit and proper Persons as Police Magistrates to execute the Duties of Justices of the Peace in the several Districts or other Territorial Divisions of the said Province; which said Police Magistrates, before entering upon or commencing the Exercise of their Office, shall, in the usual and accustomed Manner, take the Oath by Law required to be taken by Justices of the Peace, and shall swear in the Men appointed as a Police Force for the said Cities and for the said Districts or other Territorial Divisions of the said Province respectively, as Constables, for preserving the Peace, and preventing Robberies and other Felonies, and apprehending Offenders against the Peace; and the Men so sworn shall have, within the said Districts or other Territorial Divisions of this Province, all such Powers and Authorities, Privileges and Advantages, and shall be liable to all such Duties and Responsibilities, as any Constable duly appointed has now or hereafter may have under and by virtue of the Laws of this Province, or of any Statute or Ordinance made or to be made, and shall obey all such lawful Commands as they may from Time to Time receive from the said Commissioner of Police for conducting themselves in the Execution of their Office.

And be it further ordained and enacted by the Authority aforesaid, That it shall be lawful for any One of the said Police Magistrates so to be appointed as

No. 158.

Establishing a Police in Quebec, Montreal, and Three Rivers.

as aforesaid, to do alone any Act which by any Law now in force, or by any Law not containing an express Enactment to the contrary, hereafter to be made, is or shall be directed to be done by more than One Justice of the Peace.

And be it further ordained and enacted by the Authority aforesaid, That where by any Law or Ordinance now in force, or by any Law or Ordinance not containing an express Enactment to the contrary, hereafter to be made, any Act is directed or authorized to be done by a Justice or Justices of the Peace residing in any Parish, Township, or County where any Offence or Matter cognizable before him or them shall be committed or shall arise, the same Jurisdiction may be exercised by any One of the said Police Magistrates so appointed as aforesaid.

And be it further ordained and enacted by the Authority aforesaid, That the said Ordinance intituled "An Ordinance for establishing an efficient System of Police in the Cities of Quebec and Montreal," as hereby amended, and the said Ordinance intituled "An Ordinance to extend the Provisions of the Ordinance for establishing an efficient System of Police in the Cities of Quebec and Montreal," as hereby amended, shall not, nor shall either of them, expire on the First Day of November in the Year One thousand eight hundred and forty-two, but shall be and they are hereby made permanent, and so shall continue in full Force and Effect until repealed or altered by competent Authority.

And be it further ordained and enacted by the Authority aforesaid, That the Word "Governor" shall be taken and held to mean and comprehend as well the Governor as the Lieutenant Governor and Person administering the Government of this Province for the Time being.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance, save and except so much thereof as is contained in the Third, Fourth, Fifth, and Sixth Clauses thereof, shall be and remain a permanent Law in full Force and Effect until it shall be repealed or altered by competent Authority: Provided always, that so much of the said Ordinance as is contained in the said Third, Fourth, Fifth, and Sixth Clauses thereof shall be and continue in full Force and Effect until the First Day of October in the Year One thousand eight hundred and forty-three, and no longer.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-sixth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-sixth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

No. 159.

Incorporating the Advocates Library of Montreal.

(Copy.)

No. 159.

An Ordinance to incorporate the Advocates Library of Montreal.

[Passed 26th June 1840.]

WHEREAS an Association hath been formed in the City of Montreal in this Province, by divers Members of the Profession of the Law resident in that City and the Neighbourhood thereof, under the Name of "The Advocates Library and Law Institute of Montreal," and for the Purpose of purchasing and procuring a good and sufficient Library for the Use of the said Association and of such Barristers and Advocates as may hereafter become Members thereof: And whereas the Members of the said Association have by their Petition represented that they have purchased and acquired and now hold a large and valuable Collection of Books and other Property requisite and necessary for the Purposes for which they are so associated as aforesaid, and have further represented that the Advantages to arise from the said Association would be greatly increased and confirmed by the Incorporation of the Members thereof, and have prayed so to be incorporated: And whereas it is expedient to grant the Prayer of the said Petitioners, subject to the Provisions and Enactments herein-after set forth and made; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the same, That George Pyke, Samuel Gale, Charles Richard Ogden, John Boston, Alexander Buchanan, Dominique Mondelet, John Samuel M'Cord, Samuel Wentworth Monk, Frederick Griffin, James G. Scott, Robert Lester Morrogh, William Badgely, Campbell Sweeney, John Bleakley, Duncan Fisher, Come S. Cherrier, Hugh Taylor, Aaron P. Hart, Henry Ogden Andrews, John Platt, James Scott, Charles D. Day, William C. Meredith, Louis Thomas Drummond, Robert Easton, Samuel C. Monk, Robert M'Kay, Edward Barnard, Charles Sabrevois De Bleury, and Francis Godshall Johnson, and their Successors for ever, to be elected in the Manner herein-after provided, shall be One Body Politic and Corporate, in Deed and in Name, by the Name and Style of "The Advocates Library of Montreal," and shall by that Name have perpetual Succession and a Common Seal, and shall have Power from Time to Time to alter, renew, or change such Common Seal at their Pleasure, and shall by the same Name from Time to Time and at all Times hereafter be able and capable to have, take, receive, purchase, acquire, hold, possess, and enjoy to them and their Successors, to be elected in the Manner herein-after provided, to and for the Uses and Purposes of the said Corporation, any Messuages, Lands, Tenements, and Hereditaments, of what Nature, Kind, or Quality soever, situate, lying, and being within this Province, not exceeding in yearly Value the Sum of Five hundred Pounds Currency, and also to take, receive, purchase, acquire, have, hold, and possess, provided the same do not exceed a like Sum in yearly Value, to and for the same Uses and Purposes, any Goods, Chattels, Gifts, or Benefactions whatsoever, and shall and may by the same Name be able and capable to sue in Law and to be sued, implead and be impleaded, answer and be answered, in all Courts of Law and Places whatsoever, in all and singular Actions, Causes, Pleas, Suits, Matters, and Demands whatsoever, in as large, ample, and beneficial Manner and Form as any other Body Politic or Corporate, or any Persons able and capable in Law, may or can sue, implead, or answer, or be sued, impleaded, or answered, in any Manner whatsoever.

And for the better accomplishment of the Purposes herein-before mentioned, be it further ordained and enacted by the Authority aforesaid, That the Members

No. 139.

Incorporating the Advocates Library of Montreal.

Members of the said Corporation, and their Successors for ever, to be elected in the Manner herein-after provided, shall, on the Third Monday of June in the Year of our Lord One thousand eight hundred and forty-one, and in each and every Year thereafter, meet at some convenient Place to be appointed by the said Corporation (or the major Part of them who shall be present at any General Meeting), between the Hours of Ten in the Forenoon and Five in the Afternoon, and that they, or the major Part of such of them as shall be then present, shall choose One President, One Vice President, One Treasurer, One or more Secretary or Secretaries, and such other Officers and Servants as they or such major Part of them shall deem expedient to serve in the said Offices during the Year then next ensuing; and may do and transact all Matters and Business relative to the Interests of the said Corporation; and if by reason of any Matter or Thing the Election so to be had and made on the Third Monday in June as aforesaid shall be prevented, or shall not be had or made, then and in every such Case it shall be competent to the Members of the said Corporation and their Successors, or to the major Part of such of them as may be present at a Meeting to be called by the President or Vice President for the Time being in the Manner herein-after prescribed, and held as soon afterwards as shall be convenient, to proceed to and make the Election of a President, Vice President, Treasurer, Secretary or Secretaries, Officers, and Servants as aforesaid; and the Elections so made shall be as valid and effectual as if they had been made on such Third Monday in June; and the President and other Officers of the said Corporation theretofore electe d shall continue in Office until others shall be elected in their Stead, any thing herein-before contained to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That, until the first Election of Officers shall take place, the present Officers of the said Association shall be and continue to be the Officers of the Corporation hereby elected; and that the President, or in his Absence from the City of Montreal the Vice President, of the said Corporation, shall within Three Months after the passing of this Ordinance cause Notice to be given to such of the several Members of the said Corporation herein-before mentioned as shall be then resident in the said City of Montreal to meet at such Place and Time as he shall in and by such Notice appoint; and the said Members, or the major Part of such of them as shall be then present, shall, at the Time and Place so appointed, proceed to the Election of a President, and of a Vice President, Treasurer, Secretary or Secretaries, and of such other Officers and Servants as to them shall seem meet, which said Officers from the Time of their Election to their respective Offices shall continue therein until the Third Monday in June in the Year of our Lord One thousand eight hundred and forty-one, and from thenceforth until others be chosen in their Places in the manner aforesaid.

And be it further ordained and enacted by the Authority aforesaid, That if at any Time or Times it shall happen that any of the Persons chosen to fill the said Offices respectively shall die, or be removed from the said Offices, or resign the same, during the Period for which they shall have been respectively elected, then in every such Case it shall be lawful for the President, or in his Absence from the City of Montreal the Vice President, to issue Notice to the several Members of the said Corporation to meet at the Place where the Meetings of the Corporation are usually held at such Time as shall be specified in the Notice; and the Members of the said Corporation who shall meet in pursuance of such Notice, or the major Part of them, shall and may choose an Officer or Officers in the Room and Place of the Person or Persons who shall have died, or resigned, or shall have been removed from Office as aforesaid.

And be it further ordained and enacted by the Authority aforesaid, That the Members of the said Corporation shall and may, on the Third Monday in the Month of October in each and every Year, and at any other Time at and for which a General Meeting shall be called in the Manner aforesaid by the President or Vice President, on the Requisition in Writing of any Five Members of the Corporation, meet at the Place at which the Meetings of the Corporation shall be usually held, and shall and may at any such Meeting elect such Persons, being Advocates and Barristers duly admitted to practise as such in this Province, or Judges or Justices, or Prothonotaries of some Court or Courts, or Sheriffs of some District or Districts therein, to be Members of the

No. 159.

Incorporating the Advocates Library of Montreal.

said Corporation, as they, or the major Part of them then present, shall think expedient, and may do and transact all Matters and Business relative to the Interests of the said Corporation not herein otherwise provided for; provided that no Meeting of the said Corporation under the Provisions of this Section shall be held to be a General Meeting thereof unless One Half at least of the Members of the Corporation for the Time being shall be present thereat.

And be it further ordained and enacted by the Authority aforesaid, That the Members of the said Corporation, or the major Part of them who shall be present at any General Meeting of the said Corporation held according to the Requirements and Provisions of the Second or of the Fifth Section of this Ordinance, shall have Power and Authority to frame and make Statutes, Bye Laws, Rules, and Orders touching and concerning the good Government of the said Corporation and the Income and Property thereof, and any other Matter or Thing relative to the same, which to them may seem fit or expedient for the effectual Attainment of the Objects of the said Corporation and the Administration of its Concerns, and also from Time to Time, by such new Statutes, Bye Laws, Rules, and Orders as to them shall seem meet, to alter or repeal those so made as aforesaid: Provided always, that no such Repeal or Alteration shall be valid unless Notice of the Motion for such Repeal or Alteration shall have been given at the General Meeting next immediately preceding that at which such Motion shall be made and considered; provided also, that no such Statutes, Bye Laws, Rules, or Orders shall be repugnant to the Laws of the Province or to this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That it shall not be a valid Cause for the Recusation of any Judge or Justice in any Prosecution, Cause, Suit, or Action, Civil or Criminal, to or in which the said Corporation shall be a Party, that such Judge or Justice is a Member of the said Corporation.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be held and considered to be a Public Act or Ordinance, and as such shall be judicially taken notice of, held, and considered in all Courts of Justice, and by all Judges, Justices of the Peace, and by all others whom it may concern, without being specially pleaded.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-sixth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-sixth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk of Special Council.

(Copy.)

No. 160.

No. 160.

Incorporating the Quebec Advocates Library.

An Ordinance to incorporate the Quebec *Advocates Library.*

[Passed 26th June 1840.]

Whereas an Association hath been formed in the City of Quebec in this Province, by divers Members of the Profession of the Law resident in that City and the Neighbourhood thereof, under the Name of "The Quebec Advocates Library," and for the Purpose of purchasing and procuring a good and sufficient Library for the Use of the said Association, and of such Barristers and Advocates as may hereafter become Members thereof: And whereas the Members of the said Association have by their Petition represented that they have purchased and acquired, and now hold, a large and valuable Collection of Books, with other Property requisite and necessary for the Purposes for which they are so associated as aforesaid, and have further represented that the Advantages to arise from the said Association would be greatly increased and confirmed by the Incorporation of the Members thereof, and have prayed so to be incorporated: And whereas it is expedient to grant the Prayer of the said Petitioners, subject to the Provisions and Enactments herein-after set forth and made; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada;" and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the same, That James Stuart, George Vanfelson, George Barthelemy Faribault, Charles Richard Ogden, Philippe Panet, Edouard Bacquet, Henry Black, Edward Burroughs, Louis Fiset, Jean François Duval, Thomas William Willan, Edouard Desbarats, Elzear Bedard, Charles Déguise, Hector Simon Huot, René Edouard Caron, Daniel M'Callum, Thomas Cushing Aylwin, Joseph André Taschereau, Robert Hunter Gairdner, George O'Kill Stuart, Gustavus William Wicksteed, David Roy, Thomas Amiot, Edouard Montizambert, J. N. Bossé, Andrew Stuart, Charles Duchesnay, Dunbar Ross, Felix Fortier, and William M'Tavish, and their Successors for ever, to be elected in the Manner herein-after directed, shall be one Body Politic and Corporate, in Deed and in Name, by the Name and Style of "The Quebec Advocates Library," and shall by that Name have perpetual Succession and a Common Seal, and shall have Power from Time to Time to alter, renew, or change such Common Seal at their Pleasure, and shall by the same Name from Time to Time and at all Times hereafter be able and capable to have, take, receive, purchase, acquire, hold, possess, and enjoy to them and their Successors, to and for the Uses and Purposes of the said Corporation, any Messuages, Lands, Tenements, and Hereditaments, of what Nature, Kind, or Quality soever, situate, lying, and being within this Province, not exceeding in yearly Value the Sum of Five hundred Pounds Currency; and also to take, receive, purchase, acquire, have, hold, and possess, provided the same do not exceed a like Sum in yearly Value, to and for the same Uses and Purposes, any Goods, Chattels, Gifts, or Benefactions whatsoever, and shall and may by the same be able and capable to sue in Law, and to be sued, implead and be impleaded, answer and be answered, in all Courts of Law and Places whatsoever, in all and singular Actions, Causes, Pleas, Suits, Matters, and Demands whatsoever, in as large, ample, and beneficial Manner and Form as any other Body Politic or Corporate, or any Persons able and capable in Law, may or can sue, implead, or answer, or be sued, impleaded, or answered in any Matter whatsoever.

And for the better Accomplishment of the Purposes herein-before mentioned, be it further ordained and enacted by the Authority aforesaid, That the Members of the said Corporation, and their Successors for ever, shall, on the

No. 160.

Incorporating the Quebec Advocates Library.

Third Monday in June in the Year of our Lord One thousand eight hundred and forty-one, and in each and every Year thereafter, meet at some convenient Place to be appointed by the said Corporation (or the major Part of them who shall be present at any General Meeting) between the Hours of Ten in the Forenoon and Five in the Afternoon; and that they, or the major Part of such of them as shall be then present, shall choose One President, One Vice President, One Treasurer, One or more Secretary or Secretaries, and such other Officers and Servants as they or such major Part of them shall deem expedient, to serve in the said Offices during the Year then next ensuing, and may do and transact all Matters and Business relative to the Interests of the said Corporation; and if by reason of any Matter or Thing the Election so to be had and made on the Third Monday in June as aforesaid shall be prevented, or shall not be had or made, then and in every such Case it shall be competent to the Members of the said Corporation, and their Successors, or to the major Part of such of them as may be present at a Meeting to be called by the President or Vice President for the Time being in the Manner herein-after prescribed, and held as soon afterwards as shall be convenient, to proceed to and make the Election of a President, Vice President, Treasurer, Secretary or Secretaries, Officers and Servants as aforesaid; and the Elections so made shall be as valid and effectual as if they had been made on such Third Monday in June; and the President and other Officers of the said Corporation theretofore elected shall continue in Office until others shall be elected in their Stead, any thing herein-before contained to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That the Honourable James Stuart, Her Majesty's Chief Justice of this Province, shall be the first President of the said Corporation, and that Henry Black, Her Majesty's Judge of the Court of Vice Admiralty for this Province, shall be the first Vice President thereof; and that the said President, or in his Absence from the City of Quebec the said Vice President, shall, within Three Months after the passing of this Ordinance, cause Notice to be given to such of the several Members of the said Corporation herein-before mentioned as shall be then resident in the said City of Quebec to meet at such Place and Time as he shall in and by such Notice appoint; and the said Members, or the major Part of such of them as shall be then present, shall, at the Time and Place so appointed, proceed to the Election of a President and of a Vice President, Treasurer, Secretary or Secretaries, and of such other Officers and Servants as to them shall seem meet; which said Officers, from the Time of their Election to their respective Offices, shall continue therein until the Third Monday in June in the Year of our Lord One thousand eight hundred and forty-one, and from thenceforth until others be chosen in their Places in the Manner aforesaid: Provided always, that the said President and Vice President hereby appointed, and all other Persons being Officers of the said Institution at the Time of the passing of this Ordinance, shall continue to hold their respective Offices until such First Meeting and Election shall be had as aforesaid.

And be it further ordained and enacted by the Authority aforesaid, That if at any Time or Times it shall happen that any of the Persons chosen to fill the said Offices respectively shall die, or be removed from the said Offices, or resign the same during the Period for which they shall have been respectively elected, then in every such Case it shall be lawful for the President, or in his Absence from the City of Quebec for the Vice President, to issue Notice to the several Members of the said Corporation to meet at the Place where the Meetings of the Corporation are usually held, at such Time as shall be specified in the Notice; and the Members of the said Corporation who shall meet in pursuance of such Notice, or the major Part of them, shall and may choose an Officer or Officers in the Room and Place of the Person or Persons who shall have died or resigned, or shall have been removed from Office as aforesaid.

And be it further ordained and enacted by the Authority aforesaid, That the Members of the said Corporation shall and may, on the Third Monday in the Month of October in each and every Year, and at any other Time at and for which a General Meeting shall be called in the Manner aforesaid by the President or Vice President, on the Requisition in Writing of any Five Members of the Corporation, meet at the Place at which the Meetings of the Corporation shall be usually held, and shall and may at any such Meeting elect such Persons, being Advocates and Barristers duly admitted to practise as such in this Province,

No. 160.

Incorporating the Quebec Advocates Library.

Province, or Judges or Justices, or Prothonotaries of some Court or Courts, or Sheriffs of some District or Districts therein, to be Members of the said Corporation, as they or the major Part of them then present shall think expedient, and may do and transact all Matters and Business relative to the Interests of the said Corporation not herein otherwise provided for; provided that no Meeting of the said Corporation under the Provisions of this Section shall be held to be a General Meeting thereof unless One Half at least of the Members of the Corporation for the Time being shall be present thereat.

And be it further ordained and enacted by the Authority aforesaid, That the Members of the said Corporation, or the major Part of them who shall be present at any General Meeting of the said Corporation held according to the Requirements and Provisions of the Second or of the Fifth Section of this Ordinance, shall have Power and Authority to frame and make Statutes, Bye Laws, Rules, and Orders touching and concerning the good Government of the said Corporation, and the Income and Property thereof, and any other Matter or Thing relative to the same, which to them may seem fit or expedient for the effectual Attainment of the Objects of the said Corporation and the Administration of its Concerns, and also from Time to Time, by such new Statutes, Bye Laws, Rules, and Orders as to them shall seem meet, to alter or repeal those so made as aforesaid: Provided always, that no such Repeal or Alteration shall be valid unless Notice of the Motion for such Repeal or Alteration shall have been given at the General Meeting next immediately preceding that at which such Motion shall be made and considered: Provided also, that no such Statutes, Bye Laws, Rules, or Orders shall be repugnant to the Laws of the Province or to this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That it shall not be a valid Cause for the Recusation of any Judge or Justice in any Prosecution, Cause, Suit, or Action, Civil or Criminal, to or in which the said Corporation shall be a Party, that such Judge or Justice is a Member of the said Corporation.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be held and considered to be a Public Act or Ordinance, and as such shall be judicially taken notice of, held, and considered by all Courts, Judges, and Justices of the Peace, and by all others whom it may concern, without being specially pleaded.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-sixth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-sixth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

No. 161.

Incorporating the Quebec Library.

(Copy.)

No. 161.

An Ordinance to incorporate the Quebec *Library.*

[Passed 26th June 1840.]

Whereas it hath been represented to his Excellency the Governor General of this Province, by the Reverend Daniel Wilkie, Doctor of Laws, William Walker, Henry Jessopp, William Bristow, and Robert Hunter Gairdner, Esquires, Trustees of the Quebec Library, and others holding Shares as Proprietors therein, that the said Library was established at the City of Quebec in the Year One thousand seven hundred and seventy-nine, and has been in active Operation ever since, that the Management thereof is vested in Trustees appointed annually by a Majority of Votes, but that from the Want of Power in the said Trustees to compel Payment of the Sums of Money due to the said Library great Inconvenience and Loss are sustained, and that it would tend greatly to the Advantage, Instruction, and Improvement of the Inhabitants of Quebec and its Vicinity that the said Institution should be incorporated, and it is expedient to accede to the Prayer of the said Trustees, subject to the Provisions and Enactments herein-after made and contained; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That there shall be and there is hereby constituted and established in the City of Quebec aforesaid a Body Politic and Corporate under the Name of "The Trustees of the Quebec Library," which Corporation shall, until the First Tuesday in the Month of April in the Year One thousand eight hundred and forty-one, consist of the Trustees herein-before mentioned, and shall thereafter consist of Five of the Proprietors of the said Library, to be elected annually on the First Tuesday of April in each and every Year (or if any such Tuesday be a Holiday, or if the Election be not for any Cause then had, then on such Day as shall be appointed in the Manner herein-after mentioned), by a Majority of Votes of Proprietors of the said Library, not in Arrears of Subscription, present at a Meeting to be called by the Trustees for the Time being for the Purpose of such Election, by an Advertisement inserted during Two Weeks in some Newspaper published in the said City of Quebec, specifying the Day, Hour, Place, and Object of such Meeting; and such Corporation shall have perpetual Succession, and shall be in Law capable of suing and being sued, pleading and being impleaded, defending and being defended, in all Courts of Law within the said Province, and shall be in Law capable of purchasing, holding, and conveying any Estate, Real or Personal, for the Use of the said Library, provided such Real or Personal Estate at any One Time held by the said Corporation shall not together exceed the Value of Three thousand Pounds, and shall have a Common Seal, with full Power to alter, change, or break such Seal at their Pleasure; and the said Corporation shall have full Power and Authority to make and establish such Rules, Orders, and Regulations (not being contrary to the Laws of this Province or the Provisions of this Ordinance) as shall by them be deemed useful or necessary for the Management of the said Library, and to impose upon and exact from the Proprietors and Subscribers to the said Library such Fines and Penalties for the Breach or Contravention of such Rules, Orders, and Regulations as to them shall appear requisite; provided always, that the said Corporation shall not impose or exact Fines of a higher or larger Amount than those heretofore and now exacted by the Trustees of the said

No. 161.

Incorporating the Quebec Library.

said Library in like Cases, nor shall any such Fine or Forfeiture for any One Breach or Contravention of such Rules, Orders, or Regulations exceed the Sum of Ten Shillings Currency; and the said Library, and all the Property and Estate, Real or Personal, now belonging to or hereafter to be acquired by the said Proprietors thereof, as such, and all Debts, Claims, and Rights whatsoever due to them in that Quality, shall be and are hereby vested in the Corporation hereby established, in Trust for and to the Use of the said Proprietors, and to and for the Purposes of this Ordinance; and each and every Act of any Majority of the Members of the said Corporation shall in Law be deemed and held to be the Act of the Corporation, and shall have Force and Effect accordingly.

And be it further ordained and enacted by the Authority aforesaid, That any Proprietor in the said Library residing in the said City of Quebec and its Vicinity, who shall refuse or neglect to pay his or her annual Subscription to the said Library for Three consecutive Years or upwards, may be notified by the said Corporation, by a Notice in Writing, to be served either personally on such Proprietor or at his or her Domicile, that unless the Arrears so due be paid to the said Corporation within One Month after such Notice, the Share or Shares of such Proprietor so in Arrears will be sold by Auction at a certain Place and Time in the said Notice to be specified; and if after such Notice the said Proprietor so in Arrears do not pay to the said Corporation, or to the Person authorized by them to receive the same, the Arrears so due, within the Day in the said Notice mentioned, then and in that Case it shall be lawful for the said Corporation and they are hereby authorized to sell by Auction to the best and highest Bidder, at the Time and Place in such aforesaid Notice specified, the Share or Shares of such Proprietor, and to apply the Proceeds of such Shares so sold to the Payment of any Debt due by the said Corporation for the general Expenses of the said Library, and the Balance, if any, specially to the Purchase of Books, Maps, or Charts, to be added to the said Library.

And be it further ordained and enacted by the Authority aforesaid, That the said Corporation, on a Requisition to them presented, signed by not less than Eleven Proprietors of the said Library, not in Arrears of Subscription, shall, by a Notice to be inserted for not less than One Week in One or more Newspapers published in the said City of Quebec, call a Meeting of the Proprietors of the said Library to be held in the Building containing the said Library, and shall submit to such Meeting all Rules, Orders, and Regulations by the said Corporation made by virtue of the Powers vested in them by this Ordinance; and the said Proprietors, not in Arrears as aforesaid, assembled at such Meeting, or the Majority of them, shall have full Power to revise, alter, or rescind any such Rules, Orders, and Regulations, (which shall nevertheless remain in full force and virtue until so altered or rescinded,) or other Rules, Orders, or Regulations to make and establish in lieu of those so altered or rescinded, or in addition to those theretofore made; provided always, that the said Meeting shall not consist of less than Twenty-one Proprietors of the said Library, not in Arrears as aforesaid.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be a Public Act or Ordinance, and as such shall be judicially noticed by all Judges, Justices of the Peace, and other Persons whom it shall concern, without being specially pleaded.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and is hereby made permanent, and shall be and remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twenty-sixth Day of June, in the Fourth Year of the Reign of our Sovereign Lady Victoria, by

No. 161.

Incorporating the Quebec Library.

the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord one thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twenty-sixth Day of June One thousand eight hundred and forty, and in the Fourth Year of Her Majesty's Reign.

(Signed) W. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 163.

No. 163.

Improvement of Roads in the Neighbourhood of Montreal.

An Ordinance to provide for the Improvement of the Roads in the Neighbourhood of and leading to the City of Montreal, *and to raise a Fund for that Purpose.*

[Passed 15th June 1840.]

WHEREAS the State of the Roads in the Neighbourhood of and leading to the City of Montreal is such as to render their Improvement an Object of immediate and urgent Necessity, and it is therefore expedient to provide Means for effecting such Improvement, and to create a Fund for defraying the Expense thereof, and the Expenses necessary for keeping the said Roads in permanent Repair; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, and for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That it shall and may be lawful for the Governor of the said Province, by Letters Patent under the Great Seal of the Province, at any Time after the passing of this Ordinance, to appoint not less than Five nor more than Nine Persons to be, and who, and their Successors, to be appointed in the Manner herein-after provided, shall be Trustees for the Purpose of opening, making, and keeping in repair the Roads herein-after specified.

And be it further ordained and enacted by the Authority aforesaid, That in case of the Death, Absence for more than Three Months from the Province, Misconduct, Inability, or Neglect to act, or Resignation of any One or more of the Trustees so to be appointed, the Governor of the said Province may declare a Vacancy in the said Trust, and supply and fill such Vacancy by the Appointment by Letters Patent of other One or more Trustees as the Case may require; and until such Appointment, the remaining Trustee or Trustees, and the Majority of them, shall continue to do and perform all and every the Acts, Matters, and Things necessary for and pertaining to their Trust, and the Purposes of this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That the said Trustees, for all the Purposes of this Ordinance, may sue and be sued, and answer and be answered unto, in all Courts of Justice and other Places, and may acquire Property and Estates, moveable and immoveable, which being so acquired shall be vested in Her Majesty for the public Uses of the Province, subject

to

No. 163.

Improvement of Roads in the Neighbourhood of Montreal.

to the Management of the said Trustees for the Purposes of this Ordinance, and may, in the Manner which they shall deem fit, cause the said Roads, and each of them, and the Bridges thereupon, to be improved and widened, repaired, and made anew, and may change the Direction of the said Roads, or of any or either of them, and may cause to be repaired and made anew and maintained all Drains and other Passages which they may deem necessary, either within or without the Fences on the Sides of the said Roads or of any of them, or in or through any Lands or Premises whatsoever, and may for the Purposes aforesaid, or for any of them, by themselves, their Agents and Servants, go into and enter upon any Land or Real Property whatsoever, and take therefrom any Earth, Stone, or other Materials which they may deem necessary for the Purposes of this Ordinance, and may cause to be erected, Gates, Toll Bars, Turnpikes, Turnpike Houses, and other Buildings, and may from Time to Time appoint and employ a Surveyor and all such Officers and Persons under them as they may deem necessary for the Purposes of this Ordinance, and may remove such Surveyor, and other Officers and Persons, or any of them, and appoint others in their Stead, and may cause to be given, and take and receive, from such Officers and Persons respectively, Security for the due Performance of their respective Duties, and may pay to such Surveyor, Officers, and Persons such reasonable Compensation as the said Trustees shall deem meet, and generally to do and perform all such Matters and Things as may be necessary for carrying this Ordinance into effect, according to the true Intent, Meaning, and Object thereof; any Law, Statute, or Usage to the contrary notwithstanding.

And be it further ordained and enacted by the Authority aforesaid, That if the said Trustees, in the Execution of their Trust, and for the Purposes of this Ordinance, shall, as they are hereby authorized to do, acquire any Lands or Grounds belonging to or in the Possession of any Body Politic, Community, Corporation, or other Person or Persons whomsoever, who cannot in common Course of Law sell or alienate any such Lands or Grounds, an annual Rent, to be fixed by Agreement or by Arbitration, and not a Principal Sum, shall be paid as an Equivalent; and in case the said Parties shall not agree upon the Amount of such Rent, or upon Arbitration to fix the same, the said Rent shall be settled and determined by the Judgment of any Court of competent Jurisdiction, to be rendered in an Action or Actions to be instituted for that Purpose by the Parties concerned against the said Trustees: Provided always, that if the Amount at which the said annual Rent shall be settled by such Judgment shall not exceed any Sum which the said Trustees may have tendered previously to the Institution of such Action, the Parties instituting the same shall pay all Costs of Suit, but if otherwise the said Trustees shall pay all Costs of Suit; and for the Payment of the said annual Rent, and every other annual Rent agreed upon or ascertained for the Purchase of any Lands or Grounds, the said Tolls to be levied and collected thereon shall be and are hereby made liable and chargeable in preference to all other Claims whatsoever.

And be it further ordained and enacted by the Authority aforesaid, That the said Trustees, before acquiring any Land for the Purposes of the said Trust (except in the Case provided in the Fourth Section of this Ordinance), shall pay to the Proprietor or Proprietors thereof the just and reasonable Value of such Land, and they shall make reasonable Satisfaction to each and every Person, Body Politic or Corporate, who shall have suffered Damage by reason of any thing done by them in carrying this Ordinance into effect, beyond the Amount of such Damage as the Party might have been bound to suffer without Compensation before the passing of this Ordinance by the Laws of this Province; and if the Party entitled to such Value or Compensation shall not be satisfied with the Sum offered by the said Trustees, the same shall be decided by a Jury, to be impannelled and sworn for that Purpose at any Sitting of the Court of Quarter Sessions for the District of Montreal, at the Suit of the Party sustaining such Damage; and if the Damages awarded by the Verdict of such Jury shall exceed the Compensation offered, the Trustees shall pay the Costs of Suit, which shall otherwise be paid by the Party who shall have brought the same.

And be it further ordained and enacted by the Authority aforesaid, That the said Trustees, or a Majority of them, may, by an Instrument in Writing signed by them, appoint One of their Number to be the Manager of the said Trust;

No. 163.

Improvement of Roads in the Neighbourhood of Montreal.

and any and all Acts, Matters, and Things by him done and performed in and about the said Trust, and for the Purposes of this Ordinance, and any and all Writings and Documents whatsoever relating to or connected with the said Trust and the Purposes of this Ordinance, signed by him, and countersigned by Two of the other Trustees in case they be Five in Number, or by Three of the other Trustees in case they be more than Five in Number, shall be held to be good and valid to all Intents and Purposes whatsoever: Provided always, that the said Trustees, or a Majority of them, may, by an Instrument under their Hands, revoke such Appointment, and appoint in like Manner any other of their Number Manager as aforesaid; and provided also, that nothing herein contained shall prevent or be construed to prevent the Trustees, or the Majority of them, from acting collectively for all the Purposes of their Trust and of this Ordinance, without appointing a Manager as aforesaid.

And be it further ordained and enacted by the Authority aforesaid, That the Roads to and over which the Provisions of this Ordinance and the Powers of the said Trustees shall extend are, firstly, the Upper Lachine Road, from the Boundary of the City and Town of Montreal towards the South-west to the upper Entrance of the Lachine Canal, and the Continuation of the said Road towards the Point Claire Two hundred Yards above and beyond the said upper Entrance of the said Canal; secondly, the main Road from the Boundary of the said City and Town towards the North-east to the Ferry over the River Desprairies at the Place commonly called Bout de l'Isle, in the Parish of La Pointe aux Trembles; thirdly, the Cote des Neiges Road, from the Boundary of the said City and Town towards the North-west to the Place called l'Abord à Plouffe on the said River Desprairies; fourthly, the main Road commonly known as the Continuation of the St. Lawrence Street, and leading in a North-westerly Direction from the City Boundary to Mile End Tavern, and thence in the same Direction to a Point on the said River Desprairies in the Parish of Sault au Recollet; fifthly, the Road commonly called the Road of the Cote Sainte Catherine, from the said Road thirdly above mentioned to the said Road lastly above mentioned, and thence to the Road next herein-after mentioned; sixthly, the Road commonly the Victoria Road, from the Boundary of the said City and Town towards the North-east, running to the North-west until it joins the Road last above mentioned; seventhly, the Lower Lachine Road, from the Boundary of the said City and Town towards the South, to, and One hundred Yards beyond its Junction with the Cross Road leading from the said Lower Lachine Road to the Upper Lachine Road herein-after mentioned at or near the Village of Saint Henry; eighthly, the Cross Road last above mentioned, and throughout its whole Length as above defined; ninthly, the said Lower Lachine Road from a Point One hundred Yards below and to the Eastward of the Church of the Parish of Saint Michel de Lachine to its Junction with the said Upper Lachine Road: Provided always, that the Word "Road" in this Section shall be construed to mean as well front Roads as Routes or bye Roads, and any new Road or Part of a Road (between the said Points beginning and ending of each Road respectively) to be made by the said Trustees as well as the now existing Roads or Portions of Roads between such Points.

And be it further ordained and enacted by the Authority aforesaid, That the said Trustees may and shall demand, levy, exact, and receive, on each of the said Roads, at the Turnpike Gates and Toll Houses to be thereon established under and by virtue of this Ordinance, from all and every Person and Persons who shall pass upon or use the said Roads or either of them, the certain Tolls and Rates hereby designated and established; that is to say, upon that one of the said Roads in the Seventh Section of this Ordinance firstly mentioned, known as the Upper Lachine Road, the Tolls and Rates following; namely, For every Waggon, Wain, Cart, or other Wheel Carriage for the Transportation of Loads, the Wheels whereof have Tires or Tracks of the Breadth of Five Inches or upwards English Measure, drawn by One or Two Horses or other Beasts, if the same be loaded in whole or in part the Sum of Sixpence Currency, and if the same be not loaded the Sum of Four-pence Currency; and for every such Waggon, Wain, or Cart with Wheels the Tires or Tracks whereof shall have a Breadth less than Five and not less than Two and a Quarter Inches English Measure, drawn as aforesaid, if loaded in whole or in part the Sum of Eight-pence Currency, and if not loaded the Sum of Sixpence Currency; and for every such Waggon, Wain, or Cart with Wheels the Tires

or

No. 163.

Improvement of Roads in the Neighbourhood of Montreal.

or Tracks whereof shall have a Breadth less than Two and a Quarter Inches, drawn as aforesaid, if loaded in whole or in part the Sum of One Shilling Currency, and if not loaded the Sum of Eight-pence Currency; and for every additional Horse or other Beast to any such Waggon, Wain, or Cart herein-before mentioned, the further Sum of Four-pence Currency: For every Coach, Stage Coach, Gig, Calèche, Dennet, Spring Cart, or other Wheel Carriage, (other than Waggons, Wains, and Carts of the Description herein-before mentioned,) having Wheels with Tires of the Breadth of Two and a Quarter Inches or upwards English Measure, drawn by One Horse or other Beast, the Sum of Eight-pence Currency; and for every such Coach, Stage Coach, Gig, Calèche, Dennet, Spring Cart, or other Wheel Carriage, (other than Waggons, Wains, or Carts of the Description herein-before mentioned,) having Wheels with Tires or Tracks less than Two and a Quarter Inches English Measure in Breadth, drawn as aforesaid, the Sum of One Shilling Currency; and for every additional Horse to such Stage Coach, Gig, Calèche, Dennet, Spring Cart, or other Wheel Carriage the further Sum of Four-pence Currency: For every Sleigh, Train, Drag, Berline, Cariole, or other Winter Vehicle whatsoever, drawn by One Horse or other Beast, the Sum of Four-pence Currency, and for every additional Horse the further Sum of Two-pence Currency: For every Horse, Mare, or Gelding with a Rider, the Sum of Four-pence Currency: For every Horse, Mare, Gelding, Ass, Mule, Ox, Cow, and Head of other Neat Cattle not drawing, the Sum of Two-pence Currency: For every Score of Sheep, Lambs, Hogs, or Swine, the Sum of Five-pence Currency: And upon all the said several Roads in the said Seventh Section of this Ordinance described, other than the said Upper Lachine Road, the Tolls and Rates to be so demanded, levied, exacted, and received as aforesaid, for every Waggon, Wain, Cart, or other Wheel Carriage for the Transportation of Loads, and for every Coach, Stage Coach, Gig, Calèche, Dennet, Spring Cart, or other Wheel Carriage, and for every Winter Vehicle, and for every Horse, Mare, and Gelding, with or without a Rider, and every Ass, Mule, Ox, Cow, and other Head of Neat Cattle, and every Sheep, Lamb, Hog, or Swine passing on or using the said several Roads, other than the said Upper Lachine Road, shall be regulated and governed in Amount by the said Tolls and Rates herein-before established and authorized to be taken upon the said Upper Lachine Road, according to the Proportion which the said several Roads respectively bear in Length to the said Upper Lachine Road, subject in all respects to the Rules, Classifications, Scale, and Degrees herein-before provided for and in relation to the said Upper Lachine Road, and the Tolls and Rates to be thereon taken; that is to say, the Tolls and Rates to be demanded, levied, exacted, and received by the said Trustees upon each of the said several Roads, other than the said Upper Lachine Road, shall bear the same Proportion in Amount to the said Tolls and Rates herein-before specified as the Length of such Road bears to the Length of the said Upper Lachine Road, unless in ascertaining such Proportion in reference to any of the said several Roads the Result shall exhibit a fractional Part of a Penny, in which Case such fractional Part of a Penny shall be deducted, and the Sum remaining after such Deduction shall be Rate and Toll upon such Road; and the said Trustees may and they are hereby authorized and empowered to make and establish the Regulations under which such Tolls or Rates shall be so levied and collected, and, with the Consent of the Governor, may, from Time to Time, as they shall see fit, alter and change and modify the said Rates and Tolls and the said Regulations, and may and shall prevent the passing through any Turnpike Gate or Toll Bar, by any Person, Vehicle, Animal, or Thing, from or on which any Rate or Toll shall be payable, until such Rate or Toll be paid; and the said Trustees shall affix in a conspicuous Place at each Turnpike Gate and Toll Bar whereat any Rate or Toll is payable, a Table of the Tolls to be taken thereat, and the Regulations under which such Tolls are to be levied, plainly and legibly printed: Provided always, that nothing herein contained shall entitle the said Trustees at any Time to establish, demand, levy, exact, or receive any Rates or Tolls upon the said Roads, or any of them, exceeding the Rates and Tolls herein-before authorized to be exacted and received.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That Her Majesty's Mail, and Persons, Animals, and Carriages employed in the Conveyance thereof, Her Majesty's Officers and Soldiers,

No. 163.

Improvement of Roads in the Neighbourhood of Montreal.

being in proper Staff or Regimental or Military Uniform, Dress or Undress, and their Horses, (but not when passing in a hired or private Vehicle,) and all Carriages and Horses belonging to Her Majesty, or employed in Her Service, when conveying Persons in such Service, or returning therefrom, and all Recruits marching by Route, and all Persons, Animals, and Carriages attending Funerals, shall pass Toll-free through any Turnpike and Toll Gate to be erected under the Authority of this Ordinance.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That no more than One full Toll in any One Day (to be computed from Twelve of the Clock at Night to Twelve of the Clock in the next succeeding Night) shall be demanded or taken for or in respect of the same Horse or Horses, or other Beast or Beasts, or Cattle, drawing the same Waggon, Wain, Cart, Coach, Gig, Calèche, Dennet, Spring Cart, or other Wheel Carriage or Winter Carriage, or for or in respect of the same Horse, Mule, Ass, or other Beast or Cattle, laden or unladen, or not drawing, or for or in respect of the same Oxen or Ox, Neat Cattle, Calves, Swine, Sheep, or Lambs, for passing and repassing through all or any of the Gates along the Line of the same One of the said Roads, except as herein-after mentioned.

Provided also, and be it further ordained and enacted by the Authority aforesaid, That the Tolls hereby made payable for and in respect of any Stage Coach, Diligence, Van, Caravan, Stage Waggon, or other Stage Carriage, or any Cart conveying Passengers or Goods for Pay or Reward, or conveying Stones, and for and in respect of any Horse or Horses, Beast or Beasts, drawing the same, shall be payable and paid every Time of passing or repassing along the said Road; and if any Person or Persons shall claim or take the Benefit of any of the Exemptions aforesaid, not being entitled to the same, every such Person shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds, and in all Cases the Proof of Exemption shall lie upon the Person claiming the same.

And be it further ordained and enacted by the Authority aforesaid, That the said Trustees may, if they think proper, commute the Tolls on any Road or Portion thereof with any Person or Persons, by taking a certain Sum, either monthly or yearly, in lieu of such Tolls.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That the said Trustees may make such equitable Arrangement with any Person desiring or having Occasion to cross any One or more of the said Roads as to them may seem just and reasonable; and may from Time to Time, if they shall deem it advantageous to the Public, let or farm the Tolls to be levied on any of the said Roads, by public Auction, to the highest and best Bidder, for a Time not exceeding One Year in any Case, taking good and sufficient Security from the Farmer or Lessee.

And be it further ordained and enacted by the Authority aforesaid, That the said Roads shall, from and after the passing of this Ordinance, be and remain under the exclusive Management, Charge, and Control of the said Trustees, and the Tolls thereon shall be applied solely to the necessary Expenses of the Management, making, and repairing of the said Roads, and the Payment of the Interest on and Principal of the Debentures herein-after mentioned; and all Powers, Authorities, Jurisdiction, and Control over or with regard to the said Roads, or any of them, heretofore vested in any Grand Voyer, Overseer of Roads, or Road Surveyor, or other Road Officer, by a certain Act passed in the Thirty-sixth Year of the Reign of King George the Third, intituled "An Act for making, repairing, and altering the Highways and Bridges in this Province, and for other Purposes," or by any other Act or Ordinance or Law whatever, shall cease and determine from and after the passing of this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That from and after the passing of this Ordinance each and every Person or Persons, Body or Bodies Politic or Corporate, who may be bound by any Law of this Province, or any Procès Verbal duly homologated, (and all such Laws and Procès Verbaux shall remain in full Force, except in so far as they are hereby expressly derogated from,) to repair or keep up, or to perform any Service or Labour on or with regard to, any Portion of any Road hereby placed under the Control of the said Trustees, shall and are hereby required to commute all such Obligations with the said Trustees for such Sum of Money as may be agreed upon by such Parties respectively and the said Trustees, and such Commutation

No. 163.

Improvement of Roads in the Neighbourhood of Montreal.

mutation Money shall be payable annually on the First Day of May in each Year; and if any such Party shall neglect or refuse to pay the Sum so agreed upon when due, the said Trustees may sue for and recover the same, with Costs, in any Court having Jurisdiction to the Amount: Provided always, that if no such Agreement or Commutation shall be effected in any Case, the said Trustees may sue the Party neglecting or refusing to make such Agreement for the Sum which in their Estimation such Party ought then to pay for such Commutation, in any Court having Jurisdiction to the Amount so sued for, and may recover the same, or such less Sum as the Court shall award; and the Rate determined by the Judgment shall be the Rate to be thereafter paid for such Commutation by the Party Defendant, or such Party as may be liable to the Commutation of the same Obligations: Provided also, that Costs shall be awarded to any such Party who shall before the Commencement of such Suit have legally tendered to the said Trustees at their Office, or to the Manager in Person, a Sum equal to that for which Judgment shall in such Suit be given.

And be it further ordained and enacted by the Authority aforesaid, That it shall be lawful for the said Trustees, as soon after the passing of this Ordinance as may be expedient, to raise, by way of Loan on the Credit and Security of the Tolls hereby authorized to be imposed, and of other Monies which may come into the Possession and be at the Disposal of the said Trustees under and by virtue of this Ordinance, and not to be paid out of or be chargeable against the general Revenue of this Province, any Sum or Sums of Money not exceeding in the whole Thirty-five thousand Pounds Currency.

And be it further ordained and enacted by the Authority aforesaid, That it shall be lawful for the said Trustees to cause to be made out, for such Sum or Sums of Money as they may raise by Loan as aforesaid, Debentures, in the Form contained in the Schedule (A.) to this Ordinance annexed, redeemable at such Time or Times (subject to the Provisions herein made) as the said Trustees shall think most safe and convenient; which said Debentures shall be signed in the Manner above provided for the written Acts relating to the said Trust, and shall be transferrable by Delivery.

And be it further ordained and enacted by the Authority aforesaid, That such Debentures shall respectively bear Interest at the Rate therein mentioned, which may, at the Discretion of the Trustees, and with the express Approval and Sanction of the Governor of this Province, and not otherwise, exceed the Rate of Six per Centum per Annum, any Law to the contrary notwithstanding, and shall be the lowest Rate at which the said Sum or Sums to be loaned on any such Debentures shall be offered or can be obtained by the said Trustees, such Interest to be paid out of the Tolls upon the said Roads, or out of any other Monies at the Disposal of the Trustees for the Purposes of this Ordinance.

And be it further ordained and enacted by the Authority aforesaid, That if any Person or Persons shall forge or counterfeit any such Debenture as aforesaid, or any Signature, Endorsement, or Writing thereon or therein, or tender in Payment any such Debenture, or any Debenture, with such counterfeit Signature, Endorsement, or Writing thereon or therein, or shall demand the Payment of any Sum of Money thereby secured, or of any Interest thereon, knowing such Debenture, or the Signature, Endorsement, or Writing thereon or therein to be forged or counterfeited, with Intent to defraud the said Trustees or any of them, or any other Person or Persons, Body or Bodies Politic or Corporate, such Person or Persons so offending shall be guilty of Felony.

And be it further ordained and enacted by the Authority aforesaid, That if at any Time after the said Debentures or any of them shall have become due and payable according to the Terms thereof Notice shall be inserted Three several Times, at Intervals of not less than One Month apart, in one of the Newspapers published in the City of Montreal, and in the Quebec Gazette published by Authority, requiring all Holders of such Debentures to present the same for Payment, all Interest upon any Debentures then payable, which shall remain out more than Six Months from the first Insertion, shall cease to accrue from the End of the said Six Months.

And be it further ordained and enacted by the Authority aforesaid, That nothing herein contained shall prevent the said Trustees from voluntarily redeeming any Debenture, with the Consent of the lawful Holder thereof,

No. 163.

Improvement of Roads in the Neighbourhood of Montreal.

at any Time before such Debenture shall be made redeemable, if the State of the Funds of the said Trustees shall be such as to warrant such Redemption.

And be it further ordained and enacted by the Authority aforesaid, That it shall be lawful for the Governor for the Time being, if he shall deem it expedient, at any Time within Three Years from the passing of this Ordinance, and not afterwards, to purchase for the public Uses of this Province, and from the said Trustees, Debentures to an Amount not exceeding Twenty thousand Pounds Currency, and by Warrant under his Hand to authorize the Receiver General to pay to the said Trustees, out of any unappropriated public Monies in his Hands, the Sum secured by such Debentures, the Interest and Principal of and on which shall be paid to the Receiver General by the said Trustees, in the same Manner and under the same Provisions as are provided with regard to such Payments to any lawful Holder of such Debentures, and being so paid shall remain in the Hands of the Receiver General, at the Disposal of the Legislative Authority of the Province for the Time being.

And be it further ordained and enacted by the Authority aforesaid, That if at any Time it shall happen that the Monies then in the Hands of the said Trustees shall be insufficient to enable the Trustees to make any Payment required or authorized to be made by this Ordinance, all Arrears of Interest due on any Debentures issued under the Authority of this Ordinance shall be paid by the said Trustees before any Part of the Principal Sum then due upon and secured by any such Debenture shall be so paid; and if the Deficiency be such that the Funds then at the Disposal of the Trustees shall not be sufficient to pay such Arrears of Interest, it shall be lawful for the Governor for the Time being, by Warrant under his Hand, to authorize the Receiver General to advance to the said Trustees, out of any unappropriated Monies in his Hands, such Sum of Money as may, with the Funds then at the Disposal of the Trustees, be sufficient to pay such Arrears of Interest as aforesaid; and the Amount so advanced shall be repaid by the said Trustees to the Receiver General out of the Sum so to be commuted, levied, and collected as aforesaid, and being so repaid shall remain in the Hands of the Receiver General, at the Disposal of the Legislative Authority of the Province.

And be it further ordained and enacted by the Authority aforesaid, That the due Application of all public Monies, whereof the Expenditure on Receipt is authorized by the preceding Sections, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the Time being, in such Manner and Form as Her Majesty, Her Heirs and Successors, shall be pleased to direct.

And be it further ordained and enacted by the Authority aforesaid, That if any Person or Persons shall cut, break down, destroy, or wilfully injure any Turnpike Gate, Toll Bar, Toll House, Embankment, Drain, or Work of any Kind whatever erected or made under the Authority of this Ordinance, such Person or Persons so offending shall be guilty of a Misdemeanor, and being thereof lawfully convicted before any Court of competent Jurisdiction may be punished by Fine and Imprisonment; and if any Person shall forcibly pass, or attempt to pass, any such Turnpike Gate or Toll Bar, without having first paid the legal Toll thereat, such Person or Persons shall incur a Penalty not exceeding Forty Shillings Currency for each Offence.

And be it further ordained and enacted by the Authority aforesaid, That no Person shall leave any Waggon, Cart, or other Carriage, nor shall lay or leave any Matter or Thing creating any Obstruction of any Kind, in or upon any of the said Roads, or the Ditches or Drains thereof, or those made by or by Order of the said Trustees, under a Penalty not exceeding Twenty Shillings Currency for each Offence.

And be it further ordained and enacted by the Authority aforesaid, That if any Person or Persons shall, after proceeding upon any of the said Roads (whether in the Winter Season or in any other Season) with any Carriages, Animals, or Things liable to Toll, turn out of the same into any other Road, so as to evade Payment of Toll at any Turnpike Gate or Toll Bar, such Person or Persons shall for each such Offence incur a Penalty not exceeding Ten Shillings; and the said Trustees shall and may place Turnpike Gates and Toll Bars on and across the Entrance of any Passage or Way leading into or from any of the said Roads, in order to prevent such Evasion of Toll.

And be it further ordained and enacted by the Authority aforesaid, That if any

No. 163.

Improvement of Roads in the Neighbourhood of Montreal.

any Person or Persons, Body Politic or Corporate, occupying or possessing any enclosed Lands near any of the said Roads, shall, whether in the Winter or at any other Season, knowingly permit or suffer any Person or Persons to pass through such Lands, or through any Gate, Passage, or Way thereon, with any Carriage, Animal, or Thing liable to the Payment of Toll on such Road, for the Purpose of avoiding and so as to avoid the Payment thereof, such Person or Persons so offending, and the Person or Persons so unlawfully permitted to avoid such Payment, shall each and severally incur a Penalty not exceeding Ten Shillings Currency for each Offence.

And be it further ordained and enacted by the Authority aforesaid, That all Penalties imposed by this Ordinance, and not exceeding Forty Shillings for each Offence, may be sued for and recovered, with Costs, on the Oath of One competent Witness, before any Two Justices of the Peace for the District of Montreal, who may, on Conviction, commit the Offender to the Common Gaol of the District for a Period not exceeding Two Weeks for each Offence, or until such Penalty and Costs be paid; and one Moiety of all such Penalties shall belong to the Informer, and the other Moiety to the said Trustees: Provided always, that any Member, Officer, or Servant of the Corporation shall be a competent Witness, if he be not the Informer, or if he be such Informer and renounce all Claim to any Portion of the Penalty, which shall in such Case belong wholly to the said Trustees for the Purposes of this Ordinance.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That each and every Person committing any Offence against the Provisions of this Ordinance shall, in addition to any Penalty imposed by it for such Offence, be liable to the said Trustees for all Damages they may have sustained by reason of such Offence.

And be it further ordained and enacted by the Authority aforesaid, That the said Trustees shall lay detailed Accounts of all Monies by them received and expended under the Authority of this Ordinance, supported by proper Vouchers, and also detailed Reports of all their Doings and Proceedings under the said Authority, before such Officer, at such Times, and in such Manner and Form, and shall publish the same in such Way, at the Expense of the said Trustees, as the Governor shall be pleased to direct.

And be it further ordained and enacted by the Authority aforesaid, That the Word "Governor" is to be understood as comprehending and meaning the Governor, the Lieutenant Governor, and Person administering the Government of the said Province.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be a Public Ordinance, and as such shall be taken notice of, held, and allowed in all Courts and elsewhere, and by all Judges, Justices, and Persons whatsoever, without being specially pleaded.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be a permanent Ordinance, and shall be in force until repealed or altered by competent Authority.

SCHEDULE (A.)

ROAD LOAN.

Certificate No.—
——— Currency.
Interest at—per Cent.
18.—
Interest on
this Certificate paid
To January 18—Receipt No.—
July - —
January 18—
July - —
January 18—
July - —
January 18—
July - —
January 18—

Certificate No.—
——— Currency.

Montreal———————18—.

WE certify that under the Authority of the Provincial Ordinance of Lower Canada passed on the———Day of———18—(Third Victoria, Cap. .), intituled "An Ordinance to provide for the Improvement of the Roads in the Neighbourhood of and leading to the City of Montreal, and to raise a Fund for that Purpose," there has been borrowed and received from —— the Sum of —— Pounds Currency, bearing Interest from the Date hereof at the Rate of———per Cent. per Annum, payable half-yearly on the———Day of———and———; which Sum is reimbursable to the said———, or Bearer hereof, on or before the———Day of———, in the Manner provided for by the Provincial Ordinance aforesaid.

Registered by

———
———
——— } Trustees.

(Signed) C. POULETT THOMSON.

(4.)

No. 163.

Improvement of Roads in the Neighbourhood of Montreal.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Fifteenth Day of June, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Fifteenth Day of June One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 164.

No. 164.

Incorporating the Ecclesiastics of St. Sulpice, confirming their Titles, and providing for the Extinction of Seigniorial Rights therein.

An Ordinance to incorporate the Ecclesiastics of the Seminary of Saint Sulpice *of* Montreal; *to confirm their Title to the Fief and Seigniory of the Island of* Montreal, *the Fief and Seigniory of the Lake of the* Two Mountains, *and the Fief and Seigniory of* Saint Sulpice, *in this Province; to provide for the gradual Extinction of Seigniorial Rights and Dues within the Seigniorial Limits of the said Fiefs and Seigniories; and for other Purposes.* [Passed 8th June 1840.]

WHEREAS the Ecclesiastics of the Seminary of Saint Sulpice, established at Montreal in this Province, have, since the Capitulation made and signed at Montreal aforesaid on the Eighth Day of September which was in the Year of our Lord One thousand seven hundred and sixty, held, possessed, and enjoyed, and do still hold, possess, and enjoy, the Fief and Seigniory of the Island of Montreal and its Dependencies, the Fief and Seigniory of the Lake of the Two Mountains, and the Fief and Seigniory of Saint Sulpice, and their several Dependencies, all situated in the said District of Montreal; and the said Ecclesiastics have alleged, and do allege, that they so as aforesaid have held, possessed, and enjoyed, and still do hold, possess, and enjoy, all and singular the said Fiefs and Seigniories, and their Dependencies, rightfully and as the true and lawful Owners of the same: And whereas Doubts and Controversies have arisen touching the Right and Title of the said Ecclesiastics of the said Seminary of Saint Sulpice of Montreal in and to the several Fiefs and Seigniories and their Dependencies, of which they have, as aforesaid, been in possession since the said Capitulation, and it has been contended that all and every the said Fiefs and Seigniories became by the Conquest of this Province by the British Arms vested, and still remain vested, in the Crown: And whereas Her Majesty, desirous that all such Doubts and Controversies should be removed and terminated, and that Her faithful Subjects holding Lands within the Seigniorial Limits of the said Fiefs and Seigniories should be enabled to effect and obtain the gradual Extinction of all Seigniorial Rights, Dues, and Duties, payable or performable for or by reason of such their Lands, has, of Her own mere Will and proper Motion, graciously signified Her Royal Pleasure that the Right and Title of the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal in and to the said several Fiefs and Seigniories should be absolutely confirmed, under and subject to the Terms, Provisoes, Conditions, and Limitations herein-after contained and expressed, which said Terms, Provisoes, Conditions, and Limitations have been fully and formally agreed to and accepted by the said Ecclesiastics of the said Seminary of Saint Sulpice of Montreal: And whereas, for fulfilling Her Majesty's gracious Pleasure and Intentions in the said Behalf, and for other the Purposes aforesaid, it is expedient

No. 164.

Incorporating the Ecclesiastics of St. Sulpice, confirming their Titles, and providing for the Extinction of Seigniorial Rights therein.

dient and necessary that the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal should be constituted an Ecclesiastical Corporation or Body Corporate and Ecclesiastical (Communauté Ecclésiastique) for the Purposes hereinafter mentioned; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the same, and by virtue of the Powers in them vested by the said Acts of Parliament, That Joseph Quiblier, Jean Louis Melchior Sauvage du Chatillonet, Jean Richard, Joseph Comte, and others, who now are Members of the said Seminary of Saint Sulpice of Montreal, and compose the Body thereof, and their Ecclesiastical Successors, named and appointed by and according to the Rules and Regulations which now are or hereafter may be in force for the Government of that Institution or Body, shall be and they are hereby made, constituted, and declared to be an Ecclesiastical Corporation or Body Corporate and Ecclesiastical (Communauté Ecclésiastique) in Name and Deed, by the Name of "The Ecclesiastics of the Seminary of Saint Sulpice of Montreal," and that by the same Name they shall have perpetual Succession, by admitting and electing new Members, according to the Rules of their Foundation and the Practice by them heretofore followed (subject always to the Provisions herein-after made touching such Rules and Practice), and shall have a Common Seal, with Power to alter, break, and make new the same, when and as often as they shall judge it expedient so to do; and that they and their Successors by the same Name may sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in all Courts of Record and Places of Judicature and Jurisdiction within the said Province, and do, perform, and execute all and every lawful Acts and Things in as full and ample Manner and Form, to all Intents, Constructions, and Purposes as any other Ecclesiastical Corporation or Body Corporate and Ecclesiastical by Law may or ought to do: Provided always, that no Rules, Bye Laws, or Regulations, or Practice, for or concerning the Admission and Election of new Members, or the temporal Government of the said Corporation or its Successors, shall, after the Expiration of Six Months from the passing of this Ordinance, be valid, binding, or effectual, unless they shall have been reduced to Writing, and shall have been laid before the Governor, Lieutenant Governor, or Person administering the Government of this Province for the Time being, and shall have been by him expressly approved, confirmed, and ratified.

And be it further ordained and enacted by the Authority aforesaid, That the Right and Title of the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, in and to all and singular the said Fiefs and Seigniories of the Island of Montreal, of the Lake of the Two Mountains, and of Saint Sulpice, and their several Dependencies, and in and to all Seigniorial and Feudal Rights, Privileges, Dues, and Duties arising out of and from the same, and in and to all and every the Domains, Lands, Reservations, Buildings, Messuages, Tenements, and Hereditaments within the said several Fiefs and Seigniories now held and possessed by them as Proprietors thereof, and also in and to all Monies, Debts, Hypothèques, and other Real Securities, Arrears of Lods et Ventes, Cens et Rentes, and other Seigniorial Dues and Duties payable or performable by reason of Lands holden by Censitaires, Tenants, and others, in the said several Fiefs and Seigniories, Goods, Chattels, and moveable Property whatsoever, now due, owing, belonging, or accrued to the said Ecclesiastics of the said Seminary of Saint Sulpice of Montreal, or which may hereafter become due and owing or accrue and belong to them or to the said Ecclesiastical Corporation hereby constituted, or their Successors, by reason of any Lands and Tenements holden in the respective Censives of the said several Fiefs and Seigniories, with all and

No. 164.

Incorporating the Ecclesiastics of St. Sulpice, confirming their Titles, and providing for the Extinction of Seigniorial Rights therein.

every the Rights, Privileges, and Appurtenances thereunto respectively belonging or in anywise appertaining, shall be and they are hereby confirmed and declared good, valid, and effectual in the Law; and the Corporation hereby constituted shall and may have, hold, and possess the same, as Proprietor thereof, as fully, in the same Manner, and to the same Extent as the Ecclesiastics of the Seminary of Saint Sulpice of the Faux-bourg of Saint Germain chez Paris, or of the Seminary of Saint Sulpice of Montreal, according to its Constitution, before the Eighteenth Day of September which was in the Year One thousand seven hundred and fifty-nine, or either or both of the said Seminaries might or could have done, or had a Right to do, or might or could have held, enjoyed, or applied the same, or any Part thereof, previously to the last-mentioned Period; and to and for the Purposes, Objects, and Intents following; that is to say, the Cure of Souls within the Parish (La Desserte de la Paroisse) of Montreal; the Mission of the Lake of the Two Mountains, for the Instruction and spiritual Care of the Algonquins and Iroquois Indians; the Support of the Petit Séminaire or College at Montreal; the Support of Schools for Children within the Parish of Montreal; the Support of the poor Invalids and Orphans; the sufficient Support and Maintenance of the Members of the Corporation, its Officers and Servants; and the Support of such other religious, charitable, and educational Institutions as may from Time to Time be approved and sanctioned by the Governor, Lieutenant Governor, or Person administering the Government of the Province for the Time being, and to or for no other Objects, Purposes, or Intents whatsoever.

And be it further ordained and enacted by the Authority aforesaid, That all and singular the said Fiefs and Seigniories of the Island of Montreal, of the Lake of the Two Mountains, and of Saint Sulpice, and all and every the said Domains, Lands, Buildings, Messuages, Tenements, and Hereditaments, Seigniorial Dues and Duties, Monies, Debts, Hypothèques, Real Securities, Arrears of Lods et Ventes, Cens et Rentes, and other Seigniorial Dues, Goods, Chattels, and moveable Property whatsoever, shall be and the same are hereby vested in the said Corporation of the Ecclesiastics of the Seminary of Saint Sulpice of Montreal hereby constituted, and their Successors, to be had, held, possessed, and enjoyed by the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, as the true and lawful Owners and Proprietors of the same and of every Part and Parcel thereof, to the only Use, Benefit, and Behoof of the said Seminary or Corporation, and their Successors for ever, for the Purposes aforesaid, and according to their Rules and Regulations now being or hereafter to be in force; subject, however, to the Terms, Conditions, Provisions, and Limitations touching and concerning the same or any Part thereof, herein enacted, expressed, and contained.

And be it further ordained and enacted by the Authority aforesaid, That the said Corporation of the Ecclesiastics of the Seminary of Saint Sulpice of Montreal hereby constituted, and their Successors, shall be and they are hereby held and bound, whenever thereunto required by any of the Censitaires, or other Person or Persons, or Body or Bodies Politic or Corporate, who now hold or who may hereafter hold any real or immoveable Property à Titre de Cens or en Roture, within any One or more of the said Fiefs and Seigniories, to consent to grant and allow to and in favour of such Censitaire, Person or Persons, or Body or Bodies Corporate or Politic, requiring the same, a Commutation, Release, and Extinguishment of and from the Droits de Lods et Ventes, Cens et Rentes, and all feudal and seigniorial Burdens whatsoever to which such Censitaire, Person, or Body Corporate, holding real or immoveable Property in any One or more of the said Fiefs and Seigniories, his, her, or their Heirs, Successors, or Assigns, and such real and immoveable Property so by him, her, or them held, may be subject or liable, to in favour of the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or their Successors, for a certain Price, Indemnity, and Consideration in that Behalf agreed upon, or to be fixed, ascertained, and determined in manner herein-after provided, which shall be paid to the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal or their Successors, by the Censitaire, Person, or Body Corporate requiring such Commutation, Release, and Extinguishment, in manner as herein-after is directed: Provided always, that no such Censitaire, Person, or Body Corporate or Politic shall be entitled to or demand any such Commutation, Release, and Extinguishment, in the

No. 164.

Incorporating the Ecclesiastics of St. Sulpice, confirming their Titles, and providing for the Extinction of Seigniorial Rights therein.

the Behalf aforesaid, until he, she, or they shall have duly paid to the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or their Successors, all Arrears of Seigniorial Rights, Dues, and Duties which he, she, or they owed or may owe, or with which the said Land or immoveable Property in respect whereof such Commutation, Release, and Extinguishment may be sought or required, had been, was, or may be then chargeable, or shall have otherwise satisfied them in that Behalf by any Mode of Adjustment agreed upon and concluded.

And be it further ordained and enacted by the Authority aforesaid, That the Price, Consideration, and Indemnity to be paid by any Censitaire, Person, or Body Politic or Corporate, for such Commutation, Release, and Extinguishment, with regard to his, her, or their Land or immoveable Property situate within any One or more of the said Fiefs and Seigniories, to be paid by him, her, or them to the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or their Successors, shall be at and after the Rates following; that is to say, that the said Commutation of all Cens et Rentes within all and every the said Fiefs and Seigniories shall be had and obtained on the Payment of such Capital or Sum of Money as the said Cens et Rentes, reckoned at the legal Rate of Interest, shall or may represent; that the said Commutation of the Droit de Lods et Ventes, upon or in respect of any Lot, Piece, or Parcel of Land in the said Fief and Seigniory of the Island of Montreal, having Buildings on it, and being with such Buildings of the Value of Five hundred Pounds Currency or upwards, shall be had and obtained, for and during the first Seven Years which shall elapse after the passing of this Ordinance, upon Payment of not more than One Twentieth Part of the Value of such Lot, Piece, or Parcel of Land and Buildings, and at any Time at and after the Expiration of Seven Years subsequent to the passing of this Ordinance, and before the Expiration of Fourteen Years from the said Time, upon Payment of not more than One-eighteenth Part of the Value of such Lot, Piece, or Parcel of Land and Buildings, and at any Time after the Expiration of Fourteen Years from the said Time upon Payment of not more than One-sixteenth Part of the Value of such Lot, Piece, or Parcel of Land and Buildings; that the said Commutation of the said Droit de Lods et Ventes upon or in respect of any Lot, Piece, or Parcel of Land situated within the said City of Montreal, whereupon there may be Buildings of which the Value shall be less than Five hundred Pounds and more than One hundred Pounds Currency, shall be had and obtained, during the said first Period above mentioned of Seven Years after the passing of this Ordinance, upon Payment of not more than One-sixteenth Part of the Value of such Lot, Piece, or Parcel of Land and Buildings, and at any Time after the Expiration of the said Seven Years subsequent to the passing of this Ordinance, and before the Expiration of Fourteen Years from the said Time, upon Payment of not more than One-fourteenth Part of the Value of such Lot, Piece, or Parcel of Land and Buildings, and at any Time after the Expiration of Fourteen Years from the said Time upon Payment of not more than One-twelfth Part of the Value of such Lot, Piece, or Parcel of Land and Buildings; that the said Commutation of the said Droit de Lods et Ventes upon, for, or in respect of any Lot, Piece, or Parcel of Land situate without the said City of Montreal in any of the said Fiefs and Seigniories of the Island of Montreal, Lake of the Two Mountains, and Saint Sulpice, or for or in respect of any Lot, Piece, or Parcel of Land within the said City of Montreal, upon which there shall not be Buildings of the Value of One hundred Pounds Currency, shall be had and obtained for and during the said first Period of Seven Years after the passing of this Ordinance, upon Payment of not more than One-twelfth Part of the Value thereof, and at any Time after the Expiration of this Period of Seven Years subsequent to the coming into force and effect of this Ordinance, and before the Expiration of Fourteen Years from the said Time, upon Payment of not more than One-tenth Part of the said Value, and at any Time after the Expiration of Fourteen Years from the said Time on the Payment of not more than One-eighth Part of the Value of such Lot, Piece, or Parcel of Land or Buildings.

And be it further ordained and enacted by the Authority aforesaid, That in all Cases where the said Ecclesiastics of the said Seminary of Saint Sulpice of Montreal, their Successors, and any of the said Censitaires, or other Person or Persons, Body Politic or Corporate, so requiring a Commutation, Release,

No. 164.

Incorporating the Ecclesiastics of St. Sulpice, confirming their Titles, and providing for the Extinction of Seigniorial Rights therein.

and Extinguishment in manner aforesaid, shall not by voluntary Agreement settle and determine the Value of any such Lots, Pieces, or Parcels of Land and Property, with reference to which the said Price, Consideration Money and Indemnity, according to the Rates herein-before established, shall be reckoned, such Value thereof shall be fixed, ascertained, and determined by the Award of Arbitrators in manner following; that is to say, the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or Successors, shall and may nominate, and in their Default so to do, one of the Justices of the Court of King's Bench for the District of Montreal, shall and may on their Behalf nominate, an Arbitrator, being an indifferent and disinterested Person, and the said Censitaire, Person or Persons, or Body Corporate or Politic respectively, shall and may nominate and appoint one other Arbitrator, being also an indifferent and disinterested Person, and the said Court of King's Bench for the said District of Montreal, upon a Petition or summary Application to it made in that Behalf, shall and may nominate one other Arbitrator, being also an indifferent and disinterested Person; which said Three Arbitrators, after having been previously sworn, before any One of the Justices of the Court of King's Bench for the said District of Montreal hereby authorized to administer such Oath, well, truly, and honestly to execute the Trust and Duty of Arbitrators as aforesaid, and after Notice to the Parties respectively of the Time and Place of their meeting, shall proceed to fix, ascertain, and determine the Value of the Lots, Pieces, or Parcels of Land and Property in respect whereof such Commutation, Release, and Extinguishment shall be required; provided always, that the Costs and Expenses of such Arbitration shall be borne by the Parties in equal Shares, and that the said Arbitrament and Award of the said Arbitrators, to be named and appointed as aforesaid or of any Two of them, in and respecting the Premises, shall be final, and the same shall be duly returned into, filed, and enrolled in the said Court of King's Bench for the District of Montreal, and shall by such Court be duly confirmed.

And be it further ordained and enacted by the Authority aforesaid, That upon the rendering and Confirmation of the said Award in the Behalf and in Manner aforesaid, it shall be lawful for the Censitaire, Person or Persons, or Body Corporate or Politic, requiring such Commutation, Release, and Extinguishment of all seigniorial and feudal Rights and Burdens as aforesaid, to pay or offer to pay to the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or their Successors, as and for the Price, Consideration Money, and Indemnity for the said Commutation, Release, and Extinguishment of all seigniorial and feudal Rights and Burdens, such Part of the Value of such Piece or Parcel of Land and Property, fixed and determined by such Award, as according to the Rates mentioned in the Fifth Section of this present Ordinance should be due and payable in that Behalf, or to declare his, her, or their Option to the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or their Successors, that the said Price, Consideration Money, and Indemnity, (provided the same shall amount to not less than One hundred Pounds Currency,) shall be and remain upon and shall charge and affect such Lot, Piece, Parcel of Land or Property, at and for a redeemable Quit Rent, (à Rente constituée et rachetable), according to the Laws of this Province; and that any Option in the said Behalf so made and declared shall have the full Effect in Law of charging and affecting such Land or Property for such Price, Consideration Money, and Indemnity at a redeemable Quit Rent (à Rente constituée et rachetable) to all Intents and Purposes whatsoever.

And be it further ordained and enacted by the Authority aforesaid, That from and after the voluntary Settlement and Adjustment between the Parties touching the said Price, Consideration Money, and Indemnity, or from and after the Payment or Tender of Payment to the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, of the said Price, Consideration Money, and Indemnity, reckoned according to such Award in that Behalf, or from and after a Declaration signified to the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or their Successors, by the said Censitaire, Person or Persons, or Body Politic or Corporate, of his, her, or their Option that such Price, Consideration Money, and Indemnity, reckoned according to such Award, shall be and remain upon and charge and affect such Lot, Piece, or Parcel of Land and Property, at and for a redeemable Quit Rent (á Rente constituée et rachetable) in manner aforesaid, all and every the Droits de

Cens

No. 164

Incorporating the Ecclesiastics of St. Sulpice, confirming their Titles, and providing for the Extinction of Seigniorial Rights therein.

Cens et Rentes, Lods et Ventes, Droits de Banalité et de Moulin, Droit de Retrait, and all other feudal and seigniorial Rights whatever of the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, upon, for, or in respect of the Lot, Piece, or Parcel of Land or Property as to and concerning which such Commutation, Release, and Extinguishment may be sought and required, shall be and be held to be taken and considered for ever commuted, released, and extinguished, and such Lot, Piece, or Parcel of Land shall be holden, and be deemed and considered as holden, thenceforth for ever, by the Tenure of Franc Aleu Roturier, according to the Laws of this Province, and shall never again be granted, surrendered, or holden by any Feudal Tenure whatsoever: Provided always, that nothing herein-before contained shall extend or be construed to extend to discharge the Lots, Pieces, or Parcels of Land, the Tenure whereof may be so converted into that of Franc Aleu Roturier, from the Rights, Hypothèques, Privileges, Reservations, and Demands of the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, charged in and upon the same, for the Security and Recovery of the Price, Consideration Money, and Indemnity, which, by reason of the Adjustment with the Censitaire or Person who required such Commutation, Release, and Extinguishment, may remain as a Charge and Incumbrance of such Land or Property, at a redeemable Quit Rent as aforesaid, (for the Security of and Recovery of which Prices, Consideration Money, and Indemnity the said Corporation shall have the same legal Recourse, Privilege, and Priority of Hypothèque as they would have had for any Right extinguished by such Commutation,) or for the Security and Recovery of any Arrears of Seigniorial Dues accrued before such Commutation, Release, and Extinguishment may have been required, or in anywise to destroy, alter, or affect the Remedies and Recourse at Law which the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or their Successors, might lawfully have had or have taken for the Recovery of the same if such Commutation, Release, and Extinguishment had not been made and obtained, but that all and every the lawful Rights, Hypothèques, Privileges, Actions, Demands, Recourse, and Remedies in that Behalf of the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and of their Successors, be and the same are hereby saved and maintained.

And be it further ordained and enacted by the Authority aforesaid, That if the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or their Successors, shall refuse or neglect to make and execute, to and in favour of any Censitaire or other Person, or Body Corporate or Politic, who shall in manner aforesaid have paid or tendered Payment to them of the Amount of the said Price, Consideration Money, and Indemnity, according to any such Award made in due Manner, or who shall have declared his, her, or their Option to the said Ecclesiastics of the said Seminary of Saint Sulpice of Montreal, or their Successors, that such Amount should remain upon and charge and affect the Lot, Piece, Parcel of Land, and Property, and for a redeemable Quit Rent, according to the Provisions in that Behalf herein-before contained, an Instrument in Writing before Two Notaries, or a Notary and Two Witnesses, (at the joint Cost of the Parties), setting forth such Commutation, Release, and Extinguishment of all seigniorial and feudal Rights, Dues, and Burdens, and the Terms and Conditions thereof, according to Law, and the respective Rights of the Parties, it shall and may be lawful to and for such Censitaire, Person or Persons, or Body Corporate or Politic aforesaid, to implead the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, in the said Court of King's Bench for the District of Montreal, for the Purpose of compelling them to grant to the said Censitaire, Person or Persons, or Body Corporate or Politic aforesaid, such Instrument in Writing as aforesaid, setting forth such Commutation, Release, and Extinguishment, according to Law, and the respective Rights of the Parties; and upon their Default so to do it shall be lawful for the said Court of King's Bench, and they are hereby required, by their Judgment in that Behalf, to award and adjudge to such Censitaire, Person or Persons, or Body Corporate or Politic, the full Benefit of such Commutation, Release, and Extinguishment, for and in respect of such Land or Property, according to Law, and the respective Rights of the Parties, with lawful Costs of Suit.

(4.) And

No. 164.

Incorporating the Ecclesiastics of St. Sulpice, confirming their Titles, and providing for the Extinction of Seigniorial Rights therein.

And be it further ordained and enacted by the Authority aforesaid, That the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, shall not, for Arrears of Lods et Ventes accrued to them at the Time of the coming into force and effect of this Ordinance, or hereafter to accrue and become due to them, according to Law, for each Mutation in the Ownership of any Lands and Tenements situated within the said City of Montreal, and of which, with the Buildings erected thereon, the Value shall be the Sum of Five hundred Pounds Currency or upwards, demand and exact more than One-twentieth Part of the Price and Consideration for each Sale or Conveyance of any such Lands and Tenements, nor shall they, for each and every Mutation in the Ownership of any Lands or Tenements situated in the Censive of any One of the said Three Fiefs and Seigniories, and out of the Limits of the said City of Montreal, exact and demand more than One-sixteenth Part of the Price and Consideration of the Sale and Conveyance of such last-mentioned Lands and Tenements; nor shall they, for each and every Mutation in Ownership of any Lands or Tenements situated within the Limits of the said City of Montreal, of which, with the Buildings thereon erected, the Value shall be less than Five hundred Pounds Currency, exact or demand more than One-sixteenth Part of the Price or Consideration for each Sale or Conveyance thereof; and further, that all and every such Arrears of Lods et Ventes, accrued at the Time of the passing of this Ordinance, according to the respective Rates aforesaid, shall not be demandable from any Person or Persons owing the same personally or hypothecarily, nor shall any such Persons or Persons indebted as aforesaid to a greater Amount than Forty-one Pounds Currency be compellable to pay the same to the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, except within Seven Years from the Day when this Ordinance shall come into force and effect, in Seven equal and annual Instalments: Provided always, that in default of any Person or Persons to pay any such Instalment or Instalments after the same shall become due, and after Three Months Notice, and a notarial Demand signified to him or them in that Behalf, the whole of such Arrears of Lods et Ventes, according to the Rates aforesaid, or the remaining unpaid Instalments thereof, shall become and be immediately payable to and demandable by the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or their Successors, from and shall be paid to them by the Person or Persons who shall owe the same; provided also, that in case the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or their Successors, shall, before the Time when this Ordinance shall come into force, have been obliged to make and file any Opposition afin de conserver in any Court of Judicature in the said District of Montreal, with regard to the Lands or Tenements charged and encumbered with and for the Payment of any such Arrears, or to the Proceeds of any Judicial Sale thereof, or to Applications for Judgments of Confirmation of Title of any such Lands or Tenements, then and in such Case the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, shall be entitled to Judgment for and to receive such Part only of the Price and Consideration for each and every Mutation in the Ownership of such Lands or Tenements as is herein provided according to the Value and Locality thereof; but the Amount for which such Judgment shall be rendered shall be payable at the Time when it would have been payable if this Ordinance had not been passed; provided however, that any Judgment for any such Arrears which shall have been rendered before this Ordinance shall come into force, in favour of the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, shall and may be executed according to the Tenor thereof, as if this Ordinance had not been passed.

Provided always, and be it further ordained and enacted by the Authority aforesaid, That the total Amount to be received by the said Ecclesiastics of the Seminary of Montreal to their Use for the Purposes herein specified, as and for Arrears of Lods et Ventes due before the passing of this Ordinance, shall in no Case exceed the Sum of Forty-four thousand Pounds Currency on Real Property lying within the Fief and Seigniory of the Island of Montreal, nor the Sum of Twelve thousand seven hundred Pounds Currency on Real Property lying within the said Fiefs and Seigniories of the Lake of the Two Mountains and of Saint Sulpice; and any Monies received by the said Corporation for any such Lods et Ventes, over and above the said Sums respectively,

shall

No. 164.

Incorporating the Ecclesiastics of St. Sulpice, confirming their Titles, and providing for the Extinction of Seigniorial Rights therein.

shall be so received for Her Majesty, Her Heirs and Successors, for the public Uses of the Province, and shall be paid over by the said Corporation to the Receiver General, and await in his Hands the Disposal of the Legislative Authority of the Province.

And be it further ordained and enacted by the Authority aforesaid, That the Lot, Piece, or Parcel of Land called the Farm of Saint Gabriel, situated within the said Fief and Seigniory of the Island of Montreal, lying on the West Side of the Lower Road to Lachine, containing about Two hundred and seventy Arpents, being one of the Domain Lands, Farms, Tenements, and Hereditaments secured and confirmed to the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, by the Second Section of this Ordinance, shall, within the Space of Twenty Years after the passing of this Ordinance, be by the said Ecclesiastics alienated and disposed of by public Sales, after advertising the same for One Month in Two of the public Newspapers published in the said City of Montreal, in Franc Aleu Roturier for ever, in such Parts and Parcels, and for such Prices, Terms, and Considerations, as to them may seem most meet and advantageous ; and, for the making of any such Alienations and Conveyances, the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, are hereby fully and duly licensed and authorized ; and if at the Expiration of the said Twenty Years the said Farm of St. Gabriel, or any Parts or Parcels thereof, shall yet remain not alienated or disposed of, then and in that Case the said Farm of St. Gabriel, or such Parts or Parcels thereof as shall so remain not alienated or disposed of as aforesaid, shall, by the mere Lapse of the said Period of Time, and by Operation of Law, fall within the Provisions of the Laws of Mortmain, and be forfeited to and be vested in Her Majesty, Her Heirs and Successors, and be re-united to the Domain of the Crown for ever.

And be it further ordained and enacted by the Authority aforesaid, That all and every the Monies which may arise from the Commutation, Release, and Extinguishment of the Seigniorial Rights and Burdens for and in respect of Lands, Tenements, and Property within the Censive of the said Three Fiefs and Seignories, and which may by the Provisions and for the Purposes of this Ordinance be the Property of the said Corporation, and all Monies which shall be received and gotten in by reason of the Sale, Alienation, or Disposal of the said Farm of Saint Gabriel, or of any Parts or Parcels thereof, and which Monies as aforesaid may be disposable, after the necessary Expenditure for the Uses and Support of the said Institution shall have been provided for, shall, by the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or their Successors, be invested in the public Stocks or Securities of the United Kingdom of Great Britain and Ireland, or of its Colonies or Dominions, and not otherwise ; and that the Rents, Revenues, Dividends, and Profits of the Monies so invested shall be had, taken, and received by the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, to be expended in and about the Support and Management of the said Institution, and in promoting its Objects, according to the Provisions and Requirement of this Ordinance : Provided always, that out of the said Monies which shall so arise, or shall be as aforesaid received and gotten in and collected, it shall and may be lawful for the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, to apply and invest a Sum or Sums of Money, in the whole not exceeding the Sum of Thirty thousand Pounds Currency, in Constitutions de Rentes on immoveable Property, or in the Purchase of Houses, Lands, and Tenements, and immoveable Property, situated within this Province, in order to create and produce Income to the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal and their Successors : Provided always, that in addition to and over and above such Real Property producing Income, which the said Corporation are hereby authorized to purchase and hold to the Value of Thirty thousand Pounds as aforesaid, and no more, they may likewise purchase and hold any other Real Property, Houses, Buildings, or Tenements, destined for and appropriated to Purposes of Religion, Charity, or Education, and producing no Income, which may be necessary to accomplish the Purposes and Objects of this said Corporation, as the same are herein-before described and defined.

And be it further ordained and enacted by the Authority aforesaid, That the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal shall, whenever

No. 164.

Incorporating the Ecclesiastics of St. Sulpice, confirming their Titles, and providing for the Extinction of Seigniorial Rights therein.

and so often as they may be thereunto required by the Governor, Lieutenant Governor, or Person administering the Government of this Province for the Time being, lay before him, or before such Officer or Officers as he shall appoint, a full, clear, and detailed Statement of the Estate, Property, Income, Debts, and Expenditure, and of all the pecuniary and temporal Affairs of the said Corporation, in such Manner and Form, and with such Attestation of Correctness, as the Governor, Lieutenant Governor, or Person administering the Government shall direct.

And be it further ordained and enacted by the Authority aforesaid, That the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, and their Successors, as to temporal Matters, shall continue and be subject to the same Powers of Visitation as in the like Cases were possessed and exercised by the Kings of France before the Conquest of this Province, and are now possessed and exercised in that Behalf by Her Majesty in right of Her Crown.

And be it further ordained and enacted by the Authority aforesaid, That nothing in this present Ordinance contained shall extend or be construed to extend to destroy, diminish, or in any Manner to affect the Rights and Privileges of Her Majesty, Her Heirs and Successors, or of any Person or Persons, Society, or Corporate Body, excepting such only as this Ordinance may expressly and especially destroy, diminish or affect.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be taken and deemed to be a Public Act and Ordinance, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and all others whom it shall concern, without being specially pleaded.

And be it further ordained and enacted by the Authority aforesaid, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent Authority.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Eighth Day of June, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Eighth Day of June One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(Copy.)

No. 129.

No. 129.

Extending the System of Police to the District of St. Francis.

An Ordinance to extend the Provisions of the Ordinance for establishing an efficient System of Police in the Cities of Quebec *and* Montreal *to the District of* Saint Francis *in this Province.*

[Passed 12th May 1840.]

Whereas it is expedient to extend the Provisions of the Ordinance hereinafter cited to the District of Saint Francis in this Province; be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the Advice and Consent of the Special Council for

No. 129.

Extending the System of Police to the District of St. Francis.

for the Affairs of this Province, constituted and assembled by virtue and under the Authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the First Year of the Reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the Authority of a certain other Act of the same Parliament passed in the Session held in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the Authority of the said Acts of Parliament, That the Ordinance made and passed in the Second Year of Her Majesty's Reign, intituled "An Ordinance for establishing an efficient System of Police in the Cities of Quebec and Montreal," shall be and is hereby extended to the District of Saint Francis in this Province; and that the Governor or Person administering the Government of this Province shall, with regard to the said District of Saint Francis, have all the Powers and Authority vested in him by the said Ordinance with regard to the Cities of Quebec and Montreal, and the neighbouring Districts thereof.

(Signed) C. Poulett Thomson.

Ordained and enacted by the Authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the City of Montreal, the Twelfth Day of May, in the Third Year of the Reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the Year of our Lord One thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. Lindsay,
Clerk Special Council.

I hereby certify the above to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the Advice and Consent of the Special Council for the Affairs of the said Province, on the Twelfth Day of May One thousand eight hundred and forty, and in the Third Year of Her Majesty's Reign.

(Signed) W. B. Lindsay,
Clerk Special Council.

(4.)

ORDINANCES

PASSED BY

THE GOVERNOR AND SPECIAL COUNCIL

OF

LOWER CANADA,

IN THE THIRD AND FOURTH YEARS OF THE REIGN OF HER MAJESTY
QUEEN VICTORIA.

(*Presented pursuant to Act* 2 *&* 3 *Victoria, Cap.* 53, *Section* 2, *in continuation of those laid before Parliament on the* 29*th January,* 1841.)

LONDON:
PRINTED BY W. CLOWES AND SONS, STAMFORD STREET,
FOR HER MAJESTY'S STATIONERY OFFICE.

1841.

TITLES OF THE ORDINANCES.

No. Page

130. An Ordinance to render permanent certain Ordinances therein mentioned, and to amend one of the said Ordinances 1

138. An Ordinance to amend and render permanent an Ordinance passed in the Second Year of her Majesty's Reign, intituled, "An Ordinance to prevent the fraudulent Manufacture, Importation, or Circulation of spurious Copper and Brass Coin 4

165. An Ordinance to amend a certain Ordinance of the Legislature of this Province, made and passed in the Fourth Year of the Reign of Her Majesty, intituled, "An Ordinance to establish new Territorial Divisions of Lower Canada, and to alter and amend the Judicature, and provide for the better and more efficient Administration of Justice throughout this Province;" and also a certain other Ordinance of the same Legislature, made and passed in the same Year, intituled, "An Ordinance to provide for the more easy and expeditious Administration of Justice in Civil Causes, and Matters involving small pecuniary Value and Interest throughout this Province" 5

166. An Ordinance to amend a certain Ordinance therein mentioned 8

167. An Ordinance to prescribe and regulate the Election and Appointment of certain Officers in the several Parishes and Townships in this Province, and to make other Provisions for the local Interests of the Inhabitants of these Divisions of the Province 9

168. An Ordinance to provide for the better internal Government of this Province, by the Establishment of Local and Municipal Authorities therein 16

169. An Ordinance to authorise the Corporation of the Trinity-House of Quebec to borrow a certain Sum of Money, and for other Purposes relative to the said Corporation . . 27

170. An Ordinance to empower the Corporation of the Trinity-House of Quebec to sell and convey a certain Portion of the Harbour of the Cul-de-Sac, in the City of Quebec, to the Corporation of the said City 29

171. An Ordinance to amend and extend the Provisions of an Ordinance passed in the Third Year of Her Majesty's Reign, intituled "An Ordinance to provide for the Improvement of the Roads in the Neighbourhood of and leading to the City of Montreal, and to raise a Fund for that Purpose" 30

172. An Ordinance to provide Means of keeping in Repair that Part of the Road from this Province to New Brunswick commonly called the Temiscouata Portage Road . . 37

173. An Ordinance to make Provision for defraying the Civil Expenditure of the Provincial Government for the Year ending on the Tenth Day of October, One Thousand Eight Hundred and Forty-one; for the Support of certain Charitable Institutions; for the Promotion of Education; for certain Public Works; for the Improvement of the Internal Communications; for the Encouragement of Agriculture; and for other Purposes 40

174. An Ordinance for making a Railroad from Sherbrooke to a Point upon either Bank of the River Richelieu 43

175. An Ordinance to provide for the Construction of a Turnpike-Road from the River Richelieu, opposite the Town of Dorchester, commonly called Saint John's, to the Village of Granby 60

176. An Ordinance to authorise certain further Improvement in the Harbour of Montreal, to establish new Rates of Wharfage therein, to authorise the Commissioners for the Improvement of the same, to borrow a further Sum of Money, and for other Purposes relative to the said Harbour 69

177. An Ordinance for suspending a certain Ordinance, intituled, "An Ordinance for establishing Regulations respecting Aliens coming into this Province, or residing therein;" and a certain other Ordinance, intituled, "An Ordnance for amending an Ordinance for establishing Regulations respecting Aliens coming into this Province, or residing therein . 76

178. An Ordinance to authorise the Council of the City of Montreal to discharge a certain Debt contracted by the Magistrates of the said City for lighting the same with Gas . . 77

179. An Ordinance for the better Regulation of the Office of Sheriff in this Province . . 78

180. An Ordinance for establishing and maintaining better Means of Communication between the City of Montreal and Chambley 88

181. An Ordinance to provide for the Improvement of certain Roads in the Neighbourhood of and leading to the City of Quebec, and to raise a Fund for that Purpose . . . 98

No.		Page
182.	An Ordinance to amend an Act of the Provincial Parliament of this Province, intituled, " An Act for making a Railroad from Lake Champlain to the River St. Lawrence . .	109
183.	An Ordinance to amend two certain Ordinances therein mentioned, relative to the Administration of Justice in this Province, and to make other and further Provision on the same Subject	111
184.	An Ordinance to provide for the Erection and Establishment of Court-Houses and Gaols in certain Judicial Districts in this Province	115
185.	An Ordinance to declare and regulate the Tolls to be taken on the Bridge over Cape Rouge River, and for other Purposes relative to the said Bridge	120
186.	An Ordinance to provide for the Improvement of a certain Part of the Road from the City of Montreal to the Côte Saint Michel, in the Parish of Sault-au-Recollet . .	124
187.	An Ordinance to extend the Provisions of a certain Ordinance concerning the Erection of Parishes for Civil Purposes, to Parishes canonically erected before the passing of the said Ordinance	131
188.	An Ordinance to authorise the Transfer of the Property of the Old Gaol in the City of Montreal to the Principal Officers of Her Majesty's Ordnance . . .	133
189.	An Ordinance to authorise the Repayment of a certain Sum therein mentioned, advanced out of the Military Chest for certain Provincial Purposes	135
190.	An Ordinance to facilitate the Despatch of the Business now before the Court of King's Bench for the District of Montreal.	136
191.	An Ordinance to authorise and enable the Corporation of the City of Montreal to erect a Public Edifice in the said City for certain Purposes	138
192.	An Ordinance to amend the Law relative to the granting of Licenses to keep Houses of Public Entertainment, and to enable the Magistrates resident in the City of Montreal to hold another Special Session for granting Certificates on which such Licenses may be granted during the present Year	143
193.	An Ordinance to make further Provision for the effectual Improvement of the Internal Communications between this Province and New Brunswick	144
194.	An Ordinance to prescribe and regulate the Registering of Titles to Lands, Tenements, and Hereditaments, Real or Immoveable Estates, and of Charges and Incumbrances on the same; and for the Alteration and Improvement of the Law in certain Particulars in Relation to the Alienation and Hypothecation of Real Estates, and the Rights and Interests acquired therein	146
195.	An Ordinance to amend the Ordinance to incorporate the City and Town of Quebec	168
196.	An Ordinance to amend the Ordinance to incorporate the City and Town of Montreal	177
197.	An Ordinance to amend the Laws relative to Winter Roads	187

R. VERNON SMITH.

Colonial Office, Downing Street,
4th May, 1841.

ORDINANCES, &c.

(Copy.)

No. 130.

No. 130.

An Ordinance to render permanent certain Ordinances therein mentioned, and to amend one of the said Ordinances.

To render permanent certain Ordinances, and amend one.

[Passed 12th May, 1840.]

WHEREAS it is expedient to render permanent the Ordinances hereinafter mentioned, and to amend one of the said Ordinances: Be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," And it is hereby ordained and enacted by the authority of the said Acts of Parliament, that the Ordinance made and passed in the second year of Her Majesty's reign, Chapter nine, intituled "An Ordinance to repeal so much of an Act of the Parliament of Great Britain, of the twenty-fifth Year of the Reign of His late Majesty, George the Second, as directs the Period of the Execution of Persons convicted of the Crime of Murder, and for other Purposes," which said Ordinance would not otherwise, under the provisions of the Act first above cited, remain in force beyond the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter four, intituled "An Ordinance to facilitate the Manner in which Registers of Baptisms, Marriages, and Burials shall in future be numbered and authenticated in the Province of Lower Canada" which said Ordinance could not otherwise, under the provisions of the Act first above cited, continue to be in force beyond the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or amended by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter thirteen, intituled "An Ordinance for the better Regulation of Ferrymen and others conveying Persons for hire across the Rivers and Waters of this Province," which said Ordinance would otherwise expire on the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority, anything in the last Section of the said Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter sixteen, intituled "An Ordinance to amend a certain Act therein mentioned, and for the more effectual Punishment of such Persons as shall seduce Soldiers to desert," which said Ordinance would otherwise expire on the first day of November, one thousand eight hundred and forty, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter seventeen, intituled "An Ordinance to extend certain Privileges therein mentioned to the Ministers of the Methodist New Connexion, and the Congregations under their Care," which would not otherwise, under the provisions of the Act first above cited, remain in force beyond the first day of November, one thousand eight hundred

No. 130.

To render permanent certain Ordinances, and amend one.

and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter twenty, intituled "An Ordinance for the better Information of the Government and of the Public, concerning Prosecutions brought before Justices of the Peace," which would not otherwise, under the provisions of the Act first above cited, remain in force beyond the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter twenty-three, intituled "An Ordinance to abolish the Practice of permitting Defendants to traverse Indictments for Misdemeanors before Courts of Oyer and Terminer in this Province," which would not otherwise remain in force beyond the first day of May, one thousand eight hundred and forty-one, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter twenty-six, intituled "An Ordinance to suspend an Act passed in the Tenth and eleventh Years of the Reign of His late Majesty George the Fourth, intituled "An Act for the relief of certain Religious Congregations therein mentioned, and to make other legislative Provision in the Place thereof," which would not otherwise, under the provision of the Act herein first above cited, remain in force beyond the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter twenty-eight, intituled "An Ordinance to exempt certain Articles from Seizure in Satisfaction of Debt," which would not otherwise, under the provisions of the Act first above cited, remain in force beyond the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter thirty-three, intituled "An Ordinance to repeal a certain Act therein mentioned, relative to a certain Market Place at Prés de Ville, in the City of Montreal," which would not otherwise, under the provisions of the Act first above cited, remain in force beyond the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority, and the Act in the said Ordinance cited and repealed, shall remain for ever repealed, unless it be revived by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter thirty-eight, intituled "An Ordinance for erecting a Court-House, with proper Offices, at Sherbrooke, in the District of St. Francis, and for defraying the Expense thereof," which would not otherwise, under the provisions of the Act herein first above cited, remain in force beyond the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter forty-seven, intituled "An Ordinance to amend and continue the Act to regulate the Exercise of certain Rights of Lessors and Lessees," and the Act thereby amended and continued, which said Ordinance and Act would otherwise expire on the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance and Act are hereby made permanent, and shall remain in force until repealed or altered by competent authority, anything in the said Ordinance or Act to the contrary notwithstanding.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter forty-eight, intituled "An Ordinance to prevent real Property under Seizure from

No. 130.

To render permanent certain Ordinances, and amend one.

being injured or wasted to the Damage of the Party seizing," which would not otherwise, under the provisions of the Act herein first above cited, remain in force beyond the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter fifty-two, intituled "An Ordinance to revive and continue certain Acts of the Legislature of this Province therein mentioned," which would otherwise expire on the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance and the Acts thereby revived and continued is and are hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter fifty-three, intituled "An Ordinance to provide for the Completion of certain Public Works, for the Improvement of the internal Communications, and for the Encouragement of Agriculture and for other Purposes," which would not otherwise, under the provisions of the Act herein first above cited, remain in force beyond the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter fifty-six, intituled "An Ordinance to amend an Act of the Legislature of this Province therein mentioned, intituled 'An Act for repealing certain Acts granting Rates and Duties to His Majesty, and for granting new and additional Duties in Lieu thereof, and for appropriating the same towards defraying the Expenses of the Admihistration of Justice and Support of the Civil Government within this Province, and for other Purposes therein mentioned,' " which would otherwise expire on the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority, anything in the said Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter fifty-seven, intituled "An Ordinance to regulate Private Banking and the Circulation of the Notes of Private Bankers," which would not otherwise, under the provisions of the Act herein first above cited, remain in force beyond the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority: Provided always, and be it hereby further ordained and enacted, That the two several provisos in the second clause of the said Ordinance be and they are hereby repealed.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter sixty, intituled, "An Ordinance to amend certain Acts therein mentioned, relative to a certain Market at Montreal," which would not otherwise, under the provisions of the Act herein first above cited, remain in force beyond the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the first year of Her Majesty's reign, intituled, "An Ordinance for preventing Mischiefs arising from the printing and publishing Newspapers, Pamphlets, and Papers of like Nature by Persons not known, and for other Purposes," which would otherwise expire on the first day of November, one thousand eight hundred and and forty, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter second, intituled "An Ordinance to authorise the seizing and detaining, for a limited Time, of all Gunpowder, Arms, Weapons, Lead, and Munitions of War," which has been continued by another Ordinance passed in the third year of Her Majesty's

No. 130.

To render permanent certain Ordinances, and amend one.

reign until the first day of June, one thousand eight hundred and forty, when it would expire, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority, anything in the said Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the authority aforesaid, That the Ordinance made and passed in the second year of Her Majesty's reign, Chapter thirty-six, intituled, "An Ordinance concerning Bankrupts, and the Administration and Distribution of their Estates and Effects," which would otherwise expire on the first day of November, one thousand eight hundred and forty-two, shall be, and the said Ordinance is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

(Signed) C. POULETT THOMSON.

Ordained and enacted by the authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House, in the city of Montreal, the Twelfth day of May, in the third year of the reign of our Sovereign Lady Victoria, by the grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty.

By his Excellency's command,

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the above to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the twelfth day of May, one thousand eight hundred and forty, and in the third year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 138.

No. 138.

To prevent the fraudulent Manufacture, Importation, or Circulation of Spurious Copper and Brass Coin.

An Ordinance to amend and render permanent an Ordinance passed in the second Year of Her Majesty's Reign, intituled, "An Ordinance to prevent the fraudulent Manufacture, Importation, or Circulation of Spurious Copper and Brass Coin."

[Passed 30th April, 1840.]

WHEREAS it is expedient to amend and render permanent the Ordinance hereinafter mentioned: Be it therefore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada;" and it is hereby ordained and enacted by the authority of the said Acts of Parliament and by virtue of the powers in them vested by the Act last above mentioned, and under the provisions thereof, that a certain Ordinance of the Governor of this province, and of the Special Council for the affairs thereof, passed in the second year of Her Majesty's reign, and intituled "An Ordinance to prevent the Fraudulent Manufacture, Importation, or Circulation of Spurious Copper and Brass Coin," which said Ordinance would otherwise expire on the first day of November one thousand eight hundred and forty-two, shall be, and the said Ordinance, as amended by this Ordinance, is hereby made permanent, and shall remain in force until it be repealed or amended by competent authority.

Provided always, and be it further ordained and enacted by the authority aforesaid, That no permission shall be hereafter given by the Governor, Lieutenant-Governor, or person administering the government of the said province for the importation or manufacture of any copper or brass coin, or tokens, under the provisions of the said Ordinance by any person or persons, body politic or corporate, unless such coins or tokens be stamped with the nominal value thereof and with the name of such person or persons, body politic or corporate, and such coins or tokens

No. 138.

To prevent the fraudulent Manufacture, Importation, or Circulation of Spurious Copper and Brass Coin.

shall be payable or redeemable on demand by such person or persons, body politic or corporate, at the nominal value thereof, in lawful current coin, being a legal tender in this province in payment of a debt, equal to the nominal value of the coins or tokens for which payment shall be so demanded.

(Signed) C. POULETT THOMSON.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the province, at the Government House in the city of Montreal, the thirtieth day of April, in the third year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord, one thousand eight hundred and forty.

By his Excellency's Command.

(Signed) WM. B. LINDSAY.
Clerk Special Council.

I hereby certify the above to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the thirtieth day of April, one thousand eight hundred and forty, and in the third year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 165.

No. 165.

New Territorial Divisions, and Administration of Justice in Causes involving small pecuniary value.

CAP. 1.—*An Ordinance to amend a certain Ordinance of the Legislature of this Province, made and passed in the Fourth Year of the Reign of Her Majesty, intituled "An Ordinance to establish new Territorial Divisions of* Lower Canada, *and to alter and amend the Judicature, and provide for the better and more efficient Administration of Justice throughout this Province;" and also a certain other Ordinance of the same Legislature, made and passed in the same Year, intituled "An Ordinance to provide for the more easy and expeditious Administration of Justice in Civil Causes, and Matters involving small pecuniary Value and Interest throughout this Province."* [Passed 24th November, 1840.]

WHEREAS a considerable accumulation of causes undetermined since the hearing thereof, at different periods, has occurred in the Court of King's Bench for the district of Montreal, and the said causes, as well as a number of others, in a state to be heard, continue to be depending in the said Court, and it has, by reason thereof, become indispensably and urgently necessary that some special provision should be made for the speedy determination of such causes, and for facilitating the future dispatch of business in the said Court, as well as in the Court of Common Pleas, which is about to be substituted in the place of the said Court of King's Bench, be it therefore ordained and enacted, by his Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the special council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada:" And also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of her present Majesty, intituled "An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted, by and under the authority of the said Acts of Parliament, that, from and after the passing of this Ordinance, it shall be lawful for the Governor of this province for the time being, and he is hereby authorised, from time to time, as to him shall seem meet, by warrant under his hand and seal at arms, directed to the Judges of the said Court of King's Bench, or any two of them, while the present Acts of Judicature now in force shall continue to be in force, and after the new Ordi-

No. 165.

New Territorial Divisions, and Administration of Justice in Causes involving small pecuniary value.

nances of Judicature shall take effect, then to the Judges composing the second division of the Court of Common Pleas for this province, for the time being, or any two of them, to require the said Judges of the said Court of King's Bench, or any two of them, or the said Judges of the said second division of the said Court of Common Pleas, or any two of them, to meet at the Court House, in the city of Montreal, on such and so many days in the vacation or interval between any terms, as to the said Governor of this province for the time being shall seem fit and proper, for the dispatch of such matters as at the end of the term, mentioned in such warrant, may be depending in the said Court.

Provided always and be it further ordained and enacted, That any such warrant, that shall be issued before the first day of February next, shall be published in the Quebec Gazette, proceeding from authority, and also in the Montreal Gazette, ten days, at the least, before the time to be appointed for the meeting of the said Judges as aforesaid.

Provided also and be it further ordained and enacted, That any such warrant that may be issued after the first day of February next shall be made and issued ten days, at the least, before the end of the term preceding the vacation, in which the meeting of the Judges, for the dispatch of business, in pursuance of such warrant, is to be had as aforesaid; and that the issuing of such warrant shall, before the end of the said term, be openly and publicly, in the said Court of King's Bench, or in the second division of the said Court of Common Pleas, notified and declared, and be afterwards published in the said Quebec Gazette and in the said Montreal Gazette.

And be it further ordained and enacted, That when and so often as any such warrant shall be made and directed to the said Judges of the said Court of King's Bench, or to the said Judges composing the second division of the said Court of Common Pleas aforesaid, it shall be lawful for the said Judges, or any two of them, and they are hereby required, unless prevented by illness, public business, or other reasonable cause, to meet in pursuance of such warrant, for the dispatch of such matters as aforesaid, or of so much and such parts thereof as may appear to such Judges chiefly to require dispatch, and as may then be most conveniently dispatched, and to hear, determine, and pronounce rules, orders, and judgments thereupon, which rules, orders, and judgments shall be drawn up and entered of record, either of the term last past before the pronouncing thereof, or as of the term then next ensuing, as the said Judges shall direct

And be it further ordained and enacted, That all rules which have been or may be made or pronounced, and entered of record, by or by the direction of the said Court of King's Bench, or the said second division of the said Court of Common Pleas, for showing cause, in any term next after any of such sittings, required by such warrant as aforesaid, shall be deemed and taken to be rules to show cause, as well at such sittings as in the term then next following, and may be heard and determined in such sittings accordingly: Provided always, That nothing herein contained shall alter or affect the return of any writ, either mesne or judicial, or require any return of such writ, or appearance thereto, before the day therein mentioned.

And whereas it is expedient to provide for the continuance and determination of all such writs of certiorari, mandamus, quo warranto, and informations in the nature of quo warranto, as may be depending in any of the Courts of King's Bench in the several districts of this province, at the time appointed, or to be appointed, for the commencement of a certain Ordinance of the Legislature of this province, made and passed in the fourth year of Her Majesty's reign, intituled "An Ordinance to establish New Territorial Divisions of Lower Canada, and to alter and amend the Judicature, and provide for the better and more efficient Administration of Justice throughout this Province," be it therefore ordained and enacted, That all writs of certiorari, mandamus, quo warranto, and informations in the nature of a quo warranto, and proceedings had thereon, which shall or may be depending in any of the said Courts of King's Bench, at the time of the commencement of the said last-mentioned Ordinance, shall forthwith, after the time appointed for such commencement, be by the then late prothonotaries of the said Courts, or other officers or persons having the custody thereof, respectively, delivered or transmitted into the office of the clerk of the Crown in the Court of Queen's Bench for this province for the time being, and shall be proceeded with, and heard and de-

No. 165.

New Territorial Divisions, and Administration of Justice in Causes involving small pecuniary value.

termined, in the same manner as if the same had been issued from, and returned into, and had in the said Court of Queen's Bench; and every such delivery or transmission shall be made, certified, and signed, without fee or reward, by the officer delivering or transmitting the same.

And be it further ordained and enacted, That it shall be lawful for the Governor of this province for the time being, in execution of the power given to him, in and by the said last-mentioned Ordinance, to divide this province into districts for the purposes of judicature and of the said Ordinance, to adopt as a division and divisions, for the said purposes, any district or districts into which this province may be divided for other purposes, and by his proclamation in this behalf, under the Great Seal of this province, to unite two or more of any such districts for the purposes of judicature, and of the said Ordinance, and in any such district or united districts, and at such place or places in such district or districts as to him may appear expedient, to establish a district court, in execution of, and according to the provisions in the said Ordinance contained, except in so far as the same are hereby altered, and to appoint a sheriff for any of the said districts separately, or for two or more of the said united districts, as to him may appear expedient, for the fulfilment of the provisions in the said Ordinance contained, and also where any such district court may by such proclamation as aforesaid be appointed to be held at two or more different places in any such district, or in any two or more united districts, to prescribe and fix the number of days in each month on which the said Court shall be held at the said places respectively, in which cases, and in respect of which district and districts so much of the said Ordinance as requires the district courts to be held on the six first juridical days of each and every month, except in the districts in which the cities of Quebec and Montreal shall be situated, and to be held on the first ten juridical days in each month, in the said cities, shall be and remain repealed.

And whereas it is expedient that no higher or greater amount of costs be allowed in the inferior terms of the Court of Common Pleas than are and shall be allowed in the district courts, in pursuance of the law in this behalf provided, be it therefore ordained and enacted, That when and so soon as the said Ordinance, in the next preceding section mentioned, shall commence and take effect, no higher or greater amount of costs shall in any case be recovered or allowed in the said inferior terms of the said Court of Common Pleas than are and shall be allowed in like cases in the several district courts in this province, under and in pursuance of the said Ordinance, according to the tables of fees to the said Ordinance subjoined, in which costs, nevertheless, no fee to the Judge sitting in the inferior term shall be considered as included.

And be it further ordained and enacted, That so much of the said two Ordinances of the Legislature of this province, passed in the fourth year of Her Majesty's reign, hereinbefore amended, as provides that the said Ordinances respectively shall commence and have execution from and after the first of December next, shall be, and the same is, hereby repealed; and the said Ordinances respectively shall commence and have execution and effect at, from, and after such time not later than the fifteenth day of May now next ensuing, as the Governor of this province, by his proclamation under the Great Seat of the province, in this behalf to be issued, shall appoint.

And be it further ordained and enacted, That this Ordinance, and the provisions herein contained, shall not cease or expire on the first day of November, which will be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, and in full force, until the same shall be repealed or altered by competent legislative authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House in the city of Montreal, the twenty-fourth day of November, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the above to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the twenty-fourth day of November, one thousand eight hundred and forty, and in the fourth year of Her Majesty's reign.

(Signed) W. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 166.

No. 166.

Amending an Ordinance in the foregoing.

CAP. 2.—*An Ordinance to amend a certain Ordinance therein mentioned.*

[Passed 30th November, 1840.]

WHEREAS in the seventh and eighth sections of an Ordinance of the Legislature of this province, made and passed in the present session thereof, intituled "An Ordinance to amend an Ordinance of the Legislature of this Province, made and passed in the Fourth Year of Her Majesty's Reign, intituled "An Ordinance to establish new Territorial Divisions of Lower Canada, and to alter and amend the Judicature, and provide for the better and more efficient Administration of Justice, throughout this Province;'" and also a certain other Ordinance of the same Legislature, made and passed in the same year, intituled "An Ordinance to provide for the more easy and expeditious Administration of Justice in civil Causes, and matters involving small pecuniary Value and Interest, throughout this Province," the first of these two Ordinances now cited, instead of the last, is erroneously, by the words therein used, referred to; Be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the third and fourth years of the reign of Her present Majesty, intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby ordained and enacted by and under the authority of the said Acts of Parliament, That the said seventh and eighth sections shall be construed to relate and shall relate to the last of the said two Ordinances, that is to say, to the said Ordinance intituled "An Ordinance to provide for the more easy and expeditious Administration of Justice in Civil Causes and Matters involving small pecuniary Value and Interest, throughout this Province."

And be it further ordained and enacted, That the two Ordinances referred to in the ninth section of the said Ordinance hereby amended, shall be understood to be the two Ordinances aforesaid, passed in the fourth year of Her Majesty's reign, whereof the titles are contained in the preamble of this Ordinance.

And be it further ordained and enacted, That this Ordinance, and the provisions herein contained, shall not cease or expire on the first day of November, which will be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, and in full force, until the same shall be repealed or altered by competent legislative authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the province, at the Government House in the city of Montreal, the thirtieth day of November, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the above to be a true copy of an Ordinance passed by the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the thirtieth day of November, one thousand eight hundred and forty, and in the fourth year of Her Majesty's reign.

(Signed) W. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 167.

No. 167.

Election of Officers in Parishes and Townships.

CAP. 3.—*An Ordinance to prescribe and regulate the Election and Appointment of certain Officers in the several Parishes and Townships in this Province, and to make other Provisions for the local Interests of the Inhabitants of these Divisions of the Province.* [Passed 29th December, 1840.]

WHEREAS it is expedient and necessary for the attainment of the ends of good government, and for the due execution of the laws, that certain officers charged with local duties, should be elected and appointed in and for the several parishes and townships in this province, and that other provisions should be made for the better protection, care, and management of the local interests of the inhabitants of these minor divisions of the province: Be it therefore ordained and enacted, by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the session held in the Second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the Session held in the third and fourth years of the reign of Her present Majesty, intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, That it shall and may be lawful for each and every of the wardens to be appointed in the several districts in this province to be hereafter established, by warrant under his hand and seal, to authorise and require one of the justices of the peace, or some other discreet and competent person in the said districts respectively, within twelve days after the receipt of such warrant, to cause to be assembled, after notice in that behalf of eight days, to be posted up at two or more of the most public places in the local divisions hereinafter-mentioned, the inhabitant householders of the several parishes and townships, and reputed parishes and townships, and of the unions of parishes or townships, or of reputed parishes and townships, to be established in the manner hereinafter provided, in the said districts respectively, who shall and may have the qualifications hereinafter mentioned, on a certain day, and at some convenient place within such local divisions respectively for the purpose of electing the officers hereinafter mentioned to serve in the said local divisions respectively, till the second Monday in the month of January, which will be in the year of our Lord one thousand eight hundred and forty-two, and until other officers shall have been elected or appointed and sworn in their places.

And be it further ordained and enacted, That the warden of each and every of the said districts shall and may in like manner, from time to time, by warrant under his hand and seal, authorise and require one of the justices of the peace, or some other discreet and competent person in the said districts respectively, on the second Monday in the month of January, which will be in the year of our Lord one thousand eight hundred and forty-two, and on the same day in each succeeding year, to assemble and cause to be assembled, the inhabitant householders of the parishes and townships and reputed parishes and townships, and unions of parishes or townships, or of reputed parishes or townships as aforesaid, in such districts respectively, who shall and may have the qualifications hereinafter mentioned, at some convenient place within the local divisions aforesaid, respectively, for the purpose of electing the officers herein-

No. 167.

Election of Officers in Parishes and Townships.

after mentioned, to serve in the said local divisions respectively, till the second Monday in the month of January in the next succeeding year, and until other officers shall have been elected or appointed and sworn in their places.

And be it further ordained and enacted, That the inhabitant householders to be assembled as aforesaid, shall be severally seized and possessed to their own use, in freehold, or in *fief*, or in *roture*, or under a certificate or location ticket derived from the authority of the Governor and Council of this province, of lands and tenements within such parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships as aforesaid, of the yearly value of forty shillings sterling, or upwards, over and above all rents and charges payable out of or in respect of the same, or shall have become and be severally possessed as lessees, for a term not less than three years, of lands and tenements within such local divisions respectively, at and for an annual rent or consideration of not less than five pounds sterling, of which the year's rent or consideration next before the holding of such election, shall have been paid before the holding of such election; and the said inhabitant householders to be assembled as aforesaid, shall also have been resident within such local divisions respectively, during one year next before such election.

Provided always, and be it further ordained and enacted, That when and so soon as any rate or rates, and assessment or assessments, shall be laid, by competent authority, within any such parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships as aforesaid, no inhabitant householder shall be intitled to vote at the election of any of the officers hereinafter mentioned, or of any other officer within such local division, unless he shall have been rated to and in respect of the rates and assessments to be laid as aforesaid, and unless he shall have paid the amount of all such rates and assessments as may have become due and payable by him before the holding of any such election.

Provided also, and be it further ordained and enacted, That no person shall be capable of voting or of being elected at any such election as aforesaid who shall not be a male person of the full age of twenty-one years, and a natural born subject of Her Majesty, or a subject of Her Majesty naturalized by Act of the Parliament of the United Kingdom of Great Britain and Ireland, or by Act of the Legislature of Lower Canada or of Upper Canada, or of the province of Canada.

Provided also, and be it further ordained and enacted, That no person being in holy orders, or being a minister or teacher of any dissenting or religious sect or congregation, nor any judge or clerk of any court of justice, nor any military, naval, or marine officer in Her Majesty's service on full pay, shall be elected to or for any of the offices aforesaid; nor shall any licensed schoolmaster, or practising physician, nor any miller, when the only miller in any mill, nor any person of sixty-five years of age or upwards, nor any person who shall have served any of the offices aforesaid, or paid a fine for not accepting the same, within the period of five years immediately preceeding any such election, be held or bound, without his consent, to accept or execute any of the said offices.

Provided also, and be it further ordained and enacted, That no person shall be capable of voting at any such election to be held as aforesaid, or of being elected at the same, who shall have been attainted for treason or felony in any court of law within any of Her Majesty's dominions.

And be it further ordained and enacted, That the justice of the peace, or other person by whom the inhabitant householders shall be assembled as aforesaid, shall preside at the meeting of the said inhabitant householders, and shall have authority, upon the requirement of any candidate or elector to administer any or all of the oaths contained in the schedules hereunto annexed, and shall also have the like authority to preserve order, enforce obedience, and commit for a contempt of his authority, as before the passing of the aforesaid Act of the Imperial Parliament, intituled "An Act to make temporary Provision for the Government of Lower Canada," belonged to any returning officer at an election of a member to serve in the Legislative Assembly of this province.

And be it further ordained and enacted, That it shall be lawful for the said inhabitant householders, or the majority of them, so assembled and qualified as aforesaid, within the local divisions aforesaid, or any of them, to choose one fit and proper person from among the inhabitants of such divisions respectively, to be clerk of the local division in which such election shall be had; which

No. 167.

Election of Officers in Parishes and Townships.

clerk so elected shall continue in office till removed at any subsequent general meeting of the said inhabitant householders assembled and qualified as aforesaid; and it shall be the duty of the clerk to make and preserve minutes of the proceedings of the meetings of the local division for which he shall be clerk, and to transcribe the same in a book to be kept for that purpose, in which shall be entered and recorded all matters relating to such local division, which it shall appertain to his office to record; and the said clerk shall have the custody of all records, books, documents, and papers belonging to the local division of which he shall be clerk as aforesaid: Provided always, That at the first meeting of such inhabitant householders it shall be lawful for the justice of peace or other person presiding, to appoint a person to act as clerk until the inhabitant householders shall have elected a clerk in the manner hereinbefore provided.

And be it further ordained and enacted, That it shall be lawful for the said inhabitant householders, or the majority of them, assembled and qualified as aforesaid, within the local divisions aforesaid, or any of them, in like manner to choose from among the inhabitants of such local divisions respectively, three fit and proper persons to serve the office of assessors for such local divisions respectively, who shall assess all such rates and taxes as shall be imposed by any Act or Acts of the Legislature of this province, or by other competent authority, and be payable by the inhabitants thereof; and in like manner to choose one fit and proper person to be collector for the local division in which the said inhabitant householders shall be assembled as aforesaid; and it shall be the duty of such collector to demand and receive from the inhabitant householders of the local division for which he shall have been elected collector as aforesaid, all rates and assessments due and payable within such local divisions; and he shall account for and pay over the monies so received by him, in such manner as shall be directed by law; and it shall be lawful for the said inhabitant householders, in like manner, to choose one or more fit and proper persons to be surveyor or surveyors of highways and bridges, two or more overseers of highways, one or more fit and proper persons to be overseers of the poor, two or more fence-viewers and inspectors of drains, and one or more poundkeeper or poundkeepers within the said local divisions respectively: Provided always, that it shall be lawful to elect the same person or persons to fill one or more of the said offices of overseers of the poor, overseer of highways, and of fence-viewer and inspector of drains, at the same time, as to the majority of the said householders assembled and qualified as aforesaid shall seem expedient.

And be it further ordained and enacted, That it shall be lawful for the justice of the peace, or other person presiding at any such meeting of the inhabitant householders at which the officers aforesaid shall have been elected; and such justice or other person is hereby authorised and required to administer an oath of office to each of the persons so elected as aforesaid, to the effect following, to wit:—

> "You, *A. B.*, do promise and swear, that you will faithfully, diligently, and justly, serve and perform the office and duties of
> for , according to the best of your ability. So help you God."

And every person who shall be elected to one of the offices aforesaid, shall, after having taken the said oath, be held to be legally appointed to such office, and subject to the duties thereof.

And be it further ordained and enacted, That every person who shall be elected to any of the offices aforesaid, shall, within five days after notice of his election, accept such office, and take the oath aforesaid, before the justice of the peace or other person who shall have presided at the meeting, or before the clerk of the parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships as aforesaid, in which such election shall have been had, each and every of whom are hereby authorised to administer the same, and in default thereof shall forfeit and pay the sum of two pounds current money of this province, to be levied by distress and sale of his goods and chattels, in virtue of a warrant under the hand and seal of any justice of the peace for the district within which such election shall have taken place; which warrant such justice is hereby empowered to grant, upon complaint or information before him, and, after convic-

No. 167.

Election of Officers in Parishes and Townships.

tion of the person so making default, by confession, or on the oath of one or more credible witness or witnesses other than the informer; and the said sum so forfeited shall be paid, one half to the informer, and the other half into the hands of the treasurer of the district in which the said election shall have been had, towards the public stock of the said district.

And be it further ordained and enacted, That it shall be lawful for any two or more justices of the peace for the district in which any person or persons so elected to office shall refuse or neglect to accept the same and take the oath of office as aforesaid, at a special session to be called for that purpose by the justice of the peace or other person before whom the election shall have been held, or by the warden of the district, to appoint a fit and proper person or persons to serve in the place of the person or persons who shall have so refused or neglected; and if the person or persons so appointed by such justices shall not, within five days after notice of his or their appointment as aforesaid, accept the office or offices to which he or they shall have been so appointed, and take the oath aforesaid, each and every of such persons severally shall forfeit the sum of two pounds current money of this province, to be levied, paid, and applied in the manner hereinbefore provided, in the case of the person elected to one of the offices aforesaid refusing or neglecting as aforesaid. And in all cases where the person or persons so appointed by such justices shall refuse or neglect to accept the office or offices to which he or they shall have been so appointed, or to take the oath aforesaid, it shall be lawful for the said justices to appoint another person or persons in his or their place, and repeat such appointments until such office or offices shall be accepted, and the oath aforesaid taken; and to enforce their authority in this respect by the imposition of the penalty aforesaid, to be levied as aforesaid, in case of each successive refusal or neglect to accept such office or offices, or to take the oath aforesaid.

And be it further ordained and enacted, That if any parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships, shall neglect or omit at the meeting to be held for that purpose as aforesaid, to choose the said officers to be chosen as aforesaid, or any of them, it shall be lawful for any two or more of the justices of the peace for the district in which such neglect or omission shall have occurred, at a special session to be called for that purpose by the justice of the peace or other person before whom the meeting shall have been held, or by the warden of the district, to appoint the said officers, or such of them as such local division as aforesaid shall have neglected or omitted to elect; and such officers so appointed shall hold their offices until others are chosen or appointed in their places, and shall have the same powers and be subject to the same duties and penalties as if they had been duly chosen by the inhabitant householders. And if any of the persons so appointed by such justices as last aforesaid shall refuse or neglect to accept the offices to which they shall have been appointed as last aforesaid, they shall severally incur the same penalties as are hereinbefore provided, in the case of persons elected as aforesaid refusing or neglecting to accept the offices to which they have been elected, to be levied, paid, and applied in manner aforesaid; and it shall be lawful for such justices to make successive appointments in like manner as hereinbefore provided, until such offices shall have been accepted and the oath aforesaid taken.

And be it further ordained and enacted, That if any of the said officers to be elected or appointed as aforesaid shall, after having accepted the said offices, or any of them, die, or remove from the parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships as aforesaid, for which they have been elected or appointe, or shall become incapable of discharging the duties of the said offices, it shall be lawful for any two or more of the justices of the peace for the district in which such vacancy, removal, or incapacity shall occur, at a special session to be called for that purpose by the justice of the peace or other person before whom the then last meeting for the election of officers for the local division shall have been held, or by the warden of the district, to supply the place or places of such officers respectively, in the same manner as is hereinbefore provided, in the case of a neglect or omission to elect such officers, and under and subject to the same provisions.

Provided always, and be it further ordained and enacted, That it shall not be lawful to hold any meeting for the election of any of the officers aforesaid

No. 167.

Election of Officers in Parishes and Townships.

in any parish or township, or reputed parish or township, in which the population shall not exceed the number of three hundred souls; and that any one or more of such parishes or townships, or reputed parishes or townships, in which the population shall not exceed that number, shall, by the warden of the district within which the same respectively shall be situated, in and by his warrant to be issued for holding meetings as aforesaid, be, for the purposes of this Ordinance, united to some other parish or township, or reputed parish or township, adjacent thereto, or to each other, as the said warden, in and by his said warrant, from time to time shall appoint; and shall by the said warden be in like manner disunited so soon as they shall severally contain a population exceeding three hundred souls, and shall then be entitled severally to hold and exercise all the corporate rights and powers which by virtue of this Ordinance any parish or township, or reputed parish or township, is entitled to hold and exercise.

And be it further ordained and enacted, That every person who shall be elected or appointed to the office of collector of a parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships as aforesaid, shall, within eight days after notice of his election or appointment to that office, and before he enters on the duties thereof, make and execute to and in favour of the treasurer of the district within which such local division shall be situated, for the time being, a bond, jointly and severally with two sureties to be approved by such treasurer, in the sum of two hundred pounds current money of this province, the condition of which bond shall be, that such collector shall duly pay and account for all monies that shall come into his hands as such collector, and faithfully discharge the duties of the said office. And if any person who shall be elected or appointed collector as aforesaid shall not make and execute a bond with sureties as aforesaid, within the time limited as aforesaid, such neglect or omission shall be held and taken to be a refusal to serve the said office, and shall subject the person so neglecting to the same penalty as is hereinbefore provided in case of non-acceptance or refusal of the said office, to be recovered, paid, and applied in the manner hereinbefore provided.

And be it further ordained and enacted, That each and every of the parishes and townships, and reputed parishes and townships, and unions of parishes and townships, or of reputed parishes and townships, in this province as aforesaid, shall for civil purposes be, and is hereby constituted, a body corporate, and as such shall be capable of suing and being sued, and of purchasing and holding lands and tenements situated within the limits of such local division as aforesaid for the use of the inhabitants thereof.

And be it further ordained and enacted, That actions to be brought by any parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships, shall be brought in the name of such local division as aforesaid; and in actions to be brought against any such local division, the service of process on the clerk of such local division shall be held to be legal and sufficient; and it shall be lawful for any local division, in its corporate capacity, at a general or special meeting to be convened as hereinafter mentioned, by a resolution or resolutions in this behalf to be adopted at such meeting, and to be entered on the minutes of the proceeding thereof, to appoint an attorney or attorneys to act for and represent such local division.

And be it further ordained and enacted, That it shall be lawful for the inhabitant householders of the several parishes and townships, or reputed parishes or townships, or unions of parishes or townships, or of reputed parishes or townships, in this province, at their general meetings to be convened by one of the justices of the peace or other person as aforesaid, or at special meetings to be convened in like manner by a justice of the peace or other person, by and under the authority of the governor of this province for the time being, to exercise the corporate powers with which they are invested as aforesaid, and to make such regulations not repugnant to the law of the land, or to any of provisions of this Ordinance, as they may deem proper for the management of any commons, lands, or property which may belong to the said local divisions respectively in their corporate capacities, and for the establishment of pounds for impounding cattle therein, at such places as they may think fit, and for determining and ascertaining the sufficiency of all fences in such local divisions respectively; and the said inhabitant householders, or the

No. 167.

Election of Officers in Parishes and Townships.

majority of them, assembled as aforesaid, shall also have power at the said meetings to direct such sum of money to be raised on any such local divisions respectively as they may deem necessary for the prosecution or defence of any action in which the said local divisions respectively may be parties or interested; and also to impose such penalties on persons offending against any such rule or regulation established at such meetings as they may think proper not exceeding fifty shillings current money of this province; and to provide for the recovery of such penalties, and the application of them when recovered, in such manner as they may deem expedient: Provided always, That it shall not be lawful for any such local division to exercise any other powers of a corporation except such as are hereinbefore mentioned, or such as shall be specially conferred by the legislature of this province, or such as shall be necessary for the due execution of the powers hereinbefore granted.

And be it further ordained and enacted, That parish and township meetings, to be held as aforesaid, shall be held in the daytime only, between the hours of nine in the morning and four in the afternoon, and shall in no case be continued beyond two days.

And be it further ordained and enacted, That the minutes of the proceedings of every parish or township meeting to be held as aforesaid shall be subscribed by the justice of the peace or other person presiding at the same, and by the clerk of the parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships as aforesaid, in which such meeting shall be held; and the said minutes shall be deposited and filed in the office of such clerk within two days after any such meeting.

And be it further ordained and enacted, That when and so soon as the term for which any one of the officers aforesaid shall have been elected or appointed shall expire, or any such officer shall cease to hold his office, he shall, on demand, deliver to his successor, on oath to be made before a justice of the peace for the district in which the vacancy of office shall have occurred, all and every the books, muniments, accounts, documents, and papers in his custody as such officer, or in any way appertaining to his office.

And be it further ordained and enacted, That upon the death of any of the officers to be elected or appointed as aforesaid, his heirs, executors, curators, or administrators, shall in like manner, on demand, deliver to the successor in office of such officer, on oath to be made before a justice of the peace for the district in which such officer acted as such, all books, muniments, accounts, documents, and papers in their possession, or in the possession of any of them, or within their power or control, or within the power or control of any of them, belonging to the office held by such deceased officer, or whereof he was in any manner possessed in his official capacity.

And be it further ordained and enacted, That if any person going out of office as aforesaid, or his heirs, executors, or curators shall refuse or neglect, on demand as aforesaid, to deliver up all such books, muniments, accounts, documents, and papers as aforesaid, he or they shall forfeit to the parish or township, or reputed parish or township, or union of parishes or townships, or of reputed parishes or townships as aforesaid, in which such refusal or neglect shall have occurred, the sum of fifty pounds current money of this province, to be recovered with costs, at the suit of such local division in its corporate name, and to the use of such local division, in any court of record in this province having original civil jurisdiction to the amount.

And be it further ordained and enacted, That the successor of any person so going out of office as aforesaid, who shall refuse or neglect, or the heirs, executors, or curators, of whom shall neglect to deliver up all such books, muniments, accounts, documents, and papers on demand, as aforesaid, shall and may be entitled to and have process of attachment, or *Saisie Revendication*, in an action of *Revendication* for the recovery thereof, in like manner as this remedy may be had and used in this province in ordinary cases by the proprietor or alleged proprietor of goods and chattels for the recovery thereof; and shall and may recover damages in the said action for the wrongful detention of the said books, muniments, accounts, documents, and papers, or any of them, which damages, when received by the plaintiff in any such action, shall by him be paid over to the treasurer of the district in which such wrongful detention shall have taken place, to make part of the public stock of the said district.

And be it further ordained and enacted, That from and after the first election and appointment of parish and township officers to be had and made as

No. 167.

Election of Officers in Parishes and Townships.

aforesaid in pursuance of this Ordinance, so much of an Act of the Legislature of this province, passed in the thirty-sixth year of the reign of his late Majesty King George the Third, intituled "An Act for making, repairing, and altering the Highways and Bridges within the Province, and for other Purposes," and so much of a certain Ordinance of the Legislature of this provinec, passed in the second Year of Her Majesty's reign, intituled "An Ordinance to amend the Act passed in the Thirty-sixth Year of the Reign of King George the Third, Chapter Nine, commonly called the Road Act," or of any other law as provides for the appointment, by the Grand Voyer, or other functionaries, of a surveyor and surveyors of highways and bridges in each parish, seigniory, and township within this district, and for the election of overseers of highways in the parishes, seigniories and townships in this province, in each year, and also so much of an other Act of the Legislature of this province, passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled "An Act to repeal a certain Act therein mentioned, and more effectually to remedy divers Abuses prejudicial to Agriculture," as provided for the election of fence-viewers and inspectors of drains in the parishes, seigniories, and townships in this province, and for the appointment of pound-keepers in the town of three rivers, and in the borough of William Henry, and in certain villages in this province, and in the divisions of the several parishes, seigniories and townships in this province, shall be, and the same are hereby repealed; and all and every the powers, authorities, and duties which in and by the said three last mentioned laws have been and are vested in the surveyor and surveyors of highways and bridges, overseers of highways, fence-viewers, inspectors of drains, and pound-keepers respectively appointed and elected, or to be appointed and elected, under and in pursuance of the said three laws, shall from and after the first election or appointment of parish and township officers to be had and made in pursuance of this Ordinance, become and be vested in and imposed on the surveyor or surveyors of highways and bridges, the overseers of highways, fence-viewers, inspectors of drains, and pound-keepers, to be elected or appointed in pursuance of the provisions of this Ordinance contained, to be by them respectively exercised and fulfilled according to law.

And be it further ordained and enacted, That every person authorized by law to make an affirmation instead of taking an oath, shall make such affirmation in every case in which by this Ordinance an oath is required to be taken; and if any person taking any oath required by this Ordinance, or making any affirmation instead of taking such oath, shall wilfully swear or affirm falsely, such person shall be deemed guilty of perjury, and shall be punished accordingly.

Provided always, and be it further ordained and enacted, That nothing in this Ordinance contained shall extend, or be construed to extend to those parts of the parishes of Quebec, St. Roch, and Montreal, which are comprehended within the cities of Quebec and Montreal respectively.

And be it further ordained and enacted, That the words "Governor of this province," wherever they occur in the foregoing enactments, are to be understood as meaning and comprehending the Governor, or the person authorized to execute the commission of Governor within this province for the time being.

And be it further ordained and enacted, That this Ordinance, and the provisions herein contained, shall not cease or expire on the first day of November, which will be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, and in full force, until the same shall be repealed or altered by competent legislative authority.

SCHEDULES.

Oaths to be administered to Voters.

(No. 1.)

"You swear (or affirm, as the case may be) that your name is , that your addition (profession or trade) is that the place of your abode is at in the that you have been resident within the of during the year next preceding this election; that you are of the full age of twenty-one years, and that you have not already voted at this election. So help you God."

No. 167.

Election of Officers in Parishes and Townships.

(No. 2.)

"You swear (or affirm, as the case may be) that your name is , that your addition is , that you are an inhabitant householder, resident in the township (or other place, as the case may be) of , that you are seized and possessed to your own use of a land and tenement being in the of , adjoining on the one side to the land occupied by which land and tenement so possessed by you is of the clear yearly value of forty shilling sterling, over and above all rents and charges payable out of or in respect of the same. So help you God."

(No. 3.)

"You swear (or affirm, as the case may be) that your name is , that your addition is , that you are an inhabitant householder resident in the of , that you are possessed as lessee for a term of not less than three years, of a land and tenement being in the of , adjoining on one side to the land or tenement occupied by , which land and tenement is so possessed by you, at and for an annual rent or consideration of five pounds or upwards, of which the rent or consideration for the year next before the holding of this election has been paid. So help you God."

(No. 4.)

"You swear (or affirm, as the case may be) that your name is , your addition is , and your place of abode is in the of , that you have been rated and assessed as an inhabitant householder of and have paid the amount at which you are so rated and assessed. So help you God."

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the province, at the Government House in the city of Montreal, the twenty-ninth day of December, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty.

By his Excellency's command.
(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the twenty-ninth day of December, one thousand eight hundred and forty, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 168.

To provide for the establishment of Local and Municipal Authorities.

No. 168.

CAP. 4.—*An Ordinance to provide for the better internal Government of this Province, by the Establishment of Local and Municipal Authorities therein.* [Passed 29th December, 1840.]

WHEREAS for the better protection and management of the local interests of of Her Majesty's subjects in this province, and for the advancement of the internal prosperity thereof, it is expedient and necessary that municipal authorities be established in the several districts of the said province: Be it there-

No. 168.

To provide for the establishment of Local and Municipal Authorities.

fore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs thereof, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted, by the authority of the said Acts of Parliament, That it shall be lawful for the Governor of this province, by his proclamation under the Great Seal thereof, to be issued by and with the advice of Her Majesty's Executive Council, in this behalf, to erect and constitute such and so many districts in this province, for the purposes of this Ordinance, as to him shall appear expedient, and to fix, appoint, and declare the limits of such districts respectively; and also, by proclamation, by and with such advice as aforesaid, from time to time, as circumstances may render necessary, within two years from the passing of this Ordinance, to alter the limits of any such district.

And be it further ordained and enacted, That each of the districts so erected and constituted shall be, and is hereby constituted a body corporate, and as such shall have perpetual succession, and a common seal, with power to break, renew, and alter the same at pleasure, and shall be capable in law of suing and being sued, and of purchasing and holding land and temenents situated within the limits of such district, for the use of the inhabitants thereof, and of making and entering into such contracts and agreements as may be necessary for the exercise of its corporate functions, and that the powers aforesaid shall be exercised by, and through, and in the name of the council of every such district respectively.

Provided always, and be it further ordained and enacted, That it shall not be lawful for any district incorporated as aforesaid to exercise any other powers of a corporation except such as are herein mentioned, or such as shall be expressly conferred by the legislature of this province, or such as shall be necessary for the due execution of the powers herein granted.

And be it further ordained and enacted, That there shall be a district council in each of the districts to be erected and constituted as aforesaid, which district councils shall consist of a warden and councillors to be appointed and elected as hereinafter provided.

And be it further ordained and enacted, That it shall be lawful for the Governor of this province, by letters patent to be issued under the Great Seal of this province, to appoint, from time to time, as occasion may require, one fit and proper person to be warden of and in each of the said districts, for the purposes of this Ordinance, which warden shall hold his office during pleasure.

And be it further ordained and enacted, That at the first meeting of the inhabitant householders of the several parishes and townships, or reputed parishes and townships, or unions of parishes and townships, and of reputed parishes and townships, in the respective districts in this province, to be held in pursuance of a certain Ordinance made and passed in the present year of Her Majesty's reign, intituled "An Ordinance to prescribe and regulate the Election and Appointment of certain Officers in the several Parishes and Townships in this Province, and to make other Provisions for the local Interest of these Divisions of the Province," there shall be elected by the said inhabitant householders assembled and qualified in the manner precribed by the said Ordinance, one or two councillors, to be members of the district councils respectively, according as such local divisions as aforesaid, may by reason of the amount of their population, and according to the provisions hereinafter contained, be empowered and required to elect one or two councillors; and at each succeeding annual meeting to be held as aforesaid, there shall be elected by the inhabitant householders assembled and qualified as aforesaid, a councillor or councillors to supply the place of the councillor or councillors (if any there be) who having been elected for the local division for which the meeting shall

No. 168.

To provide for the establishment of Local and Municipal Authorities.

be held, shall have vacated his or their seat or seats in the manner hereinafter provided ; and a councillor to represent such local division in the district council, if such local division shall, since the then last election, have become entitled to elect two such councillors instead of one.

And be it further ordained and enacted, That the said inhabitant householders shall, at every such meeting, first proceed to the election of a councillor or councillors, and the poll for such election, if demanded by any candidate or by any three electors then present, shall be kept open to an hour not later than three in the afternoon of the first day of such meeting, and shall then finally close. And the name of each elector voting at such election shall be written in poll-lists to be kepts at such election by the justice of the peace or other person holding the same; and after the final close of such poll, such justice or other person shall forthwith proceed publicly to declare the number of votes given for each candidate, and shall declare the person or persons having the majority of votes in his or their favour, to be duly elected councillor or councillors as aforesaid; and if there should be at such final closing of the poll, an equal number of votes polled for two or more persons to be councillors as aforesaid, it shall be lawful for such justice or other person holding such election, and he is hereby required, whether otherwise qualified or not, to give a vote for one or other of the persons having such equality of votes, and so determine the election: And the poll-lists kepts at such election shall, by such justice of the peace, or other person, be delivered, after the conclusion of every such election, to the clerk of the district for which such election shall have been held.

And be it further ordained and enacted, That the number of councillors to be elected for each of the said districts, shall be regulated as follows; that is to say, every parish and township, or reputed parish and township, in which the population shall be above three hundred, and not exceed three thousand souls, shall elect one councillor; and every parish and township, or reputed parish or township, in which the population shall exceed three thousand souls, shall elect two councillors; and no parish or township shall be entitled to elect more than two councillors : Provided always, That the unions of parishes and townships, and of reputed parishes and townships, to be made in pursuance of the said Ordinance passed in the fourth year of Her Majesty's reign, shall be taken and considered to constitute parishes and townships for all the purposes of this Ordinance.

And be it further ordained and enacted, That it shall be lawful for the Governor of this province, before the first Monday in January, in the year of our Lord one thousand eight hundred and forty-two, to determine by proclamation, under the Great Seal of the province, in this behalf to be issued, by and with the advice and consent of Her Majesty's Executive Council, the number of councillors which, according to the amount of their population, shall be elected for each and every parish and township, or reputed parish and township, in the several districts of this province; and by proclamation and proclamations to be issued thereafter as occasion may require, to determine when any parish or township, or reputed parish or township, by reason of its augmented population, shall be entitled to elect two councillors instead of one, according to the provisions of this Ordinance, and also when any parish or township, or reputed parish or township, forming part of a union as aforesaid, shall be respectively and separately, entitled to elect a councillor or councillors, by reason of its augmented population.

And be it further ordained and enacted, That every person to be elected a member of a district council as aforesaid, shall be resident within the parish or township, or reputed parish or township, for which he shall be elected, and shall be seized and possessed to his own use, in freehold, or in *fief*, or in *roture*, of lands and tenements within the district in which such local divisions respectively shall be situated, or within some one or other of the districts next adjoining such district, of the value of three hundred pounds currency, over and above all charges and incumbrances due and payable upon or out of the same.

And be it further ordained and enacted, That no person being in holy orders, or being a minister or teacher of any dissenting or religious sect or congregation, nor any judge or judges of any court of justice, nor any military, naval or marine officer in Her Majesty's service on full pay, nor any person accountable for the district revenues, nor any person receiving any pecuniary allowance

No. 168.

To provide for the establishment of Local and Municipal Authorities.

from the district for his services, nor any person having directly or indirectly, by himself or his partner, any contract, or any share or interest in any contract, with or on behalf of the district, shall be qualified to be elected a councillor in any district council in this province.

And be it further ordained and enacted, That no person shall be capable of being elected a councillor in any of the district councils in this province, who have been attainted for treason or felony in any court of law in any of Her Majesty's dominions.

And be it further ordained and enacted, That every person duly qualified, who shall be elected to the office of councillor in any district council within this province, shall accept such office, or, in default thereof, shall pay to the treasurer of the district in which he shall have been so elected, a fine, not exceeding the sum of ten pounds currency, or such other fine instead thereof as may hereafter be provided by a by-law of such council, to be made in this behalf; and the said fine, if not duly paid, shall, together with the reasonable costs of recovering the same, be levied by distress and sale of the goods and chattels of the person so refusing to accept office, in execution of the warrant of any justice of the peace having jurisdiction within the district, who is hereby required, on the application of the council, and after the conviction of the person so making default, by confession, or on the oath of one or more credible witnesses, to issue such warrant; and the fine so recovered shall be accounted for by the said treasurer as part of the district funds in his hands: Provided always, That no person disabled by permanent infirmity of body or mind, nor any person above the age of sixty-five years, nor any person who within five years from the day on which he shall have been so elected, shall have already served the said office of councillor, or paid a fine for not serving the same, shall be liable to such fine as aforesaid.

And be it further ordained and enacted, That no person elected a councillor as aforesaid shall be capable of acting as such, until he shall have taken and subscribed, before the warden of the district, or the justice of the peace, or other person, who shall have presided at the election (who are hereby authorised to administer the said oaths), the oath of allegiance to Her Majesty, her heirs, and successors. And also an oath in the words or to the effect following, that is to say:

> "I, *A. B.*, having been elected a councillor in the district council of , do hereby sincerely and solemnly swear that I will faithfully fulfil the duties of the said office according to the best of my judgment and ability; and that I am seized and possessed to my own use, of lands held in freehold (or in *fief*, or in *roture*, as the case may be) within the district of , of the value of three hundred pounds currency, over and above all charges and incumbrances due and payable upon or out of the same; and that I have not fraudulently or collusively obtained the same, for the purpose of qualifying me to be elected as aforesaid. So help me God."

And be it further ordained and enacted, That every person duly qualified, who shall be elected to the office of councillor as aforesaid, shall take and subscribe the oaths hereinbefore mentioned, within ten days after notice of his election; and in default thereof, such person shall be deemed to have refused to accept the said office, and shall be liable to pay the fine aforesaid as for non-acceptance of office; and the said office shall thenceforward be deemed to be vacant, and shall be filled up by another election.

And let it be further ordained and enacted, That in cases where any duly qualified person elected to the office of councillor in any of the said districts, shall refuse to accept such office, or shall refuse or neglect to take and subscribe the above-mentioned oaths, it shall be lawful for the justice of the peace, or other person who shall have presided at the election at which such person was elected, as often as such case of refusal or neglect shall occur, to proceed after four days' notice in this behalf to the electors qualified as aforesaid, to be posted at two or more of the most public places in the said parishes or townships, or reputed parishes or townships, to another election of a fit and proper person to supply the place of the person who shall have so refused or neglected to accept office, or to take and subscribe the said oaths; and the councillor who may be elected at

No. 168.

To provide for the establishment of Local and Municipal Authorities.

such new election shall hold office until the time at which the person in whose place he may have been elected would, according to the provisions hereinafter contained, have gone out of office, and no longer; but shall be capable of immediate re-election, unless otherwise disqualified as aforesaid.

And be it further ordained and enacted, That if a vacancy or vacancies in any of the said councils, whether arising from the death of any of the councillors, or other cause, shall occur before the annual period of election as hereinbefore prescribed, it shall be lawful for the warden of the district in which such vancancy or vacancies shall have occurred to issue, in the name of Her Majesty, her heirs or successors, his warrant under his hand and seal, directed to one of the justices of the peace, or to some other discreet and competent person resident in the parish or township, or reputed parish or township, in which such vacancy or vacancies shall have occurred, requiring such justice or other person to proceed, after due notice in this behalf, to the electors qualified as aforesaid, in causing an election to be made of a councillor or councillors, to supply such vacancy or vacancies; which warrant shall by such justice of the peace or other person be duly executed: And every councillor elected under such warrant shall vacate his seat in the council at the time when the person in whose stead he shall have been chosen would, according to the provisions hereinafter contained, have vacated his seat, but shall be capable of immediate re-election, if not otherwise disqualified: Provided always, That no such warrant shall be issued as aforesaid after the third quarterly meeting in any year.

And be it further ordained and enacted, That on the second Monday in January, in the year next following that in which the first election shall be had, and on the same day in every succeeding year, one third part of the entire number of councillors in every district shall go out of office; and at the last quarterly meeting of each and every district council, in the year in which such first election shall be had, it shall be determined by lot which among the councillors shall go out of office for that year and for the next succeeding year; but thenceforward in all future years, those persons who shall have been councillors without re-election for the longest time shall vacate their seats: Provided always, That when any district council shall consist of a number of councillors not divisible into three equal parts, it shall be lawful for such district council, by a by-law to be made in this behalf, to fix and determine the number of councillors to go out of office annually, which number shall be as near one third thereof as may be, and the number so to go out of office annually shall be so regulated by such by-law, that at the end of three years none of the said councillors shall remain in office: And provided, also, That every councillor who shall so go out of office shall, if not otherwise disqualified, be capable of being immediately re-elected.

And be it further ordained and enacted, That in order to determine in each of the said councils what councillors are to vacate their seats as aforesaid in the first and second years after the first election under this Ordinance, the clerk to be appointed as hereinafter provided, in each of the said districts, or other officer to be appointed for that purpose by the council, shall, at the last quarterly meeting of such council, to be held in the year in which such first election as aforesaid shall be had, write the name of each of the councillors on a piece of paper, and place the same, folded up, in a glass or box, from which the names shall be drawn by some person appointed by the council for that purpose; and the third of the said councillors, or the number of councillors to go out in pursuance of such by-law aforesaid, who shall vacate their seats in the year then next following, shall be those whose names shall be first drawn, and the third of the said councillors, or the number to go out of office in pursuance of such by-law as aforesaid, who shall vacate their seats in the next succeeding year, shall be those whose names shall be next drawn.

And be it further ordained and enacted, That at all meetings of every such council the warden of the district shall preside; and in case of his absence, death, or incapacity to act, or of any accidental vacancy in the office of warden, the members shall choose, from the councillors present, one of their number to be temporary chairman in the place of such warden, during his absence, or during such accidental vacancy in the office of warden.

And be it further ordained and enacted, That there shall be in each year four quarterly meetings of every district council in this province, which

No. 168.

To provide for the establishment of Local and Municipal Authorities.

meetings shall be held on the first Tuesday in the months of March, June, September, and December respectively; and the said meetings shall not at any time be held for a longer period than five successive days; and at no meeting of any such council shall any matter be deliberated or determined on, except such matters as fall within the scope of the powers and jurisdiction of such council.

Provided always, and be it further ordained and enacted, That extraordinary meetings of any such councils may be held, by and under the authority of the Governor of this province, signified in writing to the warden of the district, who shall give due notice thereof to the councillors of the district; and such extraordinary meetings shall not continue beyond the period of five days, and no matters shall be deliberated or determined on at any such extraordinary meeting, except those for which the same shall have been specially convened.

And be it further ordained and enacted, That it shall be lawful for the Governor of this province, by and with the advice of the Executive Council, by his proclamation under the Great Seal of the Province, in that behalf to be issued, to appoint and determine, and to alter from time to time as occasion may require, the place of meeting for every such district council.

And be it further ordained and enacted, That all acts whatsoever authorised or required by virtue of this Ordinance to be done by the council of any of the said districts, and all questions of adjournment or other questions that may come before any meeting of such council, may and shall be done and decided by the majority of votes of the members present at such meeting other than the warden; and the warden, or, in the absence of the warden, the temporary chairman, shall in all cases of equality of votes have a casting vote; and in order to constitute a quorum there shall be present at every such meeting, a majority of the entire number of councillors elected to serve in such council.

And be it further ordained and enacted, That minutes of the proceedings of all meetings of the said councils shall be drawn up and fairly entered in a book to be kept for that purpose by the clerks of the said councils respectively, which minutes shall be signed by the warden or temporary chairman who shall preside thereat; and the said minutes shall be open to inspection by any elector of the district at all seasonable times on payment of a fee of one shilling.

And be it further ordained and enacted, That it shall be lawful for each of the said councils to appoint from and out of the councillors elected to serve in such council such and so many committees consisting of such number of persons as they may think fit: Provided always, That it shall not be lawful for such committees to sit or meet on any days except those appointed for the meetings of the said council; and that such committees shall be subject in all things to the authority, control, and approval of the said council.

And be it further ordained and enacted, That from and out of a list of three fit and proper persons to be submitted by each of the said councils to the Governor of this Province, it shall be lawful for the said Governor to select one to be and be called the district clerk; and every such clerk shall be appointed by an instrument to be issued under the Great Seal of this Province, and shall hold his office during pleasure: Provided always, That if at the first meeting under this Ordinance, or at the next quarterly meeting after any vacancy shall have occurred in the office of district clerk, or at any extraordinary meeting to be called for the purpose of filling up such vacancy, any such council shall fail to agree upon the three names to be submitted as aforesaid to the said Governor, then it shall be lawful for the said Governor to appoint some fit and proper person to be such clerk. And provided also, That it shall be lawful for the person to appoint a person to act as clerk until such time as a clerk shall be appointed in the manner hereinbefore provided.

And be it further ordained and enacted, That it shall be lawful for the Governor of this province to appoint in each of the said districts one fit and proper person to be and be called the district treasurer, and such appointment shall be made by an instrument to be issued under the Great Seal of this Province after the person named by the said Governor shall have first given good and sufficient security, to be ascertained and determined by the said Governor, for the due execution of the office of treasurer, and for the faithful

No. 168.

To provide for the establishment of Local and Municipal Authorities.

accounting for all moneys which may come into his hands by virtue of the said office.

And be it further ordained and enacted, That it shall be the duty of the treasurer of each of the said districts respectively, to receive all moneys which shall be raised under any bye-law to be made as hereinafter provided by the council of the district wherein he shall have been appointed treasurer, and also all moneys which under any act of competent legislative authority within this province have been or shall be directed to be paid to or received by any such treasurer, and to apply and account for the same in such manner as may prescribed by any bye-law of such council or by any act of such competent legislative authority as aforesaid.

And be it further ordained and enacted, That every district treasurer shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and of the several matters for which the same shall have been received and paid; and the books so kept shall, at all reasonable times, be open to the inspection of every member of the council; and all such accounts, together with all vouchers and papers relating thereto, shall four times in every year, that is to say, within one month after every quarterly meeting, be submitted, together with an abstract of such accounts for the last year, by the treasurer, to the district auditors (to be appointed as hereinafter provided) for the purpose of being by them examined and audited; and if the said accounts shall be found to be correct, the same shall be approved and allowed by the said auditors; and after the said accounts shall have been so examined and audited, the said auditors shall make their report thereon to the council at its next quarterly meeting; and every such abstract and report shall be open at all seasonable times to the inspection of any inhabitant of the district, who shall also be entitled to copies thereof on payment of a reasonable fee for the same.

Provided always, and be it further ordained and enacted, That no district treasurer shall be entitled to any salary or remuneration whatever, unless and until his accounts shall have been duly audited, approved and allowed by the district auditors; and in every bond or other security given by such treasurer for the due execution of his office, it shall be expressly conditioned that he shall render true accounts to such auditors within the time and times prescribed by this Ordinance, or within the time and times which shall be prescribed by any other law which shall be in force in that behalf.

And be it further ordained and enacted, That there shall be appointed at the first quarterly meeting in each year for each district, two persons to be and be called "district auditors," one of whom shall be appointed by the warden of the district, and the other elected by the council: Provided always, That no person shall be appointed or elected auditor, who shall be a member of the council, or the clerk, or treasurer, or surveyor of the district, nor any person who shall have directly or indirectly, by himself or in conjunction with any other person, any share or interest in any contract or employment with, by, or on behalf of, such council: And provided also, That no person appointed or elected an auditor for any district, shall be capable of acting as such, unless he shall have previously made and subscribed, before any two of the councillors for such district (who are hereby authorised to administer the same) an oath in the words or to the effect following, that is to say:

> "I, *A. B.*, having been appointed (*or* elected, as the case may be) to the office of auditor for the district of , do hereby promise and swear, that I will faithfully perform the duties thereof, according to the best of my judgment and ability; and I do hereby solemnly declare and swear, that I have not, directly or indirectly, any share or interest whatever in any contract or employment with, by, or on behalf of the council of this district. So help me God."

And be it further ordained and enacted, That every person authorised by law to make an affirmation, instead of taking an oath, shall make such affimation in every case in which, by which this Ordinance, an oath is required to be taken; and if any person taking any oath required by this Ordinance, or making any affirmation instead of taking such oath, shall wilfully swear or affirm falsely, such person shall be deemed guilty of wilful and corrupt per-

No. 168.

To provide for the establishment of Local and Municipal Authorities.

jury, and be subject to the pains and penalties by law provided for that offence.

And be it further ordained and enacted, That it shall be the duty of the auditors in each of the said districts, to examine, settle and allow all accounts which may be chargeable upon their districts respectively; and also to examine and audit the accounts of the parish and township officers, or officers of reputed parishes or townships appointed or hereafter to be appointed in pursuance of the aforesaid Ordinance passed in the present year of her Majesty's reign, and the accounts of all other persons against their respective parishes and townships.

And be it further ordained and enacted, That it shall be lawful for the wardens of each of the said districts respectively, with the approbation of the Governor of the province for the time being, to appoint in each of the said districts, some fit and proper person to be and be called, the district surveyor, whose duty it shall be to superintend the execution of all works undertaken in pursuance of any by-law of the council of such district, and to take care of all fixed property belonging to the said district, and to examine and report upon all estimates of proposed works, and to enforce the observance of all contracts for the execution of works undertaken for or on behalf of the said district, and to report annually, or oftener if need be, to the said warden, upon the state of the works in progress, and of the fixed property belonging to such district; and all such annual or other reports shall be laid, by the said warden, before the district council, at the quarterly meeting next after any such report shall have been received, together with an estimate of the probable expense of carrying on such works, and managing such fixed property, during the then current or next ensuing year: Provided always, that no person shall be appointed to be such surveyor, unless and until he shall have been examined and declared qualified for the office, by the Board of Works for this province, or by some other competent person or persons to be named for that purpose by the Governor of this province.

And be it further ordained and enacted, That it shall not be lawful for any person to hold at the same time more than one of the district offices hereby created; nor shall it be lawful for the partner of any such district officer to hold any district office in the same district wherein such officer shall be employed; nor shall it be lawful for any such officer to have, directly or indirectly, any share or interest whatsoever, either by himself or his partner, in any contract for executing any work to be undertaken by, for, or on behalf of the council of such district.

And be it further ordained and enacted, That it shall be lawful for each of the said councils in the said districts respectively to make by-laws for all or any of the following purposes, that is to say: For the making, maintaining, or improving of any new or existing road, street, or other convenient communication and means of transit within the limits of the district, or for the stopping up, altering or diverting of any road, street, or communication within the limits aforesaid; for the erection, preservation, and repair of new or existing bridges and public buildings; for the purchase of such real property, situated within the limits of every such district respectively, as may be required for the use of the inhabitants thereof; for the sale of such part or parts of the real property belonging to such districts respectively as may have ceased to be useful to the said inhabitants; for the superintendance and management of all property belonging to the said districts respectively; for providing for the establishment of, and a reasonable allowance for the support of parish and township schools; for raising, assessing, levying, and appropriating such monies as may be required for the purpose of carrying into effect all or any of the objects for which the said district councils respectively are hereby empowered to make by laws, which monies shall be raised either by means of tolls, to be paid in respect of any public work or works within the limits of the said districts respectively, or by means of rates or assessments, to be assessed and levied on real or personal property, or both, within the limits of such districts, or, in respect of such property, upon the owners and occupiers thereof; for the collection of and accounting for all tolls, rates, and assessments, imposed or raised under the authority of any such council, and of the revenues belonging to such districts respectively; for imposing and determining reasonable penalties to be recovered from such persons as having been elected

No. 168.

To provide for the establishment of Local and Municipal Authorities.

to offices as hereinbefore provided, shall refuse to serve the same, or refuse or neglect to take and subscribe the oaths of office as hereinbefore prescribed for such officers respectively; for determining the amount, and manner, and time of payment of all salaries or other remuneration of district officers, to be appointed under the authority of this ordinance; for determining the amount of salary, fees, or emoluments, which shall be received by the several parish or township officers within the limits of such districts respectively, to be appointed or elected in pursuance of any ordinance or other law now in force, or which hereafter may be in force in this province; for providing the means of defraying the expense of maintaining an effective system of police within such districts respectively; and for providing for any other purpose, matter, or thing which shall be specially subjected to the direction and controul of the said district councils respectively, by any Act of the Legislature of this province, or of the province of Canada.

Provided always, and be it further ordained and enacted, That it shall not be lawful for any such district council as aforesaid, to impose, lay, or levy any rate or assessment whatever on any lands or tenements, goods or chattels, real or personal estates belonging to Her Majesty, her heirs or successors.

Provided also, and be it further ordained and enacted, That it shall not be lawful for any such district council as aforesaid, to impose, lay or levy any rate or assessment whatever on any uncultivated lands in the several seigniories in this province, which have been and continued since the original grants of such seigniories, ungranted and unoccupied, in cases where the persons seized or possessed of such seigniories may be made subject or liable to an assessment or rate on the annual value of such seigniories respectively.

Provided always, and be it further ordained and enacted, That it shall not be lawful for any such council to pass any by-law for erecting any public work, without having first received an estimate of such work prepared, or examined and reported upon by the district surveyor; and if the cost of such work will, in the opinion of the said surveyor, exceed the sum of three hundred pounds currency, such estimate shall also be examined and reported upon by the Board of Works in this province, or by some other competent body or person for that purpose to be appointed by the governor of this province: And provided also, That every such work to be executed in pursuance of any such by-law, shall be executed under a contract in writing, in conformity with and subject to such general regulations as shall, from time to time, be made, touching the terms and the mode of execution of any such contracts, by the Board of Works of this province.

Provided always, and be it further ordained and enacted, That an authentic copy of every such by-law shall, forthwith after the passing thereof, be transmitted by the warden of the district, or the chairman of the district council who may have supplied his place, to the secretary of the province who shall, on receipt of the same, note on the copy so received, the time of its receipt, and shall lay the same before the governor of the province: and no such by-law shall be of any force until the expiration of thirty days after an authentic copy thereof shall have been received as aforesaid: And it shall be lawful for the governor of this province, by and with the advice of Her Majesty's Executive Council, at any time within the said period of thirty days, by his Order in Council, to declare his disallowance of any such by-law or any part thereof; and such disallowance, together with a certificate under the hand of such secretary of the province, certifying the day on which such by-law was received as aforesaid, shall, with all convenient speed, be signified to the warden of the district wherein such by-law shall have been passed; and thenceforward such by-law, or the part thereof so disallowed, shall be void and of no effect: Provided also, that it shall be lawful for the said Governor, if he shall think fit, with the advice of Her Majesty's Executive Council, by an Order in Council, as aforesaid, at any time within the said period of thirty days, to enlarge the time within which such by-law may be disallowed, and no such by-law shall in that case come into force or have effect until after the expiration of such enlarged time. And provided also, that any by-law, repugnant to the law of the land, or to any of the provisions of this ordinance, shall be void and of no effect.

And be it further ordained and enacted, That the said district councils, at their quarterly meetings aforesaid, shall have power to make such orders rela-

No. 168.

To provide for the establishment of Local and Municipal Authorities.

tive to the property belonging to such districts respectively, as to them may appear expedient; and shall have power to settle and pay all accounts which may be chargeable against the said districts respectively, and to authorize and direct the raising of such sums of money as may be required for the payment of such accounts, by the several parishes and townships, or reputed parishes or townships within such districts respectively, or as may be requisite for the payment of all salaries and accounts due to parish and township officers, and other persons, by such parishes and townships, or reputed parishes and townships respectively.

And be it further ordained and enacted, That the warden of each of the said districts shall, at the end of each year, transmit to the governor of this province a statement of the accounts of the district, exhibiting an abstract of the receipts and expenditure during the preceding year: and all such accounts so transmitted shall, by the said governor, be laid before the two houses of the Legislature of the province of Canada, as the same shall be hereafter constituted, in pursuance of an Act of the Imperial Parliament, intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," at the session thereof next following the transmission of such accounts.

And be it further ordained and enacted, That no councillor shall in any case receive or be entitled to any wages, allowance, profit or emolument whatever, for his services as such councillor, or by reason of his being such councillor.

And be it further ordained and enacted, That all and every the powers and authorities which, by any Act or Acts, Ordinance or Ordinances of the Legislature, or any law or laws of this province, have been and are now vested in and may be lawfully exercised by the grand voyers of the several districts of this province, or by any magistrates with regard to any highways or bridges, except in so far as the same are inconsistent with, or repugnant to the provisions of this ordinance, shall, from and after the first election of councillors under the provisions of this ordinance, become and be vested in the several district councils aforesaid, within the limits of their respective districts; and, in the exercise of such powers and authorities, it shall in no case be requisite that a *procès-verbal* for turning an old or opening a new highway, or a new by-road, or to change an old bridge, or mark out a new one, or for the making of ditches and outlets, or for any other purpose whatsoever, should be drawn up, or that the same should be confirmed or homologated by any court of quarter sessions, as now by law required, when such powers and authorities are exercised by the grand-voyers; nor shall the intervention of any such court, or the exercise of its powers, be in any manner required for, or in respect of the legal and effectual exercise of the said powers and authorities, by the said district councils respectively as aforesaid, any law, usage, or custom to the contrary thereof notwithstanding.

And be it further ordained and enacted, That the respective grand-voyers of the several districts in this province, and the persons who shall or may have ceased to hold the said offices or any of them, and any magistrate as aforesaid shall, within twenty days after the issuing of the first proclamation under the provisions of the first section of this ordinance, deliver to the prothonotaries of the Courts of King's Bench, for the said districts respectively, all and every the records, books, *procès-verbaux*, judgments, plans, documents, instruments, and writings, in their custody, possession or power, appertaining to the said offices of grand-voyers respectively as aforesaid, or relating to any highways or bridges, to be and remain in the custody of the said prothonotaries respectively, for the use and benefit of all persons interested therein; and in case any such grand-voyer, or person who shall have ceased to hold the office of grand-voyer, shall refuse or neglect to deliver to the said prothonotaries respectively, all such records, books, *procès-verbaux*, judgments, plans, documents, instruments, and writings, every such grand-voyer, or person who shall have ceased to hold the office of grand-voyer, so refusing or neglecting, shall be held to be guilty of a misdemeanor, and shall, besides, be liable to make satisfaction to the parties aggrieved or injured, for all such damages and costs as he, she, or they shall sustain by reason of such refusal or neglect.

And be it further ordained and enacted, That it shall be lawful for the governor of this province, on any claim which may be made by any of the persons holding offices which will become and be abolished expressly or virtually

No. 168.

To provide for the establishment of Local and Municipal Authorities.

under the provisions of this ordinance, for compensation for loss by reason of such abolition, to determine, by and with the advice of the executive council of this province, whether such claim have or have not a reasonable and just foundation, and if such claim be admitted to be well founded and just, to assess and award thereupon such compensation as by the said governor, with such advice as aforesaid, may be deemed reasonable and proper, regard being had to the tenure under which the said offices have been held, and to the appointment which might be made of the said persons, if qualified, to offices of a similar or other nature, and to all such circumstances as may and ought to be considered in relation to such claim; and the compensation that may be assessed and awarded as aforesaid shall be paid out of the unappropriated monies for public uses in the hands of the receiver-general of this province.

And be it further ordained and enacted, That it shall be lawful for the governor of this province for the time being, by proclamations to be issued by and with the advice and consent of the executive council of the province, when and as often as circumstances shall, in his and their opinion, warrant such a measure, to dissolve all or any of the aforesaid councils; and in every case of a dissolution of such council or councils, the warden of the district wherein such dissolution shall have taken place shall, within ten days after such dissolution, issue his warrant in the name of Her Majesty, her heirs or successors, under his hand and seal, directed to one of the justices of the peace, or to some other discreet and competent person resident in each of the several parishes or townships comprised within the said district, requiring such justice or other person to proceed, after due notice in this behalf, to the electors qualified as aforesaid, in causing elections to be made in each of the parishes and townships of the said district, of a councillor or councillors, according as such parish or township may, by the provisions hereinbefore contained, be empowered to elect one or two councillors; and such new elections shall be governed by the same rules and provisions as are hereinbefore provided for the election of councillors; and in all cases where such new election of councillors, after a dissolution, shall take place as aforesaid, the period at, from, and after which, councillors shall vacate their seats, in certain proportions as hereinbefore provided, shall commence upon, and be accounted from the second Monday in January next following such election And the retirement of councillors in the first and second years after such elections shall in all respects be regulated by the provisions hereinbefore contained, with respect to the retirement of councillors to be elected at the first election to be held under and by virtue of this ordinance, in the first and second years after such election.

Provided always, and be it further ordained and enacted, That nothing in this ordinance contained shall extend, or be construed to extend to the cities of Quebec and Montreal, as by law incorporated.

And be it further ordained and enacted, That the words " Governor of this province," wheresoever they occur in the foregoing enactments shall be understood as comprehending the governor, lieutenant-governor, or person authorised to execute the office or functions of governor of this province.

And be it further ordained and enacted, That this ordinance and the provisions herein contained shall not cease or expire on the first day of November, which will be in the year of our Lord one thousand eight huudred and forty-two, but shall be and remain a permanent law in full force until the same shall be repealed or altered by competent legislative authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the government house in the city of Montreal, the twenty-ninth day of December, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty.

By his Excellency's Command,

(Signed) W. B. LINDSAY,

Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the twenty-ninth day of December, one thousand eight hundred and forty, and in the fourth year of Her Majesty's reign.

(Signed) Wm. B. Lindsay,
Clerk Special Council.

No. 168.

To provide for the establishment of Local and Municipal Authorities.

(Copy.)

No. 169.

No. 169.

To authorise the Trinity House of Quebec to borrow money.

Cap. 5.—*An Ordinance to Authorise the Corporation of the Trinity-House of Quebec to borrow a certain sum of Money, and for other purposes relative to the said Corporation.* [Passed 29th December, 1840.]

Whereas the funds placed by law at the disposal of the master, deputy-master, and wardens of the Trinity House of Quebec, to defray the expenses necessary for improving the navigation of the river St. Lawrence, within and below the port of Quebec, and for maintaining the light houses and lights requisite for the safety of vessels navigating the said river and the gulf of St. Lawrence, and for other objects of a like nature, are at present insufficient for the said purposes: And whereas the said corporation have therefore prayed to be authorised to borrow money to meet the said expenses, and it is expedient to grant their prayer, under the provisions hereinafter mentioned: Be it therefore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, intituled, "An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted, by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that it shall be lawful for the corporation of the master, deputy-master, and wardens of the Trinity House of Quebec, with the approval of the governor, lieutenant-governor, or person administering the government of the said province, to borrow a sum or sums not exceeding in the whole five thousand pounds currency, from such person or persons, body or bodies politic or corporate, as may be willing to lend the same, on the credit of the funds placed by law at the disposal or under the control of the said corporation, for the purposes aforesaid, and without any claim or right to the re-imbursement of the sums so lent, or to the payment of the interest thereon, out of the general funds of this province; and such sum or sums may, with such approval as aforesaid, be borrowed at such rate of interest (whether exceeding six per centum per annum, or otherwise), and may with such approval as aforesaid, be made payable at such time as shall be agreed upon between the parties lending the same and the said corporation: Provided always, that no greater sum than two thousand five hundred pounds currency, shall be so borrowed, or shall be made payable, in any one year.

And be it further ordained and enacted by the authority aforesaid, that the said corporation shall pay the principal and interest of the sum or sums so borrowed, to the parties entitled to receive the same, at the times and according to the rates so agreed upon and approved as aforesaid, out of the funds placed at their disposal or under their control, or by law directed to be applied by them, for the purpose of improving the navigation of the river Saint Lawrence, or of maintaining the light-houses and lights on the same, or for other purposes of a

No. 169.

To authorise the Trinity House of Quebec to borrow money.

like nature; and the said payment shall form the first charge upon all such funds after the deducting the expenses of collecting the same, and shall be made by the said corporation (after such deduction) in preference to all other payments whatsoever, any statute, law, usage or custom to the contrary notwithstanding.

And be it further ordained and enacted by the authority aforesaid, that it shall be lawful for the said corporation to apply the sum or sums so borrowed under the authority of this Ordinance, to defray any expense by them lawfully incurred in improving the navigation of the river Saint Lawrence, or in maintaining the light-houses and lights requisite for the safe navigation of the said river, or of the said gulf of Saint Lawrence, or for other purposes of a like nature, or for the purposes of this Ordinance.

And whereas the said corporation is by law authorised, with the approbation of the governor, lieutenant-governor, or person administering the government of the said Province, to provide a decked vessel not exceeding sixty tons burthen, for their use, and for the purposes hereinafter mentioned; and whereas, from the increased number of lights and buoys on the said river Saint Lawrence, it is expedient that the said corporation should be provided with a vessel of larger dimensions; be it therefore further ordained and enacted by the authority aforesaid, that the said corporation may, if they shall deem it expedient, and with the approval of the governor, lieutenant-governor, or person administering the government of the said Province, provide a decked vessel of such dimensions as they shall think advisable, to be employed as need may be in examining the channels and navigation of the said river, in visiting the light-houses under the control of the corporation, in laying down and taking up buoys, and for all such lawful purposes as they shall deem necessary; and the said corporation may defray the whole or any part of the cost of such vessel out of any monies borrowed underthe authority of this Ordinance, or out of the proceeds of the sale of the vessel they now have, and which they are hereby authorised to sell, or out of any funds at their disposal, and not exclusively or preferably appropriated by this Ordinance, or by law, to any other purpose, any law, statute, or usage to the contrary notwithstanding.

And be it further ordained and enacted by the authority aforesaid, that the due application of all monies borrowed, appropriated, or expended under the authority of this Ordinance, shall be accounted for by the said corporation, in the manner by law provided with regard to the due application of other monies heretofore placed at their disposal, for the improvement of the navigation of the river Saint Lawrence.

And be it further ordained and enacted by the authority aforesaid, that this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the government-house, in the city of Montreal, the twenty-ninth day of December, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of Our Lord one thousand eight hundred and forty.

By his Excellency's command,

(Signed) WM. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the twenty-ninth day of December, one thousand eight hundred and forty, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 170.

No. 170.

To empower the Trinity House of Quebec to sell a portion of the Harbour of the Cul-de-Sac.

CAP. 6.—*An Ordinance to empower the Corporation of the Trinity House of Quebec, to sell and convey a certain portion of the Harbour of the Cul-de-Sac, in the City of Quebec, to the Corporation of the said City.*

[Passed 29th December, 1840.]

WHEREAS by a certain Act passed in the fifty-first year of the reign of King George the Third, and intituled "An Act to amend an Act passed in the forty-fifth year of His Majesty's reign, intituled, An Act for the better regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the navigation of the River Saint Lawrence, and for establishing a fund for decayed Pilots, their widows and children," the property of the harbour of the Cul-de-Sac, in the Lower Town of the city of Quebec, is vested in the Trinity House of the city of Quebec, but it is by the said Act provided, that the said corporation shall not reduce the extent which the said Cul-de-Sac then had; and whereas it hath become expedient that the said corporation should be authorized to sell and convey to the corporation of the mayor, aldermen, and citizens of the city of Quebec, for the use of the said city, a certain portion of the said harbour of the Cul-de-Sac, and so to reduce the extent thereof, in the manner and under the provisions hereinafter set forth: Be it therefore ordained and enacted, by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the third and fourth years of the reign of Her present Majesty, intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada:" and it is hereby ordained and enacted, by the authority of the said Acts of Parliament, that so much of the Act herein first above cited as shall be in anywise contrary to the enactments of this Ordinance, shall be and is hereby repealed; and it shall be lawful for the said corporation of the Trinity House of Quebec, with the approval of the Governor, Lieutenant-Governor, or person administering the government of this province, and not otherwise, to sell, and by an instrument under the hand of the master, or of the deputy-master, and of any three of the wardens of the said Trinity House, and under the seal of the corporation, to convey to the corporation of the mayor, aldermen and citizens of the city of Quebec, so much of the said ground (whether covered with water or otherwise) included within the said harbour of the Cull-de-Sac, as shall lie within the limits hereinafter mentioned, and shall be required by the corporation last aforesaid, for the use of the said city of Quebec; and such sale and conveyance may, with such approval as aforesaid, be made upon such terms and conditions as shall be agreed upon by the said corporations respectively, and the property of the portion so sold and conveyed shall from and after such sale and conveyance be vested in the said corporation of the mayor, aldermen and citizens of the city of Quebec, and their assigns for ever: Provided always that so much only of the said harbour of the Cul-de-Sac shall or may be sold and conveyed under the authority of this Ordinance as shall lie within the limits hereinafter mentioned, that is to say:—firstly, a line drawn from the southwesterly corner of the property of James Hunt, esquire, along the beach of the river Saint Lawrence upwards, and parallel to the street called Cul-de-Sac Street, to the distance of one hundred and sixty-eight feet from the place of beginning; secondly, a line drawn from the end of that last mentioned and at right angles to it, to Cul-de-Sac Street aforesaid; thirdly, the street last mentioned; and, fourthly, the boundary of the said harbour of the Cul-de-Sac towards the north-east.

And be it further ordained and enacted, That the monies arising from any sale made under the authority of this Ordinance shall and may be received by the said

No. 170.

To empower the Trinity House of Quebec to sell a portion of the Harbour of the Cul-de-Sac.

corporation of the Trinity House of Quebec and shall form part of the funds placed by law at their disposal to defray the expences necessary for improving the navigation of the river Saint Lawrence, and for other purposes of a like nature, and may be applied by the said corporation to any purposes to which the said funds may by law be applied, and shall be accounted for in the manner by law provided with regard to the said funds.

And be it further ordained and enacted, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the province, at the Government House, in the city of Montreal, the twenty-ninth day of December, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty.

By his Excellency's command,

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the twenty-ninth day of December, one thousand eight hundred and forty, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 171.

No. 171.

Improvement of the Roads in the neighbourhood of Montreal.

CAP. 7.—*An Ordinance to amend and extend the Provisions of an Ordinance passed in the Third Year of Her Majesty's Reign, intituled "An Ordinance to provide for the Improvement of the Roads in the Neighbourhood of and leading to the City of Montreal, and to raise a Fund for that purpose."* [Passed 31st December, 1840.]

WHEREAS it is expedient to amend a certain Ordinance passed in the third year of Her Majesty's reign, and intituled, "An Ordinance to provide for the Improvement of the Roads in the Neighbourhood of and leading to the City of Montreal, and to raise a Fund for that Purpose," and to extend the provisions thereof to certain other roads, and for certain other purposes: Be it therefore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the third and fourth years of Her Majesty's reign, and intituled, "An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that, in addition to the roads to and over which the provisions of the aforesaid Ordinance passed in the third year of Her Majesty's reign, and the

No. 171.

Improvement of the Roads in the neighbourhood of Montreal.

powers of the trustees therein mentioned, are extended by the seventh section of the said Ordinance, the said provisions and powers shall be and are hereby extended to the roads hereinafter mentioned, as fully as if the said roads were expressly mentioned and included in the said seventh section of the said Ordinance, or as if the said powers and provisions in the said Ordinance contained, were embodied in this Ordinance, and hereby re-enacted with reference to the said roads, that is to say, firstly, to the Côte St. Antoine Road, from the boundary of the said city of Montreal, towards the south-west, to the point where the said road strikes the road running from the Upper Lachine Road, in a north-westerly direction, nearly at right angles to the road last aforesaid: secondly, to the last mentioned road from the point of its departure from the said Upper Lachine Road, in a north-westerly direction, to its junction with the cross road running in a north-easterly direction to the Côte des Neiges Road, and the said cross road from the said point of junction until it strikes the said Côte des Neiges Road.

And be it further ordained and enacted by the authority aforesaid, That it shall be lawful for the trustees appointed or to be appointed under the authority of the Ordinance herein last above cited, to make, open, keep up, widen or alter, as the case may require, a road from any point within one hundred yards of the stone windmill at the eastern end of the village or place commonly called the Tanneries, on the Upper Lachine Road, to the main front road of the concession commonly called La Côte Saint Paul, and thence along the said front road to a point at or within one hundred yards of the land commonly called Mc Naughton's Farm, from which point the road may be carried across to a point on the Upper Lachine Road, at or within one hundred yards of the place on the said Upper Lachine Road, commonly known as the "Petit Village de Lachine"; or, from the point hereinbefore mentioned at or within one hundred yards of the land commonly called Mc Naughton's Farm, it shall and may be lawful for the said trustees, if they shall deem it more advantageous for the public to continue the road in a south-westerly direction to a point on the Lower Lachine Road ninthly mentioned in the said seventh section of the Ordinance aforesaid, at or near the bridge over the Lactrine Canal, instead of carrying the road across to the Upper Lachine Road as aforesaid; or, should the said trustees on further examination deem it more advantageous for the public to retain the Upper Lachine Road, as provided by the aforesaid Ordinance passed in the third year of Her Majesty's reign, intituled, "An Ordinance to provide for the Improvement of the Roads in the Neighbourhood of and leading to the City of Montreal, and to raise a Fund for that Purpose," it shall be lawful for them to do so, and in that case, all the provisions of this Ordinance touching the substitution of any other line of road for the said Upper Lachine Road, shall be void and of no effect.

And be it further ordained and enacted by the authority aforesaid, That all the powers and authority vested in the said trustees by the said Ordinance, with regard to the several roads and portions of roads mentioned in the seventh section thereof, and all the provisions and enactments of the said Ordinance, concerning the said roads or any of them, or to the taking, purchasing, or acquiring of any land, ground, or materials by the said trustees, for the purpose of making, altering, widening, or changing the place of the said roads, or any of them, or to the erecting of toll-bars and turnpike gates thereon, or to any other matter respecting the said roads, or any of them, touching which no special provision is made in this Ordinance, shall be and are hereby vested in the said Trustees, with regard to the roads they are authorised to open by this Ordinance, and that the powers and authority of the grand voyer of the district of Montreal, or of any magistrates, over or concerning the said roads, or any of them, shall, from and after the date of the notification mentioned in the twelfth section of this Ordinance, cease to be vested in that officer, and shall be vested in and possessed by the said Trustees.

And be it further ordained and enacted by the authority aforesaid, That if the said trustees should adopt the line of road firstly mentioned in the second section of this Ordinance, (either with or without adopting the line secondly mentioned,) then and not otherwise, so much of the said Upper Lachine Road mentioned in the seventh section of the said Ordinance, as shall lie between the point of departure therefrom of the road running in a north-westerly direction secondly mentioned in the first section of this Ordinance, and a point at or within one hundred yards of the place on the said Upper Lachine Road, commonly called Petit Village de Lachine, shall be, and is hereby excepted from the operation of

No. 171.

Improvement of the Roads in the neighbourhood of Montreal.

the said Ordinance, and the control of the said trustees over so much of the said road, under the fourteenth or any other section of the said Ordinance, shall cease and determine as if such portion of the said road had not been included or mentioned in the said seventh section, or in any other part of the said Ordinance; anything therein contained to the contrary notwithstanding.

And be it further ordained and enacted by the authority aforesaid, That if the said trustees should adopt the line of road firstly mentioned in the second section of this Ordinance, (either with or without adopting the line secondly mentioned in the said second section,) then and not otherwise the roads which the said trustees shall make under the authority of the second section of this Ordinance, and so much of the said front road of La Côte Saint Paul, as shall be adopted as part of the said roads respectively, shall be, and are hereby for all the purposes of the said Ordinance, substituted for that portion of the said Upper Lachine Road, which is hereby excepted from the operation of the said Ordinance; and the rates and tolls established by the said Ordinance, for and in respect of the said Upper Lachine Road, shall be payable and exigible under the provisions of the said Ordinance, for and in respect of the roads hereby substituted for a portion of the said Upper Lachine Road, together with those portions of that road which are not hereby excepted from the operation of the said Ordinance; and the rates and tolls on the several other roads placed under the control of the said trustees by the said Ordinance, or by this Ordinance, shall be proportioned according to the length of the said roads respectively, as compared with the whole distance from the boundary of the city of Montreal to the upper entrance of the Lachine Canal, measured along the roads hereby substituted for the Upper Lachine Road.

And be it further ordained and enacted by the authority aforesaid, That in order to complete the communications from the main road in the said seventh section of the said Ordinance secondly mentioned, to the main road commonly known as the "Quebec Road," on the north bank of the River Saint Lawrence, in the parish of Repentigny, and to the road on the east bank of the River L'Assomption, and to the roads in the parish of Lachenaye, on the west bank of the last mentioned river, and on the north west bank of the river Ottawa, it shall and may be lawful for the said trustees, and they are hereby authorised, to cause to be erected and built, such and so many bridges as shall be requisite and necessary for the purpose; and to that end the said trustees are hereby authorised (in like manner as by the aforesaid Ordinance they are authorized to acquire and hold immoveable property for the purposes of the said Ordinance,) to acquire and hold any island or islands situate, and being at or near the confluence of the said rivers L'Assomption and Ottawa, with the river Saint Lawrence, and below the Isle Jesus; and also in like manner to acquire and hold such lands in the Island of Montreal, and in the parishes of Repentigny and Lachenaye respectively, as the said trustees shall deem requisite and necessary for the abutments of such bridges, or for any other purposes of this Ordinance, or to render the approaches to such bridges proper and convenient: Provided always, that the purchase or acquisition of the islands and lands, or any or either of them, hereby authorized to be purchased or acquired by the said trustees, shall not be deemed to be complete, nor shall any money be paid therefore, until the same shall have received the sanction and approval of the Governor of this province, and that the property of all such land, islands, or immoveable property so acquired as aforesaid, shall be vested in Her Majesty, her heirs and successors, for the public uses of the province: and provided also, that the plan or plans of the bridge or bridges to be erected and built as aforesaid, and the contract or contracts to be made or entered into, for erecting and building the same respectively, shall be subject to like previous approval and sanction of the Governor of this province, before they shall be entered into or carried into execution by the said trustees, and before any work shall be commenced according to any such plan, or under the authority of this section.

And be it further ordained and enacted by the authority aforesaid, That the said trustees shall, and they are hereby directed and required to cause a drawbridge or opening, at least forty feet wide, to be made over the main channel of the river, in the bridge to be erected over the same between the Isle Bourdon and the Island of Montreal, and to cause the said drawbridge to be so constructed, that it may be drawn up, or otherwise opened for the passing of sloops, schooners, steam boats, or other vessels with standing rigging, or other contrivances rising above the deck, navigating upon the said river; and the said trustees shall, and

No. 171.

Improvement of the Roads in the neighbourhood of Montreal.

they are hereby authorized to employ one or more proper person or persons who shall, during the season of the navigation, cause the said drawbridge to be drawn up or opened without delay, as often as he or they shall be required so to do by the owners or persons navigating, or having charge of such vessels as aforesaid, respectively, which shall have occasion to pass through the said bridge, so that such vessels may pass through the same with their rigging or other contrivances as aforesaid standing, without interruption, fee, or reward; anything in this Ordnance to the contrary notwithstanding.

And be it further ordained and enacted by the authority aforesaid, That in all cases where the said trustees shall deem it expedient to purchase, and shall purchase and acquire any land or lands, island or islands, for the purposes of their said trust, and it shall afterwards appear to the said trustees that the said land or lands, island or islands, or any parts or portions thereof respectively, may be disposed of advantageously for the said trust, it shall and may be lawful for the said trustees, with the approval and sanction of the Governor of this province, to agree with any party or parties concerning the sale or disposal of the said land or lands, island or islands, or parts or portions thereof, (either by public auction, or by private sale or agreement, or by exchange or otherwise,) or the letting and leasing of the same for any given portion of time, not exceeding twenty years at a time; and it shall be lawful for the Governor of this province to cause the requisite grant, deed, lease, or other instrument, to be executed in and on Her Majesty's name and behalf, according to the terms so agreed upon by the said trustees with such party or parties; and the monies arising from any sale or disposal, and from and under any lease of the said land or lands, island or islands, shall be received and applied by the said trustees to the purposes of the said Ordinance and of this Ordinance, and shall be accounted for by the said trustees accordingly.

And be it further ordained and enacted by the authority aforesaid, That the bridge or bridges to be erected and built by virtue of this Ordinance, shall be held and considered as forming part of the roads placed under the control and management of the said trustees under and by virtue of the said Ordinance passed in the third year of Her Majesty's reign, and of this Ordinance, and the said trustees may and shall demand, levy, exact, and receive on each of the said bridges, at the toll-houses to be thereat established, from all and every person or persons who shall pass upon or use the said bridges or any of them, such tolls and rates as the said trustees shall from time to time fix and establish: provided always that such tolls and rates shall not in any case exceed those hereinafter mentioned, that is to say:—for every coach, or other four-wheel carriage or vehicle, or winter carriage or vehicle without wheels, drawn by four horses or other beasts, three shillings currency; for the same drawn by two horses or other beasts, two shillings and sixpence currency; for the same drawn by one horse or other beast, two shillings currency; for every two-wheel carriage or vehicle drawn by two horses or other beasts, two shillings currency; for the same drawn by one horse or other beast, one shilling and ninepence currency; for every horse, mare, or mule, fourpence currency; for every ass, colt, bullock, bull, cow, or other neat or horned cattle, twopence currency; for every hog, goat, sheep, calf, or lamb, one penny currency; for every man, woman, boy, or girl, one penny currency; and the said trustees may, and they are hereby authorized and empowered to construct toll-bars or turnpike gates on the said bridge or bridges, or any of them, or on the approaches to the same, and to make and establish the regulations under which such tolls or rates shall be so levied or collected, and, with the consent of the Governor of this province, may from time to time as they shall see fit, alter and change and modify the said rates and tolls, and the said regulations, and may and shall prevent the passing through any such turnpike gate or toll-bar, of any person, animal, vehicle, or thing from or on which any rate or toll shall be payable, until such rate or toll shall be paid; and the said trustees shall affix in a conspicuous place, at each turnpike-gate or toll-bar whereat any such rate or toll shall be payable, a table of the tolls to be taken thereat, and the regulations under which the same are to be levied, plainly and legibly printed.

Provided always, and be it further ordained and enacted by the authority aforesaid, That nothing herein contained shall authorize the said trustees at any time to establish, demand, levy, exact, or receive any rates or tolls upon or in respect of the said bridges or any of them, exceeding the rates and tolls hereinbefore authorised to be exacted and received; and provided also, that all persons, officers, vehicles, and things exempted by the Ordinance hereinbefore cited, from tolls on

No. 171.

Improvement of the Roads in the neighbourhood of Montreal.

the roads in the said Ordinance mentioned, shall in like cases be exempted from tolls on the roads and bridges established and constructed under the authority of this Ordinance.

And be it further ordained and enacted by the authority aforesaid, That no person or persons shall at any season of the year, for hire, or for any valuable consideration, ferry or transport by water carriage, any other person or persons, or any quadruped or quadrupeds, vehicle or vehicles, or any package or packages of goods, or any moveable effect whatever, upon or across the several rivers hereinbefore mentioned, or any of them, at any place or places within half a league of the bridges hereby authorized to be erected and built, or any of them, under a penalty of five shillings currency, for each person, quadruped, vehicle, package of goods, or moveable effect, which shall be so ferried or transported; such penalty, with the cost of prosecution, to be recovered on the oath of one or more credible witnesses, before any one of Her Majesty's justices of the peace for the district of Montreal, and to be levied of the goods and chattels of the defendant or defendants, by warrant under the hand of such justice or justices, or of one of them, if the same be not forthwith paid, any law to the contrary notwithstanding: Provided always, that nothing in this section shall extend to prevent any person from carrying any other person or any goods for hire across the said river in winter vehicles and upon the ice.

And be it further ordained and enacted by the authority aforesaid, That notwithstanding anything to the contrary in the fourteenth section of the said Ordinance, passed in the third year of Her Majesty's reign, or in this Ordinance contained, all and every the powers, authorities, jurisdictions and control over or with regard to the several roads in the said Ordinance mentioned, or any or either of them, and to the several roads in this Ordinance mentioned, or any or either of them, heretofore and before the passing of the aforesaid Ordinance, passed in the third year of Her Majesty's reign, vested in any grand voyer, magistrates, overseer of roads, road surveyor, or other road officer, by the Act of the Parliament of this province, passed in the thirty-sixth year of the reign of King George the Third, c. 9, intituled "An Act for making, repairing, and altering the Highways and Bridges within this Province, and for other Purposes," or by any other Act, Ordinance, or law of this province whatever, shall be and continue to be in full force and virtue, until the said trustees shall, in writing, notify such grand voyer, magistrates, overseer of roads, road surveyor, or other road officer, that they the said trustees have assumed, and taken upon themselves, or will, on a certain day, assume, and take upon themselves for the purposes of the trust in them vested, the control and management of the said roads, or of any or either of them, or of any specified sections or portions of the said roads, or either of them.

And to prevent delay in the formation and perfecting of the roads in the aforesaid Ordinance passed in the third year of Her Majesty's reign, and in this Ordinance mentioned, be it further ordained and enacted by the authority aforesaid, That in case any party entitled to receive value or compensation for land required for the purposes of the said trust, shall not be satisfied with, and shall refuse to receive the sum or sums of money offered therefore, by the said trustees, it shall be lawful for the said trustees to appoint an appraiser or *expert*, and to require the party dissatisfied to appoint another appraiser or *expert*, and to notify the said trustees or their secretary, in writing, of such appointment; and the two appraisers or *experts* so appointed, shall estimate and report to the said trustees, the value or compensation to be paid to the said dissatisfied party; and in case of disagreement between the said appraisers or *experts*, or in case the party dissatisfied shall refuse, or neglect to appoint an appraiser or *expert*, within twenty-four hours after written notice from the said trustees, or their secretary, shall have been left at the domicile or at the usual place of business of the said dissatisfied party, or in case the appraiser or *expert* of the dissatisfied party shall refuse or neglect to act within three days after such appointment shall have been notified to him, any one of the justices of any one of Her Majesty's courts of law, holding superior jurisdiction in the said district of Montreal, shall, *ex officio*, upon the summary petition of the trustees, and proof on the oath of one credible witness, of either of the refusals or neglects aforesaid, forthwith appoint an appraiser or *expert* to act on behalf of the said dissatisfied party; and the appraisers or *experts* appointed as aforesaid, shall estimate the value or compensation to be paid by the trustees, and shall report the same to them in writing; and in case of disagreement between the appraisers or *experts*, they the said

No. 171.

Improvement of the Roads in the neighbourhood of Montreal.

appraisers or *experts* shall appoint an umpire, or if they cannot agree on the appointment of an umpire, one of the justices aforesaid shall, without loss of time, *ex officio*, on the summary petition of the said appraisers or *experts*, or of the trustees, appoint an umpire; and the report of any two of the said appraisers or *experts* and umpire shall have equal effect as if the same had been or were made by the two appraisers or *experts* concurrently; and upon the amount of such estimated and reported value or compeusation being duly tendered by the trustees to the dissatisfied party, either personally or at his domicile, or at his usual place of business, it shall be lawful for the said trustees, whether such tender be refused or accepted, immediately to enter into and upon the land required for the purposes of the said trust, the value or compensation whereof shall have been tendered as aforesaid, without awaiting the impannelling, swearing in, and decision of a jury, as is required by the fifth section of the Ordinance aforesaid, any thing in the said Ordinance, or in any other Ordinance, or in any other law of this province to the contrary notwithstanding. Provided always, That nothing herein-contained shall be construed to prevent any proprietor of land required for the purposes of the said trust, the value or compensation whereof shall have been estimated and tendered as aforesaid, or to prevent the trustees, if they the said trustees shall be dissatisfied with the estimated and reported value, from requiring the impannelling, swearing in, and decision of a jury, for the purposes and in the manner specified in the said fifth section of the said ordinance, saving always the right of the said trustees to enter into and use the land from and after the time of such tender as aforesaid.

And as in certain cases it may be doubtful to whom the compensation ascertained by the award of a jury impannelled for that purpose, or in any other lawful manner, to be payable by the said trustees for any land or real property taken, or damage done to any party in the exercise of the powers vested in them by the Ordinance aforesaid, and by this Ordinance should be paid; Be it therefore further ordained and enacted by the authority aforesaid, That it shall be lawful for the said trustees in all such cases of doubtful title, to cause the amount of such compensation to be lodged in the hands of the prothonotary of the court having superior original civil jurisdiction in the district of Montreal, or in the territorial division in which the city of Montreal shall be situate, to await the distribution of the said court to the party or among the parties lawfully entitled to such compensation or to any part thereof, and thereupon immediately to enter upon, and take possession of the premises for which such compensation shall have been so awarded.

And be it further ordained and enacted by the authority aforesaid, That it shall and may be lawful for the said trustees to agree with the corporation of the city of Montreal (and the said corporation are hereby authorized to make and enter into such agreement) that they the said trustees, under the powers vested in them by the aforesaid Ordinance passed in the third year of Her Majesty's reign, (which powers for this purpose are hereby extended accordingly), and by this Ordinance, shall make, repair, and complete such parts and portions of the continuations of the several roads in the said Ordinance, and in this Ordinance, respectively mentioned, as shall be found to lie within the limits of the said city of Montreal: Provided the said corporation of the said city do bind themselves to repay the expense thereof, so soon as the same shall have been completed, together with the interest incurred by the trustees on the amount of monies so expended; and the repayment of the amount expended, and the payment of the interest thereon as aforesaid, shall be made by the said corporation to the said trustees, and the monies so paid shall make part of the funds in the hands of the said trustees for the purposes of the said Ordinance, and of this Ordinance, and shall be applied and accounted for by the said trustees accordingly.

And be it further ordained and enacted by the authority aforesaid, That in addition to the loan of thirty-five thousand pounds currency, by the sixteenth section of the said Ordinance, passed in the third year of Her Majesty's reign, authorized to be raised for the purposes of the said Ordinance, it shall be lawful for the said trustees, and they are hereby authorized to raise, by way of loan, on the security of the tolls by the said Ordinance, and by this Ordinance, authorized to be imposed, and of other monies which may come into the possession and be at the disposal of the said trustees, under and by virtue of the said Ordinance, and of this Ordinance, and not to be paid out of or chargeable against the general revenue of this province, any further sum of money not exceeding twelve

No. 171.

Improvement of the Roads in the neighbourhood of Montreal.

thousand pounds currency, for the purposes in the said Ordinance and this Ordinance authorized and specified; and the debentures for such further loan, and also for so much of the loan authorized by the Ordinance aforesaid, as hath not yet been raised, shall respectively bear interest at the rate to be therein mentioned, which interest may, at the discretion of the trustees, but with the express approval and sanction of the Governor, lieutenant governor, or person administering the government of this province, and not otherwise, exceed the rate of six per centum per annum, any law to the contrary notwithstanding; and such interest shall be paid out of the tolls upon the said roads, or out of any other monies at the disposal of the said trustees, for the purposes of the said Ordinance, and of this Ordinance. Provided always, that if the said tolls and other monies shall not at any time be sufficient to pay the amount then due for such interest, it shall and may be lawful for the Governor of this province, for the time being, by warrant under his hand, to authorize the sum requisite to enable the said trustees to meet such deficiency, to be advanced and paid by the receiver-general of this province, from and out of any unappropriated public monies in his hands; such advances and payments to be thereafter accounted for and repaid to the government of this province, by the said trustees and their successors, in the manner prescribed in and by the twenty-third section of the said Ordinance passed in the third year of Her Majesty's reign.

And be it further ordained and enacted, by the authority aforesaid, That over and above the sums which the said trustees are authorized by the preceding section of this Ordinance, and by the Ordinance hereby amended, to raise by way of loan, it shall be lawful for the said trustees at any time, and as often as occasion may require, to raise in like manner such further sum or sums as may be necessary to enable the trustees to pay off the principal of any loan which they may have bound themselves to repay at any certain time, and which the funds in their hands, or which will probably be in their hands at such time, and applicable to such repayment, shall appear insufficient to enable them to repay: Provided always, that any sum or sums raised under the authority of this section, shall be applied solely to the purpose herein mentioned, that no such sum shall be borrowed without the approval of the Governor, lieutenant-governor, or person administering the government of this province, and that the whole sum due by the said trustees under debentures then unredeemed and issued under the authority of this Ordinance, and of the Ordinance hereby amended, shall in no case exceed fifty-seven thousand pounds currency; and all the provisions of this Ordinance and of the Ordinance hereby amended, touching the terms on which any sum shall be borrowed under the authority thereof by the trustees, the rate of interest payable therein, the payment of such interest, the advance by the receiver general of the sums necessary to enable the trustees to pay such interest, and the repayment of the sums so advanced, shall be extended to any sum or sums borrowed under the authority of this section.

And be it further ordained and enacted by the authority aforesaid, That the due application of all public monies whereof the expenditure or receipt is authorized by this Ordinance, shall be accounted for to Her Majesty, her heirs and successors through the lords commissioners of Her Majesty's treasury for the time being, in such manner and form as Her Majesty, her heirs and successors, shall be pleased to direct.

And be it further ordained and enacted by the authority aforesaid, That all and every the provisions contained in the aforesaid Ordinance, passed in the third year of Her Majesty's reign, touching and relating, or affecting the debentures thereby authorized to be issued, shall apply to and be in force in regard to the debentures authorized to be issued under this Ordinance.

And be it further ordained and enacted by the authority aforesaid, That if any person or persons shall cut, break down, destroy, or wilfully injure any road or roads, bridge or bridges, erected under the authority of this Ordinance, or any material or materials, or work or works of any kind or description whatever connected therewith, or formed for the protection thereof, the person or persons so offending shall be guilty of a misdemeanor, and being thereof convicted before any court of competent jurisdiction, may be punished by fine and imprisonment, and shall moreover be liable to the said trustees for all damages they may have sustained by reason of such offence, any law to the contrary notwithstanding; and, generally, that all the provisions, enactments, penalties, and other matters and things made and provided in and by the said Ordinance, passed in the third

No. 171.

Improvement of the Roads in the neighbourhood of Montreal.

year of Her Majesty's reign, for the enforcement of any of the powers thereby conferred on the said trustees, or on any person or officer for the better preservation of the roads thereby placed under the control of the said trustees, or the collection of the tolls therein imposed, or for the commutation of any such tolls, and not hereby expressly altered or repealed, shall be and are hereby extended and shall apply to like cases, matters and things, touching the roads and works placed under the control of the said trustees by this Ordinance, the tolls hereby imposed or the powers hereby conferred.

And be it further ordained and enacted by the authority aforesaid, that this Ordinance shall be a public Ordinance, and as such shall be taken notice of, held and allowed in all courts and elsewhere, and by all judges, justices, and persons whomsoever, without being specially pleaded.

And be it further ordained and enacted by the authority aforesaid, that this Ordinance shall be a permanent Ordinance, and shall be in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in special council, under the great seal of the province, at the Government House, in the city of Montreal, the thirty-first day of December, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty.

By His Excellency's command,

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the thirty-first day of December, one thousand eight hundred and forty, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 172.

No. 172.

To provide means for keeping in repair the Temiscouata Portage Road.

CAP. 8.—*An Ordinance to provide means of keeping in Repair that part of the Road from this Province to New Brunswick, commonly called the Temiscouata Portage Road.* [Passed 31st December, 1840.]

WHEREAS divers sums of the public money have been appropriated for repairing and improving that part of the road from this province to the province of New Brunswick, which is commonly known by the name of the Temiscouata Portage Road, and for altering the line of the said road in places where such alteration was necessary; and whereas Thomas Allen Stayner, Her Majesty's deputy post-master general for British South America, and William Henry Griffin, esquires, have been appointed and now are commissioners for superintending the expenditure of the sums so appropriated as aforesaid, and for making, repairing, and altering the said road, and have caused the same to be made, repaired, and altered accordingly; and whereas it is expedient to provide means for keeping the said road in permanent and efficient repair: Be it therefore ordained and enacted by his Excellency the Governor of the said province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in

No. 172.

To provide means for keeping in repair the Temiscouata Portage Road.

the session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament passed in the session held in the third and fourth years of the reign of Her present Majesty, intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada:" and it is hereby ordained and enacted by the authority of the said Acts of Parliament, that such persons not exceeding five in number, as the governor, lieutenant-governor, or person administering the government, shall appoint, shall be and they are hereby constituted trustees for keeping the said road, commonly called the Temiscouata Portage Road in permanent and efficient repair.

And be it further ordained and enacted by the authority aforesaid, that in case of the death, absence for more than three months from the province, misconduct, inability, or neglect to act, or resignation of any one or more of the trustees so to be appointed, the governor, lieutenant-governor, or person administering the government, may declare a vacancy in the said trust and supply and fill such vacancy by the appointment of other one or more trustees, as the case may require.

And be it further ordained and enacted by the authority aforesaid, that from and after the first day of January in the year one thousand eight hundred and forty-one, the said trustees shall and may cause a turnpike-gate and toll-house to be erected on and across the said road at any point which they may deem most fit, within one mile of the place where the river called the Green River crosses the said road, or if this position should be found inconvenient, or not to answer the object intended, the said turnpike-gate may be erected on such other part of the said Portage road as the trustees may think proper, and the said trustees may erect any such barrier or barriers on either side of the said road as they may deem necessary to prevent persons crossing the said road from avoiding the payment of the tolls hereinafter established, and shall and may demand, levy, exact, and receive at the said turnpike-gate and toll-house, from each and every person passing the same and using the said road, the several rates and tolls hereinafter mentioned, that is to say; for each four-wheeled carriage drawn by one horse, or other beast of draught, one shilling and sixpence, currency; for each two-wheeled carriage drawn by one horse, or other beast of draught, one shilling and one penny, currency; for each sleigh, berline, train, or other winter carriage drawn by one horse, or other beast of draught, one shilling and one penny, currency; for each additional horse or other beast of draught, harnessed to any such carriage aforesaid, nine pence, currency; for each saddle-horse, or horse, mare, gelding, ass, or mule, not harnessed to any carriage, one shilling, currency; for each head of neat cattle not drawing, nine pence, currency; for each sheep, pig, calf, or lamb, four pence and one halfpenny, currency: Provided always that the said trustees may from time to time diminish the said tolls and rates respectively, to any sums not less than two-thirds of those above mentioned, if they shall be of opinion that after such diminution, the tolls collected will suffice to keep the said road in proper repair, and may again increase the said tolls, so as in no case to exceed the rates above mentioned; and it is further provided, that until the Ordinance passed in the third year of Her Majesty's reign, chapter twenty-five, intituled, "An Ordinance to provide for the Improvement during the Winter Season of the Queen's Highways in this Province, and for other Purposes," shall come into operation within the district of Quebec, with regard to other roads than the post road from that city to the town of Three Rivers, it shall be lawful for the trustees to make an abatement, not exceeding one half the ordinary rates upon such winter carriages, constructed according to the provisions of the said Ordinance, and drawn by horses abreast as shall be used upon the said Temiscouata Portage Road.

And be it further ordained and enacted by the authority aforesaid, that it shall be lawful for the said trustees to cause any animal or carriage, on and in respect of which any toll may under the provisions of this Ordinance be due, to be detained until such tolls be fully paid and satisfied; and if any person or persons shall forcibly pass or attempt to pass the said turnpike-gate with any carriage or animal on which a toll may be due, without having paid such toll, such person or persons shall incur a penalty not exceeding forty shillings for each offence, to be recovered with costs, before any one justice of the peace on the oath of any one credible

No. 172.

To provide means for keeping in repair the Temiscouata Portage Road.

witness; and such penalty shall be paid to the said trustees, and make part of the fund hereby appropriated for keeping the said road in repair, and on the default of payment thereof on conviction, such justice of the peace may commit the offender to prison for any time not exceeding six days.

Provided always and be it further ordained and enacted by the authority aforesaid, that Her Majesty's mails and persons, animals and carriages, employed in the conveyance thereof, Her Majesty's officers and soldiers being in proper staff or regimental or military uniform, dress or undress, and their horses (but not when passing in hired or private vehicles), and all carriages and animals belonging to Her Majesty employed in Her service, when conveying persons in such service or returning therefrom, and all recruits marching by route, shall pass toll free through the said turnpike-gate.

And be it further ordained and enacted by the authority aforesaid, that the tolls collected and the penalties levied under the authority of this Ordinance, shall be vested in the said trustees, and shall be employed and expended by them in keeping the said road in a state of good and efficient repair.

And be it further ordained and enacted by the authority aforesaid, that the said trustees shall cause a table of tolls exigible at the time being, to be legibly and plainly printed and affixed in a conspicuous position at the turnpike-gate.

And be it further ordained and enacted by the authority aforesaid, that any majority of the said trustees for the time being, shall and may have and exercis e each and every power hereby vested in the said trustees.

And be it further ordained and enacted by the authority aforesaid, that the said trustees shall lay detailed accounts of all monies by them received or expended, under the authority of this Ordinance, supported by proper vouchers, and also detailed reports of all their doings and proceedings under the said authority before such officer, at such time, and in such manner and form as the governor, lieutenant-governor, or person administering the government for the time being shall direct.

And be it further ordained and enacted by the authority aforesaid, that this Ordinance shall be a public Act, and shall be judicially noticed as such by all judges, justices of the peace, and other persons whomsoever without being specially pleaded.

And be it further ordained and enacted by the authority aforesaid, that this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the government house, in the city of Montreal, the thirty-first day of December, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty.

By his Excellency's command,

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the above to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the thirty-first day of December, One thousand eight hundred and forty, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 173.

No. 173.

To make provision for defraying the Civil Expenditure of the Provincial Government.

CAP. 9.—*An Ordinance to make provision for defraying the Civil Expenditure of the Provincial Government, for the year ending on the tenth day of October, one thousand eight hundred and forty-one; for the support of certain Charitable Institutions, for the promotion of Education, for certain Public Works, for the improvement of the Internal Communications, for the encouragement of Agriculture, and for other purposes.*

[Passed 9th January, 1841.]

WHEREAS it is expedient to make provision for defraying the expenses of Her Majesty's civil government in this province, and of the administration of justice therein, for the year ending on the tenth day of October, one thousand eight hundred and forty-one, and for the several purposes hereinaftermentioned, for and during the said year: Be it therefore ordained and enacted by his Excellency the Governor of the said province of Lower Canada, by and with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of her present Majesty's reign, intituled, "An Act to make temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of her present Majesty, and intituled, "An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada; and it is hereby ordained and enacted, by the authority of the said Acts of Parliament, that from and out of any unappropriated monies which now are or may hereafter come into the hands of the receiver-general of this province for the time being, there shall and may be paid, applied and advanced on the warrant or warrants of the Governor, lieutenant-governor, or person administering the government, for the purposes hereinafter mentioned, respectively, the following sums of money, that is to say: To defray the expenses of the civil government of this province, incurred or to be incurred during the year ending on the tenth day of October, one thousand eight hundred and forty-one, a sum not exceeding sixty-eight thousand three hundred and eighty pounds, ten shillings and sixpence sterling. To make good certain indispensable contingent expenses incurred in the year ending on the tenth day of October, one thousand eight hundred and forty, over and above the amount granted for that year, a sum not exceeding eight thousand nine hundred pounds sterling. To pay certain claims of the attorney-general for services rendered to the provincial government during the years one thousand eight hundred and thirty-eight, one thousand eight hundred and thirty-nine, and one thousand eight hundred and forty, a sum not exceeding eight thousand pounds sterling. To repay so much money advanced from the military chest for special services to the civil government, in the years one thousand eight hundred and thirty-seven, one thousand eight hundred and thirty-eight, and one thousand eight hundred and thirty-nine, connected with the late insurrections in this province, a sum not exceeding six thousand two hundred and twenty-five pounds sterling. To defray the salaries of the police and stipendiary magistrates, and the pay and contingent expenses of the rural police force in the districts of Montreal, Quebec, and Three Rivers, during the year ending in October, one thousand eight hundred and forty-one, a sum not exceeding fourteen thousand six hundred pounds sterling. To defray the pay and contingent expenses of the police force of the city of Quebec, for the year ending in the month of October, one thousand eight hundred and forty-one, a sum not exceeding three thousand six hundred pounds sterling, subject to repayment. To defray the pay and contingent expenses of the police force of the city of Montreal, for the year ending in the month of

No. 173.

To make provision for defraying the Civil Expenditur of the Provincial Government.

October, one thousand eight hundred and forty-one, a sum not exceeding four thousand five hundred pounds sterling, subject to repayment. To pay the salaries and contingent expenses of the board of works, for the year ending on the tenth day of October, one thousand eight hundred and forty-one, a sum not exceeding two thousand pounds sterling. To defray the expense of certain special services of the civil government of this province, a sum not exceeding one thousand pounds sterling. For completing and publishing the index to the statutes and ordinances of this province, a sum not exceeding two hundred pounds sterling. To the commissioners appointed for the relief of insane persons, and the support of foundlings and indigent sick persons in the district of Quebec, to defray expenses incurred or to be incurred by them for the said objects, during the year ending on the said tenth day of October, one thousand eight hundred and forty-one, a sum not exceeding one thousand seven hundred and twenty pounds sterling. To the commissioners appointed for the relief of insane persons, and the support of foundlings and indigent sick persons in the district of Montreal, to defray expenses incurred or to be incurred by them for the said objects, during the year ending on the said tenth day of October, one thousand eight hundred and forty-one, a sum not exceeding one thousand one hundred and fifty pounds sterling. To the commissioners appointed for the relief of insane persons, and the support of foundlings and indigent sick persons in the district of Three Rivers, to defray expenses incurred or to be incurred for the said objects, during the year ending on the tenth day of October, one thousand eight hundred and forty-one, a sum not exceeding six hundred and eighty pounds sterling. To the corporation of the General Hospital at Montreal, towards defraying the current expenses of that institution during the year ending on the tenth day of October, one thousand eight hundred and forty-one, a sum not exceeding nine hundred pounds sterling. To the managers of the Female Orphan Asylum at Quebec, towards the support of that institution, a sum not exceeding ninety pounds sterling. To the managers of the Montreal Protestant Orphan Asylum, towards the support of that institution, a sum not exceeding ninety pounds sterling. To the managers of the Ladies' Benevolent Society at Montreal, towards the support of the widows and orphans under their care, a sum not exceeding ninety pounds sterling. To the managers of the Roman Catholic Orphan Asylum at Quebec, towards the support of that institution, a sum not exceeding ninety pounds sterling. To the managers of the Male Orphan Asylum at Quebec, towards the support of that institution, a sum not exceeding ninety pounds sterling. To the charitable ladies of the Roman Catholic Orphan Asylum at Montreal, as an aid, a sum not exceeding ninety pounds sterling. To the commissioners of the Emigrant Hospital at Quebec, to enable them to receive into that hospital persons labouring under contagious diseases, a sum not exceeding two hundred and seventy pounds sterling. Towards the support of divers scholastic institutions, and for the promotion of education throughout this province, during the year ending on the tenth day of October, one thousand eight hundred and forty-one, a sum not exceeding two thousand seven hundred and eighty pounds sterling. To the Literary and Historical Society of Quebec, as an aid towards defraying their expenses for the present year, a sum not exceeding forty-five pounds sterling. To the Natural History Society of Montreal, as an aid towards defraying their expenses during the present year, a sum not exceeding forty-five pounds sterling. To the committee of management of the Mechanics' Institute at Quebec, as an aid for the present year, a sum not exceeding forty-five pounds sterling. To the committee of management of the Mechanics' Institute at Montreal, as an aid for the present year, a sum not exceeding forty-five pounds sterling. To the medical faculty of M'Gill College at Montreal, towards defraying the expenses attending their medical lectures, during the present year, a sum not exceeding four hundred and fifty pounds sterling. For continuing the improvement of Sainte Anne Rapids, a sum not exceeding four thousand five hundred pounds sterling. To pay the proportion due by this province towards the expense of keeping the light houses on the islands of Saint Paul and Scatterie, for the years one thousand eight hundred and forty, and one thousand eight hundred and forty-one, a sum not exceeding nine hundred pounds sterling. For erecting a bridge at the outlet of Lake Memphramagog, a sum not exceeding two hundred and thirty-four pounds sterling. For alterations and repairs to the gaol at Three Rivers, a sum not exceeding four hundred

No. 173.

To make provision for defraying the Civil Expenditure of the Provincial Government.

and ninety-five pounds sterling. For alterations and repairs to the goal at Montreal, a sum not exceeding one hundred and thirty-five pounds sterling. For alterations and repairs to the court-house at Quebec, a sum not exceeding five hundred and four pounds sterling. For levelling and fencing the ground about the new court-house at Sherbrooke, and erecting a safety-vault, a sum not exceeding three hundred and seventy-eight pounds sterling. For alterations, additions, and repairs to the government buildings at Montreal, a sum not exceeding three hundred and seventy-three pounds ten shillings sterling. To pay the allowance to Pierre Brochu, for residing on Kempt Road, a sum not exceeding twenty-two pounds ten shillings sterling. To the Agricultural Society of the district of Quebec, out of which the Agricultural Society for the county of Quebec shall receive its proportion, a sum not exceeding one hundred and eighty pounds sterling. To the Agricultural Society of the district of Montreal, to pay the same in due proportion to and among the agricultural societies of such counties in the said district as may establish societies, a sum not exceeding two hundred pounds sterling. Towards defraying the expenses of the establishment of a lunatic asylum in the city of Montreal, a sum not exceeding five hundred and forty pounds sterling. For a survey of the best line for a canal or rail-road to connect the Bay of Fundy with the Gulf of Saint Lawrence, a sum not exceeding five hundred pounds sterling.

And be it further ordained and enacted by the authority aforesaid, that the several sums hereby appropriated, with regard to which no provision is made by this Ordinance, or by any other Act or Ordinance, as to the person or persons under whom such sums shall be respectively advanced, or under whose superintendence they shall be expended, may be advanced to, and expended by such persons or officers, and under such instructions and regulations as the Governor, Lieutenant-governor, or person administering the government of this province, for the time being, shall think proper to direct.

And be it further ordained and enacted by the authority aforesaid, that each and every the persons, societies, and officers respectively, to whom the expenditure of any portion of the monies hereby appropriated shall be entrusted, shall make up and transmit to the Governor, Lieutenant-governor, or person administering the government of this province for the time being, detailed reports of their proceedings in that behalf, at any time or times when he shall think it expedient to require or demand any such report.

And be it further ordained and enacted by the authority aforesaid, That each and every person to whom shall be entrusted the expenditure of any portion of the public monies hereby appropriated or authorized to be expended, shall make up detailed accounts showing such expenditure, of the sum advanced to the accountant, the sum actually expended, the balance (if any) remaining in his hands, and the account of the monies hereby appropriated to the purpose for which such advance shall have been made, remaining unexpended in the hands of the receiver-general; and each and every such account shall be supported by vouchers therein distinctly referred to by numbers corresponding to the numbering of the items of such account, and shall be made up to, and closed on the tenth day of April, and the tenth day of October, in each and every year during which such expenditure shall be made, and shall be attested before a justice of the Court of King's Bench, or a justice of the peace, and shall be transmitted to the officer whose duty it shall be to receive the same, within fifteen days after the said periods respectively.

And be it further ordained and enacted by the authority aforesaid, that the due application of the monies by this Ordinance appropriated, shall be accounted for to Her Majesty, her heirs and successors, through the Lords Commissioners of Her Majesty's Treasury, for the time being, in such manner and form as Her Majesty, her heirs and successors, shall be pleased to direct.

And be it further ordained and enacted by the authority aforesaid, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in special council, under the great seal of the province, at the Government House,

No. 173.

To make provision for defraying the Civil Expenditure of the Provincial Government.

in the city of Montreal, the ninth day of January, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty-one.

By His Excellency's command,

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the ninth day of January, one thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 174.

No. 174.

Railroad from Sherbrooke to the River Richelieu.

CAP. 10.—*An Ordinance for making a Railroad from* Sherbrooke *to a point upon either Bank of the* River Richelieu. [Passed 21st January, 1841.]

WHEREAS the several persons hereinafter named have, by their petition, represented the public advantages which would arise from the construction of a railroad from the town of Sherbrooke by the way of the outlet of Lake Memphramagog, in the county of Stanstead, to any such point upon either bank of the River Richelieu as the company of proprietors hereinafter constituted shall select, so as to facilitate the carriage of passengers, goods, wares, and merchandize, between the said town of Sherbrooke and the said River Richelieu as aforesaid, and to encourage the trade and intercourse between the city of Montreal and the places adjacent to and lying along the route of the said railroad, and also to facilitate the communication between the eastern townships and the River St. Lawrence; and have by petition prayed to be incorporated, and that divers powers and privileges may be granted to them for the purpose of enabling them to construct such railroad; and whereas it is expedient to grant the prayer of the said petitioners, subject to the enactments, provisions, and limitations hereinafter set forth and contained: Be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this Province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make Temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament passed in the Session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making Temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament passed in the Session held in the third and fourth years of the reign of Her present Majesty, intituled "An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that Samuel Brooks, Benjamin Pomroy, Alexander Kelborn, Ichabod Smith, Wilder Pierce, Phineas Hubbard, Robert Hoyle, Moses F. Colby, Stephen Foster, John Gilman, William Arms, Joseph Toper Walton, William R. Willard, John Moore, Joshua Foss, Lockhart Hall, Alexander Rea, Alden W. Kendrick, Arba Stimson, C. P. Reid, John Jones, David Connell, W. G. Cook, C. Jackson, Ebenezer Bacon, H. A. Edgell, John Sawyer, A. A. Adams, John Bellows, Tyler Spafford, Hollis Smith, J. Dennet, L. C. Ball, Albert G. Woodward, Thomas Fait, C. B. Cleveland, Ira King, Thomas C. Allis, G. K. Foster, William K. Parker, John Mansur, Horace Hun-

No. 174.

Railroad from Sherbrooke to the River Richelieu.

toon, W. H. Stuart, J. B. Kenrick, M. F. Cushing, Leonard Martin, S. Osgood, Francis Judd, William Ritchie, Joshua Copp, T. L. Parsons, and such others as may hereafter, under the provisions of this Ordinance, become subscribers to, and proprietors of, any share or shares in the railroad hereby authorized to be made, and their several and respective heirs, executors, administrators, curators, and assigns, being proprietors of any share or shares in the said railroad, shall be and are hereby constituted a corporation, body politic and corporate, for the making, completing, carrying on, and maintaining the said railroad, according to the provisions and enactments of this Ordinance, by and under the name and style of "The Company of Proprietors of the Eastern Townships Railroad," and by that name shall have perpetual succession, and shall have a common seal, and by that name shall and may sue and be sued, and also shall and may have power and authority to purchase lands, tenements, construct or hire wharves, storehouses, or other buildings for the convenience of themselves, their successors and assigns, for all useful purposes connected with the said railroad, without Her Majesty's letters d'amortissement; and for the purposes aforesaid, the said Company of Proprietors, their deputies, servants, agents, and workmen, are hereby authorized and empowered to make and complete a railroad from the town of Sherbrooke, by way of the outlet of Lake Memphramagog aforesaid, to the said River Richelieu as aforesaid, in as direct a course as local circumstances and the nature of the ground will permit, and are for that purpose hereby authorized and empowered to enter into and upon the lands or grounds of the Queen's Most Excellent Majesty (subject to the limitations hereinafter expressed), or of any person or persons, bodies politic, corporate, or collegiate, or communities whatsoever, and to survey and take levels of the same or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said intended railroad; and all such other works, matters, and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining, and using the said intended railroad and other works; and also to bore, dig, cut, trench, get, remove, take, carry away, and lay earth, stone, clay, soil, rubbish, gravel, sand, trees, roots of trees, and other matters or things which may be got or dug in making the said intended railroad or other works, on or out of the lands or grounds of any person or persons adjoining or lying convenient thereto, and which may be proper, requisite, or necessary for making or repairing the said intended railroad or works incidental or relative thereto, or which may hinder, prevent, or obstruct the making, using, or completing, extending, or maintaining the same respectively, according to the intent and purposes of this Ordinance, and to make, build, erect, and set up in or upon the said intended railroad, or upon the lands adjoining or near the same respectively, such and so many houses, warehouses, weighing-beams, cranes, fire-engines, steam-engines, locomotive, stationary, or other engines, inclined planes, machines, and other works, ways, roads, and conveniences, as and when the said company of proprietors shall think proper, requisite, necessary, and convenient for the purposes of the said railroad; and also from time to time to alter, divert, repair, widen, enlarge, and extend the same, and also to make, maintain, repair, and alter any fence or passages over, under, or through the said intended railroad, and to construct, erect, and keep in repair any piers, arches, and other works upon or across any rivers or brooks for the making, using, maintaining, and repairing the said intended railroad; and to construct, erect, make, and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing, and easy using of the said intended railroad and other works, in pursuance of, and according to, the true intent and meaning of this Ordinance, they the said Company of Proprietors doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in the manner hereinafter mentioned to the owners or proprietors of, or the persons interested in, the lands, tenements, or hereditaments, waters, water-courses, brooks, or rivers respectively, which shall be taken, used, removed, prejudiced, or of which the course shall be altered; or for all damages to be by such owners or proprietors sustained, in and by the execution of all or any of the powers granted by this Ordinance; and this Ordinance shall be sufficient to indemnify the said company of proprietors and their servants, agents, or workmen, and all other persons whomsoever, for what they or any of them shall do by virtue of the powers hereby granted, subject, nevertheless, to such provisions and restrictions as are hereinafter mentioned.

And be it further ordained and enacted by the authority aforesaid, That for the

No. 174.

Railroad from Sherbrooke to the River Richelieu.

purposes of this Ordinance the said company shall by some sworn land-surveyor in this Province, and by some engineer, by them to be appointed, cause to be taken and made surveys and levels of the lands through which the said intended railroad is to pass or to be carried, together with a plan or map of such railroad, and the course and direction thereof, and of the lands through which the same is to pass, and also a book of reference for the said railroad, in which shall be set forth a description of the said several lands, or those parts thereof through which the said railroad shall pass, with the names of the owners, occupiers, or proprietors thereof, and in which shall be contained everything necessary for the right understanding of such map or plan; of which said map or plan, and book of reference, four copies shall be made, each of which copies shall be certified by the surveyor-general or his deputy, who shall deposit one copy thereof in the office of the prothonotary of the Court of King's Bench of and for the district of Montreal, or of the prothonotary of that division of the Court of Common Pleas which shall hold its sittings at Montreal; one other copy in the office of the prothonotary of the Court of King's Bench for the district of St. Francis, or of the prothonotary of that division of the Court of Common Pleas which shall hold its sittings at the town of Sherbrooke; one other in the office of the secretary of the Province; and the remaining one he shall deliver to the said company of proprietors; and all persons shall have liberty to resort to such copies to be deposited as aforesaid, and make extracts or copies thereof as occasion shall require, paying to the said secretary of the Province, or to the said prothonotaries, at the rate of sixpence current money of this Province for each and every hundred words; and the said copies of the said map or plan, or book of reference, so certified, or a true copy or copies thereof certified by the secretary of the Province, or by any one of the said prothonotaries, shall severally be, and are hereby declared to be, good evidence in all courts of law or elsewhere.

Provided always, and be it further ordained and enacted by the authority aforesaid, That where the said railroad shall cross any public highway, the ledge or flanch of such railroad, for the purpose of guiding the wheels of the carriages, shall not rise above the level of such road, nor sink below such level more than one inch.

Provided always, and be it further ordained and enacted by the authority aforesaid, That where any bridge shall be erected or made by the said company for the purpose of carrying the said railroad over or across any public highway, the space of the arch of any such bridge shall be formed, and shall at all times be continued of such breadth as to leave a clear and open space under each and every such arch of not less than fifteen feet, and a height from the surface of such public highway to the centre of such arch of not less than fifteen feet, and the descent under such bridge shall not exceed one foot in thirteen feet.

Provided always, and be it further ordained and enacted by the authority aforesaid, That in all places where it may be necessary to erect, build, or make any bridge or bridges, for carrying any public highway over the said railroad, the ascent of such bridge for the purpose of such highway shall not be steeper than one foot in thirteen feet; and a good and sufficient fence shall be made by the said company on each side of each such bridge, which fence shall not be less than four feet above the surface of such bridge.

Provided always, and be it further ordained and enacted by the authority aforesaid, That, in all cases where the said intended railway shall cross any public highway on a level therewith, the said company shall station and constantly keep at least one person as a guard whose duty it shall be to prevent any obstruction being or remaining upon the said railroad or upon such public highway, and to watch over the safety of the persons and property passing and conveyed either upon the said highway or upon the said railroad; and for each and every neglect or refusal to comply with the provisions of this section, the said company shall incur a penalty of five shillings for each offence, to be recovered in like manner as other penalties under this Ordinance may be recovered.

Provided always, and be it further ordained and enacted by the authority aforesaid, That the said company of proprietors in making the said intended railroad shall not deviate more than one hundred and fifty yards from the course or direction delineated in the said map or plan, and set forth in the said book of reference (save and except on such lands as shall be wild and uncultivated, in which case the deviation shall not exceed three hundred and fifty yards), nor cut, carry, place, lay down, or convey the said railroad into, through, across, under, or over any part or parts of the several estates, lands, or grounds, now or late belonging or reputed to belong to

No. 174.

Railroad from Sherbrooke to the River Richelieu.

the said several and respective persons named or described in the said book of reference, other than such part or parts as are mentioned in the said book of reference in that behalf (save in such instances only as are particularly hereby provided for), without the approbation and consent in writing of and signed by the owner or owners, or person or persons, for the time being, entitled to the rents and profits of such estates, lands, or tenements respectively.

Provided always, and be it further ordained and enacted by the authority aforesaid, That the said company of proprietors shall and may make their said intended railroad through, across, or over the lands or grounds of any person or persons whomsoever into whose estates, lands, or grounds such deviations as aforesaid shall extend, although his, her, or their name or names is or are not mentioned in the said book of reference, or into the estate, lands, or grounds of any person or persons whose name or names hath or have been by mistake omitted, or that, instead of his, her, or their name or names, the name or names of some other person or persons to whom such last-mentioned estates, lands, or grounds do not belong, hath or have been by mistake inserted in the said book of reference.

And be it further ordained and enacted by the authority aforesaid, That the lands or grounds, to be taken or used for such intended railroad, and the ditches, drains, and fences to separate the same from the adjoining lands, shall not exceed twenty-five yards in breadth, except in such places where the said intended railroad shall be raised more than five feet higher, or cut more then five feet deeper, than the present surface of the lands, and in such places where it shall be deemed necessary to have offsets for the locomotive or other engines and carriages using the said intended railroad to lie or pass each other, and not above one hundred and fifty yards in breadth in any such places, or where any houses, warehouses, tollhouses, watchhouses, weighbeams, cranes, fixed engines, or inclined planes may be erected, or goods, wares, or merchandizes be delivered, and then not more than two hundred yards in length by one hundred and fifty yards in breadth, without the consent of the proprietors.

And be it further ordained and enacted by the authority aforesaid, That after any lands or grounds shall be set out and ascertained in manner aforesaid for making and completing the said railroad and other works and other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all bodies politic, corporate, or collegiate, corporations aggregate or sole, communities, guardians, curators, executors, administrators, and other trustees or persons whomsoever, not only for and in behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether issue unborn, infants, lunatics, idiots, femes covert, or other person or persons who are or shall be seized, possessed of, or interested in, any lands or grounds which shall be so set out and ascertained as aforesaid, or any part thereof, to contract for, sell, and convey to the said company of proprietors, their successors and assigns, all or any such lands or grounds which shall from time to time be set out and ascertained as aforesaid; and that 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 whomsoever so conveying as aforesaid, are hereby indemnified for what he, she, or they, or any of them, shall respectively do by virtue or in pursuance of this Ordinance; and all such contracts, agreements, sales, conveyances, and assurances, or notarial copies thereof, shall at the expense of the said corporation be deposited of record in the office of the Prothonotary of the Court of King's Bench for the district of Montreal, or of the Prothonotary of that division of the Court of Common Pleas which shall hold its sittings at Montreal, or in the office of the Prothonotary of the Court of King's Bench for the district of Saint Francis, or of the Prothonotary of that division of the Court of Common Pleas which shall hold its sittings at the town of Sherbrooke; and true copies thereof, certified by any of the said Prothonotaries, shall be allowed to be good evidence in all courts whatsover.

Provided always, and be it further ordained and enacted by the authority aforesaid, That any body politic, community, corporation, or other person or persons whosoever, who cannot, in common course of law, sell or alienate any lands or grounds so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not on a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said railroad and other the purposes and conveniences relative thereto and connected therewith; and in case the amount of such rent shall not

No. 174.

Railroad from Sherbrooke to the River Richelieu.

be fixed by voluntary agreement or compromise, or by arbitration between the parties, it shall be fixed by a jury convened and qualified in the manner hereinafter prescribed, and all proceedings and litigations in court shall in that case be regulated as is hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained for the purchase of any lands or grounds, the said railroad and the tolls to be levied and collected thereon shall be and are hereby made liable and chargeable in preference to all other claims or demands thereon whatsoever.

And be it further ordained and enacted by the authority aforesaid, That as soon as the said map or plan and book of reference shall have been made and deposited as aforesaid, it shall then be lawful for the said company of proprietors to apply to the several owners of the estates, lands, and grounds through which such railroad is intended to be carried, and to agree with such owners respectively, touching the compensation to be paid unto them by the said company of proprietors for the purchase thereof and for their respective damages; and in case of disagreement between the said company and the said owners or any of them, then all questions which shall arise between the said company and the several proprietors of, and persons interested in, any estates, lands, or grounds that shall or may be taken, affected, or prejudiced by the execution of any of the powers hereby granted, or with regard to any indemnification for damages which may or shall be at any time or times sustained by any bodies politic or corporate, or communities, or any other person or persons respectively being owners of, or interested in, any estates, lands, or grounds for or by reason of the making, repairing, or maintaining the said railroad, or other works or machines incidental or relative thereto or connected therewith, shall and may be settled by agreement of the parties, or by arbitration; or if either of the parties shall not be inclined to make an agreement or to appoint arbitrators, or by reason of absence shall be prevented from treating, or through disability by nonage, coverture, or other impediments, cannot treat or make such agreement or enter into such arbitration, or shall not produce a clear title to the premises which they claim an interest in, then and in every such case the said company of proprietors may make application to the Court of King's Bench, or to the division of the Court of Common Pleas in the district or territorial division in which such estates, lands, grounds, or premises may be situate, stating the grounds of such application; and such court is hereby empowered and required from time to time, upon such application, to issue a warrant directed to the sheriff of the district in which the court shall hold its sittings for the time being, commanding such sheriff to impanel, summon, and return a jury qualified according to the laws of this provence to be returned for trials of issues joined in civil cases in the said Court of King's Bench or of Common Pleas, to appear before the court at such time and place as in such warrant shall be appointed; and all parties concerned may have their lawful challenge against any of the said jurymen, but shall not challenge the array; and the said court is hereby empowered to summon and call before them all and every such person and persons as it shall be thought necessary to examine as witnesses touching the matters in question; and the said court may authorise and order the said jury, or any six or more of them, to view the place or places or matters in controversy, which jury upon their oath (all which oaths, as well as the oaths to be taken by any person or persons who shall be called upon to give evidence, the said court is hereby empowered to administer) shall inquire of, assess, and ascertain the distinct sum or sums of money or annual rent to be paid for the purchase of such lands or grounds or tenements, or the indemnification to be made for the damage that may or shall be sustained as aforesaid; and in so doing the said jury shall take into consideration the damage or inconvenience which may arise by means of any bridges, roads, or other communications made necessary by reason of the said railroad, and assess separate damages for the same; and the said jury shall distinguish the value set upon the lands and the money assessed or adjudged for damages separate and apart from each other; and the said court shall give judgment for such sum, rent, or indemnification so to be assessed by such jurors, which said verdict and the judgment so thereupon pronounced shall be binding and conclusive to all intents and purposes against the Queen's Majesty, her heirs and successors, and against all bodies politic, corporate, or collegiate, or communities, and all persons whomsoever. Provided always, that nothing in this section or in any part of this Ordinance shall prevent the said company of proprietors from receiving, holding, using, selling, alienating, conveying, or exchanging any lands which may be gratuitously given, bestowed, and made over to

No. 174.

Railroad from Sherbrooke to the River Richelieu.

the said company of proprietors to and for the use, benefit, and advantage of their said railroad or undertaking.

And be it further ordained and enacted by the authority aforesaid, That in all cases where a verdict shall be given for more money as an indemnification or satisfaction for any lands, grounds, or hereditaments, or property, or for any damage done to any lands, grounds, hereditaments, or property, or for any annual rent of any lands, grounds, hereditaments, rents, or property, of any person or persons whomsoever than had previously been offered by or on behalf of the said company of proprietors, then all the expenses of summoning such jury and taking such inquest shall be settled by the court and defrayed by the said company of proprietors; but if any verdict shall be given for the same or a less sum than had been previously offered by and on behalf of the said company of proprietors, or in case no damages shall be given by the verdict, when the dispute is for damages only, then and in every such case the costs and expenses shall be settled in like manner by the court, and be borne and paid by the party or parties with whom the said company of proprietors shall have had such controversy; which said costs and expenses, having been so settled, shall and may be deducted out of the moneys so assessed and adjudged, when the same shall exceed such costs and expenses, as so much money advanced to and for the use of such person or persons, and the payment or tender of the remainder of such money shall be deemed and taken, to all intents and purposes, to be a payment or tender of the whole sum or sums so assessed or adjudged as aforesaid.

Provided always, and be it further ordained and enacted by the authority aforesaid, That all and every person and persons making complaint and requesting such jury shall, before the issue of the warrant or warrants for the summoning of such jury as aforesaid, enter into a bond before any one of the judges of the Courts of King's Bench for the District of Montreal, or before one of the judges of the division of the Court of Common Pleas which shall hold its sittings at Montreal, or of the Court of King's Bench for the District of Saint Francis, or of the division of the Court of Common Pleas which shall hold its sittings in the town of Sherbrooke, with one sufficient surety to the treasurer of the said company of proprietors, or their successors for the time being, in the penalty of one hundred pounds currency, to prosecute his, her, or their complaint, and to bear and pay the costs and expenses of summoning such jury and taking such inquest, in case no damages shall be given by the verdict to such party, or in case a verdict shall be given for no more or for a less sum or rent than had been offered by and on behalf of the said company of proprietors or their successors before the summoning or returning of the said jury or juries, as an indemnification or satisfaction for any lands, grounds, or hereditaments, or for any annual rent, or for any damages as aforesaid.

And be it further ordained and enacted by the authority aforesaid, That upon payment or legal tender of such sum or sums of money or annual rent as shall be contracted or agreed for between the parties, or determined by arbitrators, or assessed by juries in manner respectively as aforesaid, to the proprietors thereof, or other person or persons entitled to receive the same, or to the principal officer or officers of any such body politic, corporate, or collegiate, or community, at any time after the same shall have been so agreed for, determined, or assessed, such lands, grounds, and hereditaments, or property respectively, may be entered upon and taken possession of by the said company of proprietors, and applied to the purposes of making and maintaining the said railroad and other work and conveniences thereunto appertaining.

And be it further ordained and enacted by the authority aforesaid, That all agreements, sales, and conveyances, and all determinations by arbitrators as aforesaid, or notarial copies thereof when the same may be passed before notaries, and also the said verdicts and judgments thereupon, shall be transmitted to and kept by the prothonotary of the Court of King's Bench for the district of Montreal, or by the prothonotary of that division of the Court of Common Pleas which shall hold its sittings at Montreal, or of the Court of King's Bench for the district of Saint Francis, or of that division of the Court of Common Pleas which shall hold its sittings in the town of Sherbrooke, to be kept among the records of such court, and shall be deemed and taken to be records of such court, to all intents and purposes, and the same, or legally certified copies thereof, shall be allowed to be good evidence in all courts whatsoever in this Province, and all persons shall have liberty to inspect the same, paying for each inspection the sum of one shilling currency, and to have and obtain copies thereof, paying for every copy thereof not

No. 174.

Railroad from Sherbrooke to the River Richelieu.

exceeding one hundred words the sum of sixpence currency, and so in proportion for any number of words; and immediately on such payments of purchase-money or rents as aforesaid, and entry of such agreements, sales, conveyances, determination by arbitration, verdict, judgment, or other proceedings of such court and juries, all the estate, right, title, interest, use, trust, property, claim, and demand in law or equity, of the person and persons for whose use such money or rent shall be paid, in or arising out of the said lands, grounds, tenements, hereditaments, and premises, shall vest in the said company of proprietors and their successors, and they shall respectively be deemed in law to be in actual possession and seizin of the same, to all intents and purposes whatsoever, as fully and effectually as if every person having an estate therein had been able to convey, and had actually conveyed, the same to them by the most effectual legal conveyance; and such payments shall bar all right, title, interest, claim, and demand of the person or persons to whose use the same shall be made, bodies politic, corporate, or collegiate, ecclesiastical or civil, communities, women subject to marital authority, minors, persons interdicted, or absentees, who may have, or claim to have, any right, title, interest, claim, or demand therein, and of every other person or persons whomsoever, even for dower not yet open (douaire non encore ouvert), any law to the contrary notwithstanding.

And be it further ordained and enacted by the authority aforesaid, That application to the said court for indemnity for any damage or injury sustained by reason of the powers and authority given by this Ordinance shall be made within six calendar months next after the time of such supposed damage sustained, or in case there shall be a continuation of damage, then within six calendar months after the doing or committing such damage shall cease, and not afterwards, and the defendant or defendants shall and may plead the general issue, and give this Ordinance and the special matter in evidence at any trial to be had thereupon, and may aver that the same was done in pursuance and by authority of this Ordinance.

And be it further ordained and enacted by the authority aforesaid, That if any person shall, by any means or in any manner or way whatsoever, obstruct or interrupt the free use of the said railroad, or of the carriages, engines, or other work incidental or relative thereto or connected therewith, such persons shall for every such offence incur a forfeiture or penalty of not less than five pounds nor exceeding ten pounds currency, which penalty or forfeiture may be recovered before one or more justices of the peace for the district, territorial division, or sheriff's district, within which such offence shall have been committed; and one moiety thereof shall go the prosecutor or informer, and the other moiety shall belong to Her Majesty, her heirs and successors, and shall be paid into the hands the receiver-general, and shall remain at the disposal of the legislative authority of this province, for the public uses thereof.

And be it further ordained and enacted by the authority aforesaid, That if any person or persons shall wilfully and maliciously, and to the prejudice of the said railroad authorised to be made by this Ordinance, break, throw down, damage, or destroy the same or any part thereof, or any of the houses, warehouses, toll-houses, weighbeams, cranes, carriages, engines, inclined planes, machines, or other works, or devices, incidental and relative thereto or connected therewith, or do any other wilful hurt or mischief, to obstruct, hinder, or prevent the carrying on, completing, supporting, and maintaining the said railroad, such person or persons shall be adjudged guilty of felony, and the Court by and before whom such person or persons shall be tried and convicted shall have the power and authority to cause such person or persons to be punished in like manner as felons are directed to be punished by the laws in force in this province, or, in mitigation thereof, to award such sentence as the law directs in cases of petty larceny, as to such court shall seem fitting.

And to the end that the said company of proprietors may be enabled to carry on so useful an undertaking, be it further ordained and enacted by the authority aforesaid, That it shall and may be lawful to and for the said company of proprietors, and their successors, to raise and contribute among themselves, in such proportions as to them shall seem meet and fitting, a competent sum of money for the making and completing the said railroad, and all such other works, matters, and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining, and using the said railroad and other works; Provided always, that the members of the said corporation whose names are hereinbefore mentioned shall cause books of subscription to be opened in the said city of

No. 174.

Railroad from Sherbrooke to the River Richelieu.

Montreal, and at the said town of Sherbrooke, and at such other place or places as they may deem necessary for receiving the signatures of persons willing to become subscribers to the said undertaking; and for this purpose they shall be held and bound to give public notice, during at least four successive weeks, in the Montreal and Sherbrooke Gazettes, if then published, and in any other public newspapers in extensive circulation, of the time and place at which such book shall be opened and ready for receiving signatures as aforesaid, and of the persons by them authorised to receive such subscriptions; and every person who shall write his or her signature in such book as a subscriber to the said undertaking shall thereby become a member of the said corporation, and shall have the same rights and privileges as such as are hereby conferred on the several persons who are herein mentioned by name as members of the said corporation: Provided always, That the sum so raised shall not exceed one hundred and fifty thousand pounds currency of this province in the whole, except as hereinafter mentioned; that the same be divided into such number of shares as hereinafter directed, at a price not exceeding twelve pounds ten shillings currency aforsaid per share; and the money so to be raised is hereby directed and appointed to be laid out and applied in the first place for and towards the payment, discharge, and satisfaction of all fees and disbursements for obtaining and passing this Ordinance, and for making the surveys, plans, and estimates incident thereunto, and all other expenses relating thereunto, and all the rest, residue, and remainder of such money, for and towards making, completing, and maintaining the said railroad, and other the purposes of this Ordinance, and to no other use, intent, or purpose whatsoever.

And be it further ordained and enacted by the authority aforesaid, That the said sum of one hundred and fifty thousand pounds currency, or such part thereof as shall be raised by the several persons hereinbefore named, and by such other person and persons as shall or may at any time within two years from the passing of this Ordinance become a subscriber or subscribers to the said railroad, shall be divided and distinguished into twelve thousand equal parts or shares, at a price not exceeding twelve pounds ten shillings currency aforesaid per share, and that the shares be deemed personal estate, and shall be transferable as such; and that the said twelve thousand shares shall be and are hereby vested in the said several subscribers and their several respective heirs, executors, curators, administrators, and assigns, to their and every of their proper use and behoof, proportionally to the sums they and each of them shall severally subscribe and pay thereunto; and all and every the bodies politic, corporate, or collegiate, or communities, and all and every person and persons, their several and respective successors, executors, curators, administrators, and assigns, who shall severally subscribe and pay the sum of twelve pounds ten shillings currency, or such sum or sums as shall be demanded in lieu thereof, towards carrying on and completing the said intended railroad, shall be entitled to and receive, after the said railroad shall be completed and not before, the entire and net distribution of one twelve-thousandth part of the profits and advantages that shall and may arise and accrue by virtue of the sum and sums of money to be raised, recovered, or received by the authority of this Ordinance, and so in proportion for any greater number of shares; and every body politic, corporate, or collegiate, or community, person or persons, having such property of the twelve-thousandth part or share in the said undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional sum of money towards carrying on the said intended undertaking, in the manner by this Ordinance directed and appointed.

And be it further ordained and enacted by the authority aforesaid, That in case the said sum of one hundred and fifty thousand pounds currency hereinbefore authorized to be raised, shall be found insufficient for the purposes of this Ordinance, then and in such case it shall be lawful for the said company of proprietors to raise and contribute among themselves, in manner and form aforesaid, and in such shares and proportions as to them shall seem meet, or by the admission of new subscribers, a further or other sum of money for completing and perfecting the said intended railroad and other works and conveniences incidental or relative thereto, not exceeding the sum of forty thousand pounds currency aforesaid; and every subscriber towards raising such further or other sum of money shall be a proprietor in the said undertaking, and have a like vote by himself or herself, or his or her proxy, in respect of every share in the said additional sum so to be raised, and shall also be liable to such obligations, and stand interested in all the profits and powers of the said undertaking in proportion to the sum he or she or they shall or may subscribe thereto, as generally and extensively as if such other and further

No. 174.

Railroad from Sherbrooke to the River Richelieu.

sum had been originally raised and a part of the said first sum of one hundred and fifty thousand pounds, anything herein contained to the contrary notwithstanding.

And be it further ordained and enacted by the authority aforesaid, That the number of votes to which each proprietor of shares in the said undertaking shall be entitled on every occasion when, in conformity to the provisions of this ordinance, the votes of the members of the said company of proprietors are to be given, shall be in the following proportion, that is to say:

For one share and not more than two, one vote; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten and not exceeding thirty, one vote, making ten votes for thirty shares; for ever six shares above thirty and not exceeding sixty, one vote, making fifteen votes for sixty shares; for every eight shares above sixty, and not exceeding one hundred, one vote, making twenty votes for one hundred shares; and for every ten shares above one hundred shares and not exceeding one hundred and fifty, one vote, making twenty-five votes for one hundred and fifty shares; but no person or persons, copartnership, body politic, corporate, or collegiate, or community, being a member or members of the said company, shall be entitled to a greater number than twenty-five votes; and all proprietors of shares resident within the province or elsewhere may vote by proxy if he, she, or they shall think fit; Provided that such proxy do produce from his constituent or constituents an appointment in writing, made and signed in the presence of two witnesses, and in the words or to the effect following:

"I of one of the proprietors of 'the Eastern Townships Railroad,' do hereby nominate, constitute, and appoint of to be my proxy, in my behalf and in my absence, to vote or give my assent or dissent to any business, matter, or thing relating to the said undertaking that shall be mentioned or proposed at any meeting of the proprietors of the said undertaking or any of them, in such manner as he the said shall think proper, according to his opinion and judgment, for the benefit of the said undertaking or anything appertaining thereto.

In witness whereof, I have hereunto set my hand and seal the day of in the year "

(Signatures of witnesses)

L. S.

And such vote and votes by proxy shall be as valid as if such principal or principals had voted in person; and whatever question, election of proper officers, or matters or things shall be proposed, discussed, or considered, in any public meeting of proprietors to be held by virtue of this Ordinance, shall be determined by the majority of votes and proxies then present, and so given as aforesaid: Provided nevertheless, that no person shall act as proxy at any meeting for any absent proprietors for more than one hundred and fifty shares; and at every such meeting one of the proprietors present shall be appointed chairman or president, and shall not only vote as proprietor, but in case of equality of votes shall have the decisive or casting vote.

Provided always, and be it further ordained and enacted by the authority aforesaid, That no proprietor who shall not be a natural-born subject of Her Majesty, or a subject of Her Majesty naturalized by act of the British Parliament or by act of the Parliament of this province, or by act or Ordinance of the Legislative authority thereof for the time being, or by act of the legislature of the province of Upper Canada, or of the province of Canada, shall be elected president, treasurer, or clerk, or one of the committee of the said corporation.

And be it further ordained and enacted by the anthority aforesaid, That the first general meeting of proprietors for putting this ordinance into execution shall be held at such place as shall be hereafter named, within three months after twelve hundred shares in the said undertaking shall have been subscribed for; Provided that public notice thereof be given during two successive weeks in the Montreal Gazette and in the Sherbrooke Gazette (if then published) or any other newspaper of extensive circulation; and the second general meeting shall be held at such time and such place as the said proprietors or a majority of them present at their said first meeting shall appoint; and the said general meeting shall be held thereafter twice in every year; and at the said first general meeting the proprietors assembled, together with such proxies as shall be present, shall choose fifteen

No. 174.

Railroad from Sherbrooke to the River Richelieu.

persons, each being a proprietor of five or more shares in the said undertaking (out of whom any eight or more shall be quorum), to be a committee for managing the affairs of the said company of proprietors in such manner as is hereinafter directed, and as shall from time to time be ordered by such general meetings; but if at any time it shall appear to any thirty or more proprietors, holding together five hundred shares at least, that, for more effectually putting this Ordinance into execution, a special meeting of proprietors should be held, then it shall be lawful for such thirty or more of them to cause thirty days' notice at least to be given thereof in the newspapers aforesaid, or in such other manner as the proprietors or other successors shall at any general meeting direct or appoint, specifying in such notice the time and place and the reason and intention of such special meetings respectively, and the proprietors are hereby authorised to meet pursuant to such notice, and proceed to the execution of the powers by this Ordinance given them with respect to the matters so specified only; and all such acts of the proprietors, or a majority of them, at such special meetings so assembled, such majority not having either as principals or proxies less than three thousand shares, shall be as valid to all intents and purposes as if the same were done at general meetings.

Provided always, and be it further ordained and enacted by the authority aforesaid, That it shall and may be lawful for the said company of proprietors at such special meetings in like manner as at general meetings, in case of the death, absence, resignation, or removal of any person named of the committee to manage the affairs of the said company of proprietors in manner aforesaid, to choose and appoint others in room or stead of those of such committee who may die or be absent, resign or be removed as aforesaid, anything in this Ordinance to the contrary notwithstanding.

And be it further ordained and enacted by the authority aforesaid, That if at any time it shall happen that an election of a committee shall not take place on the day when in pursuance of this Ordinance it ought to take place, the said corporation shall not be taken to be dissolved, but it shall be lawful at any other time to make such election at a general meeting of stockholders to be called in the manner herein prescribed, and until such new election shall be had, the committee for the year or period then last past shall continue in office and shall hold all their powers as if elected under the authority of this Ordinance for the period ending at the time of such new election.

And be it further ordained and enacted by the authority aforesaid, That no one member of the said committee, though he be a proprietor of many shares, shall have more than one vote in the said committee, except the chairman or president, who shall be chosen by and out of the said committee, and who in case of a division of equal numbers shall have the casting vote, although he may have given one vote before; Provided always that such committee shall from time to time be subject to the examination and control of the said general and other meetings of the said proprietors as aforesaid, and shall pay due obedience to all such orders and directions in and about the premises as they shall from time to time receive from the said proprietors at such general or other meetings, such orders and directions not being contrary to any express directions or provisions in this Ordinance contained.

Provided always, and be it further ordained and enacted by the authority aforesaid, That no person holding any office, place, or employment, or being concerned or interested in any contract or contracts under the said company, shall be capable of being chosen as member of the committee for managing the affairs of the said company.

And be it further ordained and enacted by the authority aforesaid, That every such general meeting shall have power to call for, audit, and settle all accounts of money laid out and disbursed on account of the said undertaking with the treasurer, receiver and receivers, and other officer or officers to be by them, or by their said committee, or by any person or persons whomsoever employed by, or concerned for, or under them, in and about the said undertaking; and to that purpose shall have the power to adjourn themselves over from time to time and from place to place as shall be thought convenient by the persons entitled to a majority of votes in manner aforesaid; and every general meeting or such committee assembled by the authority of this ordinance shall have power from time to time to make such call or calls of money from the proprietors of the said undertaking to defray the expenses of or to carry on the same as they from time to time shall find wanting and necessary for this purpose: Provided, however, that no one call do exceed the sum of two pounds and ten shillings current money of this province for each share

No. 174.

Railroad from Sherbrooke to the River Richelieu.

of twelve pounds and ten shillings, and provided also that no calls be made but at the distance of one calendar month from each other; and such committee shall have full power and authority to manage and direct all and every the affairs of the said company of proprietors, as well in contracting for and purchasing lands, rights, and materials for the use of the said undertaking, as in employing, ordering, and directing the work and workmen, and in placing and removing under officers, clerks, servants, and agents, and in making all bargains and contracts touching the said undertaking; provided that no such purchase, bargain, or other matter be done or transacted without the concurrence of a majority of such committee, and the owner or owners of one or more share or shares in the said undertaking shall pay his, her, or their shares and proportion of the moneys so called for as aforesaid, to such person or persons and at such time and place as the said general meeting or committee shall from time to time appoint and direct, of which three weeks' notice at least shall be given in the Montreal Gazette and Sherbrooke Gazette (if then published) or in any other papers of extensive circulation, or in such other manner as the said proprietors or their successors shall at any general meeting direct or appoint; and if any person or persons shall neglect or refuse to pay his, her, or their ratable or proportionate part or share of the said money to be called for as aforesaid, at the time and place appointed by such general meeting or committee, he, she, or they neglecting or refusing shall forfeit a sum not exceeding five pounds for every hundred pounds of his, her, or their respective share and shares in the said undertaking; and in case such person and persons shall neglect to pay his, her, or their ratable calls as aforesaid, for the space of three calendar months after the time appointed for the payment thereof as aforesaid, then he, she, or they shall forfeit his, her, or their respective share and shares in the said undertaking, and all the profits and benefits thereof; all which forfeitures shall go to the rest of the said company of proprietors of the said undertaking, their successors and assigns, in trust for and for the benefit of the said proprietors in proportion to their respective interests.

Provided always, and be it further ordained and enacted by the authority aforesaid, That no advantage shall be taken of the forfeiture of any share or shares of the said undertaking, unless the same shall be declared to be forfeited at some general meeting of the said company of proprietors assembled at any time after such forfeiture shall have been incurred, and every such forfeiture shall be an indemnification to and for every proprietor so forfeiting against all action and actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such proprietor and the other proprietors, with regard to the carrying on of the said railroad or undertaking.

And be it further ordained and enacted by the authority aforesaid, That the said company of proprietors and their successors shall always have power and authority at any general meeting assembled as aforesaid to remove any person or persons chosen upon such committee as aforesaid, and to elect others to be of the committee in the room of those who shall die, resign, or be removed, and to remove any other officer or officers under them, and to revoke, alter, amend, or change any of the rules and directions hereinbefore prescribed with regard to their proceedings amongst themselves (the method of calling general meetings, and their time and place of assembling, and the manner of voting and of appointing committees only excepted), and shall have power to make such new rules, bye-laws, and orders, for the good government of the said company and their servants, agents, and workmen, for the good and orderly making, maintaining, and using the said railroad, and other works connected therewith or belonging thereto, and for the well governing of all persons whomsoever, travelling upon or using the said railroad and other works, or transporting any goods, wares, merchandises, or other commodities thereon, and to impose and inflict such reasonable fines and forfeitures upon the persons guilty of a breach of such rules, bye-laws, or orders as to such general meeting shall seem meet, not exceeding the sum of fifty shillings currency of this province for any one offence, such fines or forfeitures to be levied and recovered by such ways and means as are hereinafter mentioned, which said rules, bye-laws, and orders, being put into writing under the common seal of the said company of proprietors, shall be published at least twice in the said Montreal Gazette and the said Sherbrooke Gazette (if then published), or any other newspapers in extensive circulation, and affixed in the office of the said company of proprietors, and in all and every of the places where the tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same; and the said

No. 174.

Railroad from Sherbrooke to the River Richelieu.

rules, bye-laws, and orders so made and published as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient in any court of law or equity to justify all persons who shall act under the same.

And be it further ordained and enacted by the authority aforesaid, That it shall and may be lawful to and for the several proprietors of the said railroad or undertaking to sell and dispose of his, her, or their share or shares therein, subject to the rules and conditions hereinafter mentioned; and every purchaser shall have a duplicate deed of bargain and sale and conveyance unto him, her, or them, before two witnesses; and one part of such deed, duly executed by the seller and purchaser, shall be delivered to the said committee or their clerk for the time being, to be filed and kept for the use of the said company, and an entry thereof shall be made in a book or books to be kept by the said clerk for that purpose, for which no more than one shilling and three pence shall be paid; and the said clerk is hereby required to make such entry accordingly; and until such duplicate of such deed shall be so delivered to the said committee or their clerk, and filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said undertaking, nor any interest for the said share or shares paid unto him, her, or them, nor any vote as a proprietor or proprietors.

And be it further ordained and enacted by the authority aforesaid, That the sale of the said shares shall be in form following, varying the names and descriptions of the contracting parties as the case may require:—

"I (*A. B.*), in consideration of the sum of in hand paid to me by (*C. D.*), of do hereby bargain, sell, and transfer to the said (*C. D.*) share (*or* shares) of the stock of 'The Eastern Townships Railroad,' to hold unto him the said (*C. D.*), his heirs, executors, curators, administrators, and assigns, subject to the same rules and orders and on the same conditions that I held the same immediately before the execution hereof; and I, the said (*C. D.*), do hereby agree to accept the said share (*or* shares) subject to the same rules, orders, and conditions.

Witness our hands and seals this day of in the year

Signed and Executed, } L. S.
in the presence of" } L. S.

And be it further ordained and enacted by the authority aforesaid, That it shall and may be lawful to and for the said company of proprietors, and they are hereby authorized from time to time to nominate, appoint, or remove a treasurer or treasurers, and a clerk or clerks to the said company of proprietors, who shall at all times, and from time to time, while in office, account to the said chairman and committee touching all matters and things that may come into his or their charge, or under his or their direction and management, upon any requisition made by the said chairman on behalf of the said committee, and who shall render a just and true account to the said company at each and every semi-annual meeting thereof, and shall keep perfect, just, and true books of accounts, subject all times to inspection and examination by the said president; and it shall also be lawful to and for the said chairman and committee, on behalf of the said company, and they are hereby authorised to name and appoint such clerk or clerks, engineers, overseers, and other officers, as may from time to time be reqiusite and necessary; and such clerk or clerks shall, in a proper book or books, enter and keep a true and perfect account of the names and places of abode of the several proprietors of the said railroad or undertaking, and of the several persons who shall from time to time become owners and proprietors of, or entitled to, any share or shares therein, and of all the other acts, proceedings, and transactions of the said company of proprietors, and of the committee for the time being, by virtue of and under the authority of this Ordinance, and at all times shall be accountable to the said committee, who may at any time remove any such clerk or clerks or other officer or officers, and engage and appoint another or others in his or their stead.

And in order to ascertain the amount of the clear profits of the said undertaking, be it further ordained and enacted by the authority aforesaid, That the said company, or the committee for managing the affairs of the said company, shall, and they are hereby required to, cause a true, exact, and particular account to be kept, and annually made up and balanced on the second Tuesday in January in each and every year, of the money collected and received by the said company,

or by the committee or treasurer of the said company, or otherwise, for the use of the said company by virtue of this Ordinance, and of the charges and expenses attending the erecting, making, supporting, maintaining, and carrying on the said works, and of all other receipts and expenditure of the said company, or the said committee; and at the semi-annual meetings of the proprietors of the said undertaking to be from time to time holden as aforesaid, or at some adjournment thereof, a dividend shall be made out of the clear profits of the said undertaking, unless such semi-annual meetings shall declare otherwise; and such dividends shall be at and after the rate of so much per share upon the several shares held by the members thereof of the joint stock of the said company, as such meeting shall think fit to appoint and determine: Provided always, That no dividend shall be made whereby the capital of the said company shall be in any degree reduced or impaired; nor shall any dividend be paid in respect of any share, after a day appointed for payment of any call for money in respect thereof, until such call shall have been paid.

And be it further ordained and enacted by the authority aforesaid, That it shall be lawful to and for the said company of proprietors, their successors and assigns, from time to time, and at all times hereafter, to ask, demand, take, and recover to and for their own proper use and behoof, for all goods, wares, merchandizes, and commodities of whatever description transported upon the said railroad, tenpence currency of this province per ton weight, or per ton measurement (at the option of the said company), for each and every mile the said goods, wares, merchandises, and commodities shall be so conveyed; and the sum of threepence currency per mile for every passenger, and so in proportion for any larger or less weight of goods, wares, merchandises, and commodities so carried and conveyed as aforesaid; which said sum or sums, rate or rates of freight and conveyance, shall be paid to such person or persons, and at such place or places on or near to the said railroad, and in such manner and under such regulations as the said company of proprietors or their successors shall direct and appoint; and in case of denial or neglect of payment of any such rates or dues, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said company of proprietors may sue for and recover the same in any court having competent jurisdiction; or the person or persons to whom the said rates or dues ought to be paid may, and he is, and they are hereby empowered to seize and detain such goods, wares, merchandises, or other commodities, for and in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof, and in the mean time such goods, wares, merchandises, and other commodities, shall be at the risk and expense of the owner or owners thereof; and the said company of proprietors shall have full power from time to time at any general meeting to lower or reduce all or any of the said rates or dues, and again to raise the same (not exceeding in any case the sums or rates before mentioned) as often as it shall be deemed necessary for the interests of the said undertaking.

Provided always, and be it further ordained and enacted by the authority aforesaid, That in all cases where there shall be a fraction of a mile in the distance on which goods, wares, merchandises, or other commodities or passengers shall be conveyed or transported on the said railroad, such fraction shall, in ascertaining the said rates, be deemed and considered as a whole mile; and that in all cases where there shall be a fraction of a ton weight of any such goods, wares, merchandises, or other commodities, a proportion of the said rates shall be demanded and taken by the said company of proprietors to the number of hundredweights contained therein; and in all cases where there shall be a fraction of a hundredweight, such fraction shall be deemed and considered as a whole hundredweight.

And be it further ordained and enacted by the authority aforesaid, That the said company of proprietors shall, and they are hereby required, at any time and at all times, to provide suitable carriages, subject to the approval of Her Majesty's Deputy Postmaster General, for the conveyance of Her Majesty's mail, and the person or persons in charge thereof, along the said railroad when completed and in use; nor shall any carriage or train of carriages or vehicles, whether for the conveyance of passengers or of goods, proceed at any time along such railroad, or any section thereof, without such carriage for the conveyance of Her Majesty's mail, except under the express written licence and instructions of Her Majesty's Deputy Postmaster General to the said company, stating at what time and on what occasions he shall not require that the mail be so conveyed; and to this end, the said company shall notify to the said Deputy Postmaster General the days and

No. 174.

Railroad from Sherbrooke to the River Richelieu.

hours at which their trains and carriages will start from either end of such railroad, and shall not change such times of starting without giving at least six days' notice of such change to the said Deputy Postmaster General; and the said company shall not for the conveyance of the said mail, and of the person or persons in charge thereof and of the carriage so to be provided for the conveyance thereof as aforesaid, charge or demand a greater rate than one penny currency per mile for each person in charge thereof, and one halfpenny currency per mile for each conveyance of a mail weighing one hundredweight or less, and one farthing currency per mile for each half-hundredweight of such mail above the first hundredweight, making no charge for any fraction of a hundredweight less than half a hundredweight, when the whole weight of the mail shall exceed one hundredweight, or one hundred and twelve pounds avoirdupoise; and for each and every refusal or neglect by the said company to comply with the requirements of this section, the said company shall forfeit and pay to Her Majesty, her heirs and successors, to and for the public uses of the province, a sum not exceeding twenty-five pounds currency, to be recovered, with costs, in any court having original civil jurisdiction to that amount: Provided always, That nothing in this section shall be construed to prevent the said Deputy Postmaster General from making such arrangement and agreement with, and granting such permission or authority to, the said company with regard to the conveyance of Her Majesty's mail as he shall deem expedient; and such arrangement, agreement, permission, or authority shall be good and valid, and shall be a sufficient indemnification to the said company for anything done or omitted in pursuance thereof, anything in this section to the contrary notwithstanding.

Provided always, and be it further ordained and enacted, That it shall and may be lawful to and for the said company of proprietors, their successors and assigns, from time to time, at a general meeting of the said proprietors, to make any such bye-law or bye-laws for ascertaining and fixing the price and sum or sums of money to be charged or taken for the carriage of any parcel not exceeding one hundred and twelve pounds weight upon the said railroad or any part thereof, as to them shall seem fit and reasonable, and the said company of proprietors and their successors and assigns shall from time to time print and stick up and cause to be printed and stuck up in their office, and in all and every the places where the tolls, rates, and dues are to be collected, in some conspicuous place there, a printed paper ascertaining and particularising the price, or sum or sums of money, to be charged or taken for the carriage of such parcels not exceeding one hundred and twelve pounds weight as aforesaid upon the said railroad, or upon any part thereof.

And be it further ordained and enacted, That the said company of proprietors shall, within six calendar months after any lands shall be taken for the use of the said railroad or undertaking, divide and separate, and keep constantly divided and separated, the land so taken from the lands or grounds adjoining thereto, with a sufficient post and rail fence, hedge, ditch, trench, bank, or other fence, sufficient to keep off hogs, sheep, and cattle, to be set and made on the lands or grounds which shall be purchased by, conveyed to, or vested in the said company of proprietors as aforesaid, and shall at their own cost and charges from time to time maintain, support, and keep in sufficient repair such posts, rails, hedges, ditches, trenches, banks, and other fences to be set up and made as aforesaid: Provided always, That none of the provisions of this section shall apply to any wild lands (not being part of lots of which other portions are under cultivation) which at the time of the purchase by the said company shall not be cleared and under cultivation until the same, or some portion of the lots of which they form part, shall be under cultivation.

And be it further ordained and enacted by the authority aforesaid, That whenever any farm or other improved lands occupied by and belonging to the same person or persons shall be divided and separated into two parts by the said railroad, the said company of proprietors shall erect and place a gate or other moveable barrier on each side of the said railroad, in such manner as to allow to the said person or persons a convenient passage and communication to, with, and between the parts of the said farm or improved lands, so divided and separated as aforesaid: Provided always, That it shall not be lawful for such person or persons to cross or in any manner to pass over the said railroad save at the place where such gates or barriers shall be so erected as aforesaid; and provided also that it shall be lawful for the said company of proprietors to make such rules and bye-laws for the opening

No. 174.

Railroad from Sherbrooke to the River Richelieu.

and closing, regulating, keeping, and using of the said gates and barriers as may be necessary and expedient for securing to the said company the safe and unobstructed use of the said railroad, and to impose for each offence against such rules and bye-laws, or any of them, a penalty not exceeding five shillings currency, to be recovered in like manner as other penalties under this Ordinance may be recovered.

And be it further ordained and enacted, That as soon as conveniently may be after the said railroad or undertaking shall be completed, the said company of proprietors shall cause the same to be measured, and stones or posts with proper inscriptions on the side or sides thereof, denoting the distance from the eastern end of the railroad (or of the section thereof on which they shall be placed), to be erected, and for ever after maintained, at the distance of every mile from each other.

And be it further ordained and enacted by the authority aforesaid, That the said company of proprietors, their successors and assigns, shall and are hereby required and directed to take sufficient security by one or more bonds in a sufficient penalty or penalties from their treasurer, receiver, and collector for the time being of the moneys to be raised by virtue of this Ordinance, and for the faithful execution by such treasurer, collector, and receiver of his and their office and offices respectively.

And whereas several persons have subscribed, or may hereafter subscribe, to advance money towards carrying the purposes of this Ordinance into execution, Be it therefore further ordained and enacted by the authority aforesaid, That the several person and persons who have subscribed, or may hereafter subscribe, to advance any money for and towards making and maintaining the said railroad, and other works connected therewith, shall and they are hereby required to pay the sum or sums of money by them respectively subscribed for, or such parts or portions thereof as shall be called for from time to time by the said company of proprietors, under and by virtue of the powers and directions of this Ordinance, to such person or persons and at such time and places as shall be directed by the said company of proprietors, or the said committee in manner before mentioned; and in case any person or persons shall neglect or refuse to pay the same at the time and in the manner required for that purpose, it shall be lawful for the said company of proprietors to sue for and recover the same in any court of law having competent jurisdiction.

And be it further ordained and enacted by the authority aforesaid, That all fines and forfeitures imposed by this Ordinance, or which shall be imposed by virtue of any rule, order, or bye-law, to be made in pursuance thereof (of which rule, order, or bye-law when produced all justices are hereby required to take notice), the levying and recovering of which fines and forfeitures are not hereinafter particularly provided for, shall upon proof of the offence before any one or more justice or justices of the peace for the district, territorial division, or sheriff's district, within which such offence shall have been committed, either by the confession of the party or parties, or by the oath or affirmation of any one credible witness (which oath or affirmation such justice or justices are hereby empowered and required to administer without fee or reward), be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal, or hands and seals, of such justice or justices; and all such respective fines, forfeitures, and penalties by this Ordinance imposed and inflicted, or authorised to be imposed or inflicted, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the treasurer or receiver of the moneys to be raised by virtue of this Ordinance, and shall be applied for the use of the said railroad or undertaking, and the overplus of the money to be raised by such distress and sale, after deducting the penalty and expenses of the levying and recovering thereof, shall be paid over to the owner of the goods so distrained and sold, and for want of sufficient goods and chattels whereon to levy the said penalty and expenses, the offender shall be committed to the common gaol of the district, territorial division, or sheriff's district within which such offence shall have been committed, there to remain without bail or mainprize for such term not exceeding one month as such justice or justices shall think proper, unless such penalty or forfeiture, and all costs and expenses attending the same, shall be sooner paid and satisfied.

And be it further ordained and enacted by the authority aforesaid, That if any person or persons shall think himself, herself, or themselves aggrieved by anything done by any justice or justices of the peace, in pursuance of this Ordinance, every

No. 174.

Railroad from Sherbrooke to the River Richelieu.

such person or persons may, within four months after the doing thereof, appeal to the justices of the peace at the general quarter sessions of and for the district, territorial division, or sheriff's district, within which such justice or justices so complained of as aforesaid may reside.

And be it further ordained and enacted by the authority aforesaid, That if any action or suit shall be brought or commenced against any person or persons for anything done or to be done in pursuance of this Ordinance, or in the execution of the powers and authorities or the orders and directions hereinbefore given or granted, every such suit or action shall be brought or commenced within six calendar months after the fact committed; or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards, and the defendant or defendants in such action or suit may plead the general issue, and give this Ordinance and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Ordinance, and if it shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the plaintiff or plaintiffs shall be nonsuit, or discontinue his, her, or their action or suit, after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have full costs, and shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in other cases by law.

And be it further ordained and enacted by the authority aforesaid, That at any time before or after the making and completing of the said railroad or undertaking it shall and may be lawful for Her Majesty, her heirs and successors, to assume the possession and property of the same, and of all and every the works and dependencies thereunto belonging, or in any wise appertaining, upon paying to the said company of proprietors, their successors and assigns, the full amount of their respective shares, or of the sums furnished and advanced by such subscribers towards making and completing the said railroad and works connected therewith, together with such further sum as will amount to twenty-five per centum upon the moneys so advanced and paid, as full indemnification to such company of proprietors, by annual payments of at least twenty per cent., allowing moreover to the said company six per cent. interest upon the unredeemed part of the capital, but not allowing them any interest upon the advance of twenty-five per cent. which is allowed them as aforesaid; and the said railroad or undertaking, and all and every the works and dependencies thereunto belonging, shall, from the time of such assumption in manner aforesaid, appertain and belong to Her Majesty, her heirs and successors, who shall from thenceforward be substituted in the place and stead of the said company of proprietors, their successors and assigns, for all and every the purposes of this Ordinance, in so far as regards the said railroad or undertaking.

And be it further ordained and enacted by the authority aforesaid, That the said company of proprietors shall between the first day of January and the thirty-first day of December in each and every year, and at such time within the said periods as the Governor, Lieutenant-Governor, or person administering the government of this province shall appoint, lay before him or such officer, as he shall direct to receive the same, a detailed and particular account, attested upon oath, and made in such form as he shall direct, of all moneys by the said company received or expended under the authority of this Ordinance, and with a statement of the amount of tonnage and of passengers conveyed along the said railroad during the period for which the account shall be rendered.

And be it further ordained and enacted by the authority aforesaid, That it shall and may be lawful for the said company of proprietors, in constructing and making the railroad, to take and appropriate for the use of the same so much of the land covered with the waters of the lake Memphramagog, or of the land covered with the waters of the river Richelieu or of its bed, or of the land covered with the waters of the river Magog or of its bed, as may be found necessary for the making and completing, extending, maintaining, or more conveniently using the same, and therefore erect such wharves, quays, inclined planes, cranes, and other works as to the said company shall seem meet, and to construct, erect, and maintain a bridge or bridges, as may be necessary, across the river Magog at the outlet of lake Memphramagog, or elsewhere; and also to construct, erect, and maintain a bridge across the river Richelieu for the purposes of the said railroad, but no such bridge over the river Richelieu shall be constructed by the said company, except according

No. 174.

Railroad from Sherbrooke to the River Richelieu.

to such plan thereof as shall have been submitted to the Governor, Lieutenant-Governor, or person administering the government of this province, and shall have been by him approved in writing under his hand: Provided always, That the said company of proprietors shall not, under any provision of this section or any part of this Ordinance, in any way obstruct or impede the free navigation of the said river Richelieu, or any part thereof, nor in any way encroach upon, restrict, interrupt, or nullify any of the powers, rights, and privileges heretofore granted to and vested in the company of proprietors of the Champlain and St. Lawrence railroad, or in any way affect the use and value of the Chambly canal: Provided also, That the said company shall not in any way interfere with or infringe the privileges granted to the Honourable Robert Jones and his legal representatives by a certain Act of the legislature of this province passed in the sixth year of the reign of His late Majesty George the Fourth, intituled "An Act to authorize Robert Jones to build a Toll-Bridge over the River Richelieu in the Parish of Saint Luke at Saint John's near the Rapids, to fix the Rates of Toll for passing thereon, and to provide Regulations for the same," without the express consent in writing of the said Robert Jones or his legal representatives; and the said company of proprietors of the railroad hereby authorized to be made shall not, in the execution of the powers, privileges, and authorities to them hereby granted, in any way impede or obstruct the use, efficiency, or working of any public work of any kind whatsoever, nor shall the powers by this Ordinance vested in the said company extend to the taking or using of any lands, grounds, beach, or real property whatever, the property whereof is now vested in Her Majesty, without the consent of the Governor, Lieutenant-Governor, or person administering the government of this province for the time being, signified in writing under the hand of the secretary and registrar of the province.

And be it further ordained and enacted by the authority aforesaid, That for the purpose of facilitating all matters and things relating to the said undertaking, and until a chairman and committee shall be duly elected according to the provisions of this Ordinance, it shall be lawful for the persons hereinbefore mentioned, at a meeting held for that purpose, to constitute and appoint, by a majority of votes of such of the said persons as shall be present thereat, a temporary committee to be chosen from among themselves, to consist of nine in number, five of whom shall form a quorum, who shall be thereby authorised by virtue of this Ordinance to do, transacts and execute all matters and things needful and necessary towards carrying the present Ordinance into effect, until a committee shall be duly elected at the first general meeting as aforesaid.

And be it further ordained and enacted by the authority aforesaid, That it shall and may be lawful for the said company of proprietors to divide the said route of the said railroad into five sections, to wit, from the town of Sherbrooke to the outlet of Lake Memphramagog to be Section Number One; from the outlet of lake Memphramagog to Brome Lake, or the village of Waterloo in the township of Shefford, to be section Number Two; and the remaining distance from thence to the said river Richelieu, as aforesaid, shall be divided as equally as may be into three sections, to be respectively sections Three, Four, and Five; and the company of proprietors shall and may proceed with, finish, and complete one or more of the said sections, as they shall deem advisable: Provided, That such section or sections shall commence at the town of Sherbrooke, and be continued uninterruptedly towards the said river Richelieu as aforesaid, and upon that one or more of the said sections being so completed and made available for the transportation and conveyance of property and passengers, they, the said company of proprietors, shall be, and they are hereby authorised to open such section or sections for the transportation and conveyance of property and passengers, and therefore to exact, take, and receive toll or fare, but not to divide any profit or dividend until the said railroad be completed, the whole under the authority and provisions of this Ordinance.

And be it further ordained and enacted by the authority aforesaid, That the said company of proprietors, to entitle themselves to the benefits and advantages to them granted by this Ordinance, shall, and they are hereby required to make and complete the said railroad, in manner aforesaid, from the said town of Sherbrooke to its said terminus at the said River Richelieu as aforesaid, within ten years from the passing of this Ordinance, and that the book and plan hereby required to be prepared shall be prepared and deposited of record within two years next after the passing of this Ordinance; and if the same shall not be so completed and deposited respectively within the said period, so as to be used by the public, then this Ordinance and every matter and thing therein contained shall cease and be utterly null and void, as far

No. 174.

Railroad from Sherbrooke to the River Richelieu.

only as regards such of the aforesaid sections of the aforesaid route of the said railroad as shall not be then completed and in use, but shall remain in full force and effect with regard to any section or sections of the said railroad which shall be completed and in use to the public within the said term of ten years, as fully as if the whole distance were completed, anything in this Ordinance contained to the contrary notwithstanding: Provided always, That if the said railroad shall not have been commenced, or if the sum of twenty thousand pounds currency, or a greater sum, shall not have been expended on the said railroad and the works thereunto appertaining within five years from the passing of this Ordinance, then this Ordinance shall cease and become utterly null and void and of no effect, unless one section at least of the said railroad shall have been completed and in use before the expiration of the term of five years from the passing of this Ordinance.

And be it further ordained and enacted by the authority aforesaid, That nothing herein contained shall affect, or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, her heirs or successors, or any bodies politic, corporate, or collegiate, except such as are herein expressly mentioned and affected.

And be it further ordained and enacted by the authority aforesaid, That this Ordinance shall be deemed and taken to be a public Act or Ordinance, and as such shall be judicially taken notice of by all judges, justices of the peace, and others, without being specially pleaded.

And be it further ordained and enacted by the authority aforesaid, That this Ordinance shall be, and the same is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the province, at the Government House in the city of Montreal, the twenty-first day of January, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty-one.

By his Excellency's command,

(Signed) W. B. LINDSAY,
Clerk, Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the twenty-first day of January, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

W. B. LINDSAY,
Clerk, Special Council.

(Copy.)

No. 175.

No. 175.

Construction of a Turnpike Road from the River Richelieu to the Village of Granby.

CAP. 11.—*An Ordinance to provide for the Construction of a Turnpike Road from the River* Richelieu *opposite the Town of* Dorchester, *commonly called St.* John's, *to the village of* Granby. [Passed 21st January, 1841.]

WHEREAS the construction of a turnpike-road from the River Richelieu, opposite the Town of Dorchester, commonly called St. John's, to the village of Granby, would conduce to the public advantage, and it is expedient to incorporate a company for that purpose, Be it ordained and enacted, by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this Province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the

No. 175.

Construction of a Turnpike Road from the River Richelieu to the Village of Granby.

reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making Temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the session held in the third and fourth years of the reign of Her present Majesty, intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that Charles William Grant, Robert Jones, François Marchand, William Macrae, Louis Marchand, Curtis Pattee, Nelson Mott, Virgil Titus, William Dobie Lindsay, Asa Willet, James E. Mott, William Plenderleath Christie, John Pickel, John Jones, James E. Watson, Ambroise Bourgeois, Harman Titus, Edward Bourgeois, Horace Wheeler, William Gorman, George M'Donald, Charles Morgeon the younger, Joseph Ouimet, Edward C. M'Donald, William M'Ginnis, George Scoy, and Jason C. Pierce, together with such persons as shall under the provisions of this Ordinance become proprietors of any share in the road hereby authorized to be made, and their several and respective heirs, assigns, and legal representatives, being proprietors of any share in the said road, are and shall be united into a company for making and maintaining a turnpike-road to be called "The St. John's and Granby Turnpike Road," and shall for that purpose be a body politic and corporate by the name of "The Company of Proprietors of the St. John's and Granby Turnpike Road," and by that name shall have perpetual succession and a common seal, and may sue and be sued, and also may purchase and hold lands, tenements, and hereditaments from any and all persons, communities, and bodies politic and corporate, for the use of the said undertaking, without Her Majesty's Letters d'Amortissement, and may sell any of the said lands, tenements, and hereditaments purchased for the purposes aforesaid, and others in their stead acquire; and generally shall have all the powers and capacities which bodies corporate by law have, subject to the provisions hereinafter contained: Provided always, That save and except for the purposes of receiving subscriptions for the capital stock of the said company, and payments thereupon in the manner hereinafter provided, the capacities, powers, or authority hereby conferred shall not be in force or in any manner operative or available to the said company or to any person or persons whomsoever, until the entire amount of the said capital stock shall be subscribed for and taken up, nor until a sum equal to at least ten pounds upon every hundred pounds of the said capital stock be actually paid in.

And be it further ordained and enacted, That it shall be lawful for the said company of proprietors, and their successors, to raise and contribute among themselves, a sum of money not exceeding ten thousand pounds currency, which shall constitute and be the capital stock of the said company for the purposes of this Ordinance, and shall be divided into four hundred shares of twenty-five pounds currency each share; and in case the said sum of ten thousand pounds shall be found insufficient for the making, completing, and maintaining the said road, it shall be lawful for the said company to raise and contribute among themselves in the manner and form aforesaid, or by the admission of new subscribers, a further sum of money not exceeding the sum of five thousand pounds currency, which shall be divided into shares of twenty-five pounds currency each, in like manner as is provided with respect to the said sum of ten thousand pounds; and any person subscribing for and taking any shares in the said additional capital stock of five thousand pounds shall have the same rights and be subject to the same rules and liabilities as the original subscribers and members of the said company.

And be it further ordained and enacted, That it shall be lawful for the company of proprietors of the Champlain and St. Lawrence railroad to subscribe for, take, and hold of the capital stock of the said company of proprietors of the St. John's and Granby turnpike-road, an amount not exceeding fifty shares, and the same to sell and dispose of, and again to purchase, acquire, and hold other shares in the said capital stock (not exceeding the number aforesaid at any one time), for the benefit of the said company of proprietors of the Champlain and St. Lawrence railroad, at such time and times and in such manner as to them shall seem fit and expedient.

And whereas divers persons in contemplation of the passing of this Ordinance have subscribed and promised to advance certain sums of money to and for the purposes thereof; Be it therefore further ordained and enacted, That all such subscriptions and promises to advance money shall be taken and held to be subscriptions for and towards the capital stock of the said company, and the persons who

No. 175.

Construction of a Turnpike Road from the River Richelieu to the Village of Granby.

have so subscribed and promised shall be entitled to the same rights, and be held, bound, and liable in the same manner as the persons who shall hereafter subscribe for and towards the said capital stock or any portion thereof, and shall, in all respects and to all intents and purposes whatsoever, be considered members of the said company.

And be it further ordained and enacted, That Curtis Pattee, Jason C. Pierce, Robert Jones, William M'Ginnis, Louis Guerout, Horace Lyman, John E. Mills, Charles H. Castle, John Boston, and William D. Lindsay, shall be a committee for opening a subscription-book and receiving subscriptions for the said capital stock and payments for and on account thereof; and so soon as the entire amount of the said capital stock shall have been subscribed for and taken up, and the sum of one thousand pounds actually paid in, the said committee shall call a meeting of the said company at some convenient place in the town of Dorchester, commonly called St. John's, by notice to be inserted in two of the newspapers published in the city of Montreal at least two weeks previous to the time fixed for the said meeting, and the subscribers then present, or their proxies, shall elect by a majority of votes, to be given by ballot, nine stockholders to be directors of the said company for the year then next ensuing; and the said committee shall thereupon immediately deliver to the said directors the subscription-books, and pay over to such directors the moneys received by them on account of the said subscriptions for the capital stock of the said company, and shall also deliver to the said directors all papers, vouchers, and other things which may be in their possession belonging to the said company.

And be it further ordained and enacted, That an election for directors shall hereafter be annually held at such place as may be appointed by the bye-laws of the company on the same day of the same month on which the first election shall have been held as aforesaid; or if such day be a Sunday or holiday, then on the day next thereafter not being a Sunday or holiday. Provided always, That if such election by reason of any matter or thing shall not be had upon such day, the said corporation shall not lapse or be dissolved, but the said election shall be held on some early day to be appointed by the directors theu in office, who shall give notice thereof in the manner required with respect to the first election, and who, after the day on which such election ought to have been held, shall be incapacitated from doing any act as directors, except such as may be necessary for giving effect to the election so to be appointed.

And be it further ordained and enacted, That at every general meeting of the company one of the stockholders shall be appointed chairman, and all questions, matters, and things of the said company shall be decided by a majority of votes: Provided always, That in case the votes be equally divided, the chairman shall be entitled to a double or casting vote.

And be it further ordained and enacted, That each stockholder, in person or by proxy, shall be entitled on the shares held by him to one vote for each share to the number of five, making five votes for five shares, and for every five shares above that number to one additional vote; and every stockholder of the said company may vote by proxy, provided that such proxy shall produce from his constituent an appointment in writing, but no one person shall act as proxy for absent stockholders for more than fifty shares.

And be it further ordained and enacted, That no stockholder who shall not be a natural-born subject of Her Majesty, or a subject of Her Majesty naturalized by Act of the British Parliament, or by Act of the Parliament of Lower Canada or of Upper Canada, or of the Province of Canada, shall be elected president or director of the said company.

And be it further ordained and enacted, That any five or more of the directors shall form a quorum of the board for the transaction of business, and the acts of a majority of such quorum shall bind the company.

And be it further ordained and enacted, That the Board of Directors shall at their first meeting elect by ballot out of their number a president and vice-president of the said company, which said president shall preside at all meetings of the board when present, and in his absence the vice-president shall preside if present, and in the absence of the president and vice-president one of the directors shall be appointed by the board to preside; and the person so presiding shall in all cases of equality of votes at any meeting of the said board have a double or casting vote; and the said board shall by an election to be made as aforesaid supply every vacancy that may occur in the office of president, vice-president, or director, from

No. 175.

Construction of a Turnpike Road from the River Richelieu to the Village of Granby.

death, sickness, absence from the province of more than three months, or from any other cause whatsoever; and the person chosen to fill such vacancy shall hold his office until the next annual election.

And be it further ordained and enacted, That the said Board of Directors shall have power, and it shall be their duty—

To meet from time to time at such place as they may deem expedient:

To make bye-laws for the regulation of the affairs of the company:

To appoint such subordinate officers, artists, and workmen as they shall deem necessary to execute the business of the company, and to require from such officers whenever they may deem expedient such security for the due performance of their respective duties as the said board in their discretion may think proper:

To demand at such time and in such proportion as they shall see fit, but after public notice to be given in two newspapers published in the city of Montreal, during at least thirty days, from the respective stockholders, the sums of money due on their respective shares, under pain of forfeitures of such shares, and of all previous payments thereon, to the company, or at their option to recover the said sums of money by action at law:

To declare by a bye-law in what manner and under what restrictions special meetings of the said company shall be called:

To declare by a bye-law in what manner and under what restrictions the shares of their capital stock shall be transferable:

To lay out, construct, complete, and keep in constant repair the said road, with all the necessary buildings and appurtenances; and for that purpose to purchase lands, materials, and other necessary things:

To keep an account of all tolls received, and of all moneys disbursed, and, deducting costs and charges, to make and declare a dividend of the clear profits and income of the road among the stockholders, on such day in every year as may be appointed by the bye-laws:

To publish a notice of each dividend in one or more of the public newspapers printed in the city of Montreal, and of the time and place of the payment thereof, and to pay the same accordingly:

To report to the Governor of this province within six months after the said road shall be completed an account of the expenses of the construction thereof, and to exhibit annually to the said Governor an account of the sums arising from the tolls, and of the disbursements and dividends actually made within the year:

To establish the tolls to be demanded upon the said road for each year, beginning from the day of the general meeting of proprietors, such tolls not to exceed in amount the tolls hereinafter specified.

And be it further ordained and enacted, That the said company at every general meeting shall have power to call for, audit, and settle all accounts of money laid out and disbursed on account of the said undertaking, with the treasurer, receiver, officer, or other person employed by or concerned for or under the said company, in and about the said undertaking, and for that purpose shall have power to adjourn from time to time and from place to place as shall be thought convenient.

And be it further ordained and enacted, That the said company may, from and after the passing of this Ordinance, make and complete the said St. John's and Granby turnpike-road, from the banks of the river Richelieu, opposite the town of Dorchester, commonly called St. John's, beginning at a distance of not more than one mile above or below the toll-bridge over the said river Richelieu belonging to Robert Jones, to the said village of Granby, ending at a point not distant more than half a mile from the mill in the said village known as Guerout's mill, the said road proceeding between the said places of beginning and ending in as direct a line as may be found convenient and practicable: Provided always, That the said road shall be laid out not less than twenty-five feet wide between the ditches, sixteen feet of which shall be faced with gravel or broken stones of a depth not less than six inches, in such manner as to leave a firm and even surface rising properly in the middle, with good and sufficient ditches on each side of the said road, and a mile-stone or post shall be erected and maintained by the said company on each mile of the said road, on which shall be fairly and legibly inscribed the distance of such stone or post from the place of the commencement of the said road at the said river Richelieu.

And be it further ordained and enacted, That the said company for the purposes of this ordinance may by themselves, their agents, and servants, enter into and upon the lands and grounds of the Queen's Most Excellent Majesty, or of any person,

No. 175.

Construction of a Turnpike Road from the River Richelieu to the Village of Granby.

body politic, corporate, or collegiate, or community, and survey and take levels of the same, and set out and ascertain such parts thereof as they shall think necessary and proper for making, maintaining, improving, or conveniently using the said road, and also may dig, take, and carry away earth, trees, gravel, and any other matters and things which may be dug or got in making the said road or other works or out of the lands or grounds of any person or persons adjoining or lying convenient thereto, and which may be proper or necessary for making or repairing the said road or works incidental or relative thereto, or which may prevent or obstruct the making, using, improving, or maintaining the same, and may from time to time alter, repair, and extend the said road, and in connexion with the said road may construct, repair, and re-construct a good and sufficient bridge over the river Yamaska, in the county of St. Hyacinthe or the county of Shefford as may be found most advantageous, and may also construct, re-construct, and keep in repair any other bridges or any piers and other works across any other rivers or any brooks, or other work or works necessary for the making, using, and maintaining the said road; and may construct, erect, make, and do all other works and things which shall be convenient and necessary for the making, preserving, and easy using of the said road and other works, in pursuance of and according to the true intent and meaning of this Ordinance, they, the said company, doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned to the owners or proprietors of, or the persons interested in, such lands or grounds: Provided always, That the said company shall not, in making the said road, take or use any now existing highway as part of the said road except merely for the purpose of crossing such highway, nor shall they in any way obstruct or impede the free use of any now existing highway, or render the same in any way more difficult of passage or of access than it would otherwise be; anything herein contained to the contrary notwithstanding.

And be it further ordained and enacted, That for the purposes of this Ordinance the said company shall by a sworn surveyor of this province and by an engineer cause to be made surveys and levels of the said lands through which the said road is to be carried, together with a map or plan of such road, and of the course and direction thereof, and also a book of reference for the said road in which shall be set forth a description of the several lands and the names of the owners or occupiers thereof, and in which shall be contained everything necessary for the right understanding of such map or plan, which said map or plan and book of reference shall be made in triplicate and certified by the surveyor, who shall deposit one part thereof in the office of the Prothonotary of the Court of King's Bench for the district of Montreal, or of the division of the Court of Common Pleas which shall hold its sittings in the territorial division in which the city of Montreal shall be situate; one other part in the office of the secretary of this province; and shall deliver the remaining part to the said company; and all persons shall have liberty to resort to such map or plan and book of reference and obtain extracts or copies thereof as occasion shall require, paying to the said secretary of the province or to the said Prothonotary at the rate of sixpence currency of this province for every hundred words; and such extracts or copies of the said map or plan and book of reference, certified by the secretary of the province or the said Prothonotary, shall be good evidence in all courts of law and elsewhere.

Provided always, and it is hereby further ordained and enacted, That the said company may make their said intended road into, through, across, or over any lands or grounds marked in the said map or plan, although the name or names of the owners or occupiers, or of any of the owners or occupiers, of such lands or grounds be not mentioned in the said book of reference, or hath or have been by mistake omitted, or that instead of his, her, or their name, the name or names of some other person or persons to whom such last-mentioned lands or grounds do not belong hath or have by mistake been inserted in the said book of reference.

And be it further ordained and enacted, That after any lands or grounds shall be set out and ascertained in manner aforesaid, it shall be lawful for the said company to agree with the owners of any such lands through which the said road is to pass, for the purchase of so much thereof as shall be necessary for the making and completing the said road, and for the gates, toll-houses, and other works thereunto belonging; and in every case in which the owner of such land shall refuse to agree, or shall from any cause be unable or incapable of agreeing to sell or of selling such land, or shall be an absentee, the value of such land and the amount

No. 175.

Construction of a Turnpike Road from the River Richelieu to the Village of Granby.

of damages which may be suffered by reason of anything which the said company may do by virtue of this Ordinance shall be ascertained in the manner following, that is to say: one of the judges of the Court of King's Bench for the district of Montreal, or of the division of the Court of Common Pleas for the territorial division within which such land shall be situate, shall, upon the summary petition of the said company, whereof notice in writing shall be given at least five days previously to the occupier of such land, or, if the same be unoccupied, shall be published on two successive Sundays at the door of the church nearest to such land, appoint three fit and proper persons, being proprietors of real property within such district or territorial division, and not interested in the said road, to be arbitrators, to estimate and settle the value of such land and the amount of the damages aforesaid; which said arbitrators, being first duly sworn before a judge of one of the said courts (who is hereby authorised to administer the necessary oath), or any two of them, shall, on a day to be by them appointed, and of which the occupier of such land, if such there be, shall have at least two days' notice in writing, shall meet upon such lands, and shall then and there estimate, as well upon their own view as upon the evidence to be adduced by the parties respectively, the value of such land and the amount of damages suffered as aforesaid, if any, and shall with all diligence file their report and award in the premises in the office of the prothonotary of the said Court of King's Bench, or of the division of the Court of Common Pleas sitting on the territorial division within which such lands shall be situate, and upon such report and award being so made and filed, it shall be lawful for the said company, after signification and service of a copy thereof upon the occupier of the lands to which the same relates, if such occupier there be, and after payment or tender of the sum awarded for such land or damages to the owner if he be known and present, or the deposit thereof in the office of the prothonotary if such owner be not known or be absent, for him or to his use, to enter upon and take possession of such land, and the same to hold, use, and enjoy, for all the purposes of this Ordinance; and all costs and expenses of such arbitration shall be paid by the said company.

Provided always, and be it further ordained and enacted, That any body politic, community, corporation, or other person or persons whomsoever, who cannot, in common course of law, sell or alienate any lands or grounds so set out and ascertained, shall receive a fixed annual rent as an equivalent, and not a principal sum, to be paid for such land or ground; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed by arbitrators in the manner hereinbefore provided with respect to lands which the owner shall refuse to agree, or shall, from any cause, be unable or incapable of agreeing to sell, or of which the owner shall be an absentee.

And be it further ordained and enacted, That so soon as the said road or ten miles thereof shall have been completed, the said company shall give notice thereof to the Board of Works of this province, or, in case the said Board of Works shall not then be in existence, to the Governor of the province; and the said Board of Works, or, if the same be not then in existence, a person to be appointed for that purpose by the Governor, shall view the said road, or the portion thereof described in the notice, and upon the report of the said Board of Works, or of the person to be appointed as aforesaid, to the Governor of the province, that the said road or the portion thereof described in the notice, not being less than ten miles, is completed in a workmanlike manner, according to the requirements of this Ordinance, it shall be lawful for the said company to erect turnpike-gates and toll-houses on the said road or portion thereof so reported, not exceeding four in number, at a distance of not less than six miles apart, for the collection of the tolls by this Ordinance authorised to be exacted and received, one of which such turnpike-gates and toll-houses for the collection of toll may be placed upon the said bridge over the River Yamaska.

And be it further ordained and enacted, That the said company may demand, exact, and receive, at each of the said turnpike-gates and toll-houses to be established on the said road and on the said bridge over the River Yamaska, under and by virtue of this Ordinance, from all and every person and persons who shall pass upon or use the said road or bridge, the certain tolls and rates hereby designated and established, that is to say:—

For every waggon, wain, cart, or other wheel-carriage for the transportation of loads, the wheels whereof have tires or tracks of the breadth of four inches or upwards, English measure, drawn by one or two horses or other beasts, if the

No. 175.

Construction of a Turnpike Road from the River Richelieu to the Village of Granby.

same be loaded in whole or in part, the sum of fourpence halfpenny currency, and if the same be not loaded the sum of threepence currency; and for every such waggon, wain, or cart with wheels, the tires or tracks whereof shall have a breadth less than four and not less than two and a quarter inches, English measure, drawn as aforesaid, if loaded in whole or in part, the sum of fivepence currency, and if not loaded the sum of fourpence currency; and for every such waggon, wain, or cart with wheels, the tire or tracks whereof shall have a breadth less than two and a quarter inches, English measure, drawn as aforesaid, if loaded in whole or in part, the sum of sixpence currency, and if not loaded the sum of fourpence halfpenny currency, and for every additional horse or other beast to any such waggon, wain, or cart, hereinbefore mentioned, the further sum of threepence currency; for every coach, stage-coach, gig, caleche, dennet, spring-cart, or other wheel-carriage (other than waggons, wains, and carts of the description hereinbefore mentioned), having wheels with tires of the breadth of two and a quarter inches or upwards, English measure, drawn by one horse or other beast, the sum of sixpence currency; and for every such coach, stage-coach, gig, caleche, dennet, spring-cart, or other wheel-carriage (other than waggons, wains, and carts of the description hereinbefore mentioned), having wheels with tires or tracks less than two and a quarter inches, English measure, in breadth, drawn as aforesaid, the sum of sevenpence halfpenny currency, and for every additional horse to such stage-coach, gig, caleche, dennet, spring-cart, or other wheel-carriage, the further sum of threepence currency; for every sleigh, train, drag, berlin, carriole, or other winter vehicle whatsoever, drawn by one horse or other beast, the sum of threepence currency, and for every additional horse the sum of one penny currency; for every horse, mare, or gelding with a rider, the sum of threepence currency; for every horse, mare, gelding, ass, mule, ox, cow, and head of other neat cattle, not drawing, the sum of one penny currency; for every score of sheep, lambs, hogs, or swine, the sum of threepence currency: Provided always that Her Majesty's mail, and persons, animals, and carriages, employed in the conveyance thereof, and not otherwise loaded, Her Majesty's officers and soldiers actually on duty, and in proper staff or regimental or military uniform dress or undress, and their horses (but not when passing in a hired or private vehicle), and all carriages and horses belonging to Her Majesty, or employed in her service when conveying persons on such service or returning therefrom, and all recruits marching by route, and all persons, animals, and carriages attending funerals, shall pass toll-free through any turnpike and toll-gate to be erected under the authority of this ordinance: And provided also, That no more than one full toll in any one day (to be computed from twelve of the clock at night to twelve of the clock in the next succeeding night) shall be taken or demanded at the same turnpike-gate or toll-house, for or in respect of the same horse or horses, or other beast or beasts or cattle, drawing the same waggon, wain, or cart, coach, gig, caleche, dennet, spring-cart, or other wheel-carriage, or for or in respect of the same horse, mule, ass, or other beast or cattle, laden or unladen, or not drawing, or for or in respect of the same oxen or ox, neat cattle, calves, swine, sheep, or lambs, for passing or repassing through all or any of the gates along the line of the said road, except as hereinafter mentioned.

Provided also, and be it further ordained and enacted, That such exemption from the payment of toll shall, nevertheless, not extend to any stage-coach, diligence, van, caravan, stage-waggon, or other stage-carriage, or any cart conveying passengers or goods for pay or reward, or to any horse or horses, beast or beasts drawing the same; and if any person shall claim or take the benefit of any of the exemptions aforesaid, not being entitled to the same, every such person shall, for every such offence, forfeit and pay any sum not exceeding one pound currency, and in all cases the proof of exemption shall lie upon the person claiming the same.

And be it further ordained and enacted, That in case the said road, or any part of it, or the said bridge over the river Yamaska, shall at any time be out of repair, it shall be lawful for any person to make complaint thereof, in writing, to the district surveyor, or if there be no such officer, to any two justices of the peace having jurisdiction within the locality in which such part of the said road or te said bridge so being out of repair may lie, and such district surveyor or justices shall thereupon without delay view and examine the part of the said road or the said bridge so complained of, and shall, if such complaint shall be found to be just, give notice in writing to the toll-gatherer or gate-keeper, nearest to the part of the road so out of repair, or to the toll-gatherer or gate-keeper of the said bridge, as the

No. 175.

Construction of a Turnpike Road from the River Richelieu to the Village of Granby.

case may be, to repair the said road or bridge; and in case the same be not repaired within such reasonable time as the said surveyor or the said trustees may appoint, he or they shall order the two toll-gates nearest to the place so out of repair, or the toll-gates on the said bridge, as the case may be, to be thrown open, and the said toll-gates shall thereupon be kept open, and no toll shall be collected thereat, until such part of the said road so out of repair, or the said bridge, shall have been sufficiently repaired, and a certificate from the said surveyor or justices of the peace be granted to that effect; and every gate-keeper or toll-gatherer who shall not immediately obey such order to throw open such gates, or who, during the time that such gates ought to have been kept open as aforesaid, shall hinder or delay any person passing, or take or demand any toll, shall, for each offence, forfeit the sum of forty shillings to the party aggrieved, to be recovered with costs, in the like manner hereinafter provided: Provided always, That if the district surveyor, or such justices of the peace as aforesaid, shall, after the part of the said road or bridge so out of repair shall have been sufficiently repaired, refuse to grant a certificate to that effect, or if, by reason of their absence, application cannot be made to them, the gate-keeper of any gate which shall have been so thrown open may apply to any two justices of the peace, having jurisdiction within the locality in which such gate shall be situate, and such justices shall thereupon examine into the matter in question (and may, in case the district surveyor shall have refused such certificate, summon such district surveyor before them), and shall, if due proof be made of the sufficient repair of the said road or of the said bridge, grant a certificate to that effect, which certificate shall, to all intents and purposes, have the same effect as the certificate of the district surveyor, or of the justices by whose order the gates were thrown open, and may condemn the district surveyor, if he be found in fault, to pay the costs of such summons and the proceedings thereupon, which costs shall be levied by distress and sale of his goods and chattels, under the warrant of the said justices, or of one of them, if not forthwith paid.

And be it further ordained and enacted, That every gate-keeper or toll-gatherer who, at any toll-gate to be erected under the authority of this Ordinance, shall unwarrantably hinder or delay any traveller or passenger liable to the payment of toll, or shall demand from any person more toll than by this Ordinance he is authorised to collect, shall, for every such offence, forfeit a sum not exceediug twenty shillings currency to the person so aggrieved.

And be it further ordained and enacted, That the penalties by this Ordinance imposed upon gate-keepers and toll-gatherers on the said road shall be recovered with costs by plaint before any one of Her Majesty's justices of the peace having jurisdiction in the locality within which the offence shall have been committed, on the oath of one or more credible witnesses other than the party aggrieved, and may be levied with costs, by distress and sale of the offender's goods and chattels, by warrant under the hand of such justices or of one of them, and whenever goods and chattels of the defendant cannot be found to satisfy the judgment which may be rendered against him, it shall be satisfied by the said company; and if on demand payment of the forfeiture and costs awarded by judgment be refused by the said company, the amount thereof may be recovered with costs before any two justices as aforesaid, in the manner aforesaid, from the said company, and may in like manner be levied by distress and sale of the goods and chattels of the said company, under the warrant of such justices or of one of them.

And be it further ordained and enacted, That if any person shall wilfully hinder or obstruct the laying out, making, or completing of the said road, or of the said bridge over the river Yamaska, or any other bridge or work hereby authorised to be constructed and performed in the manner and according to the provisions herein contained, or shall cut, break down, destroy, or wilfully injure any turnpike-gate, toll-bar, toll-house, embankment, drain, or work of any kind whatever, erected or made under the authority of this Ordinance, such person so offending shall be guilty of a misdemeanour, and, being lawfully convicted thereof before any court of competent jurisdiction, may be punished by fine and imprisonment.

And be it further ordained and enacted, That any person who shall leave any waggon, cart, or other carriage, or shall lay or leave any matter or thing creating any obstruction of any kind in or upon the said road or the ditches or drains thereof, or in or upon the said bridge on the river Yamaska, shall incur a penalty not exceeding twenty shillings currency for each offence; and any person who shall clandestinely or forcibly pass, or attempt to pass, any turnpike-gate or toll-bar upon the said road or upon the said bridge, without having first paid the legal

No. 175.

Construction of a Turnpike Road from the River Richelieu to the Village of Granby.

toll thereat, such person shall incur a penalty not exceeding forty shillings currency for each offence; and any person who, after proceeding upon the said road or bridge, whether in the winter season or any other season, with any carriages, animals, or things liable to tolls, shall turn out of the same into any other road, or into any field or ground adjoining, so as to evade payment of toll at any turnpike-gate or toll-bar, such person shall for each such offence incur a penalty not exceeding ten shillings currency; and any person, body politic or corporate, occupying or possessing any enclosed land near the said road, who shall, whether in the winter or at any other season, knowingly permit or suffer any person to pass through such land, or through any gate, passage, or way thereon, with any carriage, animal, or thing liable to the payment of toll on such road, for the purpose of avoiding and so as to avoid the payment thereof, such person so offending, and the person so unlawfully avoiding such payment, shall each and severally incur a penalty not exceeding ten shillings currency for each offence, all which said penalties hereby imposed may be sued for and recovered with costs, on the oath of one competent witness before any two justices of the peace having jurisdiction in the locality within which such offence shall have been committed, and such justices may, on conviction, if such penalty be not forthwith paid, commit the offender to the common gaol for a period not exceeding two weeks for each offence, or until such penalty and costs be paid, and one moiety of all such penalties shall belong to the informer, and the other moiety to Her Majesty, her heirs and successors, for the public uses of this Province; Provided always, That any member, officer, or servant of the corporation shall be a competent witness on any prosecution for an offence against the provisions of this section, if he be not the informer.

Provided always, and be it further ordained and enacted, That each and every person committing any offence against the provisions of this Ordinance shall, in addition to any penalty imposed by it for such offence, be liable to the party aggrieved for all damages which he may have sustained by reason of such offence.

And be it further ordained and enacted, That if any person shall consider himself aggrieved by anything done by any justice of the peace in pursuance of this Ordinance, every such person may, within four calendar months after the doing thereof, appeal to the justices of the peace at the general quarter sessions to be holden in and for the district or for the territorial division within which the judgment appealed from may have been rendered.

And be it further ordained and enacted, That the said company, in order to entitle themselves to the benefits and advantages to them granted by this Ordinance, shall make and complete the said road in manner aforesaid within three years from the passing of this Ordinance, and that the book and plan hereby required to be made shall be completed and deposited within twelve months after the passing of this Ordinance.

And be it further ordained and enacted, That at any time before or after the making and completing of the said road and the said bridge over the River Yamaska, it shall be lawful for Her Majesty, her heirs and successors, to assume the possession and property of the same, and of all and every the works and dependencies thereunto belonging, upon paying to the said company the full amount then actually paid in on their respective shares, or by the said company expended on the said road, together with such further sum as will amount to twenty per centum upon the moneys advanced or paid, as a full indemnification to the said company, by annual payments of at least twenty per cent., allowing moreover to the said company six per cent. interest upon the unredeemed part of the capital, but not allowing them any interest upon the advance of twenty per cent. which is allowed them as aforesaid; and the said road, and the said bridge, and all and every the works and dependencies therunto belonging, shall from the time of such assumption belong to Her Majesty, her heirs and successors, who shall from thenceforward be substituted in the place and stead of the said company for all and every the purposes of this Ordinance; but unless Her Majesty, her heirs or successors, shall so assume the property of the said road and bridge, such property shall, if the requirements of this Ordinance shall have been complied with by the said company, and subject in all cases to the enactments and provisions herein contained, be and remain vested in the said company for the purposes aforesaid for ever; and the said road and bridge, and all the appurtenances thereof, shall be under the exclusive control and management of the said company, and shall not be subject in any way to the power or control of any grand-voyer or road-officer, or of any district council; anything in any Act, Ordinance, or Law to the contrary notwithstanding.

No. 175.

Construction of a Turnpike Road from the River Richelieu to the Village of Granby.

And be it further ordained and enacted, That the word "Governor," whenever it occurs in this Ordinance, shall be held to mean and intend as well the Governor as the Lieutenant-Governor and person administering the government for the time being; and whenever this Ordinance, in treating of any person or party, matter or thing, intended to be affected by its provisions, may have used words importing the singular number or the masculine gender only, yet such words shall be understood to include several persons or parties as well as one person or party, and several matters and things as well as one matter and thing, and bodies corporate as well as individuals, and females as well as males, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

And be it further ordained and enacted, That this Ordinance shall be taken and deemed to be a public Act, and shall be taken notice of as such by all judges, justices, and other persons, without being specially pleaded.

And be it further ordained and enacted, That this Ordinance and the provisions therein contained shall not cease or expire on the first day of November which will be in the year of our Lord One thousand eight hundred and forty-two, but shall be and remain a permanent Law and in full force until the same shall be repealed or altered by competent legislative authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in special council, under the great seal of the province, at the government-house in the city of Montreal, the twenty-first day of January, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty-one.

By his Excellency's Command,

(Signed) W. B. LINDSAY.
Clerk, Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said Province, on the twenty-first day of January, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

WM. B. LINDSAY.
Clerk, Special Council.

(Copy.)

No. 176.

No. 176.

Improvements in the Harbour of Montreal to establish new Rates of Wharfage, &c.

CAP. 12.—*An Ordinance to authorize certain further improvements in the Harbour of Montreal, to establish new rates of Wharfage therein, to authorize the Commissioners for the Improvement of the same to borrow a further sum of Money, and for other purposes relative to the said Harbour.*

[Passed 21st January, 1841.]

WHEREAS it is expedient to authorize the appointment of an additional number of Commissioners who may be invested with and exercise the same powers as may be invested in the commissioners appointed or to be appointed under the authority of a certain Act of the Legislature of this Province, passed in the session held in the tenth and eleventh years of the reign of His late Majesty King George the Fourth, and intituled, "An Act to provide for the Improvement and Enlargement of the Harbour of Montreal," and to authorize the commissioners appointed or to be appointed under the authority of the said Act or of this Ordinance, to borrow a further sum of money for the purpose of enabling them to defray the cost of certain work which it hath become expedient to authorize them to perform, and also such part of the cost of the work authorized by the said Act, and by divers other Acts and Ordinances, as the sums they have been and are authorized to borrow by

No. 176.

Improvements in the Harbour of Montreal, to establish new Rates of Wharfage, &c.

such former Acts and Ordinances may not be sufficient to enable them to defray: Be it therefore ordained and enacted by His Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the special council for the affairs of this Province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, and intituled, "Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada:" and it is hereby ordained and enacted by the authority of the said Acts of Parliament, that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this Province, if at any time he shall deem it expedient, to appoint so many persons as he may think proper, to be commissioners under this Ordinance, and to remove them and appoint others in their stead from time to time; and the commissioners so appointed shall and may jointly with those appointed or to be appointed under the authority of the provincial Act first above cited, have and exercise all the powers, and perform all the duties vested in or to be performed by the commissioners appointed under the said Act, by any law; and the word "commissioners" hereinafter used, shall apply to and mean as well the commissioners appointed under this Ordinance as those appointed under the said provincial Act: Provided always, That any majority of the said commissioners for the time being, or of such of them as shall be then within this Province, shall and may exercise all the powers vested in the said commissioners by this Ordinance, or by any other Ordinance or Act.

And be it further ordained and enacted, That it shall be lawful for the said commissioners to borrow for the purposes hereinafter mentioned, and with the consent and approval of the Governor, Lieutenant-Governor, or person administering the government, at any rate of interest, whether greater or less than six per cent. per annum (any law to the contrary notwithstanding), but on the most advantageous terms in their power, and from time to time as the same may become necessary for such purposes, any sum or sums of money not exceeding in the whole the sum of seventeen thousand pounds currency, for defraying such part of the cost of the work authorized by this Ordinance, or by any former Acts or Ordinances, and of such extensions of any parts of the said work as they have made previous to the passing of this Ordinance, as the sums they have been and are authorized by law to borrow may not be sufficient to enable them to defray; and the said sum or sums may be so borrowed as aforesaid, over and above any sum or sums which the said commissioners may at the time of the passing of this Ordinance be authorized to borrow by any other Act or Ordinance then in force.

And be it further ordained and enacted, That the said commissioners shall and may pay such price or prices, compensation or compensations, as may be finally agreed upon, fixed, or determined, for or with regard to any ground or real property acquired under the authority of this Ordinance, or of any other Ordinance or Act; and shall and may also defray all expenses attending the execution of any work, or the doing of anything authorized by this Ordinance, or by any other Ordinance or Act, from and out of the sum or sums of money they are hereby authorized to borrow, or which they may have heretofore borrowed, or may borrow, under any other Act or Ordinance, if the property or work to be paid for shall be or have been purchased or performed for any purpose authorized by this Ordinance, or by any other Ordinance or Act.

And be it further ordained and enacted, That it shall not be incumbent upon the said commissioners to continue the Revetment Wall upwards, beyond the point to which it may be necessary to continue the same, in order to make and complete the double Ramp at Grey Nuns-street, if they shall deem it advisable to abstain from performing the said work or any part of it, and shall obtain the sanction of the Governor, Lieutenant-Governor, or person administering the government, to their determination in that behalf.

And be it further ordained and enacted, That it shall be lawful for the said com-

No. 176.

Improvements in the Harbour of Montreal, to establish New Rates of Wharfage, &c.

missioners, with the approval of the Governor, Lieutenant-Governor, or person administering the government for the time being, to cause the work and works hereinafter mentioned, or such part thereof as they may deem advisable, and with regard to which they may obtain such approval, to be constructed and performed during the year one thousand eight hundred and forty one, that is to say:—They may construct a beach wharf between the lower slip facing Saint Gabriel Lane and the upper new pier, at the foot of the new market, for the more convenient unloading of firewood. They may cover the two new upper piers and the road leading from the Beach Wharf, at the foot of the old market, to the Island Wharf, with plank, instead of a top dressing of gravel or broken stone. They may cover the wharfs from the north corner of the Basin, at the foot of Saint Joseph Street, to the extremity of the port upwards, with planking or with a paving of wood, instead of covering the same with broken stone, or in any other manner. They may make a sufficient water-course along all those parts of the street or highway next to the said Harbour, which are or shall be bounded by the Revetment Wall, and along which no such water-course has yet been made; and the water-course so to be made shall be at the same distance from the back of the Revetment Wall as the water-course already made now is. And they may pave with good dressed flag stones, in a proper and substantial manner, and as a footpath, all the space between the back of the Revetment Wall and the water-course made or to be made as aforesaid, except so much as shall be required for placing a sufficient curb-stone between the space so to be paved, and the said water-course; and they shall place such curb-stone as aforesaid: Provided always that it shall be lawful for the said commissioners, with such consent and approval as aforesaid, to fill up and level the hollow in and about Saint Joseph Street, at and near its junction with Commissioners Street, and to level Commissioners Street throughout its whole length, or those portions thereof in which the level may have been deranged by the work performed for the improvement of the said Harbour, and to pay the amount which shall be ascertained (in the manner provided in like cases by the Acts and Ordinances relative to the improvement of the said Harbour), to be due to any party for any damage sustained by such party by reason of anything done by the commissioners in pursuance of the provisions of this Ordinance, or of any other Ordinance or Act.

And be it further ordained and enacted, That the north-westerly side of the said water-course shall, throughout its whole length, be the boundary of the works under the controul and management of the said commissioners on the side next the city of Montreal, and shall form the line of division between the said works and that part of the street or highway along which the said water-course shall run which shall be under the controul and management of the corporation of the mayor, aldermen, and citizens of the said city of Montreal.

And whereas it is expedient that provision should be made for the due payment of the interest of the money so borrowed as aforesaid, until wharfage and other dues arising from the works and improvements aforesaid can be collected, out of which the said interest may be paid: Be it therefore further ordained and enacted, That it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, from time to time, to authorize by warrant under his hand, the advance to the said commissioners of such sums out of any unappropriated monies in the hands of the receiver-general, as may be necessary to enable them to pay the said interest; and such advances shall be made in the months of January and July of each and every year; and the said commissioners shall immediately pay over the sums of money so advanced, to the person or persons to whom such interest may be then due.

And be it further ordained and enacted, That it shall be lawful for the said commissioners, with the approval of the Governor, Lieutenant-Governor, or person administering the government of this province, to cause such alterations to be made in the steam dredging vessels, and the machinery thereof, which are now placed by law under their charge and controul, as they may deem advisable for saving manual labour in working the said vessel and machinery, provided the cost of making such alteration do not exceed the sum of two hundred and fifty pounds currency; and to defray the expense of making such alteration from and out of any monies by them borrowed or to be borrowed under the authority of any law for defraying the expense of building and working the said vessel, but out of no other funds whatsoever.

And whereas it is necessary to establish other rates of wharfage and dues to be levied and paid in the Harbour of Montreal, in the place and stead of those im-

No. 176.

Improvements in the Harbour of Montreal, to establish new Rates of Wharfage, &c.

posed by a certain Act passed in the first year of the reign of His late Majesty King William the Fourth, and intituled, "An Act to authorize the Commissioners appointed under a certain Act passed in the eleventh Year of the Reign of His late Majesty, intituled, 'An Act to provide for the Improvement and Enlargement of the Harbour of Montreal, to borrow an additional Sum of Money, and for other Purposes therein mentioned;'" and by a certain other Act passed in the second year of His said late Majesty, and intituled, "An Act to authorize the Commissioners appointed under a certain Act therein mentioned, to borrow a further Sum of Money to be applied to the Improvement and Enlargement of the Harbour of Montreal, and for other Purposes," which said rates have been found insufficient;" be it therefore further ordained and enacted, That no rates of wharfage and other dues imposed by the said Acts, or either of them, shall be payable or exigible after the first day of May one thousand eight hundred and forty one, anything in the said Acts, or either of them, to the contrary notwithstanding; but that in the place and stead thereof, there shall from and after the said first day of May one thousand eight hundred and forty one, be levied and paid on all vessels, craft, steamboats, or rafts, and all articles landed or disembarked from, or shipped or put on board of any such vessel, craft, steamboat, boat, or raft lying at any part of the wharfs, quays, or other works erected or constructed, or to be erected or constructed for the improvement of the Harbour of Montreal, by the said commissioners, their predecessors or successors in office as such, under the authority of any Act or Ordinance heretofore passed, or of this Ordinance, or lying, whether in the stream or otherwise, within any part of the Harbour of Montreal (which shall for the purposes of this Ordinance be held to extend from the Lachine Canal wharf to the lower extremity of the Revetment Wall, that is, to the point where the said wall joins the government works at the commissariat store), the several rates of wharfage mentioned in the schedule hereunto annexed.

And be it further ordained and enacted, That the said rates of wharfage shall be paid and levied, received, recovered, and applied by the said commissioners, who are hereby directed and empowered to levy, receive, recover, and apply the same, subject to the provisions hereinafter made: Provided always, That the said commissioners may from time to time appoint and authorize any person or persons to receive the said rates of wharfage, and may allow to such person or persons a reasonable compensation for his or their services, not exceeding in any case two and one half per cent. on the sums actually received for such rates of wharfage by such person or persons.

And be it further ordained and enacted, That the said rates of wharfage shall be due and payable by the owner, master, purser, conductor, person in charge of or consignee of the vessel, steamboat, boat, barge, scow, raft, or craft of any kind, upon which, or in respect of articles shipped on board of or landed from which, such rates or wharfage may be due, saving the recourse any such person paying the same may by law have against any other person or persons to recover the sum so paid; and each and every the powers and authorities vested by a certain Ordinance passed in the second year of Her Majesty's reign, and intituled, "An Ordinance for the more easy and certain Collection of the Harbour Dues at Montreal," in the collector of the harbour dues, with regard to the rates, tolls, and wharfage dues in the said Ordinance mentioned, and to the recovery thereof, shall be and are hereby vested in and shall and may be exercised by the said commissioners, with regard to the rates, tolls, and wharfage dues hereby imposed, and to the recovery and means of enforcing or ensuring payment thereof; and each and every person bound by the said Ordinance to make any report to the collector of harbour dues, shall make such report to the said commissioners, or to such person as they shall appoint to receive such report, under the same penalties for neglect or for making any false or insufficient report as are imposed for a like offence in and by the said Ordinance; which said penalties shall be recovered, applied, and accounted for in the manner appointed in and by the said Ordinance with regard to the penalties thereby imposed.

And be it further ordained and enacted, That all the provisions and enactments of the said last-mentioned Ordinance passed in the second year of Her Majesty's reign, as extended, applied, and amended in and by the preceding section of this Ordinance, shall be and are hereby made permanent, and shall remain in force until repealed or altered by competent authority.

And be it further ordained and enacted, That the tolls, rates, and wharfage dues hereby imposed shall be held to be tolls and dues levyable in the port of

No. 176.

Improvements in the Harbour of Montreal, to establish new Rates of Wharfage, &c.

Montreal, within the meaning of the eighteenth section of the Act of the Legislature of this Province, passed in the sixth year of the reign of his late Majesty, and intituled, "An Act to provide for the Management and Care of the Lachine Canal, and to establish certain Rates, Tolls, and Duties to be taken thereon," and the provisions and enactments of the said Act shall be and are hereby extended accordingly.

And be it further ordained and enacted, That the monies arising from the tolls, rates, and wharfage dues hereby imposed, shall be applied by the said Commissioners, firstly, to the payment of such reasonable expenses of collecting the same as are hereby authorized, and of all other expenses indispensably incurred by the said commissioners in the performance of the duties hereby assigned to them; secondly, in defraying any expenses by them incurred in keeping the works constructed or to be constructed by the said commissioners, their predecessors or successors in office, for the improvement of the harbour of Montreal, under the authority of any Act or Ordinance, in efficient repair; which said expenses the said commissioners are hereby authorized to incur without any special application to or approval by the Governor, Lieutenant-Governor, or person administering the government, any thing in any Act or Ordinance to the contrary notwithstanding; thirdly, in paying off the principal of any sum or sums borrowed or to be borrowed by them, or which may have been borrowed by their predecessors in office, under the authority of any Act or Ordinance heretofore passed, or of this Ordinance, and which shall have been or shall be made redeemable at a certain time; fourthly, in paying the interest then due and payable on any money borrowed or to be borrowed by the said commissioners, their predecessors or successors in office; fifthly, in repaying to the receiver-general any sum or sums of money advanced by that officer to the commissioners under the authority of this Ordinance, or of any other Ordinance or Act; sixthly, in paying off the principal of any sum or sums borrowed or to be borrowed by them or their predecessors or successors in office under this Ordinance, or under any other Ordinance or Act, and which shall not have been made redeemable at a certain time: Provided always, That the said Commissioners shall pay off the principal of the sums to be borrowed under the authority of this Ordinance by payments of not less than ten per cent. on the whole amount so borrowed; and the intended payment of any part of the said principal shall be announced by the said commissioners by an advertisement inserted during at least three successive weeks in one of the newspapers published in the city of Montreal in the English language, and in one of the newspapers published in the French language in the said city, if any there be; and the persons to whom the said principal shall be due, shall receive the portion thereof so announced to be payable, and shall grant to the said commissioners an acquittance for the same, nor shall any interest accrue or be payable on any such portion from and after the day on which the said commissioners shall, by such advertisement, offer and shall be ready to repay the same.

And be it further ordained and enacted, That over and above the sums which the said commissioners have borrowed or are authorized to borrow under the authority of any former Act or Ordinance now in force, or of the preceding sections of this Ordinance, it shall be lawful for them at any time and as often as occasion may require, to borrow in like manner such further sum or sums as may be necessary to enable them to pay off the principal of any loan which they may have bound or may bind themselves to repay at any certain time, and which the funds in their hands, or which will probably be in their hands at such time, and applicable to such repayment, shall appear insufficient to enable them to repay, or such further sum or sums as they may find it expedient at any time to borrow in order to pay off the principal of any sum borrowed at a greater rate of interest than that which they shall pay on such further sum to be borrowed as aforesaid: Providep always, That any sum or sums borrowed under the authority of this section shall be applied solely to the purposes herein mentioned, and that no such sum shall be so borrowed without the approval of the Governor, Lieutenant-Governor, or person administering the government of the Province, and that the whole sum due by the said commissioners under debentures then unredeemed, and issued under the authority of any former Act or Ordinance, or of this Ordinance, shall in no case exceed one hundred and eight thousand pounds currency; and all the provisions of this Ordinance touching the terms on which any sum shall be borrowed under the authority thereof, by the said commissioners, the rate of interest payable thereon, the payment of such interest, the advance by the receiver-general of the sums

No. 176.

Improvements in the Harbour of Montreal, to establish new Rates of Wharfage, &c.

necessary to enable the commissioners to pay such interest, the repayment of the sums so advanced, the manner in which the principal of such sums may be paid off by the commissioners to the lenders, and the mode of preventing further interest from becoming due on the sums they may be ready to pay off as aforesaid, shall be extended to any sum or sums borrowed under the authority of this section.

And be it further ordained and enacted that the said commissioners shall from time to time, and whensoever they shall be thereunto required by the Governor, Lieutenant-Governor, or person administering the government, render and report to him or to such officer or person, and in such manner and form as he shall appoint for that purpose, a true and faithful account in detail of all monies by them borrowed, collected, received, or expended under the authority of this Ordinance, and of all their doings under the same.

And be it further ordained and enacted, That the due application of all monies received or advanced by the receiver-general under the authority of that Ordinance, shall be accounted for to Her Majesty, her heirs and successors, through the lords commissioners of Her Majesty's treasury for the time being, in such manner and form as Her Majesty, her heirs and successors, shall direct.

And be it further ordained and enacted, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

SCHEDULE of TOLLS, RATES and WHARFAGE DUES, to be levied in the HARBOUR of MONTREAL, referred to in the foregoing Ordinance.

DESCRIPTION.	For each day they remain in Port, including the days of arrival and departure.	Rates in shillings, pence, and part of a penny, currency.
	£. s. d.	£. s. d.
On Vessels from Sea, and River Craft, per ton, of their burthen by register	0 0 0	0 0 0¼
On Steam-boats, per ton of their burthen by Register	0 0 0	0 0 0½
On Barges belonging to Steam-boats, per ton of their burthen by register	0 0 0	0 0 0¼
On Barges from Upper Canada and Durham Boats, if decked	0 0 0	0 2 0
" if undecked	0 0 0	0 1 0
On Boats employed in carrying wood	0 0 0	0 1 0
On Bateaux	0 0 0	0 1 0
On Steam Ferry-boats, per ton on their burthen by register	0 0 0	0 0 0½

	Rates in shillings, pence, and parts of a penny, currency.	
	Landed.	Shipped.
On Spirits and Wines of all kinds, Molasses, and Fish, Oil in pipes, butts, or puncheons, for each	0 0 6	0 0 3
On the same in hogshead, for each	0 0 3	0 0 1
On the same in quarter casks or barrels, for each	0 0 1½	0 0 0¾
On the same in cases or baskets of three dozen and under, for each	0 0 1	0 0 0½
On the same in cases of three dozen and under six dozen, for each	0 0 2	0 0 1
On the same in cases of six dozen and upwards, for each	0 0 3	0 0 1½
On Coffee and Sugars, raw and refined, in packages of 300lbs. gross, and under, for each	0 0 2	0 0 1
On the same in packages over 300lbs., and under 1200lbs. for each	0 0 4	0 0 2
On the same in packages of 1200lbs. and upwards, for each	0 0 6	0 0 3
On Teas of all kinds in packages of 20lbs. gross, and under, for each	0 0 0½	0 0 0¼
On the same in packages over 20lbs. and under 60lbs., for each	0 0 1	0 0 0½
On the same in packages of 60lbs and upwards, for each	0 0 2	0 0 1
On Tobacco and Snuff, in packages of 300lbs. gross, and under, for each	0 0 2	0 0 1
On the same in packages over 300lbs. and under 1200lbs. for each	0 0 4	0 0 2
On the same in packages of 1200lbs. and upwards, for each	0 0 6	0 0 3
On Salt in bulk, per 100 minots	0 0 6	0 0 3
On stoved or fine salt, in casks or bags, for each	0 0 2	0 0 1
On Hemp and Flax, per ton	0 1 6	0 1 6
On Pitch, Tar, Turpentine, or Rosin, in barrels or other packages, for each	0 0 1	0 0 0½

No. 176.

Improvements in the Harbour of Montreal, to establish new Rates of Wharfage, &c.

Description.	Rates in shillings, pence, and parts of a penny, currency. Landed. £.	s.	d.	Shipped. £.	s.	d.
On Coals, Coke and Cinders, per Chaldron	0	0	6	0	0	3
On Fish, dry and green, not in packages, per cwt.	0	0	0	0	0	0¼
On the same in hogsheads, for each	0	0	4	0	0	2
On the same in Tierces, for each	0	0	2	0	0	1
On the same in barrels, for each	0	0	1	0	0	0
On the same in kegs or kitts, for each	0	0	0	0	0	0¼
On Bricks, per 1000	0	1	0	0	0	6
On Bar and Pig Iron, per ton	0	0	10	0	0	5
On Pot and Pearl ashes, per barrel	0	0	1½	0	0	3
On Pork, Beef, Tongues, Butter, Lard, Cheese, Rice, Honey and Beeswax, in tierces, for each	0	0	1½	0	0	3
On the same in barrels, for each	0	0	1	0	0	2
On the same in half-barrels, kegs and kitts, for each	0	0	0½	0	0	1
On Flour, Meal, Apples and Onions, in tierces, for each	0	0	1½	0	0	3
On the same in barrels, for each	0	0	0½	0	0	1
On the same in half-barrels and bags, for each	0	0	0	0	0	0½
On Wheat in bulk, per 100 minots	0	0	9	0	1	6
On Oats, per 100 minots	0	0	3	0	0	6
On all other Grain and Seeds in bulk, per 100 minots	0	0	6	0	1	0
On Grain and Seeds of all kinds in tierces, for each	0	0	1½	0	0	3
On the same in barrels or boxes, for each	0	0	0½	0	0	1
On Biscuit, per cwt.	0	0	0½	0	0	1
On leather, in sides or rolls, not exceeding 112lbs. in weight, for each	0	0	1	0	0	0½
On the same, in sides or rolls, exceeding 112lbs. in weight, for each	0	0	2	0	0	1
On Stone undressed, per toise	0	0	0	0	1	0
On dressed Stone, per 100 running feet	0	0	0	0	0	6
On Sand and Lime, per barrique	0	0	0½	0	0	0½
On Horses and Neat Cattle, per head	0	0	2	0	0	2
On Hogs, alive or in carcase, Sheep and Calves, for each	0	0	1	0	0	1
On Timber, square and round, per ton	0	0	1½	0	0	3
On Standard Staves and Heading, per 1000 pieces	0	2	0	0	4	0
On Puncheon Staves and Heading, per 1000 pieces	0	0	8	0	1	4
On Barrell Staves and Heading, per 1000 pieces	0	0	6	0	1	0
On Deals three inches thick and under, per 100 pieces	0	0	8	0	1	4
On Plank two inches thick and under, per 100 pieces	0	0	5	0	0	10
On Boards one inch thick and under, per 100 pieces	0	0	3	0	0	6
On Deal Ends, per 100 pieces	0	0	3	0	0	6
On Oars, rough or dressed, per 100 pieces	0	0	6	0	1	0
On Handspikes, per 100 pieces	0	0	5	0	0	10
On Puncheon or Pipe Packs, for each	0	0	0	0	0	1
On Firewood and Bark, per Cord	0	0	3	0	0	0
On Hay, per 100 bundles	0	0	6	0	0	0
On Goods landed from Vessels from Sea, or the Lighters thereof, or imported from the States by inland navigation, subject to *ad valorem* duty; and not otherwise enumerated in this Tariff, for every £100 of the amount entered for duty at the Custom House	0	2	6	0	0	0
On Goods not subject to *ad valorem* duty, nor to specific rates under this Tariff, per ton, weight or measurement, at the option of the Collector	0	0	6	0	0	0
On Goods landed from Steamboats, Barges, or other Craft (except when employed as Lighters of Vessels from sea), not subject to specific rates by this Tariff, per ton, weight or measurement, at the option of the Collector	0	0	3	0	0	0
On Goods shipped not subject to specific rates under this Tariff, per ton, weight or measurement, at the option of the Collector	0	0	0	0	0	3
On Government Stores of all kinds, per ton, weight or measurement, at the option of the Collector	0	0	6	0	0	0

(Signed.) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in special council, under the great seal of the Province, at the Government House in the city of Montreal, in the twenty-first day of January, in the fourth

No. 176.

Improvements in the Harbour of Montreal, to establish new Rates of Wharfage, &c.

year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland Queen, Defender, of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty-one.

By His Excellency's Command.

(Signed.) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the twenty-first day of January, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

W. B. LINDSAY,
Clerk Special Council.

No. 177.

Certain Ordinances respecting Aliens suspended.

(Copy.)

No. 177.

CAP. 13.—*An Ordinance for suspending a certain Ordinance, intituled "An Ordinance for establishing Regulations respecting Aliens coming into this Province, or residing therein," and a certain other Ordinance, intituled, "An Ordinance for amending an Ordinance for establishing Regulations respecting Aliens coming into this Province, or residing therein."*

[Passed 21st January, 1841.]

WHEREAS it is expedient to suspend the two Ordinances hereinafter mentioned; be it thererore ordained and enacted by His Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the special council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the session held in the third and fourth years of the reign of Her present Majesty, intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the said Acts of Parliament, that a certain Ordinance of the legislature of this province, passed in the second year of Her Majesty's reign, intituled, "An Ordinance for establishing Regulations respecting Aliens coming into this Province, or residing therein," and a certain other Ordinance of the said legislature, also passed in the second year of Her Majesty's reign, intituled, "An Ordinance to amend an Ordinance for establishing regulations respecting Aliens coming into this Province, or residing therein," from and after the passing of this Ordinance, shall be, and the same are hereby suspended, and shall cease to have any force or effect whatsoever, until the time to be appointed and designated in the manner hereinafter provided.

And be it further ordained and enacted, That it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this province, by and with the advice of Her Majesty's executive council for the said province, to issue a proclamation under the great seal of the said province, and thereby to establish and declare, that from and after a certain time to be appointed and designated in and by the said proclamation, the suspension of the said two Ordinances shall be removed and determined, and the same shall be restored to their full force and effect; and from and after the time so to be designated and appointed, the said two Ordinances shall have full force and effect in like manner as if the same had never been suspended or this Ordinance had not been passed.

And be it further ordained and enacted, That this Ordinance shall continue and

No. 177.

Certain Ordinances respecting Aliens suspended.

be in force until the expiration of the said two Ordinances passed in the second year of Her Majesty's reign, and no longer.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in special council, under the great seal of the Province, at the Government House in the City of Montreal, the twenty-first day of January, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of Our Lord one thousand eight hundred and forty-one.

By His Excellency's Command,

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the advice and consent of the special council for the affairs of the said Province, on the twenty-first day of January, one thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 178.

No. 178.

Debt contracted by the Magistrates for lighting the City of Montreal.

CAP. 14.—*An Ordinance to authorize the Council of the City of Montreal to discharge a certain Debt contracted by the Magistrates of the said City, for lighting the same with Gas.* [Passed 21st January, 1841.]

WHEREAS the justices of the peace residing in the City of Montreal, did, in the year of our Lord one thousand eight hundred and thirty-nine, contract and agree with the "Montreal Gas Light Company," to light certain parts of the said city with gas during the term of one year now expired, for the sum of nine hundred and fifty pounds currency, which said contract was duly performed on the part of the said Company to whom the said sum is now due and unpaid; and whereas the council of the said city have expressed their willingnes to assume and pay the said debt, as having been contracted for the benefit of the said city; but, because the same was contracted without strictly legal authority by the said justices of the peace, the said council cannot, unless legislative provision be made to that effect, lawfully pay the said debt out of the revenues of the said city, and have prayed that such provisions be made; and whereas it is expedient to grant their prayer: Be it therefore ordained and enacted by His Excellency the Governor of the said Province of Lower Canada, by and with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, and intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the said Acts of Parliament, that it shall be lawful for the council of the City of Montreal, to pay to the said "Montreal Gas Light Company," in discharge of the debt hereinbefore mentioned, the said sum of nine hundred and fifty pounds currency, from and out of the public monies raised or to be raised by assessments, or otherwise, for public uses within and for the City and

No. 178.

Debt contracted by the Magistrates for lighting the City of Montreal.

Town of Montreal, and placed by law under the control and management of the said council.

And be it further ordained and enacted, that all monies paid under the authority of this Ordinance, shall be accounted for in the manner by law provided with regard to other public monies paid and expended by or under the direction of the said council.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in special council, under the great seal of the Province, at the Government House in the City of Montreal, the twenty-first day of January, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty-one.

By His Excellency's Command,

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said Province, on the twenty-first day of January one thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 179.

No. 179.

Regulating the office of Sheriff.

CAP. 15.—*An Ordinance for the better regulation of the Office of Sheriff in this Province.* [Passed 26 January, 1841.]

WHEREAS it is necessary to provide for the due execution of the office of sheriff in this province, by other and further regulations than those now in force in this behalf: Be it therefore ordained and enacted by His Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that every person who shall hereafter be appointed a sheriff for any district, or for any two or more united districts, hereafter to be erected and constituted within this province, shall, before he executes any of the duties of the said office, enter into a recognizance to Her Majesty, her heirs and successors, with good and sufficient sureties, not exceeding four in number, to be approved by the justice before whom such recognizance shall be taken, in the penal sum hereinafter mentioned, that is to say, the persons to be appointed sheriffs for the districts in which the cities of Quebec and Montreal respectively shall be situated in the penal sum of five thousand pounds currenl money of this province, and the persons to be appointed sheriffs for the several other districts and united districts of this province respectively in the penal sum of two thousand five hundred pounds current money aforesaid, upon the condition contained in the Schedule No. 1 to this Ordinance subjoined; which recognizance, fairly written on parchment, shall be so entered into before one of the justices of

No. 179.

Regulating the office of Sheriff.

the Court of Common Pleas for this province, after the sureties therein named shall have made oath before the said justice that they are respectively worth so much of the penal sum in the said recognizance specified as they respectively shall thereby become liable to pay in the said recognizance specified, over and above all debts due and owing by them respectively, which oath shall be endorsed on the said recognizance, and subscribed by the said sureties respectively, in the presence of the said justice; and the said recognizance shall be filed and remain of record in the said Court of Common Pleas, in the division thereof established for that part of the province in which the sheriffwick in question shall be situate, and shall continue and carry with it, for the fulfilment of the condition aforesaid, an hypothec on all such real or immoveable estates of the congnizors therein named as may be specially described in such recognizance, and be therein and thereby hypothecated from the day on which it shall bear date, and shall stand and be as and for a security, as well to Her Majesty, her heirs and successors, as to all other persons who may be aggrieved by the breach of the said condition, and who shall recover judgments against any such sheriff, or his legal representatives, for any sum or sums of money for or by reason of any misfeasance, nonfeasance, misconduct, or default of such sheriff, in the discharge of his official duties.

And be it further ordained and enacted, That if any person or persons, who shall have become surety or sureties for any sheriff by a recognizance as aforesaid, shall afterwards, while such sheriff shall continue in office, die, or become insolvent, or depart from this province with the intent of residing permanently elsewhere, every such sheriff shall, within one calendar month after any such occurrence, enter into a new recognizance, with sureties, not exceeding four in number, for the penal sum, and in the manner hereinbefore prescribed; and like new recognizances shall be entered into from time to time, when the sureties named in the recognizance last previously taken shall die, become insolvent, or change their residence as aforesaid; and such renewed recognizances shall have the same effect and operate the same security as the recognizance hereinbefore first mentioned.

And be it further ordained and enacted, That any person appointed or to be appointed sheriff as aforesaid, who shall execute any of the duties of that office without having first entered into a recognizance as aforesaid, or who, having entered into such recognizance, shall afterwards refuse or neglect to enter into a new recognizance within one calendar month after any or either of the occurrences in the next preceding section of this Ordinance mentioned as aforesaid, shall forfeit his office of sheriff, which shall forthwith become and be vacant, and such vacancy shall forthwith be filled up by the appointment of another person in his place, and shall also forfeit and pay for the said offence the sum of two hundred pounds current money aforesaid, to be recovered, with costs of suit, in any court of record in this province, one moiety whereof shall belong and go to Her Majesty, her heirs and successors, and the other moiety to the person or persons who shall sue for the same within six months after the said offence shall have been committed.

And be it further ordained and enacted, That it shall be lawful for each of the sheriffs of the aforesaid several districts and united districts in this province respectively, by an instrument or instruments in writing under his hand, to appoint an under-sheriff and such and so many deputies as he may deem necessary, in like manner as sheriffs of counties in that part of Great Britain called England may lawfully appoint an under-sheriff and deputies there: Provided always, and be it further ordained and enacted, That no under-sheriff, deputy-sheriff, or sheriff's officer, shall practise as an attorney during the time he shall continue in any such office or employment: And provided also, and be it further ordained and enacted, That the said sheriffs of the said several districts and united districts in this province respectively shall be responsible to the persons injured or aggrieved for the acts and omissions and all misconduct and neglects of duty of the under-sheriff's, deputies, bailiffs, and officers by them respectively appointed.

And be it further ordained and enacted, That each and every person to be appointed sheriff and under-sheriff as aforesaid shall, before he enters on the execution of his office, take the oath of allegiance to Her Majesty, her heirs and successors, and also the oath of office contained in the Schedule No. 2 to this Ordinance subjoined, which oaths shall be fairly written on parchment and signed by him, and shall and may be sworn before the justices of the Court of Common Pleas for this province, in any of the divisions thereof, or before any one of the said justices; and the said oaths so written, signed, and sworn, shall be transmitted to

No. 179.

Regulating the office of Sheriff.

the clerk of the peace for the district for which such person shall be appointed sheriff or under-sheriff, who is hereby required to file the same among the records of his office, and for which he shall be entitled to demand and have from such sheriff or under-sheriff the sum of five shillings currency, and no more.

And be it further ordained and enacted, That it shall not be lawful for any person or persons whomsoever to buy, sell, let, or take to farm, the office of under-sheriff, deputy-sheriff, gaoler, bailiff, or any other office or place pertaining to the office of sheriff of any district in this province, or to contract for, promise, or grant, for money or other reward or benefit, the said offices or places, or any of them, directly or indirectly; and whosoever shall offend in the premises in violation of this enactment shall forfeit for every such offence the sum of five hundred pounds, to be recovered with costs in any court of record in this province, one moiety whereof shall belong and go to Her Majesty, her heirs and successors, and the other moiety to the person or persons who shall sue for the same within two years after the said offence shall have been committed: Provided that nothing in this Ordinance contained shall prevent any sheriff from constituting and appointing an under-sheriff or deputy-sheriff to act in his stead, or prevent any under-sheriff, in case of the sheriff's death, from appointing a deputy, nor to prevent any such sheriff or under-sheriff from demanding and taking the just and lawful fees of the office of sheriff, or any place or employment pertaining thereto, or from taking security for the due answering the same, nor to discharge or prevent such under-sheriff, deputy-sheriff, gaoler, bailiff, or other person executing any office under such sheriff, from accounting to the sheriff for all such just and lawful fees as shall by them or any of them be taken and received in their respective offices, places, or employments, nor from giving security so to do; nor to prevent the sheriff from allowing or securing such salary or recompense to his under-sheriff, deputy-sheriff, gaoler, bailiff, or other officer, for the execution of the said offices, places, or employments, or any of them, as to him shall seem meet, nor to prevent the under-sheriff, deputy-sheriff, or other officer or person aforesaid, from taking and receiving such salary and recompense for his or their pains and services therein.

And be it further ordained and enacted, That the under-sheriffs or deputy-sheriffs respectively, who may be appointed by the sheriffs of the said several districts and united districts in this province, in case of the death of the sheriffs by whom they have been appointed, shall, notwithstanding such death, continue in their offices, and shall execute the same, and all things thereto belonging in the names of the deceased sheriffs until other sheriffs shall have been appointed, and shall have taken on themselves the said offices; and the said under-sheriffs or deputy-sheriffs shall be answerable for the execution of the offices of sheriffs in respect of which they shall have been appointed, in all ways and to all intents and purposes, during the said interval, in like manner as the deceased sheriffs would by law have been if living; and the security given to the deceased sheriffs by the said under-sheriffs and their sureties, shall stand, remain, and be a security to the Queen, her heirs and successors, and to all persons whomsoever, for such under-sheriffs' due execution and fulfilment of their offices during such interval; and in case there shall be no under-sheriff of any district at the time of the death of any such sheriff, or if such under-sheriff shall die, or remove out of the district, or become incapable of executing the office, before another sheriff of the same district shall be appointed and shall have taken on himself the said office, then, and in every such case, the coroner (or coroners, if there should be more than one) in such district shall in all things execute the office of sheriff of the same district, except in what appertains to the judicial powers and duties of that office, until a sheriff thereof shall be appointed, and shall take upon himself the said office.

And be it further ordained and enacted, That if any sheriff of any district, or of two or more united districts of this province, shall be a party or interested in any suit instituted or about to be instituted, the writ or writs to be issued in such cases shall be directed to, and executed by, the coroner of the same district, or the coroners, if there shall be more than one in such district.

And be it further ordained and enacted, That every sheriff of any and every of the aforesaid districts and united districts in this province, when he shall cease to hold his said office, by reason of resignation, removal from office, or other cause whatsoever, shall make out and deliver to the new or in-coming sheriff a true and correct list and account, under his hand, of all prisoners in his custody, and of all writs and other process in his hands, not wholly executed by him, with all such particulars as may be necessary to explain to the said in-coming sheriff the several

No. 179.

Regulating the office of Sheriff.

matters intended to be transferred to him, and shall thereupon turn over and transfer to the care and custody of the said in-coming sheriff all such prisoners, writs, and process, and all records, books, documents, and papers appertaining to the said office of sheriff; and the said in-coming sheriff shall thereupon sign and give a duplicate of such list and account to the sheriff going out of office, to whom the same shall be a good and sufficient discharge of and from all the prisoners therein mentioned and transferred to the said in-coming sheriff, and from the further or other execution of the writs, process, and other matters therein contained, without any writ of discharge or other writ whatsoever; and the said in-coming sheriff shall thereupon stand and be charged with the said prisoners, and also with the execution and care of the said writs, process, and other matters contained in the said list and account, as fully and effectually as if the same writs and process had been turned over by indenture and schedule; and in case any sheriff shall refuse or neglect, when he shall cease to hold the said office as aforesaid, to make out, sign, and deliver such list and account as aforesaid, and to turn over the writs and process aforesaid, in manner aforesaid, every such sheriff so refusing or neglecting shall be held to be guilty of a misdemeanor in having disobeyed this enactment, and shall besides be liable to make satisfaction to the parties aggrieved or injured for all such damages and costs as he, she, or they shall sustain by reason of such refusal or neglect.

And be it further ordained and enacted, That whenever any sheriff shall die, it shall be the duty of his heirs, executors, curators, or other legal representatives, to deliver to the new or in-coming sheriff, on his demand, all such writs and process as remained and were unexecuted in the hands of the deceased sheriff, and all records, registers, books, documents and papers appertaning to the office of such deceased sheriff which may have come into their hands, possession, or power; and in case the heirs, executors, curators, or other legal representatives of any such deceased sheriff, shall refuse or neglect to deliver to the said new or in-coming sheriff all such writs and process, records, registers, books, and documents, or any of them, as aforesaid, they, each and every of them, so refusing or neglecting, shall be held to be guilty of a misdemeanor in having disobeyed this enactment, and shall besides be liable to make satisfaction to the parties aggrieved or injured for all such damages and costs as he, she, or they shall sustain by reason of such refusal or neglect.

And be it further ordained and enacted, That no sheriff or person, after he ceases to hold the office of sheriff, shall be liable to be called on to make a return of any writ or process, unless he be required so to do, within six calendar months after the period at which he shall cease to hold such office as aforesaid.

And be it further ordained and enacted, That each of the sheriffs of the aforesaid several districts and united districts in this province, shall have in the Court of Queen's Bench and in the division of the Court of Common Pleas established for that part of the province in which his sheriffwick shall be situated, one sufficient deputy to receive all writs directed to any such sheriff, and shall be held and taken to be an officer of the said Courts respectively, and shall give his personal and ready attendance therein, in execution of the duties of his office, when thereto required or commanded by the said Courts respectively.

And be it further ordained and enacted, That the sheriffs of the several districts in this province, when and as often as courts of Oyer and Terminer, or general gaol delivery, and *Nisi Prius*, or any or either of the said courts, shall be held in such districts, shall, upon pain of being fined in the discretion of the said courts respectively, give their attendance on the said courts during the sittings thereof, in such manner as the said courts respectively shall direct.

And be it further ordained and enacted, That it shall be lawful for the sheriffs of the aforesaid several districts and united districts in this province, in the advertisements of lands and tenements, real or immoveable estates for sale, under legal process, to advertise the same in an abbreviated form in the manner now in use, in which advertisements to be signed by such sheriffs respectively shall be mentioned the nature of the process under which such sale is to be had, the cause in which the said process has been issued, a description of the property to be sold, and the time and place of sale.

And be it further ordained and enacted, That no sheriff of any district or of two or more united districts in this province, nor any under-sheriff, deputy-sheriff, bailiff, or other officer employed by any sheriff, shall at any public sale made, or proposed to be made, by or under the authority of any such sheriff, become the pur-

No. 179.

Regulating the office of Sheriff.

chaser, directly or indirectly, of goods or chattels, lands or tenements, offered or set up for sale by any such sheriff, or by or under his authrity; and if any such sale be made in violation of this enactment, the same shall be null and void, and the sheriff, under-sheriff, deputy-sheriff, bailiff, or other such officer so offending in the premises, shall be deemed and held to be guilty of a misdemeanor, and punished accordingly; and every sheriff so offending shall also be liable to the parties concerned for all costs and damages occasioned by such sale.

And be it further ordained and enacted, That in all cases of sales of lands and tenements, real or immoveable estates, by any sheriff of any district in this province, in virtue of his office, the deeds or instruments of sale to be made and executed by every such sheriff in execution of such sales shall be fairly engrossed or printed on parchment, without any obliteration, erasure, interlineation, or marginal addition or correction; and every sheriff who shall make, execute, and deliver a deed or instrument of sale contrary to and in violation of this enactment shall forfeit and pay for every such offence a sum not exceeding twenty-five pounds, to be recovered with costs of suit in any court of record in this province, one moiety whereof shall belong and go to Her Majesty, her heirs and successors, and the other moiety to the person or persons who shall sue for the same within six calendar months after the said offence shall have been committed.

And be it further ordained and enacted, That each and every of the sheriffs of the several districts of this province shall respectively have and keep a register for the enregistering therein of all deeds or instruments of sale of lands and tenements, real or immoveable estates, by him made and executed in virtue of his office, which register, before the making of any entries therein, shall be authenticated by a memorandum to be written on the first page thereof, and signed by the Prothonotary of the division of the Court of Common Pleas established for that part of the province within which such sheriff shall exercise his functions, in and by which memorandum shall be certified the purpose for which the said register is intended the number of pages contained therein, and the day, month, and year on which such memorandum shall be made; and shall also be authenticated by the numbering of each of the said pages in words at full length, with the initial letters of the name of the said Prothonotary subscribed thereto: And every such sheriff shall from time to time, as deeds of sale are by him made and executed, enregister in the said register successively, and without any blank or interval between them, all, each, and every of the deeds or instruments of sale of lands and tenements, real or immoveable estates, by him made and executed in virtue of his office, until the said register shall be filled, or until such sheriff shall cease to hold his office, to which said register an alphabetical index shall be made by such sheriff: And every such sheriff shall forthwith after the said register shall be filled as aforesaid, or after his resignation or removal from office, if he should resign or be removed before it be filled, or if any such sheriff shall die while in office and before the said register be filled, then his legal representatives shall forthwith after his death deposit the said register in the office of the said Prothonotary, there to remain among the records of the said court, and to be used as evidence by all persons interested therein, as to law and justice may appertain.

And be it further ordained and enacted, That if any sheriff of any district, or of two or more united districts of this province, shall neglect to have and keep a register for the purpose aforesaid, or to enregister therein the deeds or instruments of sale by him made and executed as aforesaid, or any of them, in the manner hereinbefore prescribed, or if any such sheriff while living, or his legal representatives, or any of them, after his death, shall refuse or neglect to deposit any such register in the office of the said Prothonotary as aforesaid, every such sheriff, and the legal representatives of every sheriff so offending, shall forfeit and pay for every such offence the sum of three hundred pounds, to be recovered with costs of suit, in any court of record in this province, one moeity whereof shall belong and go to Her Majesty, her heirs and successors, and the other moiety to the person or persons who shall sue for the same.

And be it further ordained and enacted, That each and every of the sheriffs of the aforesaid several districts and united districts in this province shall, within the first fifteen juridical days of each and every term of the several divisions of the Court of Common Pleas for this province, exhibit to the division of the said court sitting in the territorial division within which such sheriff shall exercise his functions, an accurate statement and account in detail, upon oath to be administered by such division of the said court, of what has been done in execution of the final writs and

No. 179.

Regulating the office of Sheriff.

process directed to him by such division of the said court, and of all moneys in his hands which have been received by him as such sheriff, and when and from whom received, and of all orders and judgments in his hands directing any moneys to be paid by him as such sheriff, from the period of his appointmeut as sheriff, or since the date of his last statement and account specifying to whom the said moneys were or are payable, and of all monyes by him paid as such sheriff, within the same period, and to whom, and of all monies remaining unpaid in his hands, though ordered and adjudged to be paid, and of the reasons why the same have not been paid: And the said statement and account shall be deposited and remain among the records of the said division of the said court, and shall be entered in a register or book to be kept for that purpose by the Prothonotary of the said division.

And be it further ordained and enacted, That any sheriff by whom such statement and account as hereinbefore required shall be made and exhibited as aforesaid, who shall knowingly and wilfully swear falsely in respect of any of the matters contained and which are required to be contained in any such statement and account, shall be deemed and held to be guilty of wilful and corrupt perjury, and shall suffer the pains and penalties by law provided for that offence.

And be it further ordained and enacted, That the sheriffs of the aforesaid several districts and united districts in this province shall respectively have the custody and keeping of the gaols now ercctcd and being or hereafter to be erected in their respective districts, and shall respectively appoint the gaolers or keepers of such gaols, and shall be responsible for the acts and conduct of such gaolers in their capacity of gaolers, and for the due discharge of their duty.

And be it further ordained and enacted, That the sheriffs of the aforesaid several dictricts and united districts of this province, and their under-sheriffs respectively, shall, within their respective districts, have the same and like authority to raise the power (*posse*) of the district, in execution of the Queen's writs, as the sheriffs and under-sheriffs of counties in that part of Great Britain called England have and may lawfully exercise in raising the power of the county (the *posse comitatus*) in execution of the Queen's writs there; and every person required by any such sheriff or under-sheriff to assist him in the execution of any such writ or writs, who shall, without lawful cause, refuse or neglect so to do, shall be held to be guilty of a misdemeanor, and be punished by fine and imprisonment.

And be it further ordained and enacted, That when the sheriff of any district, or of two or more united districts, or any of his deputies, shall find that resistance will be made against any process of execution directed to and in the hands of such sheriff, the said sheriff, laying aside all other things, and taking with him the power of the district, shall forthwith go in his proper person and do execution, and if he find resistance he shall certify to the court from which such process of execution shall have issued the names of the resisters, their aiders and abettors, and they shall be attached to appear in the same court, and if they be convicted of such resistance they shall be punished by fine and imprisonment.

And be it further ordained and enacted, That every person who shall be arrested by virtue of any writ of execution to be issued from any competent court against his or her body, for any debt or damages, by any sheriff or other officer to whom such writ shall be directed, and every person who shall be committed to the custody of any sheriff or other officer in execution for any such debt or damages, shall be safely kept in prison, in close and secure custody, without bail, living at his or her own costs, unless legally entitled to be otherwise maintained, until such person shall satisfy such debt and damages; and if any such sheriff or other officer shall permit any such person so arrested or committed to go out of prison, or be at large, by bail or otherwise, without the assent and agreement of the plaintiff or party in whose favour such execution may be, such sheriff or other officer shall thereby become answerable to such plantiff or party for the debt and damages for which such person was arrested or committed, and the plaintiff or party may recover the same with costs by action of debt against such sheriff or other officer.

And be it further ordained and enacted, That all prisoners, either upon contempt or mesne process, or in execution, who shall be committed to any prison in this province, shall be actually detained within such prison until they shall be thence discharged by due course of law; and if at any time the keeper of any prison shall permit or suffer any prisoner committed to his custody, either upon contempt or mesne process, or in execution, to go or to be at large out of his prison, except by virtue of some writ of *Habeas Corpus*, or rule of court, which rule of court shall not be granted but on motion made or petition read in open

No. 179.

Regulating the office of Sheriff.

court, every such going or being out of the said prison shall be adjudged and is hereby declared to be an escape.

Provided always, and be it further ordained and enacted, That nothing herein contained shall have the effect of repealing, altering, or in any manner affecting a certain Act of the Legislature of this province, made and passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled "An Act to afford relief during a limited time to Insolvent Debtors," or any other Act or Law exempting certain persons from imprisonment, or entitling them in certain cases to be released or discharged from imprisonment, or any of the provisions contained in any such Act or Law, which shall continue to have the same force and effect as if this Ordinance had not been passed.

And be it further ordained and enacted, That if any sheriff or keeper of any prison shall take any sum of money, reward, or gratuity, or any security for the same, to procure, assist, connive at, or permit any escape of any prisoners in his custody, and shall be thereof lawfully convicted, every such sheriff or keeper shall for every such offence forfeit the sum of five hundred pounds and his said office, and be for ever after incapable of executing the said office.

And be it further ordained and enacted, That no retaking on fresh pursuit shall be given in evidence on the trial of any issue in any action of escape against any sheriff or keeper of any prison, unless the same be specially pleaded, nor shall any special plea be taken, received, or allowed, unless oath be first made in writing, by such sheriff or keeper of any prison against whom such action shall be brought, and filed with such plea, that the prisoner for whose escape such action is brought did, without his consent, privity, or knowledge, make such escape, and if such affidavit shall at any time afterwards appear to be false, and such sheriff or keeper of any prison shall be convicted thereof by due course of law, he shall forfeit the sum of five hundred pounds.

And be it further ordained and enacted, That if any prisoner who is or shall be committed in execution to any prison shall escape from thence by any ways or means howsoever, the creditor or creditors at whose suit such prisoner was charged in execution at the time of his escape may retake such prisoner by any new *Capias*, or *Capias ad satisfaciendum*, or sue forth any other kind of execution on the judgment, as if the body of such prisoner had never been taken in execution.

And be it further ordained and enacted, That if any sheriff or keeper of any prison shall, after one day's notice in writing given for that purpose, refuse to show any prisoner committed in execution to the creditor at whose suit such prisoner was committed or charged, or to his attorney, every such refusal shall be adjudged to be an escape in law.

And be it further ordained and enacted, That every sheriff or keeper of any gaol, upon whom a declaration, notice, or any other proceeding directed to or intended for any prisoner in his custody shall be served, shall, within three days after such service, deliver the same to such prisoner, with a note thereon of the time of the service thereof, and if he shall neglect so to do shall be liable to such prisoner for all damages thereby occasioned.

And whereas it is expedient to make provision for cases in which defendants against whom judgments have been recovered in the district courts in this province may not have goods and chattels within such district for the satisfaction thereof, but may have goods and chattels in other parts of the province: Be it therefore ordained and enacted, That in all cases where a final judgment for any sum or sums of money exceeding three pounds shall have been recovered as aforesaid in any district court, it shall and may be lawful for the Court of Common Pleas for this province, in any of its divisions, upon affidavit made and filed in any such division, that a judgment as aforesaid has been recovered, and that upon a precept of execution issued out of such district court, for the satisfaction thereof, no sufficient goods and chattels of the defendants for that purpose have been found within the district in which the judgment has been recovered, to cause the record of every such judgment to be removed into the said Court of Common Pleas, in any of the divisions thereof as aforesaid, and to issue a writ of execution thereupon to the sheriff of any of the districts within the territorial division in which the said court so resorted to shall sit, against the goods and chattels of the defendant, in the same manner as upon judgments recovered in any such divisions of the said court; and the sheriff to whom such writ of execution shall be directed shall and he is hereby authorised to levy the sum of twenty shillings for the ordinary costs of the plaintiff subsequent to the said judgment, and of the execution in the said Court of Common

No. 179.

Regulating the office of Sheriff.

Pleas, over and above the money for which such writ of execution shall be issued.

And be it further ordained and enacted, That in all cases where a final judgment for any sum or sums of money exceeding ten pounds sterling shall have been rendered in any district court in this province, it shall and may be lawful for the said Court of Common Pleas, in any of its divisions, upon affidavit made and filed as in the next preceding section of this Ordinance is mentioned, to cause the record of every such judgment to be removed into the said Court of Common Pleas in any of its divisions as aforesaid, and to issue a writ of execution thereupon to the sheriff or sheriffs of any of the said districts within the territorial division in which the division of the said court so resorted to shall sit, against the goods and chattels, lands and tenements of the defendant or defendants, in the same manner as upon judgments recovered in any such division of the said court; and the sheriff to whom such writ of execution shall be directed shall and he is hereby authorised to levy the sum of twenty shillings for the ordinary costs of the plaintiff subsequent to the said judgment, and of the execution in the said Court of Common Pleas, over and above the money for which such writ of execution shall be issued.

And be it further ordained and enacted, That in cases where the sheriff or duputy sheriff of any district, or of two or more united districts, by whom a district court may be held, shall be a party or interested in any suit to be brought, and which would otherwise be brought, and be cognziable in such district court, or would by law be disqualified from taking cognizance of any such suit when brought, it shall be lawful for the district court nearest to the district court disqualified as aforesaid to have and take cognizance of such suit, in like manner as of ordinary suits and causes properly cognizable therein, and the service of process in such cases on such sheriff or deputy sheriff within his district shall have the same effect as if made within the district in which such district court shall be held.

And be it further ordained and enacted, That whenever any sheriff or deputy sheriff of any district in this province shall, by reason of sickness, absence, or other cause, be rendered incapable or incompetent to sit and exercise judicial functions in the district court to be held by him in pursuance of the Ordinance or Law in such case made and provided, it shall be lawful for the Governor of this province, by warrant or instrument under his hand and seal, to nominate and appoint a fit and proper person to be and act as the substitute, and in the place and stead of such sheriff or deputy sheriff so disqualified or rendered incompetent as aforesaid, and such substitute so appointed shall have the same powers and authority during the continuance and in execution of such appointment as the said sheriff or deputy sheriff so disqualified or rendered incompetent would otherwise have had.

And be it further ordained and enacted, That the penalties to be recovered and levied in pursuance of this Ordinance shall be paid into the hands of the Receiver-General, to be appropriated by the Legislature to the public uses of this province, and shall be accounted for to Her Majesty, her heirs and successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner as Her Majesty, her heir and successors, shall direct.

And whereas, by an Ordinance of the Legislative Council of the late Province of Quebec, made and passed in the twenty-fifth year of the reign of His late Majesty King George the Third, intituled "An Ordinance to regulate the Proceedings in the Courts of Civil Judicature, and to establish Trials by Juries in Actions of a Commercial Nature and Personal Wrongs, to be compensated in Damages," sheriffs on every execution are allowed all their disbursements, and are authorised to charge over and above, at the rate of two and a half per cent., to be deducted out of the money they levy: And whereas the said poundage authorized by the said Ordinance as aforesaid is unreasonably large in cases of sales of property of considerable value: Be it therefore further ordained and enacted, That so much of the said Ordinance as authorises a poundage of two and a half per cent., as aforesaid shall be, and the same is hereby repealed; and that from and after the commencement of this Ordinance, the sheriffs of the aforesaid several districts or united districts hereafter to be erected and constituted within this province shall, on all writs of execution and on all writs of *Venditioni Exponas*, issued at any time before or after the commencement of this Ordinance, and which may come to their hands or to be carried into effect by them, by whatever court the same may have been issued, be entitled to poundage as follows, that is to say: on sales of property, real or personal, not exceeding in price the sum of five hundred pounds, a poundage of two and a half per cent., and on sales exceeding that amount a poundage at the rate of two and a half

No. 179.

Regulating the office of Sheriff.

per cent. on the first five hundred pounds, and of one per cent. on every hundred pounds beyond that amount and not exceeding one thousand pounds; and on sales exceeding the last-mentioned sum one quarter per cent. for every hundred pounds beyond that sum.

And be it further ordained and enacted, That a certain Act of the Legislature of this province made and passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled "An Act for making certain Regulations respecting the Office of Sheriff," shall be and the same is hereby repealed.

And be it further ordained and enacted, That the words "Governor of this province," wherever they occur in the foregoing enactments, are to be understood as meaning and comprehending the Governor or the person authorised to execute the commission of Governor within this province for the time being.

And be it further ordained and enacted, That it shall and may be lawful for the Governor of this province, with the advice of Her Majesty's Executive Council, to fix and declare the day of the commencement of this Ordinance, provided that such day shall not be later than the fifteenth day of May now next ensuing.

And be it further ordained and enacted, That this Ordinance, and the provisions herein contained, shall not cease or expire on the first day of November which shall be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, and in full force in this province, until the same shall be repealed or altered by competent legislative authority.

SCHEDULE No. 1, referred to in the foregoing Ordinance.

CONDITION OF RECOGNIZANCES to be entered into by SHERIFFS of DISTRICTS. .

Whereas the above-bound *A. B.* hath been appointed sheriff of the district of in this province. Now the condition of this recognizance is such, that if the said *A. B.*, while living, and his heirs, executors, curators, and administrators, after his death, when, where, and as often as he or they shall or may be required, shall make and yield a true and lawful account to the Queen's Majesty, her heirs and successors, before such person or persons as by Her said Majesty, her heirs and successors, may in this behalf be appointed or authorized, of the issues and profits of the said office, and of all things belonging to the Queen's Majesty, her heirs and successors, which shall come to the hands of the said *A. B.* as sheriff as aforesaid, or to the hands of his under-sheriff, or any of his deputies, bailiffs, or servants, or which he may or ought lawfully to levy or receive, or with which he may be reasonably charged, to the Queen's use, by reason of his said office, or of any process to him directed, without any manner of concealment or delay, and do pay or cause to be paid into the hands of the Queen's Majesty's Receiver-General of the revenue of and in this province, or his deputy, for the time being, to the use of Her Majesty, her heirs and successors, all and every such sum and sums of money as shall by him or them be due to Her Majesty, her heirs or successors; and if the said *A. B.*, while living, and his heirs, executors, curators, and administrators after his death, do and shall well and truly account for, pay, satisfy, and deliver to all and every person and persons who are or shall or may be entitled to the same, all such moneys, goods, and chattels as have or shall or may come into the hands, custody, or charge of the said *A. B.* under, in pursuance, or by virtue of any writ or writs, or legal process, or order, judgment, or judgments of any court or courts of judicature in this province, or by virtue or in right of his said office, in any manner or way whatsoever, and do not nor shall wrongfully withhold or delay the payment or delivery of any such sum or sums of money' goods or chattels, beyond the time or times at which the same of right ought to be paid or delivered; and also if the said *A. B.* do and shall assign and appoint, by his sufficient warrant, his able or sufficient attorney or deputy, in Her Majesty's Court of Queen's Bench and Common Pleas of this province respectively, wherever the said court shall happen to be kept, who shall attend the said courts so long as they shall be open and sitting, and receive, open, and return all writs, process, and commandments which shall be directed to the sheriff of the said district of , or his deputy, by the said courts respectively; and further, if the said *A. B.*, so long as he shall be sheriff of the said district of , do and shall by himself or his sufficient deputies, not only well and sufficiently serve and execute all processes, or mandates, and commandments, which to him shall be directed

or awarded by the said courts respectively, and make full and perfect returns of the same, according to the tenor and true purport of the same, but do and shall give his personal and ready attendance at and before the said Courts of Queen's Bench and Common Pleas respectively, for the better service of Her Majesty, her heirs and successors, by the said *A. B.*, sheriff as aforesaid, or his deputy, to be had and done as often and when he, the said *A. B.*, sheriff as aforesaid, shall be required or commanded thereunto by the said courts respectively; and likewise if the said *A. B.* do and shall from time to time and at all times hereafter, by himself or by his sufficient deputies, well, truly, faithfully, and assiduously observe, perform, and execute all and singular such attendances, offices, services, acts, and things as shall or may be legally required of him, and do and shall well and truly demean himself in the execution of all and every the duties of his said office, then this present recognizance to be void and of no effect, otherwise to remain in full force and virtue.

SCHEDULE No. 2, referred to in the foregoing Ordinance.

OATHS to be taken by SHERIFFS and UNDER-SHERIFFS of DISTRICTS.

Oath of Allegiance.

I, *A. B.*, do sincerely promise and swear, That I will be faithful and bear true allegiance to Her Majesty Queen Victoria. So help me God.

Oath of Office.

I, *A. B.*, do swear that I will well and truly serve the Queen's Majesty, in the office of sheriff (or under-sheriff, as the case may be) of the district of , and promote Her Majesty's profit in all things that belong to my office as far as I legally can or may: I will truly preserve the Queen's rights and all that belongeth to the Crown: I will not assent to decrease, lessen, or conceal the Queen's rights, or the rights of her franchises; and whensoever I shall have knowledge that the rights of the Crown are concealed or withdrawn, be it in lands, rents, franchises, suits, or services, or in any other matter or thing, I will do my utmost to cause them to be restored to the Crown again: I will not respite or delay to levy the Queen's debts, for any gift, promise, reward, or favour, where I may raise the same without great grievance to the debtors: I will do right as well to poor as to rich, in all things belonging to my office: I will do no wrong to any man, for any gift, reward, or promise, nor for favour or interest: I will disturb no man's right, and will truly and faithfully acquit and cause to be acquitted all those of whom I shall receive any debts or dues belonging to the Crown: I will truly serve, execute, and return all the Queen's writs, according to the best of my skill and knowledge; and will duly account for and pay over, without delay on my part, all moneys that shall come into my hand as sheriff (or under-sheriff, as the case may be) to the parties or persons legally entitled to the same: I will take no bailiffs into my service but such as I will answer for, and will cause each of them to take such oaths as I do in what belongeth to their business and occupation: I will truly set and return reasonable and due issues of them that are within my sheriffwick, according to their estate and circumstances, and make due panels of persons able and sufficient, and not suspected or procured, as is and shall be appointed by the laws of this province: I have not sold or let to farm, nor will I sell or let to farm, nor have I entered into or will I enter into any contract for the sale or disposal, or the letting to farm, directly or indirectly, of my sheriffwick, or any office belonging thereunto, or the profits of the same, to any person or persons whomsoever: (Instead of the last sentence beginning with the words "I have not sold," and ending with the word "whomsoever," the undersheriff's oath will here include the following sentence, to wit: "I have not bought or taken to farm, nor will I buy or take to farm, nor have I entered or will I enter into any contract for the purchasing, acquiring, or taking to farm, directly or indirectly, of the office of under-sheriff of the said district of , which I am now about to enter upon and enjoy, nor the profits of the same, or any office or place belonging to the said office of under-sheriff; nor have I sold or let to farm, nor will I sell or let to farm, directly or indirectly, any place belonging to the said office of

No. 179.

Regulating the office of Sheriff.

under-sheriff:") I will truly and diligently execute the laws of this province, and in all things well and truly behave myself in my said office, for Her Majesty's advantage and the good of her subjects, and discharge my whole duty according to the best of my skill and power. So help me God.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the province, at the Government House in the city of Montreal, the twenty-sixth day of January, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of Our Lord One thousand eight hundred and forty-one.

By his Excellency's command,

(Signed) W. B. LINDSAY,

Clerk, Special Council.

I hereby certify the foregoing to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the twenty-sixth day of January, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

W. B. LINDSAY,

Clerk, Special Council.

(Copy.)

No. 180.

No. 180.

Establishing communication between Montreal and Chambly.

CAP. 16.—*An Ordinance for establishing and maintaining better Means of Communication between the City of* Montreal *and* Chambly.

[Passed 27th January, 1841.]

WHEREAS it is expedient to provide better means of communication between the city of Montreal and the canton of Chambly, on the canal connecting the navigable waters of the river St. Lawrence with those of Lake Champlain, and also between the said city and the parishes, townships, and tract of country lying in the neighbourhood of Chambly aforesaid, or beyond it on the same side of the river St. Lawrence, and in nearly the same direction from the said city; and whereas, for the purposes aforesaid, it is expedient to authorize the construction of a sufficient turnpike-road between some point near the village of Longueuil and the said canton of Chambly with a branch road to a point on the basin of Chambly, near the entrance of the said canal into the said basin, and to provide funds for defraying the expense of making the said road, and of keeping it permanently in a state of efficient repair: Be it therefore ordained and enacted by his Excellency the Governor of the said Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said Province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make Temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament passed in the Session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making Temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament passed in the Session held in the third and fourth years of the reign of Her present Majesty, and intituled "An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that it shall and may be lawful for the Governor of the said Province, by letters-patent under the Great Seal thereof, at any time after the passing of this Ordinance, to appoint not less than five nor more than nine persons to be, and who and their

No. 180.

Establishing communication between Montreal and Chambly.

successors to be appointed in the manner hereinafter provided shall be, trustees for the purpose of opening, making, constructing, and keeping in repair the roads and other public works hereinafter mentioned.

And be it further ordained and enacted, That in case of the death, absence for more than three months from the Province, misconduct, inability or neglect to act, or resignation of any one or more of the trustees so to be appointed, the Governor of the said Province may declare a vacancy in the said trust, and supply and fill such vacancy by the appointment by letters-patent, of other one or more trustees as the case may require; and until such appointment the remaining trustee or trustees, or the majority of them as hereinafter mentioned, shall and may continue to do and perform all and every the acts, matters, and things necessary for, and appertaining to, their trust and the purposes of this Ordinance: Provided always, that any majority of the said trustees for the time then being, or of such of them as shall then be within this Province, shall and may have and exercise all the powers hereby vested in the said trustees; and provided further, that the said trustees or a majority of them may, by an instrument in writing signed by them, appoint one of their number to be the manager of the said trust; and any and all acts, matters, and things by him done and performed in and about the said trust and for the purposes of this ordinance, and any and all writings and documents whatsoever relating to, or connected with, the said trust and the purposes of this ordinance, signed by him and countersigned by two of the other trustees, in case they be five in number, or by three of the other trustees in case they be more than five in number, shall be held to be good and valid as the act of the trustees appointed under the authority of this Ordinance, to all intents and purposes whatsoever; but the said trustees, or a majority of them, may, by an instrument under their hands, revoke such appointment, and appoint in like manner any other of their number to be manager as aforesaid; and nothing herein contained shall be construed to prevent the trustees, or the majority of them, or of those then within the Province, from acting collectively, for all the purposes of their trust at any time, without appointing or having a manager as aforesaid.

And be it further ordained and enacted, That the said trustees shall and may make and construct, maintain and keep in efficient repair, a road from the waters of the River St. Lawrence, at or near the village of Longueuil (from a point at or within seven hundred yards of the landing-place used for the present ferry, between the said village and the north bank of the said river), towards the said canton of Chambly, and until the road so made shall intersect the river called La Petite Rivière, in the parish of Chambly; and shall and may in like manner make, construct, maintain, and keep in efficient repair a road from the point last mentioned to a point on the basin of Chambly, at or within two hundred yards of the landing-place of the present ferry across the said basin to La Pointe Olivier, and another road from the said Pointe, on the river called La Petite Rivière, to a point in the place called the canton of Chambly, within one hundred yards of the fort; and shall and may build, construct, and perform all such bridges and other works as may be necessary for completing and using the said roads; Provided always, that the said trustees may make the said roads either wholly or partly along the line of any existing public highway, and may adopt and use any part of any such highway as part of any of the said roads, or may deviate therefrom, and make the said roads either wholly or partly on or in a new line or lines, direction or directions, as to them shall appear most for the public advantage, and most likely to ensure the attainment of the object of this Ordinance.

And be it further ordained and enacted, That the said trustees shall and may, for all the purposes of this Ordinance, sue and be sued, and answer and be answered unto in all courts of justice and other places by the name of "The Trustees of the Longueuil and Chambly Turnpike-road;" and service of any summons at their usual office, in any action against them, shall be sufficient to compel them to appear accordingly to answer to such action; and the said trustees, for the purposes hereinafter mentioned, and none other, may purchase or otherwise acquire and hold property and estate, moveable or immoveable; which property so purchased or otherwise acquired, shall be vested in Her Majesty, her heirs and successors, for the public uses of this Province; and the price to be paid by the said trustees to the owner or owners of such property, shall and may be established by mutual agreement or by arbitration; in which case of arbitration the said trustees shall appoint one arbitrator and the owner or owners shall appoint another arbitrator; and in case of difference of opinion between the arbitrators so appointed, they the said

No. 180.

Establishing communication between Montreal and Chambly.

arbitrators, or if they shall not agree, any one of the justices of the Court of King's Bench for the district of Montreal, or of that division of the Court of Common Pleas which shall hold its sittings in the territorial division of Montreal, shall and may, on the summary petition either of the said trustees or of the said owner or owners, appoint an umpire; and the decision of such arbitrators and umpire, or of a majority of them, rendered in writing, shall be conclusive and final, and shall bind the respective parties according to its intent and tenor.

And be it further ordained and enacted, That if any lands or premises belonging to or in the possession of any body politic, community, corporation, or person or persons whomsoever, who cannot, in common course of law, sell or alienate the same, shall be required by the said trustees for the purposes of this ordinance, the same shall and may be sold and alienated to the said trustees by such body politic, community, corporation, or person or persons, for an annual rent, to be paid as an equivalent for, and in lieu of, a price or principal sum of money; and the amount of such annual rent may be established by mutual agreement or by arbitration in the manner provided by the section of this Ordinance immediately preceding this section, or by a jury in the manner hereinafter provided, if it be not so ascertained as aforesaid.

And be it further ordained and enacted, That in default of the parties mutually agreeing upon, or submitting to, arbitration, the establishment of the price, or of the annual rent equivalent to the price, to be paid for the land and premises required by the said trustees for the purposes of this Ordinance in the manner mentioned in the two sections of this Ordinance immediately preceding this section, the said price or the said annual rent, as the case may be, shall be settled and determined by the judgment of any court of competent jurisdiction, to be rendered in an action or actions to be instituted by the party or parties concerned against the said trustees; but in the mean time, if the said trustees shall duly tender to such owner or owners, or to such body politic, community, corporation, or person or persons unable, in common course of law, to sell or alienate as aforesaid in the former case, a sum of money as and for the price or value, and in the latter case a sum of money as and for the amount of the annual rent for one year, of and for land and premises so required by the said trustees for the purposes of this Ordinance, and the same shall be refused, and a submission to arbitration as aforesaid shall also be refused, it shall and may be lawful for the said trustees forthwith to enter into and upon, and to take possession of and to appropriate to the purposes of this Ordinance, the land by them so required as aforesaid, in like manner as if the tender of the said trustees had been accepted: Provided always, That in any action afterwards instituted in any court of competent jurisdiction against the said trustees for the recovery of the value or price, or of the annual rent equivalent to the value or price of the said land required for the purposes of this Ordinance, the said trustees shall pay into court in the said action the amount by them tendered as aforesaid; and in case the value or price, or the annual rent equivalent to the value or price, settled by such judgment to be recovered against the said trustees, shall not exceed the amount tendered by them previously to the institution of the action, and subsequently paid into court as aforesaid, the party or parties instituting the same shall pay all costs of suit, but otherwise the said trustees shall pay the costs of suit; and for the payment of such annual rent, equivalent to such value or price of land required for the purposes of this Ordinance, the tolls to be levied and collected on the said roads shall be, and are hereby made, liable and chargeable in preference to all other claims whatsoever: Provided always, That any compensation to be made by the said trustees to any party for any loss or expense to which such party shall be subjected by reason of anything done under the authority of this Ordinance, and which loss such party would not have been bound by the laws now in force to bear without compensation, if the said roads had been made or repaired under the authority of any *procés verbal*, duly homologated, shall and may be ascertained and paid in the same manner and under the same provisions as the compensation to be made for land taken by the trustees under the authority of this Ordinance.

And be it further ordained and enacted, That the said roads and works hereinbefore mentioned between the said village of Longueuil and the said basin and canton of Chambly, that is to say, between the points mentioned in the third section of this Ordinance, shall be under the exclusive superintendence, control, and management of the said trustees, and they shall cause the said roads to be properly and sufficiently made and constructed, or (in any case where any part of any exist-

No. 180.

Establishing communication between Montreal and Chambly.

ing road or work shall be adopted as part thereof,) to be widened, improved and repaired, or made anew, and afterwards shall keep and maintain the same in a proper and efficient state of repair; and to the ends aforesaid it shall and may be lawful for the said trustees, and they are hereby authorized and empowered, to determine the directions of each and every part of the said roads, and if necessary to change the direction or place of any part of the said roads or of any work at any time, and to purchase or acquire any land or property, real or personal, necessary to give effect to the provisions of this Ordinance, and to make ditches, drains, tunnels, plots, bridges, and other works and devices on the said roads, and on the sides thereof, and either within or without the fences at the sides of the said roads, and in, or through any land or premises whatsoever; and for the purposes aforesaid, by themselves, their agents, or servants, to go into and enter upon any land or premises whatsoever, and take therefrom any earth, gravel, stone, or other material which they may deem necessary, and to erect gates, toll-bars, turnpikes, and turnpike houses, and buildings on, across, or near the said roads, and the same again from time to time to remove and re-erect elsewhere, on, across, or near the said roads, and for the purpose of erecting such turnpike houses and buildings, to purchase and acquire, or to hire for a limited time at a specific rent, any lands or premises whatever; to appoint and employ a clerk or clerks, surveyor or surveyors, and a toll-collector or toll-collectors, and all other such officers and persons under them as they from time to time may deem necessary for the purposes of this Ordinance; and if deemed necessary, to take and receive from any such surveyor, toll-collector, or other officer or person, security for the due performance of their respective duties; to pay to such surveyor, toll-collector or other officer or person such reasonable compensation as the said trustees shall deem meet, and generally to do and perform all such matters and things as may be necessary for carrying this Ordinance into effect, according to the true intent, meaning, and object thereof; any law, statute, or usuage to the contrary notwithstanding.

And be it further ordained and enacted, That the roads to be made by the said trustees under the authority of this Ordinance, and any portion of any existing highways which they shall adopt as part thereof, shall be public highways to all intents and purposes of law; and when the line of any part or parts of the said roads shall be altered from the place first adopted for the same by the said trustees, and after the new part or parts of the said roads shall be made and completed, such new part or parts shall be substituted for the part or parts abandoned, and shall be deemed and taken to be a public highway or highways, subject to all the same provisions and regulations as the roads for which they shall be substituted; and such part or parts of the old road so abandoned, and the land and soil thereof, may be sold and conveyed by the trustees to any party willing to purchase the same, giving to the person or persons whose lands adjoin thereto, a preference in the purchase thereof; and it shall be lawful for the Governor of this province, to cause the requisite grant or instrument to be executed in Her Majesty's name: Provided always, That if any such part or parts of the old road shall lie between the new road, and any land, house, or place which cannot in the opinion of the trustees be otherwise conveniently accommodated with a passage from the new road, then, and in such case, the said part or parts of the old road shall be sold subject to the right of way or passage to such land, house, or place respectively; and provided further, that the money arising from the sales of any part or parts of the old road shall form part of the funds at the disposal of the trustees for the purposes of this Ordinance, and may be applied in the same manner as the tolls arising on the said road.

And be it further ordained and enacted, That when the said roads shall be completed, the said trustees may and shall demand, and levy, exact, and receive on the said roads from the persons who shall use the said roads, or any of them, the certain tolls and rates hereinafter mentioned, that is to say: for every waggon, wain, cart, or other wheel carriage for the transportation of loads, the wheels whereof have tires or tracks of the breadth of four inches or upwards, English measure, drawn by one or two horses or other beasts, if the same be loaded in whole or in part, the sum of one shilling currency, and if the same be not loaded, the sum of eightpence currency; and for every such waggon, wain, or cart with wheels, the tires or tracks whereof shall have a breadth less than four, and not less than two and a-quarter inches, English measure, drawn as aforesaid, if loaded in whole or in part, the sum of one shilling and one penny currency, and if not loaded the sum of elevenpence currency; and for every such waggon, wain, or cart with wheels, the tires or tracks whereof shall have a breadth less than two and a-quarter inches,

No. 180.

Establishing communication between Montreal and Chambly.

English measure, drawn as aforesaid, if loaded in whole or in part, the sumof one shilling and fourpence currency, and if not loaded the sum of one shilling currency; and for every additional horse or other beast to any such waggon, wain, or cart hereinbefore mentioned, the further sum of eightpence currency; for every coach, stage-coach, gig, calèche, dennet, spring-cart, or other wheel carriage (other than waggons, wains, and carts of the description hereinbefore mentioned), having wheels with tires of the breadth of two and a-quarter inches or upwards, English measure, drawn by one horse or other beast, the sum of one shilling and fourpence currency; and for every such coach, stage-coach, gig, calèche, dennet, spring-cart, or other wheel carriage (other than waggons, wains, and carts of the description hereinbefore mentioned), having wheels with tires or tracts less than two and a-quarter inches, English measure, in breadth drawn as aforesaid, the sum of one shilling and eightpence currency; and for every additional horse to such stage-coach, gig, calèche, dennet, spring-cart, or other wheel carriage, the further sum of eightpence currency; for every sleigh, train, drag, berline, curricle, or other winter vehicle whatsoever, drawn by one or two horses or other beast or beasts, the sum of eightpence currency; and for every additional horse the further sum of twopence-halfpenny currency; for every horse, mare, or gelding with a rider, the sum of eightpence currency; for every horse, mare, gelding, ass, mule, bull, ox, cow, and head of other neat cattle not drawing, the sum of twopence halfpenny currency; for every sheep, lamb, hog, calf, or goat, the sum of one halfpenny currency; the said tolls to be exacted and paid in equal and just proportions at the turnpike gates and toll-bars, not less than four in number, to be erected and established in the said road for that purpose by the said trustees, at places as nearly equidistant from each other as may be found practicable and convenient; and the said trustees may and they are hereby authorized and empowered to make and establish the regulations under which such tolls or rates shall be so levied or collected; and with the consent of the Governor of this province may from time to time, as they shall see fit, alter, change, and modify the said rates and tolls and the said regulations, and may, and shall prevent the passing through any turnpike-gate or toll-bar of any person, vehicle, animal, or thing from on whom or which any rate or toll shall be payable, until such rate or toll be paid, and the said trustees shall affix in a conspicuous place at each turnpike-gate and toll-bar, whereat any rate or toll is payable, a table of the tolls to be taken thereat, and the regulations under which such tolls are to be levied, plainly and legibly printed: Provided always, That nothing herein contained shall empower the said trustees at any time to establish, demand, levy, exact, or receive any rates or tolls exceeding the rates and tolls herein mentioned, and authorized to be exacted and received.

Provided always, and be it further ordained and enacted, That Her Majesty's mail, and persons, animals, and carriages employed in the conveyance thereof, Her Majesty's naval and military officers, and sailors and soldiers when on service and being in naval or military uniform, dress or undress, and their horses (but not when passing in a hired or private vehicle), and all carriages, horses, and animals belonging to Her Majesty or employed in her service when conveying persons in such service or returning therefrom, and all naval and military recruits marching by route, and all persons, animals, and carriages attending funerals, shall pass toll free along the said road and through the turnpike-gates and toll-bars thereon, to be erected under the authority of this Ordinance.

Provided always, and be it further ordained and enacted, That no more than one full toll in any one day (to be computed from twelve of the clock at night to twelve of the clock in the next succeeding night), shall be demanded or taken for or in respect of the same horse or horses, or other beast or beasts or cattle drawing the same waggon, wain, cart, coach, gig, calèche, dennet, spring-cart or other wheel carriage, or winter carriage, or for or in respect of the same horse, mule, ass, or other beast or cattle, laden or unladen or not drawing, or for or in respect of the same oxen or ox, neat cattle, calves, swine, sheep or lambs for passing and repassing through all or any of the gates along the line of the same, one of the said roads except as hereinafter mentioned; and provided further, that no carriage, animal, or thing on which one full toll shall have been paid on any day at any one of the said turnpike-gates, shall be subject to any toll on passing through any other of the said turnpike-gates on the same day.

Provided also, and beit further ordained and enacted, That the tolls hereby made payable for, or in respect of any stage-coach, diligence, van, caravan, stage, waggon, or other stage, carriage, or any cart or carriage of any kind, conveying passengers

No. 180.

Establishing communication between Montreal and Chambly.

or goods for hire, pay, or reward, and for or in respect of any horse or horses, beast or beasts drawing the same, shall be payable and paid every time of passing or repassing along the said road; but not at more than one of the said turnpike-gates for each time of so passing or of repassing on the said roads, in one and the same direction, although several of the said turnpike-gates should be gone through in the same direction in so passing or repassing.

And be it further ordained and enacted, That the said trustees may, if they think proper, commute the tolls on the said roads with any person or persons, by taking a certain sum of money either yearly or monthly in lieu thereof.

And be it further ordained and enacted, That the said trustees may from time to time, if they shall deem it advantageous, let or farm the tolls to be levied on the said road by public auction to the highest and best bidder, for a term not exceeding one year in any case, taking good and sufficient security from the farmer or lessee: Provided always, That the said tolls to be levied shall not be let or farmed until after the expiration of the first year from the time when the said road shall be completed, and the trustees shall have begun to levy the tolls thereon.

And be it further ordained and enacted, That all and every the powers and authorities, jurisdiction and control over or with regard to the highway or portion of any highway which shall be adopted by the said trustees as part of any road they are hereby authorized to make, vested in any grand voyer, overseer of roads, road surveyor, or other road officer, by the Act of the Parliament of this province, passed in the thirty-sixth year of the reign of King George the Third, intituled, "An Act for making, repairing, and altering the Highways and Bridges within this Province, and for other Purposes," or by any other Act, Ordinance, or Law of this province, or in any district council, shall, in so far as the same shall not interfere with the carrying into effect of this Ordinance, be or become and continue to be so vested, until the said trustess shall, in writing, notify such grand voyer, overseer of roads, road surveyor, or other road officer, or the clerk of such district council, that they the said trustees have assumed and taken upon themselves, or will from and after a specified day, assume and take upon themselves, for the purposes of their trust, the control and management of the said road; and from and after such specified day, all and every the said powers, authorities, jurisdiction, and control vested in such grand voyer, overseer of roads, road surveyor, or other road officer or district council as aforesaid, shall cease and determine.

And be it further ordained and enacted, That from and after the day when the said trustees shall assume and take upon themselves the control and management of the said road, each and every person and persons, body and bodies, politic or corporate, who may be bound by any law of this province, or by any *procès verbal*, duly homologated (and all such laws and *procès verbaux* shall remain in full force, except in so far as they are hereby expressly derogated from), to repair, or keep up, or to perform any service or labour on or with regard to any portion of the road hereby placed under the control of the said trustees, shall and are hereby required to commute all such obligations with the said trustees for such sum of money as may be agreed upon by such parties respectively and the said trustees; and such commutation money shall be payable annually, on the first day of May in each year; and if any such party shall neglect or refuse to pay the sum so agreed upon when due, the said trustees may sue for and recover the same with costs, in any court having original civil jurisdiction to the amount: Provided always, That if no such agreement or commutation shall be effected, the said trustees may sue the party neglecting or refusing to make such agreement or commutation, for the sum which, in their estimation, such party ought then to pay for such commutation, in any court having jurisdiction to the amount so sued for, and may recover the same or such less sum as the court shall award; and the rate determined by the judgment shall be the rate to be thereafter paid for such commutation by the party defendant, or such party as may be liable to the commutation of the same obligation: Provided also, That costs shall be awarded to any such party who shall, before the commencement of such suit, have legally tendered to the said trustees at their office, or to their clerk in person, a sum of money equal to that for which judgment in such suit shall be given.

And be it further ordained and enacted, That the said trustees shall in no case be bound to make or maintain any fence between any part of the roads they are hereby authorized to make, and the lands through which the same shall pass; but if any proprietor of any land shall by reason of this enactment sustain any loss, or become subject to any expense which he would not have been bound by the law

No. 180.

Establishing communication between Montreal and Chambly.

now in force to bear without compensation, if the said roads have been directed to made by any *procès verbal* of the grand voyer duly homologated, then compensation shall be made to such proprietor by the said trustees for such loss or expense; and the amount thereof shall be ascertained in the manner herein provided with regard to other damages sustained by any party by reason of any thing done under the authority of this Ordinance.

And whereas it will be advantageous to the public to establish a regular ferry between the parish of Longueuil and the island of Montreal in connexion with the turnpike road by this Ordinance authorized to be established: Be it therefore further ordained and enacted, That it shall and may be lawful for the said trustees, by the name aforesaid of "The Trustees of the Longueuil and Chambly Turnpike-road," to establish a public ferry, of such nature as to the said trustees shall seem fit, between the commencement of the said turnpike-road on the south bank of the river St. Lawrence, and any part of the island or city of Montreal, and to lease the said ferry for one year or for a term of years: Provided always, That nothing herein contained shall be construed to confer upon the said trustees any exclusive privilege in the said ferry, and to acquire, possess, hold, use, and employ in and on such ferry, scows, boats, barges, or other vessels, propelled by animal labour, wind, steam, horse, or other motive power, for the conveyance and transport between the places aforesaid, of passengers, animals, carriages, goods, chattels, wares, and moveable property of every description; and for the purposes aforesaid, it shall and may be lawful for the said trustees to take, purchase, or otherwise acquire (in like manner as they are hereinafter authorized to purchase or otherwise acquire lands for the purposes of their trust) and to hold any real estate or property which shall be deemed by the said trustees to be requisite and useful for the purposes aforesaid, and for rendering the access to the said ferry commodious and easy: Provided always, That no real estate or property to be purchased or acquired for the purposes in this section mentioned, shall be so purchased or acquired without the express sanction and approval of the Governor of this province; and that no real estate or property shall be purchased, acquired, or held for the said purposes, within the limits of the harbour of Montreal, which shall for the purposes of this section be held to extend from the entrance of the Lachine Canal to the lower extremity of the Revetment Wall adjoining the government works at the commissariat store.

And be it further ordained and enacted, That it shall and may be lawful for the said trustees, and they are hereby empowered to demand, take, sue for, recover, and receive the following tolls or rates of ferriage or freight and no more, that is to say:

For every coach, stage-coach, waggon, or other carriage with four wheels drawn by two horses or other beasts, the sum of one shilling and sixpence currency;

And for every additional horse or other beast to the same, the sum of sixpence currency;

For every such coach, stage-coach, waggon, or other carriage drawn by one horse or other beast, the sum of one shilling and three-pence currency;

For every gig, calèche, cart, or other carriage with two wheels, and for every sleigh, berlin, train, or other winter carriage, drawn by two horses or other beasts, the sum of one shilling and sixpence currency;

For every such gig, calèche, cart, sleigh, berlin, train, or other carriage drawn by one horse or other beast, the sum of one shilling and three-pence currency;

For every saddle, horse, ass, or mule with its rider, the sum of sixpence currency;

For every horse, man, gelding, ass, mule, bull, ox, cow, or head of cattle, the sum of four pence currency;

For every sheep, calf, lamb, goat, or hog, the sum of one halfpenny currency;

For each person on foot, and for each person over five in any carriage drawn by four horses or other beasts, or over three in any carriage drawn by a less number than four horses or beasts, twopence currency: Provided always, that the rates of ferriage as above, shall be those authorised to be demanded, taken, paid for, and recovered, in case of the ferry being for a distance under two miles, but may be double the respective amount of the same at the discretion of the trustees, should the said, ferry be for a distance exceeding two miles: Provided further, That it shall be competent to the said trustees to establish reasonable rates of ferriage for all grain, flour, oatmeal, meat, plank, boards, and other lumber, and for all other goods, wares, and merchandise, not forming the load or part of the load of any of the above-mentioned carriages or beasts; which tolls or rates shall be applied to the

No. 180.

Establishing communication between Montreal and Chambly.

same purposes and in like manner as the tolls on the said turnpike-road are hereby authorised to be applied: Provided always, That the said trustees shall be at liberty from time to time, with the sanction and approval of the Governor of this province, to reduce the said tolls or rates, or any of them, and again to raise the same, provided they be not at any time raised beyond the rates hereinbefore-mentioned and authorized: and Provided further, That the said trustees shall cause tables of the tolls to be paid at the said ferry, and the regulations under which they are to be collected, to be plainly and legibly printed and affixed in a conspicuous place in each decked vessel employed at such ferry, and may seize and detain any carriage, animal, or thing, on which any toll shall be due for ferriage, until such toll be paid.

And be it further ordained and enacted, That the said trustees may, if they think proper, commute the tolls on the said ferry with any person or persons, by taking a certain sum of money either yearly or monthly in lieu thereof.

And be it further ordained and enacted, That if any person or persons shall wilfully or maliciously cut, burn, sink, or destroy, any scow, boat, barge, or vessel, or destroy or injure any engine or machinery for propelling any scow, boat, barge, or vessel, used by the said trustees in and upon the said ferry, or any building or work of any kind therewith connected, and erected or constructed under the authority of this Ordinance, or shall wilfully or maliciously by any ways, means, or devices, obstruct, or cause to be obstructed, the said ferry or the said works, or any part thereof, and the full and free use thereof, the person or persons so offending shall be guilty of a misdemeanour, and shall, on conviction, be liable to punishment accordingly: Provided always, That nothing in this section contained shall prevent any person committing any offence herein mentioned, from being indicted and punished as a felon, if the offence committed by such person shall in law amount to felony.

And be it further ordained and enacted, That if any person or persons shall suffer damage or injury by reason of the establishment of the ferry hereby authorized to be established, for which damage such person or persons may in the opinion of the trustees be justly entitled to indemnification, it shall and may be lawful for the said trustees, with the express sanction and approval of the Governor of this province, and not otherwise, to pay to such person or persons such equitable indemnification as to the said Governor and to the said trustees shall appear just and reasonable.

And be it further ordained and enacted, That if any person or persons shall cut, break, or throw down, destroy, or wilfully injure any turnpike-gate, toll-bar, toll-house, table of tolls affixed on any such gate, bar, or house, or any embankment, drain, or work of any kind or description whatever, erected or made under the authority of this Ordinance, such person or persons so offending shall be guilty of a misdemeanour, and being thereof lawfully convicted before any court of competent jurisdiction, may be punished by fine and imprisonment.

And be it further ordained and enacted, That no person shall leave any waggon, cart, or other carriage, or any other matter or thing creating obstruction of any kind, in or upon the said roads, or in or upon the ditches, drains, or other works thereof, or those made by or by order of the said trustees, under a penalty not exceeding twenty shillings currency for each offence.

And be it further ordained and enacted, That if any person or persons shall, after proceeding upon any part of the said road, whether in the winter or at any other season, with any carriage, animal, or thing liable to toll, turn out of the same for the purpose of evading, and so as to evade, the payment of toll at any turnpike-gate or toll-bar, such person or persons shall for each such offence incur a penalty not exceeding ten shillings currency; and the said trustees shall and may place turnpike-gates and toll-bars on and across the entrance of any passage or way leading into or from any of the said roads, in order to prevent such evasion of toll; and if any person shall forcibly pass, or attempt to pass, any such turnpike-gate or toll-bar as aforesaid, with any carriage, animal, or thing on which toll shall be due, without having first paid such toll, such person or persons shall thereby incur a penalty not exceeding forty shillings currency, over and above such other punishment or penalty as might be lawfully awarded or imposed, according to the nature of the offence, if this Ordinance had not been passed; and shall moreover remain liable for the payment of such toll.

And be it further ordained and enacted, That if any person or persons, body politic or corporate, occupying or possessing any inclosed land or property near the said road, shall (whether in the winter, or at any other season,) knowingly permit

No. 180.

Establishing communication between Montreal and Chambly.

or suffer any person or persons to pass through such land or property with any carriage, animal, or thing, liable to the payment of toll on the said road, for the purpose of evading the payment of such toll, such person or persons so offending, and the person or persons so unlawfully permitted to avoid such payment, shall each and severally incur a penalty not exceeding ten shillings currency for each offence, and shall moreover become and be jointly and severally liable to the payments of the tolls whereof the payments shall have been avoided.

And be it further ordained and enacted, That all penalties imposed by this Ordinance, and not exceeding forty shillings for each offence, may be sued for and recovered with costs, on the oath of one or more credible witness or witnesses, before any justice of the peace for the district of Montreal, or for the territorial division within which the said road shall be, or for any minor local division within which the offence shall have been committed; and such justice of the peace, may, on conviction, commit the offender or offenders to the common gaol for a period not exceeding two weeks for each offence, or until the penalty and costs be paid; and one moiety of all such penalties shall belong to the informer, and the other moiety to the said trustees for the purposes of this Ordinance: Provided always, That if the informer renounce all claim to any portion of the penalty, he shall be a competent witness, and the whole of the penalty shall in such case belong to the said trustees for the purposes of this Ordinance.

Provided always, and be it further ordained and enacted, That each and every person committing any offence against the provisions of this Ordinance, shall, in addition to any penalty imposed by it for such offence, be liable to the said trustees for all damages they may have sustained by reason of such offence.

And be it further ordained and enacted, That no person shall be deemed incompetent to give evidence, or be disqualified from giving testimony or evidence in any action, suit, prosecution, or other legal proceedings to be bought or had in any court of law, or before any justice or justices of the peace, under or by virtue of this Ordinance, by reason of his being one of the said trustees or their creditor, or of his or her having any privileged claim on the tolls collected under the authority hereof, or in any funds in the hands of the said trustees, or a farmer, lessee, or collector of such tolls, or a clerk or surveyor, or other officers of the said trustees; nor shall such testimony or evidence, for any of the reasons aforesaid, be rejected or liable to be questioned or set aside, provided such person have no other and more immediate and direct interest in the penalty sued for, or in the event of the suit, action, trial, prosecution, or proceeding, in which his or her evidence shall be given or offered.

And be it further ordained and enacted, That if any trustee, treasurer, clerk, surveyor, collector, or other officer of the said road to be appointed under this Ordinance, shall become or be a party, either directly or indirectly, as principal or as surety, to any contract for making, improving or repairing, or for supplying materials for making, improving, or repairing the said road, or for any work or works belonging thereto, or to the ferry hereby authorized to be established, or shall become or be a farmer or lessee of the tolls on the said road or ferry, every such trustee, treasurer, clerk, surveyor, collector, or other officer so offending, shall for every such offence, forfeit and pay the sum of fifty pounds to Her Majesty for the public uses of the province, or to any person who shall sue for the same, to be recovered with full costs of suit in any of Her Majesty's courts of record, having original civil jurisdiction to the amount, by information or by action of debt or on the case.

And be it further ordained and enacted, That it shall be lawful for the said trustees, as soon after the passing of this Ordinance as may be expedient, and for the purposes of their said trust, to raise by way of loan on the credit and security of the tolls by this Ordinance authorized to be levied, and of other monies which may come into the possession and be at the disposal of the said trustees, under and by virtue of this Ordinance, and not to be paid out of or chargeable against the general revenue of this province, any sum or sums of money not exceeding in the whole fifteen thousand pounds currency; and out of the monies so raised, as well as out of the other monies which shall come into their hands, and which are not hereby directed to be applied solely to one special purpose, it shall be lawful for the said trustees to defray any expenses they are hereby authorized to incur, for the purposes of this Ordinance.

And be it further ordained and enacted, That it shall be lawful for the said trustees to issue debentures in the form to be approved of by the Governor of this province, for the said sums by this Ordinance authorized to be raised, and such

No. 180.

Establishing communication between Montreal and Chambly.

debentures shall respectively bear interest at the rate therein mentioned until redeemed; and such interest shall be payable semi-annually, and may at the discretion of the trustees (but with the express approval and sanction of the Governor of this province, and not otherwise,) exceed the rate of six per centum per annum, any law to the contrary notwithstanding, but shall be the lowest rate at which the sum or sums to be borrowed on such debentures shall be offered or can be obtained; and the said interest shall be paid out of the tolls to be levied on the said roads or ferry by virtue of this Ordinance, or out of any other monies at the disposal of the trustees for the purposes of their trust; but if the said tolls and other monies shall not at any time be sufficient to pay the interest then due, it shall and may be lawful for the Governor of this province for the time being, by warrant under his hand, to authorize the sum necessary to meet the deficiency, to be advanced and paid by the receiver general of this province to the said trustees, from and out of the unappropriated monies in his hands; and such advances shall be thereafter accounted for by the said trustees, and repaid to the said receiver general of this province from and out of the tolls to be levied, or other monies which shall come into their hands by virtue of this Ordinance for the purposes thereof, and being so repaid shall remain in the hands of the receiver general at the disposal of the legislative authority of this province.

And be it further ordained and enacted, That over and above the sums which the said trustees are authorised by the preceding sections of this Ordinance to raise by way of loan, it shall be lawful for the said trustees, at any time, and as often as occasion may require, to raise in like manner such further sum or sums as may be necessary to enable them to pay off the principal of any loan which they may have bound themselves to repay at any certain time, and which the funds in their hands, or which will probably be in their hands at such time and applicable to such repayment, shall appear insufficient to enable them to repay: Provided always, That any sum or sums raised under the authority of this section shall be applied solely to the purpose herein mentioned, that no such sum shall be borrowed without the approval of the Governor, Lieutenant Governor, or person administering the government of this province; and that the whole sum due by the said trustees, under debentures then unredeemed and issued under the authority of this Ordinance, shall in no case exceed twenty thousand pounds currency; and all the provisions of this Ordinance touching the terms on which any sum shall be borrowed under the authority thereof by the trustees, the rate of interest payable thereon, the payment of such interest, the advance by the receiver general of the sums necessary to enable the trustees to pay such interest, and the repayment of the sums so advanced, shall be extended to any sum or sums borrowed under the authority of this section.

And be it further ordained and enacted, That if any person or persons shall forge or counterfeit any such debenture as aforesaid, or any signature, indorsement, or writing thereon or therein, or tender in payment any such debentures, or any debenture with such counterfeit signature, indorsement, or writing thereon or therein, or shall demand the payment of any sum of money thereby secured, or of any interest thereon, knowing such debenture, or the signature, indorsement, or writing thereon or therein to be forged or counterfeited, with intent to defraud the said trustees, or any other person or persons, body or bodies politic, or corporate, such person or persons so offending shall be guilty of felony, and shall be liable to suffer punishment accordingly.

And be it further ordained and enacted, That if at any time after the said debentures, or any of them, shall have become due and payable, according to the terms thereof, notice shall be inserted three several times at intervals of not less than one month apart, in one of the newspapers published in the city of Montreal, and in the Quebec Gazette published by authority, requiring all holders of such debentures to present the same at a place or places in the said notice to be specified for payment, all interest upon any debenture then payable, which shall remain out more than six months from the first insertion of such notice in such newspapers and Gazette should cease to accrue from the end of the said six months.

Provided always, That nothing herein contained shall prevent the said trustees from voluntarily redeeming any debenture with the consent of the lawful holder thereof, at any time before such debenture shall have been made redeemable if the state of the funds of the said trustees shall warrant such redemption with advantage to the public interest, and if the said trustees shall obtain the approval of the Governor to such redemption.

No. 180.

Establishing communication between Montreal and Chambly.

And be it further ordained and enacted, That the due application of all public moneys, whereof the expenditure or receipt is authorised by this Ordinance, shall be accounted for to Her Majesty, her heirs, and successors through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, her heirs, and successors shall be pleased to direct.

And be it further ordained and enacted, That the said trustees shall lay detailed accounts of all monies by them received and expended under the authority of this Ordinance, supported by proper vouchers, and also detailed accounts of all their doings and proceedings under the said authority, before such officers, at such times, and in such manner and form, and shall publish the same in such way, at the expense of the said trustees, as the Governor shall be pleased to direct.

And be it further ordained and enacted, That the word "Governor" in this Ordinance used, is to be understood as comprehending and meaning the Governor, the Lieutenant Governor, or person administering the government of this province.

And be it further ordained and enacted, That this Ordinance shall be a public Ordinance, and as such shall be taken notice of, held, and allowed in all courts and elsewhere, and by all judges, justices, and persons whomsoever, without being specially pleaded.

And be it further ordained and enacted, That this Ordinance shall be a permanent Ordinance, and shall be in force until repeated or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the province, at the Government House in the city of Montreal, the twenty-seventh day of January, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty-one.

By his Excellency's command,
(Signed) W. B. LINDSAY.
Clerk, Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the twenty-seventh day of January, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

W. B. LINDSAY,
Clerk, Special Council.

(Copy.)

No. 181.

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

CAP. 17.—*An Ordinance to provide for the Improvement of certain Roads in the Neighbourhood of and leading to the City of Quebec, and to raise a Fund for that Purpose.* [Passed 30th January, 1841.]

WHEREAS the state of the roads hereinafter mentioned, in the neighbourhood of and leading to the city of Quebec, is such as to render their improvement an object of immediate and urgent necessity, and it is therefore expedient to provide means for effecting such improvement, and to create a fund for defraying the expense thereof, and the expenses necessary for keeping the said roads in permanent repair: Be it therefore ordained and enacted by His Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the Special Counsel for the affairs of this Province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make Temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to amend an Act

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

of the last Session of Parliament, for making Temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the third and fourth years of the reign of Her present Majesty, intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" And it is hereby ordained and enacted by the authority of the said Acts of Parliament, that it shall and may be lawful for the Governor of the said Province, by Letters Patent under the Great Seal of the Province, at any time after the passing of this Ordinance, to appoint not less than five, nor more than nine persons to be, and who, and their successors to be appointed in the manner hereinafter provided, shall be Trustees for the purpose of opening, making, and keeping in repair the Roads hereinafter specified.

And be it further ordained and enacted, that in case of the death, absence, for more than three months, from the Province, misconduct, inability, or neglect to act, or resignation of any one or more of the Trustees so to be appointed, the Governor of the said Province may declare a vacancy in the said trust, and supply and fill such vacancy by the appointment, by Letters Patent, of either one or more Trustees, as the case may require; and until such appointment, the remaining Trustee or Trustees, and the majority of them, shall continue to do and perform all and every the acts, matters, and things necessary for, and appertaining to their trust, and the purposes of this Ordinance.

And be it further ordained and enacted, That the said Trustees, for all the purposes of this Ordinance may, by the name of "The Trustees of the Quebec Turnpike Roads," sue and be sued, and answer and be answered unto in all Courts of Justice and other places, and may acquire property and estate, moveable and immoveable, which being so acquired, shall be vested in Her Majesty for the public uses of the Province, subject to the management of the said Trustees, for the purposes of this Ordinance, and may in the manner which they shall deem fit, cause the said Roads and each of them, and the Bridges thereupon, to be improved and widened, repaired and made anew, and may change the direction of the said Roads, or of any or either of them, and may cause to be repaired, and made anew, and maintained, all drains and other passages which they may deem necessary, either within or without the fences on the sides of the said Roads, or of any of them, or in or through any lands or premises whatsoever, and may for the purposes aforesaid, or for any of them, by themselves, their agents, and servants, go into and enter upon, and take any land or real property whatsoever, or take therefrom any earth, stone, or other materials which they may deem necessary for the purposes of this Ordinance, and may cause to be erected gates, toll-bars, turnpikes, turnpike-houses, and other buildings, and may from time to time appoint and employ a Surveyor, and all such officers and persons under them as they may deem necessary for the purposes of this Ordinance, and may remove such Surveyor and other officers and persons, or any of them, and appoint others in their stead, and may cause to be given by, and take and receive from, such officers and persons respectively, security for the due performance of their respective duties; and may pay to such Surveyor, officers, and persons, such reasonable compensation as the said Trustees shall deem meet; and may generally do and perform all such matters and things as may be necessary for carrying this Ordinance into effect, according to the true intent, meaning, and object thereof, any law, statute, or usage to the contrary notwithstanding.

And be it further ordained and enacted, That the said Trustees, before acquiring any land for the purposes of the said trust (except in the case provided in the seventh Section of this Ordinance), shall pay to the proprietor or proprietors thereof the just and reasonable value of such land, and they shall make reasonable satisfaction to each and every person, body politic, and corporate, who shall have suffered damage by reason of anything done by them in carrying this Ordinance into effect, beyond the amount of such damage as the party might have been bound to suffer, without compensation, before the passing of this Ordinance, by the laws of this province; and if the party entitled to such value or compensation shall not be satisfied with the sum offered by the said Trustees, the same shall be decided by a Jury, to be empannelled and sworn for that purpose, at any sitting of the Court of Quarter Sessions for the present district of Quebec, or for the district in which the city of Quebec shall be situate, at the suit of the party sustaining such damage; and if the damages awarded by the verdict of such Jury shall exceed the compensation offered, the Trustees shall pay the costs of suit, which shall otherwise be paid

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

by the party who shall have brought the case: Provided always, That the said Trustees shall in no case be bound to make or maintain any fence between any part of the roads they are hereby authorized to make, and the lands through which the same shall pass; but if any proprietor of land shall, by reason of this enactment, sustain any loss, or become subject to any expense which he would not have been bound by the Laws now in force to bear without compensation, if the said roads had been directed to be made by any *Procès-Verbal* of the Grand Voyer duly homologated, then compensation shall be made to such proprietor by the said Trustees for such loss or expense, and the amount thereof shall be ascertained in the manner herein provided, with regard to other damages sustained by any party by reason of anything done under the authority of this Ordinance.

And to prevent delay in the formation and perfecting the roads mentioned in this Ordinance, be it further ordained and enacted, That in case any party entitled to receive value or compensation for land required for the purposes of the said trust, shall not be satisfied with and shall refuse to receive the sum or sums of money offered therefore by the said Trustees, it shall be lawful for the said Trustees to appoint an appraiser or *expert*, and to require the party dissatisfied to appoint another appraiser or *expert*, and to notify the said Trustees or their Secretary, in writing, of such appointment; and the two appraisers or *experts* so appointed, shall estimate and report to the said Trustees, the value or compensation to be paid to the said dissatisfied party; and in case of disagreement between the said appraisers or *experts*, or in case the party dissatisfied shall refuse or neglect to appoint an appraiser or *expert* within twenty-four hours after written notice from the said Trustees or their Secretary, shall have been left at the domicile, or at the usual place of business of the said dissatisfied party, or in case the appraiser or *expert* of the dissatisfied party shall refuse or neglect to act within three days after such appointment shall have been not notified to him, any one of the Justices of any one of Her Majesty's Courts of Law, having superior Jurisdiction in the said District of Quebec, or in the district in which the City of Quebec shall be situate, shall, upon the summary petition of the Trustees and proof upon the oath of one credible witness, of either of the refusals or neglects aforesaid, forthwith appoint an appraiser or *expert* to act on behalf of the said dissatisfied party; and the appraisers or *experts*, appointed as aforesaid, shall estimate the value or compensation to be paid by the Trustees, and shall report the same to them in writing; and in case of disagreement between the appraisers or *experts*, they, the said appraisers or *experts*, shall appoint an umpire; or, if they cannot agree on the appointment of an umpire, one of the Justices aforesaid shall, without loss of time, on the summary petition of the said appraisers or *experts*, or of the Trustees, appoint an umpire; and the Report of any two of the said appraisers or *experts* and umpire, shall have equal effect as if the same had been or were made by the two appraisers or *experts* concurrently; and upon the amount of such estimated and reported value, or compensation being duly tendered by the trustees to the dissatisfied party, either personally or at his domicile, or at his usual place of business, it shall be lawful for the said Trustees, whether such tender be refused or accepted, immediately to enter into and upon the land required for the purposes of the said trust, the value or compensation whereof shall have been tendered as aforesaid, without awaiting the impannelling, swearing in, and decision of a jury, as is required by the Fourth Section of this Ordinance, anything in this Ordinance to the contrary notwithstanding: Provided always, that nothing herein contained shall be construed to prevent any proprietor of land required for the purposes of the said trust, the value or compensation whereof shall have been estimated and tendered as aforesaid, or to prevent the Trustees, if they, the said Trustees, shall be dissatisfied with the estimated and reported value, from requiring the impannelling, swearing in, and decision of a jury, for the purposes and in the manner specified in the said fourth Section of this Ordinance, saving always the right of the said Trustees to enter into and use the land from and after the time of such tender as aforesaid

And as in certain cases it may be doubtful to whom the compensation ascertained by the award of a jury, impannelled for that purpose, or in any other lawful manner, to be payable by the said trustees for any land or real property taken, or damage done to any party in the exercise of the powers vested in them by this Ordinance, shall be paid: Be it therefore further ordained and enacted by the authority aforesaid, That it shall be lawful for the said Trustees in all such cases of doubtful title, to cause the amount of such compensation to be lodged in

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

the hands of the prothonotary of the Court having superior original civil jurisdiction in the district of Quebec, or in the territorial division in which the city of Quebec shall be situate, to await the distribution of the said Court to the party, or among the parties lawfully entitled to such compensation, or to any part thereof, and thereupon immediately to enter upon and take possession of the premises for which such compensation shall have been so awarded.

And be it further ordained and enacted, That if the said Trustees in the execution of their trust, and for the purposes of this Ordinance, shall, as they are hereby authorized to do, acquire and hold any lands or grounds belonging to or in possession of any body politic, community, corporation, or person or persons whomsoever, who cannot in common course of law sell or alienate any such lands or grounds, an annual rent to be fixed by agreement or by arbitration, and not a principal sum, shall be paid as an equivalent; and in case the said parties shall not agree upon the amount of such rent, or upon arbitration to fix the same, the said rent shall be settled and determined by the judgment of any court of competent jurisdiction, to be rendered in an action or actions to be instituted for that purpose by the parties concerned against the said Trustees: Provided always, That if the amount at which the said annual rent shall be settled by such judgment shall not exceed any sum which the said Trustees may have tendered previously to the institution of such action, the parties instituting the same shall pay all costs of suit; but, if otherwise, the said Trustees shall pay all costs of suit: and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained for the purchase of any lands or grounds, the tolls to be levied and collected under this Ordinance shall be and are hereby made liable and chargeable in preference to all other claims whatsoever.

And be it further ordained and enacted, That the said Trustees, or a majority of them, may, by an instrument in writing signed by them, appoint one of their number to be manager of the said trust; and any and all acts, matters and things by him done and performed in and about the said trust, and for the purposes of this Ordinance, and any and all writings and documents whatsoever relating to or connected with the said trust and the purposes of this Ordinance, signed by him and countersigned by two of the other Trustees in case they be five in number, or by three of the other Trustees in case they be more than five in number, shall be held to be good and valid to all intents and purposes whatsoever: Provided always, That the said Trustees, or a majority of them, may, by an instrument under their hands, revoke such appointment, and appoint in like manner any other of their number manager as aforesaid: And provided also, that nothing herein contained shall prevent or be construed to prevent the Trustees, or the majority of them, from acting collectively for all the purposes of their trust and of this Ordinance, without appointing a manager as aforesaid: Provided also, That any majority of the said Trustees, or of such of them as shall then be within this Province, shall have all the powers hereby vested in the said Trustees; and service of any summons, process, notice, or document at the usual office of the said Trustees shall be held in law to be a sufficient service of the same.

And be it further ordained and enacted, That the roads to and over which the provisions of this Ordinance and the powers of the said Trustees shall extend, are, *Firstly*, The Cove or Beach Road between the Cliff and the River St. Lawrence, from the boundary of the city and town of Quebec, to the south-western extremity of Sillery Cove. *Secondly*, The road called St. Louis Road, or "La Grande Allée," and the continuation of the same, from the boundary of the said City and Town, to the north-eastern extremity of the bridge, over the Cap Rouge River, and of the works appertaining to the same; and also the public cross road now open at the place commonly called New Kilmarnock, and leading from the said St. Louis to said Cove or Beach Road. *Thirdly*, The road called the St. Foy Road, from the boundary of the said city and town to a point one hundred yards beyond the place where it is intersected by the road next hereinafter mentioned. *Fourthly*, The road commonly called "La Suéde," from the point where it intersects the road last mentioned to the foot of the hill commonly called "La Côte de Champigny." *Fifthly*, The road which joins that last mentioned near the said "Côte de Champigny," from the said point of junction to the south-western side of the land known as Hough's Farm, a short distance beyond the point where the said road is intersected by the road crossing it nearly at right angles and

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

leading downwards towards the Cap Rouge Mill, and upwards towards the place commonly called the "Grand Desert." *Sixthly*, The main road from the boundary of the said city and town in the St. Valier suburbs (near the road leading to the General Hospital) along the south bank of the river St. Charles, across the stream commonly called the Little River, and to the point where the said road is intersected by the road leading to the bridge over the said river St. Charles, commonly called the Red Bridge, or "Commissioners' Bridge." *Seventhly*, The road from the boundary of the said city and town near the north end of the bridge over the river St. Charles, commonly called Dorchester Bridge, to the bridge over the River Montmorency, near the Great Fall on the said river. Provided always, That the word "road" in this section shall be construed to mean as well front roads as *routes* or bye-roads, and any new road or part of a road, within the said limits respectively to be made by the said Trustees, as well as the now existing roads or portions of roads within such limits, and all bridges or other public works upon such roads within the said limits respectively.

And be it further ordained and enacted, That the said Trustees may, and shall demand, levy, exact and receive, on each of the said roads, at the turnpike-gates and toll-houses to be thereon established under and by virtue of this Ordinance, from all and every person and persons who shall pass upon or use the said roads, or either of them, the certain tolls and rates hereby designated and established, that is to say, upon that one of the said roads in the ninth section of this Ordinance secondly mentioned, known as the St. Lewis road or "La Grande Allée," from the boundary of the said city and town to the bridge over the Cap Rouge River, the tolls and rates following, namely, for every waggon, wain, cart, or other wheel-carriage for the transportation of loads, the wheels whereo, have tires or tracks of the breadth of five inches or upwards, English measure, drawn by one or two horses or other beasts, if the same be loaded in whole or in part, the sum of sixpence currency; and if the same be not loaded, the sum of fourpence currency; and for every such waggon, wain or cart with wheels, the tires or tracks whereof shall have a breadth less than five and not less than two and a quarter inches, English measure, drawn as aforesaid, if loaded in whole or in part, the sum of eightpence currency, and if not loaded, the sum of sixpence currency; and for ever such waggon, wain or cart with wheels, the tires or tracks whereof shall have a breadth less than two and a quarter inches, drawn as aforesaid, if loaded in whole or in part, the sum of one shilling currency, and if not loaded, the sum of eightpence currency; and for every additional horse or other beast to any such waggon, wain or cart hereinbefore mentioned, the further sum of fourpence currency; for every coach, stage-coach, gig, caleche, dennet, spring-cart, or other wheel-carriage (other than waggons, wains, and carts of the description hereinbefore mentioned), having wheels with tires of the breadth of two and a quarter inches or upwards, English measure, drawn by one horse or other beast, the sum of eightpence currency; and for every such coach, stage-coach, gig, caleche, dennet spring-cart, or other wheel-carriage (other than waggons, wains, and carts of the description hereinbefore mentioned), having wheels with tires or tracks less than two and a quarter inches, English measure, in breadth, drawn as aforesaid, the sum of one shilling currency; and for every additional horse to such stage-coach, gig, naleche, dennet, spring-cart, or other wheel-carriage, the further sum of fourpence currency; for every sleigh, *traine*, drag, *bertine*, cariole, or other winter vehicle whatsoever, drawn by one horse or other beast, the sum of fourpence currency; and for every additional horse, the further sum of twopence currency; for every horse, mare or gelding with a rider, the sum of fourpence currency; for every horse, mare, gelding, ass, mule, ox, cow, and head of other neat cattle, not drawing, the sum of twopence currency; for sheep, hogs or swine, at the rate of fivepence currency for every score. And upon all the several roads in the said ninth section of this Ordinance described, other than the said St. Louis Road or "La Grande Allée," the Tolls and Rates to be so demanded, levied, exacted and received as aforesaid, for every waggon, wain, cart, or other wheel carriage, for the transportation of loads, and for every coach, stage-coach, gig, caleche, dennet, spring-cart, or other wheel carriage, and for every winter vehicle, and for every horse, mare, and gelding, with or without a rider, and for every ass, mule, ox, cow, and other head of neat cattle, and every sheep, lamb, hog or swine, passing on or using the said several roads, other than the St. Louis Road, shall be regulated and governed in

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

amount by the said Tolls and Rates hereintofore established and authorized to to be taken upon the said St. Louis Road, according to the proportion which the said several roads respectively bear in length to the said St. Louis Road, subject in all respects to the rules, classifications, scale, and degrees hereintofore provided for in relation to the said St. Louis Road, and the Tolls and Rates to be thereon taken, that is to say, the Tolls and Rates to be demanded, levied exacted and received by the said Trustees upon each of the said several Roads, other than the said Saint Louis Road, shall bear the same proportion in amount to the said Tolls and Rates hereinbefore specified as the lentgh of such Road bears to the length of the said St. Louis Road from the said boundary of the said city and town to the said Cap Rouge Bridge, unless in ascertaining such proportion in reference to any of the said several roads, the result shall exhibit a fractional part of a halfpenny, in which case such fractional part of a halfpenny shall be deducted, and the sum remaining after such deduction shall be the Rate and Toll upon such Road; and the said Trustees may, and they are hereby authorized and empowered to make and establish the regulations under which such Tolls or Rates shall be so levied and collected, and, with the consent of the Governor, may from time to time, as they shall see fit, alter and change and modify the said Rates and Tolls and the said regulations, either with regard to the tolls to be taken at all the turnpike-gates or toll-bars, or with regard to those to be taken at any one or more turnpike-gates or toll-bars, and may and shall prevent the passing through any turnpike-gate or toll-bar, by any person, vehicle, animal, or thing, from or on which any rate or toll shall be payable, until such rate or toll be paid; and the said Trustees shall affix in a conspicuous place at each turnpike-gate and toll-bar whereat any rate or toll is payable, a table of the tolls to be taken thereat, and the regulations under which such tolls are to be levied, plainly and legibly printed. Provided always, That nothing herein contained shall entitle the said Trustees at any time to establish, demand, levy, exact or receive any rates or tolls upon the said roads, or any of them, exceeding the rates and tolls hereinbefore authorized to be exacted and received; and that every gate-keeper or toll-gatherer who at any toll-gate to be erected under the authority of this Ordinance, shall unwarrantably hinder or delay any traveller or passenger liable to the payment of toll, or shall demand from any person more toll than by this Ordinance he is authorized to collect, shall for every such offence forfeit a sum not exceeding twenty shillings currency to the person so aggrieved.

Provided always, and be it further ordained and enacted, That the rates of toll mentioned in the tenth section shall be the rates to be taken on the said roads respectively, when there is only one turnpike-gate or toll-bar on the roads on which they shall be levied, but if there be more than one turnpike-gate or toll-bar on such road, then the said rates shall be divided by the number of such turnpike-gates or toll-bars, and the tolls taken at any one of them shall not exceed the quotient produced by such division; and all the roads and works mentioned in the same paragraph or division of the ninth section of this Ordinance, shall, for the purposes of this Ordinance, be considered to be one road.

Provided also, and be it further ordained and enacted, That if in dividing the rates of toll in the manner prescribed in the section next preceding this section, there shall be in the quotient any fraction of a penny greater than one farthing, it shall be considered as one halfpenny, and added to the quotient, and form part of the toll to be taken, but if such fraction be less than one farthing, it shall be deducted from the toll to be taken.

Provided always, and be it further ordained and enacted, That no more than one full toll in any one day (to be computed from twelve of the clock at night to twelve of the clock in the next succeeding night) shall be demanded or taken on any road for, or in respect of, the same horse or horses, or other beast or beasts, or cattle drawing the same waggon, wain, cart, coach, gig, caleche, dennet, spring-cart, or other wheel carriage, or winter carriage; or for, or in respect of, the same horse, mule, ass, or other beast, or cattle, laden or unladen, or not drawing; or for, or in respect of, the same oxen or ox, neat cattle, calves, swine, sheep, or lambs, for passing and repassing through the same turnpike-gate or toll-bar. Provided always, That the tolls hereby made payable for and in respect of, any stage-coach, diligence, van, caravan, stage-waggon, or other stage-carriage, or any cart conveying passengers, or goods for pay or reward, or conveying stones, and for and in respect of any horse or horses, beast or beasts

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

drawing the same, shall be payable, and paid every time of passing or repassing.

And be it further ordained and enacted, That the said tolls may be levied by the said trustees on the said roads, or on any of them, or on any part of them, or of any of them, from and after the day when the said trustees shall have assumed the control and management of such roads or road, or part of a road, in the manner herein provided, and not before; but the time of such assumption shall be at the discretion of the said trustees, and shall not depend upon the completion or non-completion of the improvements on the roads, road, or part of a road, of which the control and management shall be so assumed.

Provided always, and be it further ordained and enacted, That Her Majesty's mail, and persons, animals, and carriages employed in the conveyance thereof, Her Majesty's Officers and Soldiers travelling on Her Majesty's service and in proper Staff or Regimental or Military uniform, dress or undress, and their horses, (but not when passing in a hired or private vehicle) and all carriages and horses belonging to Her Majesty or employed in her service, when conveying persons on her service or returning therefrom, and all recruits marching by route, and all persons, animals, and carriages attending funerals, shall pass toll free through any turnpike and toll-gate to be erected under the authority of this Ordinance; and if any person or persons shall claim or take the benefit of any of the exemptions aforesaid, not being entitled to the same, every such person shall, for every such offence, forfeit and pay any sum not exceeding Five Pounds, and in all cases the proof of exemption shall lie upon the person claiming the same.

And be it further ordained and enacted, That the said Trustees may, if they think proper, commute the tolls on any road or portion thereof, with any person or persons, by taking a certain sum, either monthly or yearly, in lieu of such tolls.

Provided always, and be it further ordained and enacted, That the said Trustees may from time to time, if they shall deem it advantageous to the public, let or farm the tolls to be levied on any of the said roads by public Auction, to the highest and best bidder, for a time not exceeding one year in any case, taking good and sufficient security from the Farmer or Lessee; but no such Lease of the tolls on any of the said roads shall be made until the expiration of one year from the time when the said Trustees shall have assumed the control of and begun to take toll on the road, the tolls on which are to be so Leased; nor shall any Trustee, or any servant or officer of the said Trustees, become a Farmer or Lessee of any such tolls, or become or be a party, either directly or indirectly, as principal or as surety, to any contract for making, improving or repairing, or for supplying materials for making, improving or repairing any of the said roads, or for any work or works belonging thereto; and every such Trustee, servant, or officer so offending, shall for every such offence, forfeit and pay the sum of fifty pounds to Her Majesty, for the public uses of the province, or to any person who shall sue for the same, to be recovered with full costs of suit in any of Her Majesty's Courts of Record having original civil jurisdiction to the amount, by information or by action on the case.

And be it further ordained and enacted, That the said roads shall respectively, from and after the time hereinafter mentioned, be and remain under the exclusive management, charge and control of the said trustees, and the tolls thereon shall be applied solely to the necessary expenses of the management, making and repairing of the said roads, and the payment of the interest on and principal of the debentures hereinafter mentioned; and all powers, authorities, jurisdiction and control over or with regard to the said roads, or any of them, heretofore vested in any magistrates, grand voyer, overseer of roads or road surveyor, or other road officer, by a certain Act passed in the thirty-sixth year of the reign of King George the Third, intituled, "An Act for Making, Repairing, and Altering the Highways and Bridges in this Province, and for other Purposes," or by any other Act or Ordinance or law whatever, or in any district council, shall cease and determine from and after the time when the said Trustees shall assume the management, charge and control aforesaid, in the manner hereinafter mentioned, but all and every the powers, authorities, jurisdictions, and control over or with regard to the several roads in this ordinance mentioned, or any or either of them, heretofore and before the passing of this Ordinance, vested in any grand voyer, magistrates, overseer of roads, road surveyor, or other road officer, or in any District Council by the said Act of the Parliament of this province or by any other Act or Ordinance

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

or law of this province whatever, shall be and continue to be in full force and virtue, until the said Trustees shall, in writing, notify such District Council, grand voyer, magistrates, overseer of roads, road surveyor, or other road officer, that they the said trustees have assumed and taken upon themselves, or will on a certain day assume and take upon themselves, for the purposes of the trust in them vested, the control and management of the said roads, or of any or either of them, or of any specified sections or portions of the said roads, or of any of them.

And be it further ordained and enacted, That from and after the time when the Trustees shall have assumed the control and management of any road, or any part of any road mentioned in the ninth section of this Ordinance, each and every person and persons, body or bodies politic or corporate, who may be bound by any Law of this province, or any *procès verbal* duly homologated (and all such laws and *procès verbaux* shall remain in full force, except in so far as they are hereby expressly derogated from) to repair or keep up, or to perform any service or labour on or with regard to any portion of such road or part of a road, shall and are hereby required to commute all such obligations with the said Trustees for such sum of money as may be agreed upon by such parties respectively and the said trustees; and such commutation money shall be payable annually on the first day of May in each year; and if any such party shall neglect or refuse to pay the sum so agreed upon when due, the said Trustees may sue for and recover the same, with costs, in any Court having jurisdiction to the amount: Provided always, That if no such agreement or commutation shall be effected in any case, the said trustees may sue the party neglecting or refusing to make such agreement, for the sum which in their estimation such party ought then to pay for such commutation, in any court having jurisdiction to the amount so sued for, and may recover the same or such less sum as the court shall award, and the rate determined by the judgment shall be the rate to be thereafter paid for such commutation by the party defendant, or such party as may be liable to the commutation of the same obligations: Provided also, That costs shall be awarded to any such party who shall, before the commencement of such suit, have legally tendered to the said Trustees at their office, or to the manager in person, a sum equal to that for which judgment shall in such suit be given.

Provided always, and be it further ordained and enacted, That it shall be lawful for the governor of this province, at any time, and whenever he shall deem it expedient, to appoint all the said Trustees to be also Commissioners for carrying into effect a certain Ordinance passed in the present year of Her Majesty's reign, and intituled "An Ordinance to Declare and Regulate the Tolls to be taken on the Bridge over Cap Rouge River, and for other Purposes relative to the said Bridge," notwithstanding anything in the said Ordinance limiting the number of such Commissioners to three; and during the time the said Trustees shall be such Commissioners, the said bridge shall be held to be part of the roads and bridges under the control and management of the said Trustees, as if it had been mentioned in the ninth section of this Ordinance; and the tolls authorized by the said Ordinance to be levied and taken from persons using the said bridge, and collected during the said time, shall form part of the funds hereby placed at the disposal of the said trustees, and shall and may be applied by them in the same manner as the tolls levied under the authority of this Ordinance.

And be it further ordained and enacted, That it shall be lawful for the said Trustees as soon after the passing of this Ordinance as may be expedient, to raise by way of loan on the credit and security of the tolls hereby authorized to be imposed, and of other moneys which may come into the possession and be at the disposal of the said trustees under and by virtue of this Ordinance, and not to be paid out of or be chargeable against the general revenue of this province, any sum or sums of money not exceeding in the whole Twenty-five thousand pounds currency; and out of the moneys so raised, as well as out of the other moneys which shall come into their hands, and which are not hereby directed to be applied solely to one special purpose, it shall be lawful for the said Trustees to defray any expenses they are hereby authorized to incur for the purposes of this Ordinance.

And be it further ordained and enacted, That it shall be lawful for the said trustees to cause to be made our for such sum or sums of money as they may raise by loan as aforesaid, debentures in the form contained in the Schedule A. to this Ordinance annexed, redeemable at such time or times (subject to the provisions herein made) as the said Trustees shall think most safe and convenient; which

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

said debentures shall be signed in the manner above provided for the written Acts relating to the said trust, and shall be transferable by delivery.

And be it further ordained and enacted, That such Debentures shall respectively bear interest at the rate therein mentioned; and such interest shall be made payable semi-annually, and may, at the discretion of the Trustees, and with the express approval and sanction of the Governor of this province, and not otherwise, exceed the rate of six per centum per annum, any law to the contrary notwithstanding, and shall be the lowest rate at which the said sum or sums to be loaned on any such Debentures shall be offered or can be obtained by the said Trustees; such interest to be paid out of the tolls upon the said roads, or out of any other moneys at the disposal of the Trustees for the purposes of this Ordinance.

And be it further ordained and enacted, That if at any time after the said Debentures or any of them shall have become due and redeemable according to the terms thereof, notice shall be inserted three several times, at intervals of not less than one month apart, in the Quebec Gazette, published by authority, and in some other Newspaper published in the city of Quebec, requiring all holders of such Debentures to present the same for payment, at a place or places in the said notice mentioned, all interest upon any debenture then redeemable, which shall remain out more than six months from the first insertion, shall cease to accrue from the end of the said six months.

And be it further ordained and enacted, That nothing herein contained shall prevent the said Trustees from voluntarily redeeming any Debentures, with the consent of the lawful holder thereof, at any time before such Debenture shall be made redeemable, if the state of the funds of the said Trustees shall be such as to warrant such redemption, and if the said Trustees shall obtain the approval of the Governor to such redemption.

And be it further ordained and enacted, That it shall be lawful for the Governor for the time being, if he shall deem it expedient, at any time within three years from the passing of this Ordinance, and not afterwards, to purchase for the public uses of this province, and from the said Trustees, Debentures to an amount not exceeding Ten Thousand Pounds currency and by warrant under his hand to authorize the Receiver-general to pay to the said Trustees, out of any unappropriated public moneys in his hands, the sum secured by such Debentures, the interest and principal of and on which shall be paid to the Receiver-general by the said Trustees, in the same manner and under the same provisions as are provided with regard to such payments, to any lawful holder of such Debentures, and being so paid, shall remain in the hands of the Receiver-general, at the disposal of the legislative authority of the province for the time being.

And be it further ordained and enacted, That if at any time it shall happen that the moneys then in the hands of the said Trustees shall be insufficient to enable the Trustees to make any payment required or authorized to be made by this Ordinance, all arrears of interest due on any Debentures issued under the authority of this Ordinance, shall be paid by the said Trustees, before any part of the principal sum then due upon and secured by any such Debenture shall be so paid; and if the deficiency be such that the funds then at the disposal of the Trustees shall not be sufficient to pay such arrears of interest, it shall be lawful for the governor for the time being, by warrant under his hand, to authorize the Receiver-general to advance to the said Trustees out of any unappropriated moneys in his hands, seeh sum of money as may, with the funds then at the disposal of the Trustees, be sufficient to pay such arrears of interest as aforesaid; and the amount so advanced shall be repaid by the said trustees to the receiver-general out of the sums so to be commuted, levied and collected as aforesaid, and being so repaid, shall remain in the hands of the Receiver-general at the disposal of the legislative authority of the province.

And be it further ordained and enacted, That over and above the sums which the said trustees are authorized by the preceding sections of this Ordinance, to raise by way of loan, it shall be lawful for the said Trustees at any time, and as often as occasion may require, to raise in like manner such further sum or sums as may be necessary to enable them to pay off the principal of any loan which they have bound themselves to repay at any certain time, and which the funds in their hands, or which will probably be in their hands at such time, and applicable to such repayment, shall appear insufficient to enable them to repay: Provided always, that any sum or sums raised under the authority of this section shall be

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

applied solely to the purpose herein mentioned, that no such sum shall be borrowed without the approval of the governor of this province, and that the whole sum due by the said trustees under the debentures then unredeemed and issued under the authority of this Ordinance, shall in no case exceed Thirty-five Thousand Pounds currency; and all the provisions of this Ordinance touching the terms on which any sum shall be borrowed under the authority thereof by the Trustees, the rate of interest payable thereon, the payment of such interest, the advance by the Receiver-general of the sums necessary to enable the Trustees to pay such interest, and the repayment of the sums so advanced, shall be extended to any sum or sums borrowed under the authority of this Section.

And be it further ordained and enacted, That the due application of all public moneys whereof the expenditure or receipt is authorized by the preceding sections, shall be accounted for to her Majesty, her heirs and successors, through the Lords Commissioners of her Majesty's Treasury for the time being, in such manner and form as her Majesty, her heirs and successors shall be pleased to direct.

And be it further ordained and enacted, That if any person or persons shall forge or counterfeit any such debenture as aforesaid, or any signature, indorsement or writing thereon or therein, or tender in payment any such Debenture, or any debenture with such counterfeit signature, endorsement, or writing thereon or therein, or shall demand the payment of any sum of money thereby secured, or of any interest thereon, knowing such debenture, or the signiture, endorsement or writing thereon or therein, to be forged or counterfeited, with intent to defraud the said Trustees or them, or any other person or persons, body or bodies politic or corporate, such person or persons so offending shall be guilty of felony.

And be it further ordained and enacted, That if any person or persons shall cut, break down, destroy or wilfully injure any Bridge, Turnpike-gate, Toll-bar, Toll-house, Embankment, Drain, or any work of any kind whatever, erected or made under the authority of this Ordinance, or hereby placed under the control and management of the said Trustees, such person or persons so offending shall be guilty of a misdemeanor, and being thereof lawfully convicted before any court of competent jurisdiction, may be punished by fine and imprisonment, Provided always, That nothing in this section contained shall prevent any person committing any offence herein mentioned, from being indicted and punished as a felon, if the offence committed by such person shall in law amount to felony.

And be it further ordained and enacted, That no person shall leave any waggon, cart, or other carriage, nor shall lay or leave any matter or thing creating any obstruction of any kind in or upon any of the said bridges, or of the said roads, or the ditches or drains thereof, or those made by, or by order of the said Trustees, under a penalty not exceeding twenty shillings currency for each offence.

And be it further ordained and enacted, That if any person or persons shall after proceeding upon any of the said roads (whether in the winter season or in any other season) with any carriages, animals, or things liable to toll, turn out of the same into any other road, so as to evade payment of toll at any turnpike-gate or toll-bar, such person or persons shall for each such offence incur a penalty not exceeding ten shillings currency; and the said Trustees shall and may place turnpike-gates and toll-bars on and across the entrance of any passage or way leading into or from any of the said roads, in order to prevent such evasion of toll, and if any person shall forcibly pass or attempt to pass any such turnpike-gate or toll-bar as aforesaid, with any carriage, animal, or thing on which toll shall be due, without having first paid such toll, such person or persons shall thereby incur a penalty not exceeding forty shillings currency, over and above such other punishment or penalty as might be lawfully awarded or imposed according to the nature of the offence, if this Ordinance had not been passed, and shall moreover remain liable for the payment of such toll.

And be further ordained and enacted, That if any person or persons, body politic or corporate, occupying or possessing any inclosed lands near any of the said roads shall, whether in the winter or at any other season, knowingly permit or suffer any person or persons to pass through such lands, or through any gate, passage or way thereon, with any carriage, animal or thing liable to the payment of toll on such road, for the purpose of avoiding, and so as to avoid the payment thereof, such person or persons so offending, and the person or persons so unlawfully permitted to avoid such payment, shall each and severally incur a penalty not exceeding ten shillings currency for each offence, and shall moreover become jointly

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

and severally liable to the payment of the tolls whereof the payment shall have been avoided.

And be it further ordained and enacted, That all penalties imposed by this Ordinance, and not exceeding forty shillings for each offence, may be sued for and recovered with costs, on the oath of one competent witness, before any justice of the peace for the district of Quebec, or for the territorial division of Quebec, or for any minor local division within which the offence shall have been committed; and such justice of the peace may, on conviction, commit the offender to the common gaol of the district for a period not exceeding two weeks for each offence or until such penalty and costs be paid, and one moiety of all such penalties shall belong to the informer, and the other moiety to the said Trustees for the purposes of this Ordinance, provided always, that any Trustee, or any officer or servant of the Trustees shall be a competent witness, if he be not the informer, or if he be such informer and renounce all claim to any portion of the penalty which shall in such case belong wholly to the said Trustees for the purposes of the Ordinance: Provided also, that no person shall be deemed incompetent to give evidence or be disqualified from giving testimony or evidence in any action, suit, prosecution, or other legal proceedings to be brought or had in any Court of Law, or before any justice or justices of the peace, under or by virtue of this Ordinance, by reason of his or her being one of the said Trustees or their creditors, or of his or her having any privileged claim on the tolls collected under the authority hereof, or on any funds in the hands of the said Trustees, or a farmer, lessee or collecter of such tolls, or a clerk or surveyor, or other officer of the said Trustees; nor shall such testimony or evidence, for any of the reasons aforesaid, be rejected or liable to be questioned or set aside, provided such person have no other and more immediate and direct interest in the penalty sued for, or in the event of the suit, action, trial, prosecution or proceeding in which his or her evidence shall be given or offered.

Provided always, and be it further ordained and enacted, That each and every person committing any offence against the provisions of this Ordinance shall, in addition to any penalty hereby imposed for such offence, be liable to the said Trustees for all damages they may have sustained by reason of such offence.

And be it further ordained and enacted, That the said trustees shall lay detailed accounts of all moneys by them received and expended under the authority of this Ordinance, supported by proper vouchers, and also detailed reports of all their doings and proceedings under the said authority, before such officer, at such times, and in such manner and form, and shall publish the same in such way, at the expense of the said Trustees, as the Governor shall be pleased to direct.

And be it further ordained and enacted, That the word "Governor" is to be understood as comprehending and meaning the Governor, the Lieutenant-governor, or person administering the government of the said province.

And be it further ordained and enacted, That this Ordinance shall be a public Ordinance, and as such shall be taken notice of, held, and allowed in all Courts and eslewhere, and by all judges, justices, and persons whomsoever, without being specially pleaded.

And be it further ordained and enacted, That this Ordinance shall be a permanent Ordinance, and shall be in force until repealed or altered by competent authority.

SCHEDULE A.

ROAD LOAN.

Certificate, No. —
—— Currency.

Quebec, ————, 18—.

Certificate, No.—.
——— Currency.
Interest at — per cent.
———— 18—.

Interest on this certificate paid.
To Jan. 18—. Receipt No.
July - —
Jan. 18
July - —
Jan. 18
July - —
Jan. 18
July - —
Jan. 18

We certify that under the authority of the provincial Ordinance of Lower Canada, passed in the fourth year of Her Majesty's reign, and intituled, "An Ordinance to provide for the Improvement of certain Roads in the Neighbourhood of and leading to the City of Quebec, and to raise a Fund for that Purpose," there has been borrowed and received from ——— the sum of ——— pounds currency, bearing interest from the date hereof, at the rate of ——— per cent. per annum, payable half yearly, on the ——— day of ———, and on the ——— day of ———, which sum is reimbursable to the said ——— or bearer hereof, on the ——— day of ——— in the manner provided for by the provincial Ordinance aforesaid.

Registered by

———————————
———————————
——————————— } Trustees.

(Signed) SYDENHAM.

No. 181.

Improving roads in the neighbourhood of Quebec, and raising a fund for that purpose.

Ordained and enacted by the authority aforesaid, and passed in special council, under the great seal of the province, at the government house in the city of Montreal, the thirtieth day of January, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland, queen, defender of the faith, and so forth, and in the year of our Lord one thousand eight hundred and forty-one.

By His Excellency's Command,

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the special council for the affairs of the said province, on the thirtieth day of January, one thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

W. B. LINDSAY,
Clerk Special Council.

No. 182.

No. 182.

Making a railroad from Lake Champlain to the River St. Lawrence.

CAP. 18.—*An Ordinance to amend an Act of the Provincial Parliament of this Province, intituled, "An Act for making a Railroad from Lake Champlain to the River St. Lawrence.* [Passed 30th January, 1841.]

WHEREAS it is expedient to amend certain parts of an Act of the provincial Parliament of this province of Lower Canada, passed in the second year of the reign of His late Majesty William the Fourth, intituled, "An Act for Making a Railroad from Lake Champlain to the river Saint Lawrence:" Be it therefore Ordained and enacted by his Excellency the Governor of the said province of Lower Canada, by and with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make Temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making Temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same parliament passed in the session held in the third and fourth years of the reign of Her present Majesty, and intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby Ordained and enacted by the authority of the said Acts of parliament, that so much of the said Act of the provincial parliament of this province of Lower Canada, contained in the sixth section thereof, as provides and requires that the Company of Proprietors of the Champlain and St. Lawrence Railroad shall, in all cases when the said Railroad shall cross any public highway on a level, erect and at all times maintain a good and sufficient gate on each side of the said public highway, where the said railway shall communicate with the said public highway, and all other the provisions, matters and things in the said section of the said Act enacted and contained, shall be and are hereby repealed; and after the passing of this Ordinance, the said company shall not be required or bound to make or maintain any such gate, and may in their discretion remove and take away any such gate which has been so erected and placed under and by virtue of the requirements of the said last-mentioned Act: Provided always, That in all cases in which no such gate has been erected or placed, or in which such gate has been erected and placed, and shall be removed, the said company shall at each and every place where the said Railway crosses any public highway on a level, station and constantly keep at least one person as a guard, whose duty it shall be to prevent any obstruction being or remaining upon the said railroad, or upon such public highway, and to watch over the safety of the persons and property passing and conveyed either upon the said highway or upon the said railroad; and shall, in the like manner and for the performance of a like duty, keep at least eight persons (including those to be stationed at the points aforesaid,) to be stationed at distances not exceeding two miles from each other, on the said Railroad; and for each and every neglect or refusal to comply with the provisions of this section, the

No. 182.

Making a railroad from Lake Champlain to the River St. Lawrence.

said Company shall incur the penalty mentioned in the said sixth section of the Act hereby amended, to be recovered and applied in the manner therein provided.

And be it further ordained and enacted, That so much of the said last-mentioned Act contained in the thirty-fifth section thereof, as requires that the account therein specified shall be annually made up and balanced on the thirtieth day of November in each year, shall be and the same is hereby repealed; and it shall be lawful for the said Company from and after the passing of this Ordinance, to fix and appoint by a by-law, the time or times in each and every year at which such account shall be made up and balanced, and at which the rates and dues authorized to be demanded and received by the said Company shall be regulated and declared for the ensuing year.

And whereas it appears from the general terms and context of the said thirty-fifth section of the Act hereby amended, that the word "biennial" as twice used and inserted in the said section immediately before the word "meetings," is erroneously so used and inserted, instead of the word "half-yearly:" Be it therefore further ordained and enacted, That anything directed or permitted to be done at the meetings of the said Company mentioned and referred to in the said section, shall and may be done at the half-yearly meetings of the said Company mentioned in the twenty-fifth section of the said Act; and all things which may heretofore have been done at any such half-yearly meeting, but in all other respects in the manner and according to the other requirements and provisions of the said thirty-fifth section, shall be held to have been validly and legally done, anything in the said thirty-fifth section to the contrary notwithstanding.

And whereas in and by the said Act in the thirty-ninth section thereof, it is enactedand provided, "That the said Company of Proprietors shall, within six calendar months after any lands shall be taken for the use of the said railroad or undertaking, divide and separate, and keep constantly divided and separated, the land so taken from the lands or grounds adjoining thereto, with a sufficient post and rail, hedge, ditch, bank, or other fence sufficient to keep off hogs, sheep, and cattle, to be set and made on the lands or grounds which shall be purchased by, conveyed to, or vested in the said Company of Proprietors as aforesaid; and shall at their own costs and charges, from time to time, maintain, support, and keep in sufficient repair, the said posts, rails, hedges, ditches, trenches, banks, and other fences so set up and made as aforesaid;" it is hereby ordained and enacted and declared, that it shall not be necessary for the said Company in any manner to divide or separate, or to keep divided or separated, the lands so taken for the use of the said railroad, from the lands of the common of Laprairie, until they shall be thereunto specially required by the Governor, Lieutenant-Governor, or person administering the government of this province, anything in the said section to the contrary notwithstanding.

And be it further ordained and enacted, That this Ordinance shall be deemed and held to be a public Act, and as such shall be judicially taken notice of by all judges, justices of the peace, and others, without being specially pleaded.

And be it further ordained and enacted, That this Ordinance and the provisions herein contained, shall not cease or expire on the first day of November which shall be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, and in full force and effect until the same shall be repealed or altered by competent legislative authority.

(Signed.) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in special council, under the Great Seal of the province, at the Government House in the city of Montreal, the thirtieth day of January, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord, One thousand eight hundred and forty-one.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the governor of the province of Lower Canada, by and with the advice and consent of the special council for the affairs of the said province, on the thirtieth day of January, one thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) W. B. LINDSAY,
Clerk Special Council.

No. 183.

No 183.

Amending Ordinance on the administration of justice

CAP. 19.—*An Ordinance to amend two certain Ordinances therein mentioned, relative to the Administration of Justice in this Province, and to make other and further Provision on the same Subject.* [Passed 31st January, 1841.]

WHEREAS it is expedient to amend a certain Ordinance passed in the fourth year of Her Majesty's reign, and intituled, "An Ordinance to provide for the easy and expeditious administration of justice in civil causes and matters, involving small pecuniary value and interest throughout this province," and a certain other Ordinance passed in the same year of Her Majesty's reign, and intituled, "An Ordinance to establish new Territorial Divisions of Lower Canada, and to alter and amend the Judicature, and to provide for the better and more efficient Administration of Justice throughout this province," and to make other and further provision touching the administration of justice within this province; and whereas in and by the Ordinance first above mentioned, it is among other things in effect, enacted, that it shall be lawful for the Governor of this province, with the advice of Her Majesty's executive council thereof, on or before the first day of December next ensuing after the passing of the said Ordinance, to issue a proclamation under the great seal of the province, whereby this province shall be divided into districts for the purposes of the said Ordinance, and the limits of such districts shall be fixed and appointed: And whereas no proclamation as aforesaid did issue on or before the said first day of December next ensuing after the passing of the said Ordinance, and it is therefore necessary to make other and further provision for effecting such division of this province into districts for the purposes aforesaid: Be it therefore ordained and enacted by His Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the special council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make Temporary Provision for the government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament, for making Temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same parliament passed in the session held in the third and fourth years of Her Majesty's reign, and intituled, "An Act to re-unite the provinces of Upper and Lower Canada, and for the government of Canada;" and it is hereby ordained and enacted by the authority of the said Acts of Parliament, that it shall be lawful for the Governor of this province, by and with the advice of Her Majesty's executive council for the said province, at any time and times before the twenty-ninth day of December in the year of our Lord One thousand eight hundred and forty-two, and not afterwards, to issue this proclamation or proclamations under the great seal of the said province, and by such proclamation or proclamations to divide or to re-divide this province, or any portion thereof, into judicial districts for the purposes of judicature and of the Ordinance herein first above mentioned, and to adopt as a division or divisions for the said purposes any district or districts into which this province may then be divided for the municipal purposes under the authority of a certain Ordinance passed in the present session of the legislature of this province, and entituled, "An Ordinance to Provide for the Better Internal Government of this Province, by the Establishment of Local or Municipal Authorities therein;" and in and by any such proclamation or proclamations as aforesaid, to unite any two or more municipal districts into one judicial district, and again to disunite or to re-unite the same, and to appoint or change the place or places in each judicial district at which the District Court shall be held after the said Ordinance herein first above mentioned shall come into force; and also, when such District Court shall be appointed to be held at more than one place in any judicial district (but not otherwise) to appoint or change the days in each month on which such District Court shall be held at each place; and such District Court shall be held at the places so appointed respectively, and on the days so prescribed, and not at any other time; anything in the Ordinance last mentioned or in any other Ordance or law to the contrary notwithstanding: Provided always, that whenever any such District Court shall be held at one place only in any judicial district, it shall

No. 183.

Amending Ordinance on the administration of justice.

be held at the times appointed for that purpose in the Ordinance herein first above mentioned.

And be it further ordained and enacted, that so much of the thirtieth section of the said Ordinance of the legislature of this province passed in the fourth year of Her Majesty's reign, intituled, "An Ordinance to establish New Territorial Divisions of Lower Canada and to Alter and Amend the Judicature, and Provide the better and more efficient Administration of Justice throughout this Province," as provides for the holding of a general session of the peace in each of the territorial divisions of Quebec, Montreal, and Sherbrooke, shall be, and the same is hereby repealed.

And be it further ordained and enacted, That there shall be held four times in every year, in each of the judicial districts in which the cities of Quebec and Montreal, and the towns of Three Rivers and Sherbrooke, and New Carlisle, Carleton, Percé, and Douglas Town in the present inferior district of Gaspeé respectively, shall be situate, a general or quarter session of the peace, by the justices of the peace of the said judicial districts respectively, or any three of them, one of whom shall be of the quorum, who shall hear, try and determine all matters relating to the conservation of the peace, and all crime and criminal offences, causes and matters, which are or may be cognizable in and by general or quarters sessions of the peace, according to the laws in force in this province; and the said general or quarter sessions of the peace for the said last-mentioned judicial districts shall respectively be held as follows, that is to say, at the cities of Quebec and Montreal, and at the towns of Three Rivers and Sherbrooke, and at the places aforesaid in the said inferior district of Gaspé, from the tenth to the nineteenth day of each of the months of January and July, and from the twenty-first to the thirtieth day of each of the months of April and October, the first and the last days of each of the said periods being included, and Sundays and holidays excepted: And the said justices of the peace in the said general or quarter sessions of the peace to be held as aforesaid, shall be invested with and shall and may exercise within the said last-mentioned districts respectively, all and every the powers, authorities, and jurisdictions which at the time herein appointed for the commencement of this section, shall by law be vested in and required to be exercised by the general or quarter sessions of the peace in the several districts of Quebec, Montreal, and Saint Francis, at the places aforesaid in the said inferior district of Gaspé.

And be it further ordained and enacted, That all and every the records, registers, muniments, and judicial and other proceedings of the several courts of general or quarter sessions of the peace in the several districts of Quebec, Montreal, Three Rivers, and St. Francis, and at New Carlisle, Carleton, Percé, and Douglas Town aforesaid, as now constituted, shall forthwith, after the period hereafter appointed for the commencement of this section, be transmitted into and make part of the records, registers, muniments, and judicial and other proceedings of the courts of general or quarter sessions of the peace, which are hereby substituted to and for the said courts, in the said judicial districts in which the cities of Quebec and Montreal, and the Towns of Three Rivers and Sherbrooke, and the places aforesaid in the said inferior district of Gaspé, shall respectively be situate; and all and every the records, registers, muniments, and judicial and other proceedings of the provincial court of the said district of Saint Francis, shall, in the like manner, forthwith after the commencement of this secton, be transmitted into and make part of the records, registers, muniments, and judicial and other proceedings of the Court of Common Pleas for this province, in the third division thereof.

And be it further ordained and enacted, That no judgment, rule, or order of the said courts of general or quarter sessions in the said districts of Quebec, Montreal, Three Rivers, and Saint Francis, or at New Carlisle, Carleton, Percé or Douglas Town aforesaid, or in the said provincial court of the said district of Saint Francis as now constituted, which have been or may be legally pronounced, given, had, or done before the period hereinafter appointed for the commencement of this section, shall hereby, or by any other Ordinance or law, be avoided, but shall remain in full force and virtue as if this section, or any other Ordinance or law relating to the jurisdiction of the said courts, enacted by this legislature had not been passed; nor shall any indictment, information, suit, appeal, or proceeding depending in the said court of general or quarter sessions, nor any action, suit, cause, or proceeding depending in the said provincial court be abated, discontinued, or annulled, but the same shall be transferred in their then present condition respectively to and subsist and depend in the said courts of quarter sessions hereby established in

No. 183.

Amending Ordinance on the administration of justice.

the judicial districts in which the cities of Quebec and Montreal, and the towns of Three Rivers and Sherebrooke, and at the places aforesaid in the said inferior district of Gaspé, shall be situate and in the said Court of Common Pleas in the said third division thereof respectively, to all intents and purposes as if they had been respectively commenced, brought, found, prosecuted, or removed in or into the said courts respectively to which they are to be transferred as aforesaid: And the said courts of general or quarter sessions hereby established in the judicial districts in which the cities of Quebec and Montreal, and the towns of Three Rivers, and Sherbrooke, and the places aforesaid in the said inferior district of Gaspé shall respectively be situate, shall have full power and authority to proceed accordingly to judgment and execution, and to make such rules and orders in the premises as the said courts of quarter sessions hereby established might lawfully make in causes, appeals, actions, suits and proceedings commenced or depending before the said last-mentioned courts respectively.

And whereas it is necessary to make further provision for the administration of justice in criminal cases, until court-houses and gaols shall be erected in the aforesaid several judicial districts as aforesaid: Be it therefore further ordained and enacted, That all treasons, murders, felonies, and misdemeanors, crimes and criminal offences, which have been or may be committed in the judicial districts so constituted as aforesaid and lying within the territorial division of Quebec, or any of them, or at any place or places included in the same, shall and may until court-houses and gaols shall have been erected and completed in the said judicial districts respectively, be inquired of, examined, tried, determined and adjudged, and punishment thereupon be awarded and executed in the judicial district in which the city of Quebec shall be situate, in like manner and form as if the said treasons, murders felonies, misdemeanors, crimes and criminal offences had been done, committed or perpetrated within the said last-mentioned judicial district; and all treasons, murders, felonies, misdemeanors, crimes, and criminal offences, which have been or may be committed in the judicial districts so constituted as aforesaid, and lying within the territorial division of Montreal, or any of them, or at any place or places included in the same, shall and may until court houses and gaols shall be erected and completed in the said last-mentioned judicial districts respectively, be inquired of, examined, tried, determined, and adjudged, and punishment thereupon be awarded and executed, in the judicial district in which the city of Montreal shall be situate, in like manner and form and as if the said last-mentioned treasons, murders, felonies, misdemeanors, crimes, and criminal offences had been done, committed, or perpetrated within the said last-mentioned judicial district; and all treasons, murders, felonies, misdemeanors, crimes and criminal offences, which have been or may be committed in the judicial districts constituted as aforesaid, and lying within the territorial division of Sherbrooke, or any of them, or at any place or place included in the same, shall and may, until court-houses and gaols shall be erected and completed, in the said last-mentioned judicial districts respectively, be inquired of, examined, tried, determined, adjudged, and punishment thereupon be awarded and executed in the judicial district in which the town of Sherbooke shall be situate, in like manner and form as if the said last-mentioned treasons, murders, felonies, misdemeanours, crimes, and criminal offences had been done, committed, or perpetrated within the said judicial district last mentioned: Provided always, that nothing herein contained shall is any manner abridge, alter or affect the jurisdiction, power and authority of the general sessions of the peace to be held in the said judicial districts respectively or any of them, in pursuance of the provisions hereinbefore contained, which jurisdiction, power and authority shall and may be exercised in the manner hereinbefore provided, anything to the contrary thereof herein contained notwithstanding.

And be it further ordained and enacted, That the gaols now erected and being at the cities of Quebec and Montreal, and at the town of Three Rivers, shall, from and after the commencement of this section, be, and be deemed, and taken to be the common gaols and houses of correction of the judicial districts in which the cities of Quebec, Montreal and the town of Three Rivers respectively, as constituted and declared by the proclamation or proclamations aforesaid shall be situate, to all intents and purposes, and in like manner as the same are now the common gaols and houses of correction for the districts of Quebec, Montreal and Three Rivers, respectively, as now constituted.

And be it further ordained and enacted, That the goal now erected, and being at the town of Sherbrooke, in the territorial division of Sherbrooke, shall, from

No. 183.

Amending Ordinance on the administration of justice.

and after the commencement of this section, be and be deemed and taken to be the common goal of, and for the judicial district as constituted and declared by the proclamation or proclamations aforesaid, in which the town of Sherbrooke shall be so situate, to all intents and purposes whatsoever.

And be it further ordained and enacted, That the gaol now erected, and being at the city of Quebec, in the territorial division of Quebec, shall, to all intents and purposes, constitute, and be a common gaol of, and for each and every of the respective judicial districts comprehended within the said territorial division, in which a gaol is not now erected, and until a gaol shall be erected and made fit for the reception of prisoners, in the said judicial districts respectively; and in like manner the gaol now erected, and being at the city of Montreal, in the territorial division of Montreal, shall, to all intents and purposes, constitute, and be the common gaol of, and for each and every of the respective judicial districts comprehended within the said last-mentioned territorial division, in which a gaol is not now erected, and until a gaol shall be erected and made fit for the reception of prisoners in the said judicial districts respectively; and in like manner the gaol now erected and being at the town of Sherbrooke, in the territorial division of Sherbrooke, shall, to all intents and purposes, constitute and be the common gaol of and for each and every of the respective judicial districts comprehended within the said last-mentioned territorial division in which a gaol is not now erected, and until a gaol shall be erected and made fit for the reception of prisoners in the said last-mentioned judicial districts respectively; and the sheriffs of the judicial districts in which the said gaols at the said cities of Quebec and Montreal, and at the said town of Sherbrooke respectively, are situate, shall receive into the said gaols, and there safely keep all persons who may be therein imprisoned, or required to be imprisoned, in pursuance of the provisions hereinbefore contained; and the said sheriffs of the said last-mentioned judicial districts respectively shall be answerable for the safe keeping of the persons committed to the said common gaols in pursuance of the said provision hereinbefore contained, in the same manner as if they were sheriffs of the judicial districts, for, and in respect of which the gaols at the cities of Quebec and Montreal, and the town of Sherbrooke, are constituted common gaols as aforesaid, and with respect to the persons so committed, shall be deemed and held to be sheriffs of the said last-mentioned judicial districts respectively.

And be it further ordained and enacted, That it shall be lawful for the Governor of this province, by his proclamation under the great seal thereof, to fix and appoint the day from and after which the said two Ordinances cited in the preamble of this Ordinance and hereby amended, and also a certain Ordinance passed during the present session of the legislature, and intituled "An Ordinance for the better regulation of the office of sheriff in this province," and also the third, fourth, fifth, sixth, seventh, eighth and ninth sections of this Ordinance, shall have force and effect, and the said three Ordinances (excepting such parts thereof as have been repealed or derogated from by any Ordinance subsequent to them, or any of them respectively, or by this Ordinance). And the said sections of this Ordinance, shall have force and effect from and after the day appointed for that purpose in such proclamation, and not before, anything in the said three Ordinances, or in any other Ordinance heretofore passed, to the contrary notwithstanding. Provided always, That the day so fixed and appointed for the commencement of the said Ordinances and sections shall not be later than the thirty-first day of December, which will be in the present year of our Lord one thousand eight hundred and forty-one.

And be it further ordained and enacted, That the words "Governor of this Province," wherever the same occur in the foregoing enactments, shall be understood as comprehending the governor, or person authorized to execute the commission of governor within this province, for the time being.

And be it further ordained and enacted, That this Ordinance, and the provisions herein contained, shall not cease or expire on the first day of November, which will be in the year of our Lord one thousand eight hundred and forty-two; but shall be and remain a permanent and public law, and in force in this province, until the same shall be repealed or altered by competent legislative authority; and all judges, justices, and other persons therein concerned, shall take notice thereof, though the same be not specially pleaded.

(Signed.) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government

No. 183.

Amending Ordinance on the administration of justice.

House in the city of Montreal, the thirtieth day of January, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty-one.

By His Excellency's command,

(Signed.) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the advice and consent of the Special council for the affairs of the said Province, on the thirtieth day of January one thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

W. B. LINDSAY,
Clerk Special Council.

(Copy) No. 184.

No. 184.

Providing for the erection and establishment of court-houses and gaols.

CAP. 20.—*An Ordinance to provide for the Erection and Establishment of Court-houses and Gaols in certain Judicial Districts in this Province.*

[Passed 30th January, 1841.]

WHEREAS in and by a certain Ordinance of the legislature of this province passed in the present session thereof and intituled, "An Ordinance to Amend two certain Ordinances therein mentioned, relative to the Administration of Justice in this Province, and to make other and further Provision on the same Subject," power is given to the Governor of this province, by his proclamation or proclamations to be issued under the great seal of this province, and by and with the advice of Her Majesty's executive council for the same, to divide this province into judicial districts for the purposes mentioned in the said Ordinance and in other Ordinances therein referred to, and to appoint the place or places within each such judicial district at which the sittings of the district court shall be held: And whereas it may become necessary that court houses and gaols should be erected in those judicial districts so constituted in which there may be no gaol, or in which there shall be no court house at any place at which the sittings of such district court as aforesaid shall be appointed to be held: And whereas the expense of erecting such buildings in other parts of the province, has been defrayed out of the public revenue: And whereas in the present circumstances of the country, and in consideration of the course which has hitherto been pursued in such cases, it is reasonable and expedient that local taxation should not be resorted to on this occasion, and that these buildings should, if required, be erected at the expense of the province: Be it therefore ordained and enacted, by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the special council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty intituled, "An Act to make Temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to Amend an Act of the last Session of Parliament for making Temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament passed in the session held in the third and fourth years of the reign of Her present Majesty, intituled, "An Act to re-unite the provinces of Upper and Lower Canada, and for the government of Canada;" and it is hereby ordained and enacted, by the authority of the same, that a court house or court houses and a gaol may be erected in and for each of the judicial districts hereinafter mentioned which may be constituted and declared in, and by the said proclamation or proclamations in which there may then be no gaol, or in which there may be no court house at any place which may have been so appointed as that at which sittings of the district court shall be held.

And be it further ordained and enacted, that it shall be lawful for the governor of this province, by warrant or instrument under his hand and seal at arms, to appoint in each of the said judicial districts respectively, in which court houses and gaols may be erected as aforesaid, three persons to be commissioners for

No. 184.

Providing for the erection and establishment of court-houses and gaols.

erecting the requisite court-house or court-houses and the gaol, and to remove from time to time the said commissioners, or any of them, and to appoint others in the place of such as shall be removed, or shall die, or resign their trust.

And be it further ordained and enacted that in the said judicial districts respectively in which court-houses and gaols are to be erected as aforesaid, the said commissioners for such judicial districts respectively, or any two of them, as soon as may be after they shall be appointed such commissioners, shall, with the approbation of the Governor of this province in this behalf first had and obtained, select and fix upon some convenient piece or parcel of ground, at each of the places aforesaid, at which court-houses and gaols are to be erected as aforesaid, on which such court-houses and gaols may be erected; and the said commissioners, or any two of them, shall afterwards, in the manner and under the provisions hereinafter mentioned, take or contract for the absolute purchase of the said pieces or parcels of ground selected as aforesaid for the purpose of erecting thereon court-houses and gaols in the manner hereinafter directed; which pieces or parcels of ground shall be conveyed to the district council of the municipal district in which the same respectively shall be situate, for and on behalf of the said district, to be held by each of the said districts respectively in its corporate capacity for the uses and purposes of this Ordinance.

And be it further ordained and enacted, That it shall be lawful for all corporations aggregate or sole, husbands, tutors or guardians, curators, and all trustees whatsoever who are or shall be seized or possessed of or interested in any piece or pieces, parcel or parcels, of ground selected and fixed upon as aforesaid, not only for themselves, their heirs and successors, but for and on the behalf of all persons whom they represent, or for whom or in trust for whom, they are or shall be seized, possessed or interested as aforesaid, whether minors or issue unborn, lunatics, idiots, *femes covert*, or other person or persons, to contract for, sell and convey such piece or pieces, parcel or parcels of ground, to the district council of the municipal district in which the same shall be situated, for and on behalf of the said municipal district in its corporate capacity; and such contracts, sales, and conveyances shall be valid and effectual in law to all intents and purposes whatsoever, any law or custom to the contrary notwithstanding: And all corporations and persons whatsoever so contracting, selling, or conveying as aforesaid, are hereby indemnified for and in respect of any such sale which he, she, or they shall respectively make by virtue or in pursuance of this Ordinance.

And be it further ordained and enacted, That in all cases where the commissioners to be appointed as aforesaid, and the persons seized, or possessed of, or interested in the said pieces or parcels of ground, or any of them, or any part thereof, shall not, by voluntary agreement, settle and determine the price and prices, compensation and compensations to be paid for the said premises or any part thereof, such price and prices, compensation and compensations shall be ascertained, fixed, and determined by the award of arbitrators in manner following, that is to say; the said commissioners, or any two of them, shall and may nominate and appoint one arbitrator, being an indifferent and disinterested person, and the said persons seized, possessed, or interested as aforesaid, shall and may nominate and appoint one other arbitrator, being also an indifferent and disinterested person. And the said two arbitrators, before proceeding as such arbitrators, shall and may appoint a third arbitrator, being likewise an indifferent and disinterested person, which said three arbitrators, after being previously sworn before one of the justices of the Court of King's Bench for the district in which such pieces or parcels of ground respectively shall be situate, or before one of the justices of the Court of Common Pleas for this province, well, truly, and honestly to execute the trust and duty of arbitrators as aforesaid, and after notice to the parties respectively of the time and place of their meeting, shall proceed to ascertain, fix, and determine the price or prices, compensation or compensations to be paid by the said commissioners for such pieces or parcels of ground respectively, and the award of any two of the said arbitrators to be named and appointed as aforesaid, in and respecting the premises aforesaid, shall be final and conclusive.

And be it further ordained and enacted, That in case the said persons seized or possessed of or interested in the said pieces or parcels of ground, or any of them, or any part thereof, after due notice in this behalf from the said commissioners or any two of them, shall refuse or neglect to name and appoint an arbitrator as aforesaid, being an indifferent and disinterested person as aforesaid, or if the said two arbitrators named and appointed as aforesaid shall refuse or neglect to name and

No. 184.

Providing for the erection and establishment of court-houses and gaols.

appoint a third arbitrator as aforesaid, it shall be lawful, in such cases respectively, for one of the justices of the Court of King's Bench for the district in which such pieces or parcels of ground respectively shall be situated, or for any one of the justices of the Court of Common Pleas for this province, on application in this behalf by the said commissioners, or any two of them, to name and appoint, instead of such person or persons seized, possessed, or interested as aforesaid, so refusing or neglecting, a fit and proper person to be an arbitrator on his or their behalf, and also to appoint such third arbitrator to supply the place of the third arbitrator which the said two arbitrators shall refuse or neglect to appoint; and in like manner if the arbitrator named by the person or persons seized, possessed, or interested as aforesaid, and the arbitrator named by one of the justices aforesaid shall refuse or neglect to name a third arbitrator for the purposes aforesaid, it shall be lawful for any such justice as aforesaid to name a third arbitrator to supply the place of such nomination by and on the part of the said two last-mentioned arbitrators, and the arbitrator and third arbitrator so as aforesaid, in the cases aforesaid, to be appointed by such justice as aforesaid, after having been respectively sworn by such justice well, truly, and honestly to execute the trust and duty of arbitrator and third arbitrator as aforesaid, shall have the same power aud authority in the premises, and their award shall have the same force and effect as if such arbitrator and third arbitrator in any or either of the cases aforesaid had been named and appointed in the manner in the next preceding section of this Ordinance prescribed as aforesaid.

And be it further ordained and enacted, That on payment of the price or prices, compensation or compensations, to be fixed and determined as aforesaid, or in case of refusal or neglect to accept the same, on the deposit thereof in the hands of the prothonotary of the Court of King's Bench for the district in which the pieces or parcels of land for which the same shall be payable shall be situate, or in the hands of the prothonotary of any of the divisions of the Court of Common Pleas for this province, for the use of the person or persons entitled to the same, the right of property, title, and interest in and to such pieces or parcels of ground respectively, for which such price or prices, compensation or compensations shall be payable, shall be divested out of the person or persons seized and possessed thereof, or entitled to the same, and shall become and be vested in the municipal district in which the said pieces or parcels of ground shall be situate, in its corporate capacity, for the purposes of this Ordinance; and the Commissioners may, after fifteen days' notice in that behalf to the proprietor, possessor, or occupant of the piece or parcel of land to which such award shall relate, enter upon, take possession of, and use such piece or parcel of land for the purposes of this Ordinance, any law, statute, or usage to the contrary notwithstanding.

And be it further ordained and enacted, That after the said pieces or parcels of ground shall have been conveyed, or become vested in the said municipal districts respectively, as aforsaid, it shall be lawful for the said Commissioners, or any two of them, for the judicial districts respectively, and they are hereby required to cause to be erected on each of the said pieces or parcels of ground, a good and substantial court house or a gaol (as the case may be), with proper offices and appurtenances.

And be it further ordained and enacted, That before the erection of the said court-houses and gaols shall be commenced, the said Commissioners, or any two of them, in the said judicial districts respectively, shall, and they are hereby required to cause a plan of the said court houses and gaols, with an estimate of the expense of erecting the same, to be made, which plan and estimate shall, by the said Commissioners, or any two of them, be laid before the governor of this province for his approval; and after his approval, it shall and may be lawful for the said Commissioners, or any two of them in the said judicial districts respectively, from time to time to agree by contract or contracts in writing, or otherwise in their discretion, with any person or persons, as well for providing materials and hiring workmen and labourers as for the building of the said court-houses and gaols, or for the building of such part or parts thereof as to the said Commissioners, or any two of them, may appear expedient. Provided always, That before making any contract or contracts in writing, for the purposes aforesaid, or any of them, thirty days' notice at the least shall be given in one or more of the public newspapers printed or circulated within such judicial districts respectively, expressing the object and intention of such contracts, and the time and place of receiving proposals for the same.

And be it further ordained and enacted, That for defraying the expense of erecting the court-houses and gaols to be erected as aforesaid, as well as for the purchase of

No. 184.

Providing for the erection and establishment of court-houses and gaols.

the pieces or parcels of ground on which the same are to be erected, it shall be lawful for the governor of this province, from time to time, from and out of any unappropriated moneys in the hands of the Receiver-general of this province, to advance to the said Commissioners in the said judicial districts respectively, any sum and sums of money which shall be necessary to defray the expenses to be by them respectively incurred in carrying this ordinance into effect: Provided always that the sums so advanced shall not in the whole exceed Fifty Thousand Pounds currency, nor shall the sums so advanced during the present year exceed in the whole Twenty-five Thousand Pounds currency.

And be it further ordained and enacted, That the Commissioners to be appointed for the erection of the said court-houses and gaols as hereinbefore mentioned, shall from time to time, when thereunto required by the governor of this province, well and faithfully account to the said Governor for the due application and expenditure of all and every the sums of money which shall or may come into the hands of the said Commissioners, or of any of them, in pursuance of the provisions of this Ordinance, in such manner and form as the said Governor shall appoint and direct.

And be it further ordained and enacted, That the due application of all public moneys expended under the authority of this Ordinance shall be accounted for to Her Majesty, Her heirs and successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, her heirs and successors, shall be pleased to direct.

And be it further ordained and enacted, That when and so soon as the said court houses to be built upon the authority of this Ordinance, shall have been erected and completed in the said judicial districts respectively, from thenceforth all courts of justice appointed to be held at the places where the same shall be erected in the said judicial districts respectively, shall be held in the said court houses respectively: And when and so soon as the gaols to be built under the authority of this Ordinance shall respectively have been erected and completed, from thenceforth the said gaols shall, if the Ordinance cited in the twentieth section of this Ordinance shall be then in force, be, and shall be deemed and taken to be, the common gaols in and for the said judicial districts respectively, and shall be appropriated and made use of as and for such common gaols, to all and every the intents and purposes for which common gaols may be and are lawfully established and used.

And be it further ordained and enacted, That the said court houses, and the buildings thereunto belonging, and the furniture thereof respectively, when the same shall have been erected, and completed, and finished, shall thenceforth be repaired and maintained by and out of the rates and assessments, to be imposed and levied in the municipal districts in which the same shall be erected respectively, under the authority of the district councils thereof, and also the expense of maintaining and supporting the gaols, whether erected under the provisions of this Ordinance or before the passing thereof; and of maintaining and supporting the prisoners to be confined in such gaol, as well as all other expenses attending the same, except those hereinafter mentioned, shall be paid out of the rates aforesaid, to be imposed and levied as aforesaid, in the municipal districts composing the judicial district or districts for which such gaol shall be the common gaol, and shall be borne equally by each such municipal district; and the said court houses and gaols, buildings, and furniture shall from time to time be insured in the name of the treasurer of the municipal district in which the same shall be situated, for and on behalf of the municipal district in its corporate capacity, from loss or damage by fire, in such sum or sums of money as the district council of such municipal district shall from time to time appoint; and the premium and premiums upon, and other expenses attending such insurance, shall be paid and defrayed by and out of the rates aforesaid; and with respect to any gaol, shall be borne equally by the municipal districts bound to maintain the same.

And be it further ordained and enacted, That the district council of each and every of the municipal districts in which gaols shall be erected as aforesaid, shall, and they are hereby required, from time to time, to appoint a licensed surgeon or physician, to be and act as surgeon or pyhsician to the said gaols respectively, and to fix and establish a reasonable salary to be paid to such surgeon or physician from and out of the district rates.

And be it further ordained and enacted, That it shall be lawful for each of the district councils in the said municipal districts respectively, and they are hereby authorized and required to appoint a reasonable yearly salary to be paid to the gaoler of the gaol within such municipal districts respectively, which salary shall

No. 184.

Providing for the erection and establishment of court-houses and gaols.

be instead of all fees, perquisites, or emoluments of any sort or kind whatsoever; and it shall not be lawful for any such gaoler, or any officer belonging to any such gaol, to demand or receive any fee, perquisite, or profit of any kind, from any prisoner who may be confined within any of the said gaols to be built as aforesaid.

And be it further ordained and enacted, That in each and every of the said judicial districts, the sheriff of and in the same shall have power and authority from time to time to nominate and appoint such person as he shall judge most proper to the office of gaoler and keeper of the gaol, to be built therein as aforesaid, and to discharge such gaoler and keeper, and appoint another person in his place when he may deem it expedient.

And be it further ordained and enacted, That no spirituous liquors or strong waters shall be sold, supplied, afforded, or given to any persons confined in any gaol to be erected as aforesaid, or in any other gaol already erected or hereafter to be erected in this province, unless the same be prescribed or given by or under the direction of a licensed physician, surgeon or apothecary: And if any gaoler, keeper, or officer of any of the said gaols shall sell, lend, supply, or give away, or knowingly furnish or suffer any spirituous liquors or strong waters to be sold, lent, supplied, or given away in any such gaol, or brought into the same for the use of any prisoner or prisoners confined in the said gaols, except such spirituous liquors or strong waters as shall be prescribed or given as aforesaid, every such gaoler, keeper, or other officer, shall, for every such offence, forfeit and lose the sum of Ten Pounds current money of this province, and for a second like offence, shall over and above such penalty incur the forfeiture of his office: which said penalty shall and may be recovered with full costs in any court of record in this province, and one moiety thereof shall go to Her Majesty, Her heirs and successors, for the public uses of this province; and the other moiety thereof shall go and be paid to such person as shall sue for the same; and if any person shall carry, bring, or attempt or endeavour to carry or bring into any of the said gaols, any spirituous liquors or strong waters, except such as shall be prescribed as aforesaid, it shall be lawful for the keeper or officer of any such gaol to apprehend or cause to be apprehended such offender, and to bring such offender before a justice of the peace for the judicial district in which such gaol shall be situated, who is hereby empowered to hear and determine on such offence, in a summary manner: and on conviction of the offender, to commit him or her forthwith to the common gaol or house of correction, there to be kept in custody for any time not exceeding three months.

And be it further ordained and enacted, That whenever any of the gaols to be built in the said judicial districts respectively, shall be made fit for the reception and safe keeping of such persons as may be lawfully confined and imprisoned therein, and the said commissioners for building the said gaols respectively, or any two of them, shall give notice thereof in writing to the sheriff of any such judicial district, it shall be lawful for the said sheriff, and he is hereby required to remove to such gaol all such prisoners as shall be then in custody, who may be lawfully confined and imprisoned therein.

And be it further ordained and enacted, That the said gaols in the said judicial districts respectively, to be erected as aforesaid, under the authority of this Ordinance, when and so soon as the same shall be completed, and also the said gaol already erected and being at the town of Sherbrooke, shall, from and after the time when the Ordinance hereinafter cited shall come into force, until houses of correction shall be erected in the judicial districts in which they shall lie, be and be deemed and taken to be houses of correction in and for the said judicial districts respectively, and as such shall be appropriated to all and every the uses and purposes for which houses of correction, in and by the statutes and laws of this province are established or authorized, and shall also become and be houses of correction within the intent and meaning of a certain Act of the legislature of this province, made and passed in the fifty-seventh year of the reign of His late Majesty King George the Third, intituled, "An Act to provide Temporary Houses of Correction in the several Districts of this Province," which said Act hath been revived and is now in force, in virtue of two certain Ordinances of the legislature of this province, in this behalf provided: And all and every the provisions in the said Act passed in the fifty-seventh year aforesaid, shall, when and so soon as the said gaols to be built as aforesaid shall be completed, in what respects the said gaols, and from and after the commencement of the Ordinance passed in the fourth year of Her Majesty's reign, and intituled, "An Ordinance to provide for the Easy and Expeditious Administration of Justice in Civil Causes and Matters involving Small Pecuniary Value

No. 184.

Providing for the erection and establishment of court-houses and gaols.

and Interest throughout this province," in what respects the said gaol in the said town of Sherbrooke, become and be applicable to and receive execution in respect of the said gaols, as fully and effectually to all intents and purposes as if the same were re-enacted and incorporated in this Ordinance, and in like manner as the same were and are applicable, and might and may receive execution to and in respect of the temporary houses of correction and gaols in the said last-mentioned Act specified.

And be it further ordained and enacted, That the words, "governor of this province," wherever the same occur in the foregoing enactments, shall be understood as comprehending the Governor or person authorized to execute the Commission of Governor within this province for the time being.

And be it further ordained and enacted, That this Ordinance, and the provisions herein contained, shall not cease or expire on the first day of November which will be in the year of our Lord One thousand eight hundred andforty-two, but shall be and remain a permanent and public law, and in full force in this province, until the same shall be repealed or altered by competent legislative authority; and all judges justices, and other persons therein concerned, shall take notice thereof, though the same be not specially pleaded.

(Signed.) SYDENHAM.

Ordained and enacted by the authority aforesaid and passed in special council, under the Great Seal of the province, at the Government House in the city of Montreal, the thirtieth day of January, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty-one.

By his Excellency's Command.

(Signed.) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the thirtieth day of January, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) W. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 185.

CAP. 21.—*An Ordinance to declare and regulate the Tolls to be taken on the Bridge over Cap Rouge River, and for other Purposes relative to the said Bridge.* [Passed 6th February, 1841.]

No. 185.

Regulating the Tolls on the Bridge over Cap Rouge River.

WHEREAS by a certain Ordinance made and passed in the second year of Her Majesty's reign, and intituled "An Ordinance to provide for the Completion of certain Public Works, for the Improvement of the Internal Communications, and for the Encouragement of Agriculture, and for other Purposes," the sum of One thousand pounds currency was appropriated to enable Her Majesty to purchase from the seignior of the seigniory of Cap Rouge, in the district of Quebec, the right of toll over the River Cap Rouge, and a further sum of One thousand pounds currency to defray the expense of building a bridge over the said river, and it was ordained and enacted that the said right of toll and the said bridge when so purchased and built should be vested in Her Majesty for the public uses of the province: And whereas by a certain other Ordinance made and passed in the third year of Her Majesty's reign, a further sum of One hundred and eighty-five pounds eight shillings currency, was appropriated to defray the expense of building the said bridge: And whereas the said sums have been expended, and the said right of toll hath been purchased, and a bridge built, according to the provisions of the said Ordinances,

No. 185.

Regulating the Tolls on the Bridge over Cap Rouge River.

near the mouth of the said river, and it is expedient to declare and regulate the tolls which shall be taken from the persons using the said bridge, and to provide means for keeping the said bridge in repair and renewing the same or any part thereof when necessary: Be it therefore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary provision for the government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this province, by an instrument under his hand and seal, to appoint three commissioners for carrying this Ordinance into effect, and from time to time to remove them or any of them, and to appoint others in their stead: Provided always, That any majority of the said commissioners for the time being shall have all the powers hereby vested in the said commissioners.

And be it further ordained and enacted, That there shall and may be levied and recovered by and paid to the said commissioners, or such person as they shall appoint to collect and receive the same, the rates and tolls hereinafter mentioned, from the persons who shall use and pass over the said bridge, and before any passage over the same shall be permitted, that is to say; for each four-wheeled carriage drawn by three or by four horses or other beasts of draught, tenpence currency; for each such carriage drawn by two horses or other beasts of draught, sixpence currency; for each such carriage drawn by one horse or other beast of draught, fivepence currency; for each two-wheeled carriage drawn by two horses or other beasts of draught, tandem, fivepence currency; for each such carriage drawn by two horses or other beasts of draught, abreast, fourpence currency; for each such carriage drawn by one horse or other beast of draught, threepence currency; for each winter-carriage or vehicle without wheels, drawn by three or by four horses or other beasts of draught, eightpence currency; for each such carriage or vehicle drawn by two horses or other beasts of draught, tandem, fivepence currency; for each such carriage or vehicle drawn by two horses or other beasts of draught, abreast, fourpence currency; for each such carriage or vehicle drawn by one horse or other beast of draught, threepence currency; for each horse, mare, mule or ass, and any rider mounted thereon, one penny halfpenny currency; for each horse, mare, mule, or ass, without a rider, and for each bullock, bull, cow, or head of horned or neat cattle, one penny currency; for each hog, goat, sheep, calf, or lamb, one halfpenny currency; for each person passing over the said bridge on foot, and for each person over five in any carriage drawn by four horses or other beasts, or over three in any carriage drawn by a less number than four such horses or beasts, one halfpenny currency: And the money received for the said tolls shall, after deducting the expenses of collection and the sums necessary to defray any other expenses which the commissioners are hereby authorized to incur, be paid over by the said commissioners in sums of not less than fifty pounds currency to the trustees to be appointed under the authority of a certain Ordinance passed during the present session of the legislature, and intituled "An Ordinance to provide for the Improvement of certain Roads in the Neighbourhood of and leading to the City of Quebec, and to raise a Fund for that Purpose," and shall form part of the funds at the disposal of the said trustees for the purposes of the said Ordinance: Provided always, That the said trustees shall and they are hereby authorized and required to advance to the said commis-

No. 185.

Regulating the Tolls on the Bridge over Cap Rouge River.

sioners from time to time out of the funds aforesaid, and as occasion may require, such sum or sums of money as may be necessary to enable the said commissioners to defray the expenses of any repairs to or of the reconstruction of the said bridge if necessary, on being required to make such advance by a requisition from the said commissioners, approved in writing by the Governor, Lieutenant-Govenor, or person administering the government of this province, anything in the said Ordinance to the contrary notwithstanding.

Provided always, and be it further ordained and enacted, That the said commissioners may commute the said tolls with any party having occasion frequently to pass or to pay toll for the passing of persons in the employ of such party over the said bridge, for such sum, to be paid annually, monthly, or weekly, as may be agreed upon between such party and the commissioners, and the sums so paid shall be in lieu of the tolls commuted for all the purposes of this Ordinance.

Provided also, and be it further ordained and enacted, That Her Majesty's mail, and persons, animals, and carriages employed in the conveyance thereof, Her Majesty's officers and soldiers being in proper staff or regimental or military uniform dress or undress, and their horses, but not when passing in hired or private vehicles, and all carriages and animals belonging to Her Majesty, or employed in her service, when conveying persons in such service or returning therefrom, and all recruits marching by route, shall pass toll free over the said bridge.

And be it further ordained and enacted, That it shall be lawful for the said commissioners at all times to pay out of the money arising from the said tolls such sums as may be necessary to defray the expenses of collection and the other current and ordinary expenses connected with the management of the said bridge, and such sums not exceeding fifty pounds currency at any one time as may be required to defray any necessary expenses of keeping the said bridge in repair, and may build, repair, and renew any toll-house or toll-gate necessary for carrying this Ordinance into effect; and may also, with the consent and approval of the Governor, Lieutenant-Governor, or person administering the government, and not otherwise, pay such sums exceeding the said sum of fifty pounds at one time as may be required to meet the said expenses of any repairs, or of re-constructing the said bridge or any portion thereof, or of the works connected therewith.

And be it further ordained and enacted, That the said commissioners, or the person or persons by them employed to collect the said tolls, may lawfully seize and detain any animal, carriage, or thing on which toll may be due and unpaid, until such toll be paid.

And be it further ordained and enacted, That no person passing over the said bridge in any carriage or on horseback shall ride or drive at any pace faster than a walk, under a penalty not exceeding twenty shillings currency for each offence; and that no more than one carriage or four persons on horseback or four head of neat cattle shall be allowed to be at one time on the turning or projecting part of the swing-bridge, under a like penalty for each offence against any person who being duly warned by the toll-collector shall wilfully contravene this enactment.

And be it further ordained and enacted, That it shall be the duty of the said commissioners to cause a copy of the preceding section of this Ordinance, and a table of the tolls hereby established, to be fairly and legibly printed in French and English, and affixed in a conspicuous place on the said bridge.

And be it further ordained and enacted, That no person shall, at any season of the year, for hire or for any valuable consideration, ferry or transport any person, goods, or thing, by water carriage across the said Cap Rouge River within two miles above the said bridge, or between the said bridge and the mouth of the said river, or within one mile of the mouth of the said river upwards and downwards along the beach of the River Saint Lawrence, under a penalty of five shillings currency for each person, animal, vehicle, or package of goods so ferried: Provided always, That nothing herein contained shall prevent any person from carrying any person, goods, or things, for hire across the said Cap Rouge River in winter vehicles and upon the ice.

And be it further ordained and enacted, That the penalties imposed by the foregoing sections of this Ordinance may be recovered with costs before any one of Her Majesty's justices of the peace having jurisdiction for the locality

No. 185.

Regulating the Tolls on the Bridge over Cap Rouge River.

in which the offence shall be committed, on the oath of one credible witness, and may be levied by distress and sale of the offender's goods and chattels, by warrant under the hand of the said justice, if not forthwith paid; and one moiety of the penalty shall belong to Her Majesty, her heirs and successors, for the public uses of the province, and the other moiety to the prosecutor: Provided always, That any one of the said commissioners, or any person employed by them, shall be a competent witness if he be not the prosecutor.

And be it further ordained and enacted, That if any person or persons shall wilfully cut, break down, destroy, or injure the said bridge or any part thereof, or work therewith connected, the person or persons so offending shall be guilty of a misdemeanor, and, being thereof convicted, shall be liable to be punished by fine or imprisonment, or both, at the discretion of the court before whom the conviction shall take place; and shall moreover be liable to the commissioners for all damages done to the said bridge or work by such person or persons: Provided always, That if the act committed by such person or persons shall amount to any higher crime or offence than a misdemeanor, nothing herein contained shall prevent such person or persons from being indicted or punished as if this section had not been passed.

And be it further ordained and enacted, That the said commissioners and the trustees to be appointed under the Ordinance herein above cited shall account to the Governor, Lieutenant-Governor, or person administering the government of this province, in such manner and form and at such times as he may appoint, for all moneys by them received or expended under the authority of this Ordinance.

Provided always, and be it further ordained and enacted, That it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this province, at any time, and whenever he shall deem it expedient, to appoint all the trustees appointed under the said Ordinance to be commissioners for carrying this Ordinance into effect; any provision in this Ordinance limiting the number of such commissioners to the contrary notwithstanding: And during the time the said trustees shall be such commissioners, the said bridge shall be held to be part of the roads and bridges under the control and management of the said trustees, as if it had been mentioned in the ninth section of the said Ordinance, and the tolls authorised by this Ordinance to be levied and taken from the persons using the said bridge, and collected during the said time, shall form part of the funds placed by the said Ordinance at the disposal of the said trustees, and shall and may be applied by them in the same manner as the tolls levied under the authority of the said Ordinance.

And be it further ordained and enacted, That this Ordinance shall be a public Act or Ordinance, and shall be noticed as such by all judges, justices of the peace, and others, without being specially pleaded.

And be it further ordained and enacted, That this Ordinance shall be a permanent Ordinance, and shall remain in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House in the city of Montreal, the sixth day of February, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty-one.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the sixth day of February, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

No. 186.

Improvement of the Road from Montreal to the Côte St. Michel.

(Copy.)

No. 186.

CAP. 22.—*An Ordinance to provide for the Improvement of a certain Part of the Road from the City of Montreal to the Côte Saint Michel, in the Parish of Sault-au-Recollet.* [Passed 6th February, 1841.]

WHEREAS it would be of great public advantage that the road leading from the city of Montreal to the Côte Saint Michel, in the parish of Sault-au-Recollet, should be macadamised and otherwise improved throughout its whole length: And whereas a portion only of the said road is by the Ordinance passed in the third year of Her Majesty's reign, intituled "An Ordinance to provide for the Improvement of the Roads in the Neighbourhood of and leading to the City of Montreal, and to raise a Fund for that Purpose," placed under the control and management of the trustees to be appointed under the authority of the said Ordinance, and the improvement of such portion only of the said road is provided for: And whereas the persons hereinafter named have prayed to be authorised to improve and macadamize the remainder of the said road at their own expense, and to be allowed certain tolls thereon, and it is expedient to grant their prayer: Be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the Session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the Session held in the third and fourth years of the reign of Her present Majesty, intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that John Molson, John Drummond, John Hunter, George Hastings, Alexander Ogilvie, William Snaith, John Dods, Joseph Teskey, John Flaherty, and Archibald Ogilvie, and such persons as shall under the provisions of this Ordinance become and be proprietors of any share in the undertaking hereby authorised, shall be, and they and their legal representatives and assigns are hereby made, a body corporate by the name of "The Saint Michel Road Company," and for the purpose of improving and macadamising the said road within the limits hereinafter mentioned; and may by that name sue and be sued, and shall have perpetual succession and a common seal, and may purchase, acquire, and hold personal property and such real property as may be necessary for carrying this Ordinance into effect, and no more, and may sell the same and acquire other real property instead thereof for a like purpose, without letters of mortmain; and generally shall have such corporate powers and capacities as may be necessary for carrying this Ordinance into effect, and enforcing and securing the rights hereby vested in the said company, or any rights accruing to any other party under this Ordinance.

And be it further ordained and enacted, That it shall be lawful for the said company, and their successors, to raise and contribute among themselves a sum of money not exceeding two thousand five hundred pounds currency, which shall constitute and be the capital stock of the said company, for the purposes of this Ordinance, and shall be divided into shares of twenty-five pounds currency each share; and in case the said sum of two thousand five hundred pounds shall be found insufficient for completing the improvement of the said road, and for maintaining the same, it shall be lawful for the said company to raise and contribute among themselves, in the manner and form aforesaid, or by the admission of new subscribers, a further sum of money not exceeding the sum of five hundred pounds currency, which shall be divided into

No. 186.

Improvement of the Road from Montreal to the Côte St. Michel.

shares of twenty-five pounds currency each, in like manner as is provided with respect to the said sum of two thousand five hundred pounds; and any person subscribing for and taking any shares in the said additional capital stock of five hundred pounds shall have the same rights and be subject to the same rules and liabilities as the original subscribers and members of the said company.

And whereas the several persons hereinbefore mentioned and others, in contemplation of the passing of this Ordinance, have subscribed and promised to advance certain sums of money to and for the purposes thereof: Be it therefore further ordained and enacted, That all such subscriptions and promises to advance money shall be taken and held to be subscriptions for and towards the capital stock of the said company, and the persons who have so subscribed and promised shall be entitled to the same rights and be held, bound, and liable in the same manner as the persons who shall hereafter subscribe for and towards the said capital stock, or any portion thereof; and shall in all respects, and to all intents and purposes whatsoever, be considered members of the said company.

And be it further ordained and enacted, That the said John Molson, John Drummond, John Hunter, George Hastings, Alexander Ogilvie, William Snaith, John Dods, Joseph Teskey, John Flaherty, and Archibald Ogilvie, shall be a committee for opening a subscription-book and receiving subscriptions for the said capital stock and payments for and on account thereof, among themselves and from persons being owners of real property on the said road, and in the said Côte Saint Michel; or if the said capital stock be not all subscribed for within one month after the said subscription-book shall have been opened and kept at some place within the said city of Montreal, of which notice shall be inserted in two of the newspapers published in the said city during at least two weeks previously to the opening of such book, then, and not otherwise, it shall be lawful for the said committee to receive subscriptions from persons not being owners of real property on the said road, or in the said Côte; and so soon as the entire amount of the said capital stock shall have been subscribed for and taken up, and the sum of one thousand pounds actually paid in, the said commitee shall call a meeting of the said company at some convenient place in the city of Montreal, by notice to be inserted in two of the newspapers published in the said city, at least two weeks previous to the time fixed for the said meeting; and the subscribers then present, or their proxies, shall elect by a majority of votes to be given by ballot, five stockholders to be directors of the said company for the year then next ensuing; and the said committee shall thereupon immediately deliver to the said directors the subscription-books, and pay over to such directors the monies received by them on account of the said subscriptions for the capital stock of the said company; and shall also deliver to the said directors all papers, vouchers, and other things which may be in their possession belonging to the said company.

And be it further ordained and enacted, That an election for directors shall thereafter be annually held at such place as may be appointed by the by-laws of the company, on the same day of the same month on which the first election shall have been held as aforesaid; or if such day be a Sunday or holiday, then on the day next thereafter not being a Sunday or holiday: Provided always, That if such election by reason of any matter or thing shall not be had upon such day, the said corporation shall not lapse or be dissolved, but the said election shall be held on some early day to be appointed by the directors then in office, who shall give notice thereof in the manner required with respect to the first election, and who, after the day on which such election ought to have been held, shall be incapacitated from doing any act as directors, except such as may be necessary for giving effect to the election so to be appointed.

And be it further ordained and enacted, That at every general meeting of the company one of the stockholders shall be appointed chairman, and all question, matters, and things of the said company shall be decided by a majority of votes: Provided always, That in case the votes be equally divided, the chairman shall be entitled to a double or casting vote.

And be it further ordained and enacted, That each stockholder, in person or by proxy, shall be entitled on the shares held by him to one vote for each share to the number of five, making five votes for five shares, and for every

No. 186.

Improvement of the Road from Montreal to the Côte St. Michel.

five shares above that number to one additional vote; and every stockholder of the said company may vote by proxy, provided that such proxy shall produce from his constituent an appointment in writing, but no one person shall act as proxy for absent stockholders for more than twenty shares.

And be it further ordained and enacted, That no stockholder who shall not be a natural-born subject of Her Majesty, or a subject of Her Majesty naturalized by Act of the British Parliament, or by Act of the Parliament of Lower Canada or of Upper Canada, or of the province of Canada, shall be elected president or director of the said company.

And be it further ordained and enacted, That any three or more of the directors shall form a quorum of the board for the transaction of business, and the acts of a majority of such quorum shall bind the company.

And be it further ordained and enacted, That the Board of Directors shall at their first meeting elect by ballot out of their number a president and vice-president of the said company, which said president shall preside at all meetings of the Board when present, and in his absence the vice-president shall preside, if present, and in the absence of the president and vice president, one of the directors shall be appointed by the Board to preside; and the person so presiding shall, in all cases of equality of votes at any meeting of the said Board, have a double or casting vote; and the said Board shall, by an election to be made as aforesaid, supply every vacancy that may occur in the office of president, vice-president, or director, from death, sickness, absence from the province of more than three months, or from any other cause whatsoever; and the person chosen to fill such vacancy shall hold his office until the next annual election.

And be it further ordained and enacted, That the said Board of Directors shall have power, and it shall be their duty to meet, from time to time, at such place as they may deem expedient, to make by-laws for the regulation of the affairs of the Company; to appoint such subordinate officers, artists, and workmen as they shall deem necessary to execute the business of the Company, and to require from such officers, whenever they may deem expedient, such security for the due performance of their respective duties as the said Board in their discretion may think proper; to demand at such time and in such proportion as they shall see fit, but after public notice to be given in two newspapers published in the city of Montreal, during at least thirty days, from the respective stockholders, the sums of money due on their respective shares, under pain of forfeiture of such shares, and of all previous payments thereon to the Company, or, at their option, to recover the said sums of money by action at law; to declare by a by-law in what manner and under what restrictions special meetings of the said Company shall be called; to declare by a by-law in what manner and under what restrictions the shares of their capital stock shall be transferable; to improve, macadamize, complete, and keep in constant repair the said road, with all the necessary buildings and appurtenances, and for that purpose to purchase real property, materials and other necessary things; to keep an account of all tolls received, and of all monies disbursed; and deducting costs and charges to make and declare a dividend of the clear profits and income of the road among the stockholders on such a day in every year as may be appointed by the by-laws; to publish a notice of each dividend in one or more of the public newspapers printed in the city of Montreal, and of the time and place of the payment thereof, and to pay the same accordiugly; to report to the governor of this province, within six months after the said road shall be completed, an account of the expenses of the construction thereof; and to exhibit annually to the said governor an account of the sums arising from the tolls, and of the disbursements and dividends actually made within the year; and to establish the tolls to be demanded upon the said road for each year, beginning from the day of the general meeting of proprietors, such tolls not to exceed in amount the tolls hereinafter specified.

And be it further ordained and enacted, That the said Company at every general meeting shall have power to call for, audit, and settle all accounts of money laid out and disbursed on account of the said undertaking, with any officer or other person employed by, or concerned for or under the said Company, in and about the said undertaking, and for that purpose shall have power to adjourn from time to time, and from place to place, as shall be thought convenient.

No. 186.

Improvement of the Road from Montreal to the Côte St. Michel.

And be it further ordained and enacted, That process of any kind, or any protest, notice, or document of any sort, shall be held to have been legally served on the said Company, if served personally upon or at the domicile of the president, or of the vice-president of the said Company; and any act or deed done or executed in the name and on the behalf of the said Company, by the president or the vice-president, and two of the directors for the time being, and (if an instrument in writing) sealed with the seal of the corporation, shall, in as far as the rights and interests of any party other than the said Company may be thereby affected, be held to be the act, or the act and deed (as the case may be) of the said company.

And be it further ordained and enacted, That the said Company shall and may from and after the passing of this Ordinance, improve, drain, macadamize and complete the present highway from the end of that part of the Victoria Road sixthly mentioned in the seventh section of the ordinance herein first cited, which is by the said Ordinance placed under the control of the trustees for carrying the same into effect, through and along the Côte de la Visitation, and the Côte Saint Michel in the parish of Montreal, and through and along a portion of the Côte Saint Michel in the parish of Soult-au-Recollet, to the front road of the Côte Saint Michel in the parish last mentioned, and the said portion of the said highway is hereby placed under the exclusive control and management of the said Company: Provided always, That the said Company shall keep the said road at least thirty feet wide between the ditches, sixteen feet of which shall be faced with gravel or broken stones of a depth not less than eight inches, in such manner as to leave a firm and even surface rising properly in the middle with good and sufficient ditches on each side of the said road; and a mile-stone or post shall be erected and maintained by the said Company on each mile of the said road, on which shall be fairly and legibly inscribed the distance of such stone or post from the boundary of the said city of Montreal.

And be it further ordained and enacted, That so soon as the improvement and macadamization of the said roads hereby placed under the control of the said company shall have been completed, the said company shall give notice thereof to the board of works of this province, or in case the said board of works shall not then be in existence, to the Governor of the province; and the said board of works, or if the same be not then in existence, a person to be appointed for that purpose by the Governor, shall view the said road, and upon the report of the said board of works, or of the person to be appointed as aforesaid, to the Governor of the province, that the said road is completed in a workmanlike manner according to the requirements of this Ordinance, it shall be lawful for the said company to erect a turnpike-gate and toll-house, or turnpike-gates and toll-houses on the said road, for the collection of the tolls by this Ordinance authorized to be exacted and received

And be it further ordained and enacted, That the said company may demand, exact, and receive at each of the said turnpike-gates and toll-houses to be established on the said road, under and by virtue of this Ordinance, from all and every person and persons who shall pass upon or use the said road, the tolls and rates hereinafter mentioned, that is to say; for every waggon, wain, cart, or other wheel carriage for the transportation of loads, the wheels whereof have tires or tracks of the breadth of five inches or upwards, English measure, drawn by one horse or other beast, if the same be loaded in whole or in part, the sum of two pence currency, and if unloaded, the sum of one penny half-penny currency; and for every such waggon, wain, or cart, with wheels, the tires or tracks whereof shall have a breadth less than five and not less than two and a quarter inches, English measure, drawn as aforesaid, if loaded in whole train part, the sum of three pence currency, and if not loaded, the sum of two pence currency; and for every such waggon, wain, or cart, with wheels the tires or tracks whereof shall have a breadth of less than two and a quarter inches drawn as aforesaid, if loaded in whole or in part, the sum of four pence currency, and if not loaded the sum of three pence currency; and for every additional horse or other beast to any such waggon, wain, or cart hereinbefore mentioned, the further sum of two pence currency; for every coach, stage-coach, gig, caleche, dennet, spring-cart, or other wheel carriage (other than waggons, wains, or carts) having wheels or tires of the breadth of two and a quarter inches or upwards, English measure, drawn by one horse or other

No. 186.

Improvement of the Road from Montreal to the Côte St. Michel.

beast, the sum of three pence currency; and for every such coach, stage-coach, gig, caleche, dennet, spring-cart, or other wheel-carriage (other than waggons wains, or carts) having wheels, tires or tracks less than two and a quarter inches, English measure, in breadth, drawn as aforesaid, the sum of four pence currency; and for every additional horse or other beast to such stage-coach, gig, caleche, dennet, spring-cart, or other wheel carriage, the further sum of two pence currency; for every sleigh, train, drag, berlin, cariole, or other winter vehicle whatsoever, two pence currency; for every horse, mare, or gelding, with a rider, the sum of one penny halfpenny currency; for every horse, mare, gelding, ass, mule, ox, cow, and head of other neat cattle, not drawing, the sum of one penny currency; for every score of sheep, lambs, hogs, or swine, the sum of two pence currency: Provided always, that the said company may at any time lower the said tolls, and may again raise the same, provided they do not in any case exceed the tolls and rates above mentioned.

Provided always, and be it further ordained and enacted, That Her Majesty's mail, and persons, animals, and carriages employed in the conveyance thereof, Her Majesty's officers and soldiers when on actual service, being in proper staff or regimental, or military uniform, dress or undress, and their horses, (but not when passing in a hired or private vehicle) and all carriages and horses belonging to Her Majesty or employed in her service, when conveying persons in such service or returning therefrom, and all recruits marching by route, and all persons, animals, and carriages attending funerals, shall pass toll free through any turnpike-gate and toll-bar to be erected under the authority of this Ordinance: And provided also, that no more than one full toll in any one day (to be computed from twelve of the clock at night to twelve of the clock in the next succeeding night) shall be taken or demanded for or in respect of the same horse or horses, or other beast or beasts, or cattle, drawing the same waggon, wain, or cart, coach, gig, caleche, dennet, spring-cart, or other wheel-carriage, or for or in respect of the same horse, mule, ass, or other beast or cattle laden or unladen, or not drawing, or for or in respect of the same oxen or ox, neat cattle, calves, swine, sheep or lambs, for passing or repassing through all or any of the gates along the line of the said road, except as hereinafter mentioned; and the said company may prevent the passing through any turnpike-gate or toll-bar, of any person, vehicle, animal, or thing from, on whom or which any rate or toll shall be payable, until such rate or toll be paid, and shall affix in a conspicuous place at each turnpike-gate and toll-bar whereas any rate or toll is payable, a table of the tolls to be taken thereat, and the regulations under which such tolls are to be levied, plainly and legibly printed.

Provided also, and be it further ordained and enacted, That the tolls hereby made payable for or in respect of any stage-coach, diligence, van, caravan, stage-waggon, or other stage-carriage, or any cart conveying passengers or goods, for pay or reward, or for or in respect of any horse or horses, beast or beasts, drawing the same, shall be payable and paid every time of passing or repassing along the said road; and if any person shall claim or take the benefit of any of the exemptions aforesaid, not being entitled to the same, every such person shall for every such offence forfeit and pay any sum not exceeding ten shillings currency, and in all cases the proof of exemption shall be upon the person claiming the same.

And be it further ordained and enacted, That it shall be lawful for the said company, and for the trustees appointed under the authority of the Ordinance herein first above cited, if they shall deem it expedient, to agree together from time to time, and to provide that the tolls which the said company are hereby authorized to levy, or any part thereof, may be collected by any collector appointed by the said trustees, and at any turnpike erected by them between the end of the road placed under the control of the said company, and the city of Montreal, and to make such arrangement concerning the division of the tolls collected at and such gate, and the payment of the expenses of collection, as the said company any the said trustees shall agree upon as just and reasonable.

And be it further ordained and enacted, That the said company may, if they think proper, commute the toll on the road placed under their control with any person or persons, by taking a certain sum either weekly, monthly, or yearly, in lieu of such tolls.

And be it further ordained and enacted, That the said company may from time

No. 186.

Improvement of the Road from Montreal to the Côte St. Michel.

to time, if they shall deem it expedient, let or farm the tolls on the said road to the trustees appointed or to be appointed under the authority of the Ordinance herein first above cited (who are hereby authorized to rent or take to farm the said tolls if they shall deem it advantageous to the public so to do), or to any other person whomsoever.

And be it further ordained and enacted, That in case the said road or any part of it shall at any time be out of repair, it shall be lawful for any person to make complaint thereof in writing to the district surveyor, or if there be no such officer, to any two justices of the peace having jurisdiction within the locality in which such part of the said road so being out of repair may lie, and such district surveyor or justices shall thereupon without delay view and examine the part of the said road so complained of, and shall, if such complaint shall be found to be just, give notice in writing to the said company (by serving such notice at their office for the time being) to repair the said road; and in case the same be not repaired within such reasonable time as the said surveyor or the said justices may appoint, he or they shall order the toll-gates, if any there be on the road, to be thrown open, and the said toll-gates shall thereupon be kept open, and no toll shall be collected thereat; or in case that any arrangement shall be made between the said company and the said trustees, in the manner authorized in the nineteenth section of this Ordinance, for the levying and collecting the tolls which the said company are hereby authorized to collect by the gate-keepers of the said trustees, the said surveyor or the said justices shall forbid any such tolls to be levied or collected by the said gate-keepers until such part of the said road so out of repair shall have been sufficiently repaired, and a certificate from the said surveyor or justices of the peace shall be granted to that effect; and if the said company or the said gate-keepers respectively shall not immediately obey such order or prohibition to throw open such gates, or to forbear from levying or collecting such toll, or shall, during the time that such gates ought to have been kept open or such toll forborne as aforesaid, hinder or delay any person passing, or take or demand any toll, they shall for each offence forfeit the sum of forty shillings to the party aggrieved, to be recovered with costs in the manner hereinafter provided: Provided always, That if the district surveyor or such justices of the peace as aforesaid shall, after the part of the said road so out of repair shall have been sufficiently repaired, refuse to grant a certificate to that effect, or if by reason of their absence application cannot be made to them, the said company may apply to any two justices of the peace having jurisdiction within the locality in which the said road or the part ordered to be repaired shall be situate, and such justices shall thereupon examine into the matter in question, (and may, in case the district surveyor shall have refused such certificate, summon such district surveyor before them) and shall, if due proof be made of the sufficient repair of the said road, grant a certificate to that effect, which certificate shall to all intents and purposes have the same effect as the certificate of the district surveyor, or of the justices by whose order the gates were thrown open, and may condemn the district surveyor, if he be found in fault, to pay the costs of such summons and the proceedings thereupon; which costs shall be levied by distress and sale of his goods and chattels under the warrant of the said justices, or of one of them, if not forthwith paid.

And be it further ordained and enacted, That if any gate-keeper or toll-gatherer employed by the said company, or acting for them at any toll-gate to be erected under the authority of this Ordinance, shall unwarrantably hinder or delay any traveller or passenger liable to the payment of toll, or shall demand from any person more toll than by this Ordinance he is authorized to collect, he shall for every such offence, forfeit a sum not exceeding twenty shillings currency to the person so aggrieved.

And be it further ordained and enacted, That the penalties by this Ordinance imposed upon gate-keepers and toll-gatherers on the said road shall be recovered with costs by plaint before any one of Her Majesty's justices of the peace having jurisdiction in the locality within which the offence shall have been committed, on the oath of one or more credible witnesses other than the party aggrieved, and may be levied with costs by distress and sale of the offender's goods and chattels, by warrant under the hand of such justices, or of one of them; and whenever goods and chattels of the defendant cannot be found to satisfy the judgment which may be rendered against him, it shall be satisfied by the said company; and if, on demand, payment of the forfeiture and costs awarded by judgment be

No. 186.

Improvement of the Road from Montreal to the Côte St. Michel.

refused by the said company, the amount thereof may be recovered with costs before any two justices as aforesaid, in the manner aforesaid, from the said company, and may in like manner be levied by distress and sale of the goods and chattels of the said company, under the warrant of such justices, or of one of them.

And be it further ordained and enacted, That if any person shall wilfully hinder or obstruct the improving, macadamization, and completing of the said road, or of any other work, hereby authorised to be constructed and performed in the manner and according to the provisions herein contained, or shall cut, break down, destroy, or wilfully injure any turnpike-gate, toll-bar, toll-house, embankment, drain, or work of any kind whatever erected or made under the authority of this Ordinance, such person so offending shall be guilty of a misdemeanor, and being lawfully convicted thereof before any court of competent jurisdiction, may be punished by fine and imprisonment.

And be it further ordained and enacted, That any person who shall leave any waggon, cart, or other carriage, or shall lay or leave any matter or thing creating any obstruction of any kind in or upon the said road, or the ditches or drains thereof, shall incur a penalty not exceeding twenty shillings, currency, for each offence; and if any person who shall clandestinely or forcibly pass, or attempt to pass, any turnpike-gate or toll-bar upon the said road, without having first paid the legal toll thereat, such person shall incur a penalty not exceeding forty shillings, currency, for each offence; and any person who, after proceeding upon the said road, whether in the winter season, or any other season, with any carriage, animal, or thing, liable to toll, shall turn out of the same into any other road, or into any field or ground adjoining, so as to evade payment of toll at any turnpike-gate or toll-bar, such person shall for each such offence incur a penalty not exceeding ten shillings, currency; and if any person, body politic, or corporate, occupying or possessing any enclosed lands near the said road, shall, whether in the winter, or at any other season, knowingly permit or suffer any person to pass through such lands, or through any gate, passage, or way thereon, with any carriage, animal, or thing, liable to the payment of toll on such road, for the purpose of avoiding and so as to avoid the payment thereof, such person so offending, and the person so unlawfully avoiding such payment, shall each and severally incur a penalty not exceeding ten shillings, currency, for each offence; all which said penalties hereby imposed may be sued for and recovered with costs, on the oath of one competent witness before any two justices of the peace having jurisdiction in the locality within which such offence shall have been committed; and such justioes may, on conviction, if such penalty be not forthwith paid, commit the offender to the common gaol for a period not exceeding two weeks for each offence, or until such penalty and costs be paid; and one moiety of all such penalties shall belong to the informer, and the other moiety to Her Majesty, her heirs and successors, for the public uses of this province: Provided always, that any member, officer, or servant, of the said company shall be a competent witness on any prosecution for an offence against the provisions of this section, if he be not the informer.

Provided always, and be it further ordained and enacted, That each and every person committing any offence against the provisions of this Ordinance, shall, in addition to any penalty imposed by it for such offence, be liable to the party aggrieved for all damages which such party may have sustained by reason of such offence.

And be it further ordained and enacted, That if any person shall consider himself aggrieved by any thing done by any justice of the peace in pursuance of this Ordinance, every such person may within four calendar months after the doing thereof, appeal to the justices of the peace at the general quarter sessions, to be holden in and for the district, or for the territorial division within which the judgment appealed from, may have been rendered.

And be it further ordained and enacted, That the said company, in order to entitle themselves to the benefits and advantages to them granted by this Ordinance, shall improve, macadamize, and complete the said road in manner aforesaid, within three years from the passing of this Ordinance.

And be it further ordained and enacted, That at any time before or after the improving and completing of the said road, it shall be lawful for Her Majesty, her heirs and successors, or for the district council of the municipal district in which the said road shall lie, to assume the possession and property of the same, and of all and every the works and dependencies thereunto belonging, upon paying

No. 186.

Improvement of the Road from Montreal to the Côte St. Michel.

to the said company the full amount then actually paid in on their respective shares, or by the said company expended on the said road, together with such further sum as would amount to twenty per centum upon the monies advanced or paid, as a full indemnification to the said company; and all and every the works and dependencies thereunto belonging, shall, from the time of such assumption, belong to Her Majesty, her heirs and successors, or to such district council (as the case may be), who shall from thenceforward be substituted in the place and stead of the said company for all and every the purposes of this Ordinance; but, unless Her Majesty, her heirs or successors, or such district council, shall so assume the property of the tolls and rights aforesaid, such property shall, if the requirements of this Ordinance shall have been complied with by the said company, and subject in all cases to the enactments and provisions herein contained, be and remain vested in the said company for the purposes aforesaid, for ever; and the said road, and all the appurtenances thereof shall be under the exclusive control and management of the said company, and shall not be subject in any way to the power or control of any grand voyer or road officer, or of any district council, any thing in any Act, Ordinance, or law to the contrary notwithstanding.

And be it further ordained and enacted, That the word "Governor," whenever it occurs in this Ordinance, shall be held to mean and intend, as well the governor as the lieutenant-governor, or person administering the government for the time being.

And be it further ordained and enacted, That this Ordinance shall be taken and deemed to be a public Act, and shall be taken notice of as such by all judges, justices, and other persons, without being specially pleaded.

And be it further ordained and enacted, That this Ordinance shall be and remain a permanent law, and in full force until it shall be repealed or altered by competent legislative authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government-house, in the city of Montreal, the sixth day of February, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty-one.

By his Excellency's command,

(Signed) WM. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance, passed by the Governor of the Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the sixth day of February, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 187.

No. 187.

To extend provisions of an Ordinance concerning erection of Parishes for civil purposes.

CAP. 23.—*An Ordinance to extend the Provisions of a certain Ordinance concerning the Erection of Parishes for Civil Purposes, to Parishes Canonically erected before the Passing of the said Ordinance.*

[Passed 6th February, 1841.]

WHEREAS the provisions made in and by a certain Ordinance passed in the second year of Her Majesty's reign, and intituled, "An Ordinance concerning the Erection of Parishes, and the building of Churches, Parsonage Houses, and Churchyards," for the legal erection of parishes for civil purposes, do not extend to parishes erected and constituted by canonical decree and for eccle-

No. 187.

To extend provisions of an Ordinance concerning erection of Parishes for civil purposes.

siastical purposes, before the time of the passing of the said Ordinance: And whereas it now appears that many parishes which had been so erected as aforesaid for ecclesiastical purposes, had not at the time aforesaid been legally erected for civil purposes, and it is expedient and necessary to extend to such parishes the provisions of the said Ordinance: Be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, and intituled, "An Act to re-unite the provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that all the Provisions and enactments of the Ordinance herein first above cited, concerning the erection of parishes for civil purposes, and the powers thereby vested in the Governor of this province, and in the commissioners appointed under the authority of the said Ordinance, shall be and are hereby extended to and may be exercised with regard to parishes erected and constituted before the passing of the said Ordinance, by canonical decree, and according to the ecclesiastical laws and forms followed and in use in the diocese of Quebec or of Montreal, in as full, ample, and beneficial a manner to all intents and purposes as if the said parishes had been respectively so constituted by canonical decree after the passing of the said Ordinance, and under the provisions and enactments thereof, and a proclamation or proclamations for erecting such parishes, or any of them, for civil purposes, and for confirming, establishing, and recognizing the boundaries thereof may issue accordingly, and shall avail as a legal erection and confirmation of such parish or parishes, for all civil purposes whatsoever.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special council, under the Great Seal of the Province, at the Government House in the City of Montreal, the sixth day of February, in fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britian and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty-one.

By His Excellency's Command,

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the sixth day of February, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

W. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 188.

CAP. 24.—*An Ordinance to authorise the Transfer of the Property of the Old Gaol in the City of* Montreal *to the principal Officers of Her Majesty's Ordnance.* [Passed 6th February, 1841.]

No. 188.

To transfer the Property of the Old Gaol in Montreal to Officers of Her Majesty's Ordnance.

WHEREAS in and by a certain Act of the Parliament of this province, passed in the forty-fifth year of the reign of His Majesty King George the Third, and intituled "An Act to provide for the erecting of a Common Gaol in each of the Districts of Quebec and Montreal respectively, and the Means for defraying the Expenses thereof," it was, among other things in effect enacted, that a strong and substantial gaol should be erected in the city of Montreal on a lot of ground belonging to His said Majesty, and intended to be appropriated by him for that purpose, and certain sums of the public money of this province were, by the said Act, and a certain other Act of the Provincial Parliament, passed in the fifty-first year of the reign of his said Majesty, and intituled "An Act for granting another Sum of Money to finish the building of the common Gaol for the District of Montreal," appropriated to defray the expense of building such gaol: And whereas a lot of ground in the said city was appropriated by his said Majesty for the purpose aforesaid, and a gaol was built thereon in pursuance of and under the authority of the Act first above cited, and became by virtue of the enactments of the said Act the common gaol of the district of Montreal, and the property thereof, and of the ground aforesaid, is vested in Her Majesty for the public uses of the province: And whereas in and by a certain other Act of the said Parliament, passed in the session held in the tenth and eleventh years of the reign of his late Majesty King George the Fourth, and intituled "An Act to provide for the Erection of a common Gaol in the District of Montreal," it was declared that by reason of the insufficiency of the gaol so erected as aforesaid, it was indispensably necessary to construct a new one better adapted to the circumstances and to the increasing population of the said district, and it was among other things enacted, that a new gaol should be constructed in the manner therein provided, and that when such new gaol should be erected and completed, and public notice to that effect given by proclamation of the Governor or person administering the Government, such new gaol should become and be the common gaol of the said district: And whereas a new gaol was accordingly erected and completed, and public notice to the effect aforesaid was given by proclamation as aforesaid, and the said new gaol became accordingly and now is the common gaol for the said district: And whereas the building erected as a gaol under the authority of the Act hereinabove cited, and the lot of ground whereon it is situate, are no longer necessary for the public uses of this province, and it hath been represented by the officers of Her Majesty's Ordnance that it would be advantageous to Her Majesty's service that the said last-mentioned building and lot of ground should be vested in the principal officers of Her Majesty's Ordnance in Great Britain, in trust for Her Majesty and for her service, and it is expedient that the property of the said building and lot of ground should be so vested under the provisions hereinafter mentioned; Be it therefore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, and intituled "An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is

No. 188.

To transfer the Property of the Old Gaol in Montreal, to Officers of Her Majesty's Ordinance.

hereby ordained and enacted by the authority of the same, and by virtue of the powers vested by the said Acts of Parliament, that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this province for the time being, to appoint one *expert*, and for the officers or chief acting officer of Her Majesty's Ordnance in this province to appoint another *expert*, and for the two Experts so appointed jointly to appoint a third *expert*, for the purposes hereinafter mentioned, and before they proceed to act as such *experts*.

And be it further ordained and enacted by the authority aforesaid, That the said three *experts*, or any two of them, shall and may estimate and ascertain the value of the building erected as a gaol under the authority of the Act herein first above cited, and of the lot of ground whereon it is situate, and the dimensions, boundaries, and abuttals of the said lot, and shall and may report the same in writing to the Governor, Lieutenant-Governor, or person administering the Government for the time being: Provided always, That so much in width along the whole front of the said lot of ground as shall be necessary to make the footpath hereinafter mentioned in a line with that along the government garden, also hereinafter mentioned, shall be reserved to form part of the public street in front of the said lot, and a flagged pavement or footpath shall be made and maintained by the principal officers of Her Majesty's Ordnance (if the said lot be transferred to them as hereinafter provided) along the whole front of the said lot, and of the same width, and flagged in the same manner as the flagged footpath along the front of the government garden, lying to the eastward of the said lot and separated from it by a public thoroughfare leading to the Champ-de-Mars; and if the said transfer be effected, then the prothonotaries of the Court of King's Bench for the district of Montreal, or the persons or officers in whom the property of the Court House in the said city, and of the lot of ground whereon it stands, is or shall be then by law vested, are hereby authorised and required to cede to the Council of the said city so much of the said last-mentioned lot as may be necessary to continue the said footpath of the width and in the line aforesaid, along the whole front of the said lot; and the said Council shall and may, after such cession, pave the said footpath with flag-stone in like manner, and erect a proper wall and iron railing to divide the same from the remainder of the said lot, and shall for ever after maintain the same in good and sufficient repair.

And be it further ordained and enacted by the authority aforesaid, That if the Governor, Lieutenant-Governor, or person administering the government, shall be satisfied that the report of the said *experts* is correct and just, and shall, in writing under his hand, approve and sanction the same, then, on the payment of the sum so ascertained and reported as the value of the said building and lot of ground by the officers or chief acting officer of Her Majesty's Ordnance in this province, or on their or his behalf, to the Receiver-General of this province, for the public uses thereof, hereinafter mentioned, the property of the said building and of the said lot of ground (bounded and abutted as in and by the report aforesaid it shall be described) shall be, and shall remain and continue vested in the principal officers of Her Majesty's Ordnance in Great Britain, and their successors in the said office, in trust for Her Majesty, her heirs and successors, for the service of the said Ordnance Department, or for such other public service or services as the said principal officers or their successors in the said office shall from time to time order and direct, and the property of the said building and lot of ground shall thenceforth be and remain and continue so vested accordingly.

And be it further ordained and enacted by the authority aforesaid, That all monies paid to the Receiver-General under the provisions of this Ordinance shall be and are hereby appropriated to defray the expenses of erecting a Penitentiary or House of Correction in and for the district of Montreal, or some other public building for civil purposes within the said city of Montreal, and the cost of the ground on which the same shall be erected; and it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government, to cause such Penitentiary or House of Correction, or other public building as aforesaid, to be erected and completed at any place within the said limits, for such civil purposes, according to such plan, in such manner, and under such superintendence and control as to him shall appear expedient;

188.

To transfer the Property of the Old Gaol in Montreal to Officers of Her Majesty's Ordnance.

and by his warrant or warrants, to be issued from time to time, to authorise the payment or advance by the said Receiver-General to the persons mentioned in such warrant or warrants, of such sum or sums as may be necessary to defray the expenses incurred or to be incurred in or about the erection and completion of the said Penitentiary or House of Correction, or other public building as aforesaid, and not exceeding in the whole the sum so paid to the Receiver-General as the value and price of the gaol and lot of ground of the property of which the transfer is hereby authorised.

And be it further ordained and enacted by the authority aforesaid, That this Ordinance shall be a permanent Ordinance, and shall be and remain in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House in the city of Montreal, the sixth day of February, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty-one.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the sixth day of February, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 189.

CAP. 25.—*An Ordinance to authorise the Repayment of a certain Sum therein mentioned, advanced out of the Military Chest for certain Provincial Purposes.* [Passed 6th February, 1841.]

No. 189.

To authorize repayment of money to Military Chest.

WHEREAS it is expedient to authorize the repayment out of the public moneys of this province of a certain sum of money advanced out of the military chest for the purpose of defraying the expense of certain furniture purchased by order of his Excellency the late Earl of Durham, then Governor-General of this province, for the several government-houses in this province, and now forming part of the furniture thereof, and being part of the public property of this province: Be it therefore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the session held in the third and fourth years of the reign of her present Majesty, intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers vested by the said Acts of Par-

No. 189.

To authorize repayment of money to Military Chest.

liament, that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this province, by warrant under his hand, to authorize the payment to her Majesty's Commissary-General in this province, or such officer as may be appointed to receive such payment, and out of any unappropriatedpublic moneys in the hands of the Receiver-General of this province, of such sum of money, not exceeding eight hundred and forty-nine pounds sterling, as may be necessary to repay the sum so advanced as aforesaid out of the military chest for the purposes mentioned in the preamble of this Ordinance.

And be it further ordained and enacted, That the due application of all moneys of which the payment is hereby authorized shall be accounted for to her Majesty, her heirs and successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, her heirs and successors, shall be pleased to direct.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the city of Montreal, the sixth day of February, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty-one.

By his Excellency's Command,

(Signed) W. B. LINDSAY.
Clerk Special Council.

I hereby certify the preceding to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said Province, on the sixth day of February, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 190.

CAP. 26.—*An Ordinance to facilitate the Despatch of the Business now before the Court of King's Bench for the District of Montreal.*

[Passed 6th February, 1841.]

No. 190.

For despatch of Business in Court of King's Bench in Montreal.

WHEREAS it is necessary to make further and temporary provision to facilitate the despatch of the great accumulation of business now before the Court of King's Bench for the district of Montreal: Be it therefore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the special council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of her present Majesty, intituled, " An Act to make temporary Provision for the Government of Lower Canada ;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled, " An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada ;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of her Majesty's reign, and intituled, " An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada ;" and it is hereby ordained and enacted by the authority of the said Acts of Parliament, that it shall be lawful for the Governor, Lieutenant-Governor, or person administering the government of this province, to appoint by commission, under theGreat Seal of

No. 190

For despatch of Business in Court of King's Bench in Montreal.

this province, a fit and proper person to be Commissioner of the inferior term of the Court of King's Bench for the district of Montreal, and to have, hold, and exercise the powers, and to perform the duties hereinafter assigned to such Commissioner.

And be it further ordained and enacted, That the said Commissioner shall and may sit and act as a judge of the said Court in any inferior term thereof, or in any circuit court thereof, and shall in and with regard to all causes and proceedings of any kind lawfully brought or to be brought before or pending in the said court in any inferior term thereof, or in or before any such circuit court as aforesaid, have in court or out of court, in term or in vacation, all the powers, authority, and jurisdiction by law vested in any judge or justice of the said court, with regard to any such causes or proceedings as aforesaid; but the said Commissioner shall have no power whatever in or with regard to any cause or proceeding of any kind brought or to be brought before or pending in the said Court of King's Bench at or in any superior term thereof, except only such powers as are hereinafter expressly vested in such Commissioner.

And be it further ordained and enacted, That the said Commissioner shall have all the powers of a justice or judge of the said court, with regard to elections of tutors or guardians, curators, and other counsels of relations and friends, closing of inventories, attestations of accounts, insinuations, the affixing and taking off seals of safe custody, and other acts of a like nature which ought not to suffer any delay, and to the appointment of a notary or some other fit person upon application of the parties to receive the counsels and opinions of relations or friends, and shall have the same power as any justice or judge of the said court to grant a *fiat* to enable any party to obtain a writ of *saisie gagerie*, or a writ of *saisie arrêt*, or a writ of *saisie revendication*, after judgment, before or in any cause brought or to be brought in any superior term of the said court, and to take any affidavit to be used in any cause brought or to be brought in any such term, and to preside at and take the *enquête* in any cause brought or to be brought in any such term, and to administer all necessary oaths to any witness produced at such *enquête*, to decide all questions arising at any such *enquête* touching the competency or admissibility of any witness or evidence, or of any question proposed to any witness, or the closing or continuance of such *enquête*, or any other matter relative to such *enquête*, and the evidence given or offered at the same, such decision being subject to revision by the said court on motion and rule to that effect, and to reversal or modification if found on such revision, to be wholly or in part erroneous.

And be it further ordained and enacted, That it shall be lawful for the governor, lieutenant-governor, or person administering the government of this province, by warrant under his hand, to authorize the payment to the said commissioner, out of any unappropriated monies in the hands of the receiver-general, of such sum or sums as may be necessary to defray the salary of the said commissioner during the time this Ordinance shall remain in force, at the rate of nine hundred pounds sterling per annum.

And be it further ordained and enacted, That the due application of all public monies, of which the expenditure is hereby authorized, shall be accounted for to Her Majesty, her heirs and successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, her heirs and successors, shall be pleased to direct.

And be it further ordained and enacted, That so much of a certain Act of the Legislature of this province, passed in the thirty-fourth year of the reign of His Majesty King George the Third, and intituled, "An Act for the Division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned," and of any other Act, Ordinance, or law whatsoever, as shall be repugnant to, or inconsistent with the express enactments of this Ordinance, shall be and is hereby repealed.

Provided always, and be it further ordained and enacted, that nothing in this Ordinance contained shall enlarge, diminish, or in anywise effect the extent of jurisdiction possessed by the said Court of King's Bench for the said district of Montreal, or by any judge or justice thereof, when sitting in inferior term, or to repeal or effect any provision of the Act last above cited, or of any other law, not repugnant to, or inconsistent with the express enactments of this

No. 190.

For despatch of Business in Court of King's Bench in Montreal.

Ordinance, or to diminish or affect any right or prerogative of the crown in any manner or way whatsoever.

And be it further ordained and enacted, That this Ordinance shall be and remain in full force until the thirty-first day of December, in the present year of our Lord one thousand eight hundrd and forty-one, and no longer: Provided always that if a certain Ordinance passed in the fourth year of Her Majesty's reign, and intituled, "An Ordinance to establish new Territorial Divisions of Lower Canada, and to alter and amend the Judicature, and to provide for the better and more efficient Administration of Justice throughout this Province," shall, in the manner by law provided, be brought into force and effect before the day last mentioned, then this Ordinance shall expire on the day on which the said Ordinance shall be so brought into force and effect as aforesaid.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province at the Government House in the city of Montreal, the sixth day of February, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty one.

By His Excellency's Command,

(Signed) W. B. LINDSAY.
Clerk Special Council.

I hereby certify the preceding to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said Province, on the sixth day of February, one thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY.
Clerk Special Council.

(Copy.)

No. 191.

CAP. 27.—*An Ordinance to authorise and enable the Corporation of the City of Montreal to erect a Public Edifice in the said City for certain Purposes.*

[Passed 6th February, 1841.]

No. 191.

To erect a Public Edifice in Montreal.

WHEREAS the corporation of mayor, aldermen, and citizens of the city of Montreal, have, by their petition, represented the great public advantage to be derived from the erection, in the said city, of a public edifice of such dimensions as to contain a City Hall, Merchants' Exchange, Post Office, and Trinity House, a large room for public meetings of the citizens, and convenient accommodation for an institute to be formed by the junction of the Literary and Scientific Societies of the said city, according to the plan of Mr. Alexander Vattemare: And whereas the said corporation have further represented that the funds at their disposal, or which they are now empowered by law to raise, would be insufficient to defray the expense of erecting the said building, and of purchasing ground for the site thereof, unless the other public works and improvements now requisite in the said city, were wholly or in a great measure abandoned, and have therefore prayed to be empowered to borrow a certain sum of money for the purposes of this Ordinance, over and above the sum they are authorized to borrow by any other law, and to levy by special rates

No. 191.

To erect a Public Edifice in Montreal.

and assessments over and above those which they are or may be authorised to impose for other purposes and by virtue of any other law, such sum or sums as may be necessary to pay the interest on the sums so borrowed, and gradually to redeem the principal: And whereas it is expedient that the prayer of the said petition should be granted: Be it therefore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue of and under the authority of an Act of Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the said Acts of Parliament, that it shall be lawful for the council of the said city, to borrow on the credit of the said corporation, and on the security of the funds of the said city such sum or sums, not exceeding in the whole fifty thousand pounds currency, as may be necessary to defray the expense of erecting and completing a suitable edifice for the purposes mentioned in the preamble to this Ordinance, and to pay the price of the ground to be acquired by the said corporation as a site for the said building, in some central and convenient situation within the said city.

And be it further ordained and enacted, That the sum or sums of money to be borrowed under the authority of this Ordinance, may be borrowed at any rate of interest, whether greater or less than six per cent. per annum; and the rate of interest at which the same shall be so borrowed, may be paid by the said corporation accordingly, any law, usage, or custom to the contrary notwithstanding.

And be it further ordained and enacted, That it shall be lawful for the council of the said city, by a by-law or by-laws, to impose such rates and assesments on real and personal property, or both within the said city, as shall be necessary in each year to raise (clear of all expenses of collection) a sum sufficient to pay the interest payable during such year on that part of the sum borrowed under the authority of this Ordinance which shall then remain unpaid, and one fiftieth part of the principal of the sum so borrowed or to be borrowed; and the sums to be raised as aforesaid shall and may be so raised over and above and in addition to any sum or sums which the said council are authorised by any other law to raise or levy.

And be it further ordained and enacted, That the said council shall and may acquire a lot of ground as aforesaid, as a site for a public edifice for the purposes, and shall and may erect thereon for the said purposes a suitable public edifice, which, with the ground forming the site thereof, shall be vested in the said corporation for ever.

And be it further ordained and enacted, That the said ground and building shall be and is hereby specially hypothecated for the due payment of the sums to be borrowed for the purchase and erection thereof, and for the due payment of the interest thereon.

And be it further ordained and enacted, That all the enactments and provisions of the Ordinance passed in the fourth year of Her Majesty's reign, and intituled "An Ordinance to incorporate the City and Town of Montreal," as amended by a certain Ordinance passed for that purpose in the present Session of the Legislature, shall, in so far as they shall not be repugnant to or inconsistent with the express enactments and evident intent of this Ordinance, extend to and govern each and every act and thing required or authorised to be performed and done under the authority of this Ordinance, as if this Ordinance had formed part of the said last-mentioned Ordinances or of either of them.

Provided always, and be it further ordained and enacted, That the accounts of all monies levied, received, or expended by the said council under the authority of this Ordinance, shall be kept separate and distinct from all other

No. 191.

To erect a Public Edifice in Montreal.

accounts of the said corporation; and all rents, issues and profits arising from the said building when completed, shall be deemed monies levied and received under the authority of this Ordinance, and applicable to the payment of the principal and interest of the sum borrowed under the authority hereof, and the further sums to be assessed and levied by the said council for the purposes of this Ordinance shall be reduced accordingly.

And be it further ordained and enacted, That all the issues and profits of the edifice so to be erected as aforesaid, and also all public moneys raised or to be raised by and under the authority of the Ordinances hereinbefore mentioned, and placed at the disposal and under the control of the said corporation, shall be specially charged with and liable for the payment of the interest of the sum or sums of money to be borrowed as aforesaid, and of the principal thereof; and such payment shall be made according to the terms and conditions to be made between the parties, at the time when the money shall be borrowed.

And whereas it is highly desirable for the promotion of science and the arts, and for the advantage of the citizens, that the several literary and scientific associations established in the said city of Montreal, that is to say; the Montreal Natural History Society, the Mechanics Institute, and the Montreal Library, should be united and placed under the control of the municipal authorities of the said city: Be it therefore further ordained and enacted, That as soon as the public edifice aforesaid, shall be erected and completed by the said corporation, and sufficient accommodation provided therein, the Natural History Society of Montreal shall be and are hereby authorised and empowered to give, grant, transfer, and confirm unto the said corporation of the mayor, aldermen, and citizens of Montreal, all and singular the property real or personal, goods, chattels, books, instruments, objects of natural history and curiosities, and all right, title, interest, property, claim and demand whatever therein, belonging to and in the possession of the said Natural History Society, to have, hold and enjoy all and singular the said personal and real estate aforesaid, unto the said corporation of the mayor, aldermen, and citizens of the city of Montreal, for ever, for the benefit of the said city, any law, statute, or Ordinance to the contrary notwithstanding.

And be it further ordained and enacted, That as soon as the said public edifice shall be completed as aforesaid, the said corporation of the mayor, aldermen, and citizens of Montreal, shall be and they are hereby authorised and empowered to accept and receive from the proprietors of the Montreal Library, a grant of all the books composing the said Montreal Library, and also to accept and receive from the proprietors of the Mechanics Institute, a grant of all and every the works, instruments, and objects of art and personal estate belonging to and in the possession of the said Mechanics Institute, all which shall be vested in the said corporation of the said city for ever.

And be it further ordained and enacted, That from and after the time when notice shall be given by a notarial instrument to the said corporation of Montreal, by the said Montreal Natural History Society, the said proprietors of the said Montreal Library and the said Mecanics Institute, jointly, of their respective intention to grant and transfer to the said corporation of Montreal their respective property real and personal as aforesaid, and to be united as aforesaid, and from and after the acceptance of such property by the said corporation of Montreal, also by a notarial instrument, the said three societies shall become united under the name and style of the "Montreal Institute of Literature, Science, and Arts," and shall thenceforward be and form one society under the control of the said corporation of Montreal, according to the provisions hereinafter made.

And be it further ordained and enacted, That the said Institute formed as aforesaid shall be composed of all and every the members who immediately before the union aforesaid shall be members of the societies respectively, and of such other persons as shall become members thereof according to the by-laws to be made by the said Institute, as hereinafter provided; and the said members shall consist of ordinary, corresponding, and honorary members, all of whom shall be chosen by ballot, according to the terms and restrictions to be prescribed by the said by-laws; and the said ordinary members shall pay to the said Institute such annual contributions as may, from time to time, be required by the by-laws of the said Institute.

No. 191.

To erect a Public Edifice in Montreal.

And be it further ordained and enacted, That as soon as proper and convenient accommodation shall have been provided in the said public edifice, for the placing therein of the books, instruments, objects of art and literature of the said Institute, the mayor of the city of Montreal shall, by a public notice to be by him given in two newspapers published in the said city, call a general meeting of all the members of the said Institute as aforesaid, which meeting shall take place in the public room in the public edifice as aforesaid, at a time to be specified in the said notice; and at such meeting the said mayor shall preside, and the majority of the members assembled shall proceed to elect a president of the Institute, one first vice-president, one second vice-president, one third vice-president, one corresponding secretary, one recording secretary, one treasurer, one librarian, and one cabinet-keeper, and also ten other members, who, together with the officers hereinbefore named, shall constitute and form the council of the said Institute.

And be it further ordained and enacted, That a new election of members of such council as aforesaid, shall be had within each succeeding year after the date of the said notice, and in the manner and place provided in the next preceding section.

And be it further ordained and enacted, That the president of the said institute shall call a meeting of all the ordinary members of the said institute when and so often as he may deem it proper, after twenty-four hours' previous notice thereof left at the place of abode of each such ordinary member, resident within the said city; and twelve ordinary members of the said institute shall be a competent quorum for the dispatch of all business of the institute, and a majority of the members present shall finally determine all matters or things proposed or discussed at any meeting, and shall have the same power as the whole body of the members of the said institute.

And be it further ordained and enacted, That the members of the said institute shall have power to make, constitute, ordain, and establish such by-laws as they shall deem fit and proper for regulating the mode of proceedings at the annual election of the council, for prescribing the functions and duties of the Council and of the members of the institute, for the admission of members, and for the government of the several officers under their control, for fixing and determining the annual rate of contribution to be paid by the ordinary members, for appointing the terms of payment of the said contribution and fixing the mode of collection, for suspending or expelling such members or officers as shall neglect or refuse to comply with the by-laws of the institute, and, generally, for the managing or directing of the affairs and concerns of the said institute, and may by any such by-law impose a fine not exceeding two pounds currency: Provided that such by-laws shall have no effect unless sanctioned and approved by the council of the said city of Montreal, either in their special or quarterly meetings.

And be it further ordained and enacted, That the contributions and fines to be fixed by the by-laws aforesaid shall and may be sued for in the name of the corporation of the said city, and may be recovered with costs in the same manner as assessments and fines laid and imposed by the council of the said city; and, being so recovered, shall be paid over to the treasurer of the said institute, to be appropriated by the council thereof for the purposes of the said institute.

And be it further ordained and enacted, That the members of the council of the said city of Montreal for the time being shall be honorary members of the said institute without election.

And be it further ordained and enacted, That the said institute shall have power, from time to time and as occasion may require, to appoint such other officers, and at their pleasure to remove any such officers and appoint others in their places; and shall and may allow to such officers such salary, allowance, or other compensation out of the funds of the institute for their services as may be regulated by a by-law made and approved as herein provided.

And be it further ordained and enacted, That from and after the union of the said three societies as above mentioned, and after the said corporation of Montreal shall have taken possession of all the books, instruments, objects of art, and curiosities, and of all real and personal estate which shall be assigned and transferred to them by a notorial instrument made in due form, the

No. 191.

To erect a Public Edifice in Montreal.

said council of the said city shall furnish the institute, without charge, with convenient rooms or apartments in the said public edifice for the deposit therein of the Public Library and the Museum, with such other rooms as may be necessary for the management of the affairs and for the purposes of the said institute; and the said corporation shall further be charged with and liable to pay all and every the debts which at the time of the transfer and surrender as aforesaid, shall then be due by the said Montreal Natural History Society, by reason of the purchase by them made of the house and premises now belonging to them and situate in Saint James Street in the said city of Montreal; and shall be also subject to all the liabilities of the said society towards the heirs and universal legatees of the late James Sommerville; which said liabilities the council of the said city shall, and they are hereby authorised to meet out of any funds placed by law at their disposal, excepting those raised under the authority of this Ordinance, until the money borrowed under the same authority, and all interest thereon, shall have been paid off.

And be it further ordained and enacted, That it shall and may be lawful for the said Corporation of Montreal to receive donations, *entre vifs*, or legacies of moveable or personal property, from any person or persons whomsoever for the support and increase of the said public library and museum, and for the general purposes of the institute aforesaid, and no sum or sums of money so received shall be applied in any other manner.

And be it further ordained and enacted, That the public library and museum formed under the authority of this Ordinance shall, under the direction of the said institute, be kept open for the free use of the public at such times and hours, and under such restrictions as may be fixed and determined by the by-law to be made as aforesaid by the said institute in that behalf, and approved by the council of the said city as aforesaid.

And be it further ordained and enacted, That from and after the union of the several institutions aforesaid, in the manner aforesaid, the Provincial Act passed in the ninth year of the reign of His late Majesty King George the Fourth, and intituled, "An Act to authorise the Advance of a certain Sum of Money to the Natural History Society of Montreal," and all other Acts or parts of Acts relative to the said society shall be and remain repealed; and all powers or rights vested in the said society as separate and distinct from the said institute, of what nature soever the same may be, shall cease and determine.

And be it further ordained and enacted, That from and after the union of the said several societies as aforesaid, the said council of the said city of Montreal shall, and they are hereby authorised to appropriate annually, out of the general funds placed by law at their disposal, a sum not exceeding three hundred pounds currency, for the purpose of increasing the library and museum, and for other objects connected with the said institute.

And be it further ordained and enacted, That this Ordinance shall be and remain a permanent law and in full force until the same shall be repealed or altered by competent authority; saving always, that all powers of assessment and taxation hereby vested in the council of the said city of Montreal, and all by-laws of the said council made under the authority of this Ordinance for raising or levying any sum or sums of money, shall expire, cease, determine, and be of no effect from and after the time when the monies borrowed under the authority of this Ordinance, and all interest on the same, shall be paid off and discharged.

And be it further ordained and enacted, That this Ordinance shall be held and taken to be a public Act, and shall be judicially taken notice of accordingly, without being specially pleaded.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House in the city of Montreal, the sixth day of February, in the fourth year of the reign of our Sovereign Lady Victoria, by the grace of God

No. 191.

To erect a Public Edifice in Montreal.

of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty-one.

By his Excellency's command,

(Signed) W. B. Lindsay,

Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the sixth day of February, one thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

Wm. B. Lindsay,

Clerk Special Council.

(Copy.)

No. 192.

No. 192.

For granting Licences for Houses of Public Entertainment.

Cap. 28.—*An Ordinance to amend the Law relative to the granting of Licences to keep Houses of Public Entertainment, and to enable the Magistrates resident in the City of Montreal to hold another Special Session for granting Certificates on which such Licences may be granted during the present Year.* [Passed 6th February, 1841.]

Whereas it is expedient to amend the law relative to the granting of licenses to keep houses of public entertainment, by extending that provision of the law by which such licenses may in certain cases be granted by the person administering the government, without the certificates required in other cases: Be it therefore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the second and third years of the reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the third and fourth years of the reign of Her present Majesty, intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada:" and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, That, from and after the passing of this Ordinance, it shall be lawful for the Governor, Lieutenant-Governor, or person administering the Government of this province, to grant a license to keep a house of public entertainment and to retail spirituous liquors therein to any person or persons, if it shall appear to his satisfaction that such license ought to be so granted, although such person or persons may have failed to obtain any certificate heretofore required before such license could be granted; and any license granted under the provisions of this Ordinance shall have the same effect to all intents and purposes whatever as if it had been granted on such certificate as aforesaid, anything in a certain Ordinance passed in the second year of Her Majesty's reign, and intituled, "An Ordinance to amend a certain Act therein mentioned, and to provide for the better Regulation of Taverns and Tavern-keepers," or in any other Ordinance, statute, or law to the contrary notwithstanding: Provided always, That no license shall, under the provisions of this Ordinance, be granted to any person who shall not, during the then current year, have taken an oath in the form of the Schedule

No. 192.

For granting Licences for Houses of Public Entertainment.

A. to the said Ordinance annexed; and that no such license shall be granted for any period extending beyond the twentieth day of May, in the year next after that in which such license shall be granted.

Provided always, and be it further ordained and enacted, That the same duty shall be payable on and for any licence granted under the authority of this ordinance, as if such licence had been granted under the provisions of the Ordinance last cited, and that nothing in this Ordinance shall extend or be construed to extend to repeal, alter or affect any part of the said Ordinance, or any Act, Ordinance, or law relative to persons keeping houses of public entertainment or retailing spirituous liquors, except only in so far as the same may be repugnant to, or inconsistent with, the express enactments of this Ordinance.

And for the relief of certain persons to whom certificates were not granted by the justices of the peace resident in the city of Montreal, during their Special Session held between the twentieth and thirtieth days of January in the present year; Be it further ordained and enacted, That it shall and may be lawful for the justices of the peace residing in the said city of Montreal, and the suburbs and banlieu thereof, at a Special Session which they are hereby authorised to hold on any day during the month of March in the present year of our Lord one thousand eight hundred and forty-one, to grant certificates of qualification for keeping houses of public entertainment, and for retailing spirituous liquors therein, to all persons to whom they were induced by insufficient information to refuse such certificates at the Special Session held in the month of January in the present year; and the certificates which may be so granted shall have the same force and effect until the twentieth day of May in the year one thousand eight hundred and forty-two, as if they had been granted at the said Special Session in the said month of January in the present year, anything in the Ordinance herein first above cited, or in any other Ordinance or law to the contrary notwithstanding.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House in the city of Montreal, the sixth day of February, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, in the year of our Lord one thousand eight hundred and forty-one.

By his Excellency's Command,

(Signed) W. B. LINDSAY,
Clerk of Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the sixth day of February, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No. 193.

No. 193.

For Improvement of the Internal Communications between this Province and New Brunswick.

CAP. 29.—*An Ordinance to make further Provisions for the effectual Improvement of the Internal Communications between this Province and New Brunswick.* [Passed 6th February, 1841.]

WHEREAS it is expedient to make further provision for the effectual improvement of the internal communications between this province and the province of New Brunswick, with a view more especially to facilitate the transmission of Her Majesty's mail by that route between Halifax and Quebec, and thus to increase the rapidity of communication between the Canadas and

No. 193.

For Improvement of the Internal Communications between this Province and New Brunswick.

the United Kingdom: Be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this Province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament passed in the session held in the second and third years of the reign of her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada;" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, and intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that a sum not exceeding five thousand pounds currency, to be taken out of any unappropriated monies which now are in or may hereafter come into the hands of the Receiver General, shall be and is hereby placed at the disposal of the Governor or person administering the Government of this province, for the purposes and subject to the provisions hereinafter mentioned.

And be it further ordained and enacted, That the said sum of money shall be and is hereby appropriated for the purpose of defraying the expence of improving and completing the road called the Femiscouata Portage Road, and of improving or making (as the case may require) the road or roads, or any new road or new part of any road, between Fort Ingall on Lake Madawaska to the place commonly called the Délegé, and from the place last named along the south-west bank of the Madawaska river to the Little Falls on the said river; and for the purposes of this Ordinance, all bridges or other works upon or required upon the said roads or any of them, shall be deemed part of the said roads respectively.

And be it further ordained and enacted, That the said sum of money may be expended under the superintendence and management of such commissioners, officers or persons as may from time to time be appointed for that purpose by the Governor, Lieutenant Governor, or person administering the government, who shall have full power and authority to direct that the said sum be expended on each of the said roads respectively, in such proportions and in such manner as he shall deem most expedient: Provided always, That no more than two thousand five hundred pounds currency, shall be expended under the authority of this Ordinance during the present year of our Lord one thousand eight hundred and forty-one.

And be it further ordained and enacted, That each and every person under whose superintendence or management any portion of the public monies hereby appropriated shall be expended, shall render such accounts and make such report in writing of such monies to him advanced, and of his doings with regard to the expenditure thereof, as shall from time to time be required of him by the Governor, Lieutenant Governor, or person administering the government of this province: And the due application of all such public monies shall be accounted for to Her Majesty, her heirs and successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as her Majesty, her heirs and successors, shall direct.

And be it further ordained and enacted, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province at the Government House in the city of Montreal, the sixth day of February, in the fourth year of the reign of our Sovereign Lady

No. 193.

For Improvement of the Internal Communications between this Province and New Brunswick.

Victoria, by the Grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty-one.

By his Excellency's Command,

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the sixth day of February, one thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

(Copy.)

No, 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

No. 194.

CAP. 30.—*An Ordinance to prescribe and regulate the Registering of Titles to Lands, Tenements and Hereditaments, Real or Immoveable Estates, and of Charges and Incumbrances on the same; and for the Alteration and Improvement of the Law in certain Particulars in Relation to the Alienation and Hypothecation of Real Estates and the Rights and Interest acquired therein.* [Passed 9th February, 1841.]

WHEREAS great losses and evils have been experienced from secret and fraudulent conveyances of real estates, and incumbrances on the same, and from the uncertainty and insecurity of titles to lands in this province, to the manifest injury and occasional ruin of purchasers, creditors, and others; and whereas the registering of all titles to real or immoveable estates, and of all charges and incumbrances on the same, would not only obviate these losses and evils for the future, but would also, with some alteration of the existing laws, whereby the removal of inconvenient and inexpedient restraints and burthens on the alienation of real estates might be effected, greatly promote the agricultural and commercial interests of this province, and advance its improvement and prosperity: Be it therefore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the third and fourth years of the reign of Her Majesty, intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby ordained and enacted by the authority of the said Acts of Parliament, That a memorial of all deeds, conveyances, notarial obligations, contracts, and instruments in writing, which from and after the day on which this Ordinance shall come into force and effect shall be made and executed, and of all wills which shall be made and published by any devisor or testatrix who shall die after the day last mentioned, and of all judgments, judicial acts and proceedings, recognizances, appointments of tutors or guardians to minors, and of curators to interdicted persons, and of all privileged and hypothecary rights and claims, and incumbrances, from whatever cause they may result, and whether produced by mere operation of law or otherwise, which shall be entered into, made, acquired, or obtained after the day last mentioned, of or concerning, or whereby any lands, tenements, or hereditaments, real or immoveable estates in this province, shall or may be alienated, conveyed,

devised, hypothecated, mortgaged, charged, or in any manner or way affected, may be registered in such manner as is hereinafter directed; and that every such deed, conveyance, notarial obligation, contract and instrument in writing, judgment, judicial act and proceeding, recognizance, privileged and hypothecary right and claim and incumbrance, which shall, after the day last mentioned, be entered into, made, executed, acquired, or obtained, shall be adjudged to be inoperative, void, and of no effect, against any subsequent *bonâ fide* purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for or upon valuable consideration, unless such memorial thereof, as by this Ordinance is prescribed, shall have been registered before the registering of the memorial of the deed, conveyance, notarial obligation, contract, instrument in writing, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, or incumbrance, under which such subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor, or incumbrancer, shall claim; and that every such devise by will shall be adjudged to be inoperative, void, and of no effect, against any subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor, or incumbrancer, for or upon valuable consideration, unless a memorial of such will be registered in such manner as is hereinafter prescribed; and that every such appointment of a tutor to a minor or minors, and of a curator to a person or persons interdicted, shall be adjudged to be inoperative in conferring or carrying with it any hypothec or hypothecary right whatever, and be void and of no effect against any subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor, or incumbrancer, for or upon valuable consideration, unless a memorial of such appointment of a tutor or curator shall have been registered in such manner as by this Ordinance is prescribed: Provided always, That no notice or knowledge of any prior unregistered sale, grant, mortgage, hypothec, privilege, or incumbrance of or upon any lands, tenements, or hereditaments, subject to enregistration, given to or possessed by any party, to whom or in whose favour any subsequent sale, grant, mortgage, hypothec, privilege, or incumbrance of the same lands, tenements, or hereditaments, or of any part or parcel thereof, duly enregistered, may have been made or created, shall vitiate or in any wise affect any right, title, claim, or interest whatever, so derived to and vested in any such subsequent purchaser, grantee, mortgagee, hypothecary or privileged creditor or incumbrancer, for a valuable consideration, and that each and every person who, knowing the existence of any such unregistered prior sale, grant, mortgage, hypothec, privilege, or incumbrance, of or upon any lands, tenements, or hereditaments as aforesaid, shall fraudulently make any such subsequent sale of the same lands, tenements, or hereditaments, or of any part or parcel thereof, shall be guilty of a misdemeanor, and, being thereof duly convicted, shall be liable to such imprisonment, not exceeding twelve calendar months, and also to such fine and penalty not exceeding five hundred pounds current money of this province, as the court before whom the conviction shall take place shall think it right to inflict.

Provided always, and be it further ordained and enacted, That it shall not be necessary to register any memorial as aforesaid for arrears of *cens et rentes*, or rents due to the seignior or lord of the fee, for a period not exceeding seven years, or for seignorial services or dues other than *lots et ventes*, or for arrears of *rentes foncières*, or ground-rents, for any period not exceeding seven years, nor for the expenses of affixing seals for safe custody, or for making an inventory when required by law, nor for costs of suit incurred for the common benefit of creditors, nor for funeral expenses and those of the last sickness, nor for servants' wages for any period not exceeding two years; and that to these several descriptions of privileged debts the provisions of this Ordinance shall not extend.

Provided also, and be it further ordained and enacted, That the registration hereinbefore required of memorials of deeds, conveyances, or wills, whereby an estate of inheritance or in freehold is passed or intended to be passed, shall not operate to the prejudice of grantees or purchasers for valuable consideration, or of devisees whose title may be derived from a different grantor, rendor, devisor, or testatrix, but shall operate and have the effect hereinbefore mentioned between and in respect of grantees, purchasers, and persons whose title is derived from the same grantor, rendor, devisor, or testatrix, and not otherwise.

And be it further ordained and enacted, That a memorial of all notarial obligations, contracts, instruments in writing, judgments, judicial acts and proceedings, recognizances, privileged and hypothecary rights and claims, now in force, or

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

which shall be in force on the day on which this Ordinance shall come into force and effect, whereby any debt or debts, sum or sums of money, goods or chattels, have been contracted, stipulated, or secured, or have been recovered or made and are payable or deliverable, and whereby any lands, tenements, or hereditaments, real or immoveable estates, have been and are hypothecated, charged, or incumbered for the payment, satisfaction, or delivery thereof, shall be registered in such manner as is hereinafter prescribed, within twelve calendar months from and after the day on which this Ordinance shall come into force and effect; and such registration, when so made within the period last aforesaid, shall have the effect of preserving such hypothecs, privileged and hypothecary rights and claims, according to their respective rank and priority, in the same manner as if this Ordinance had not been made; and every such notarial obligation, contract, or instrument in writing, judgment, recognizance, judicial act or proceeding, privileged or hypothecary right or claim, whereof a memorial shall not be registered within the period last mentioned, shall, from and after the lapse of the said period, be inoperative, void, and of no effect whatever against any subsequent *bonâ fide* purchaser, grantee, mortgagee, hypothecary or privileged creditor, or incumbrancer, for or upon valuable consideration: Provided, That nothing herein contained shall be construed to require the registration of the original grant, letters patent, conveyance, or title by which lands have been granted and conveyed, and are now held *en fief à titre, de cens, en franc aleu,* or in free and common soccage, or of any rent, sum of money, due, duty, or service therein or thereby stipulated or reserved by the seignior, original grantor, or lord of the fee.

And be it further ordained and enacted, That there shall be established in each and every of the judicial districts of this province, at such place as by the Governor of the said province shall be appointed for the holding of the District Court in the said districts respectively, a public office for the registering of all such memorials as aforesaid of or concerning, or in any manner affecting, lands, tenements, and hereditaments, real or immoveable estates, situated, lying, or being within such districts respectively, and it shall be lawful for the Governor of this province, from time to time, and as occasion may require, to appoint a person of fit integrity and ability to be registrar for each and every of the said districts respectively by whom the said office shall be kept, and the duties imposed by this Ordinance, in respect of the same, be performed; and to remove any such registrar, and in case of vacancy of the office, by death, resignation, or removal, to appoint another fit person to fill such vacancy.

And be it further ordained and enacted, That it shall be lawful for each of the registrars to be appointed as aforesaid, and he is hereby required within twenty days after he shall have taken the oath of office to appoint a sufficient deputy for the discharge of the duties of his office, and in the event of the death of any such deputy registrar it shall be incumbent on his principal to appoint another deputy in his place within twenty days after the death of such deputy shall occur. And if any such registrar shall neglect to appoint a deputy registrar, as hereinbefore is prescribed, he shall forfeit five pounds current money of this province for each and every day during which he shall have neglected to make such appointment; which penalty shall and may be received in any court of record in this province, and one half thereof shall go and be paid to Her Majesty, her heirs or successors, and the other half thereof to the informer; and upon the death of any such registrar, his deputy, to be appointed as aforesaid, shall execute the office of registrar, until another person shall be appointed and shall take upon himself the said office.

And be it further ordained and enacted, That it shall be the duty of the sheriff of the judicial district, or if there be no such sheriff then of the warden of the municipal district, in which any registrar appointed as aforesaid shall die, to notify the death of such registrar forthwith to the secretary of the province, for the information of the Governor of the province, who shall within one month after any such death shall have occurred appoint another fit person to fill the vacancy thereby occasioned.

And be it further ordained and enacted, That every such registrar, and deputy registrar, before he enters upon the executiou of his said office, shall take and subscribe before one of the justices of the Court of King's Bench for any district in this province, or of the Court of Common Pleas for this province, the oath of allegiance to Her Majesty, her heirs or successors, and also the oath of office contained in the schedule No. 1 to this Ordinance subjoined, which oaths shall

be fairly written on parchment, and, after the same have been sworn, shall be transmitted to the clerk of the peace for the judicial district for which such registrar or deputy registrar shall have been appointed, or to the clerk of the peace for that one of the present districts within which such registrar is to keep his office, who is hereby required to file the same among the records of his office, for which service he shall be entitled to have from such registrar or deputy registrar, five shillings, and no more; and every such registrar shall also before he takes upon himself the execution of his office enter into a recognizance to Her Majesty, her heirs and successors, with two or more, and not more than four, good and sufficient sureties, to be approved by the justice before whom such recognizance shall be taken, jointly and severally, as follows, that is to say, every registrar for any district other than the districts in which the cities of Quebec and Montreal shall lie in the penal sum of two thousand pounds, and each of the registrars for the said district in which the said cities of Quebec and Montreal respectively shall lie in the penal sum of five thousand pounds, upon the conditions contained in the schedule No. 2 to this Ordinance subjoined; which recognizance, fairly written on parchment, shall be so entered into before one of the justices of the said Court of King's Bench or of Common Pleas, and shall be filed and remain of record in the said Court of King's Bench or of Common Pleas, and shall stand and be as and for a security as well to Her Majesty, her heirs and successors, as to all other persons who may be aggrieved by the breach of the said condition, and who shall recover judgment against any such registrar, or his legal representatives for any sum or sums of money for or by reason of any misconduct, negligence or default of such registrar, or his deputy, in the discharge of the duties of the said office.

Provided always, and be it further ordained and enacted, That in all cases where, within three years after the death or resignation of any such registrar, no misconduct shall appear to have been committed by him or his deputy in the execution of his said office, the recognizance entered into by such registrar as aforesaid shall, from and after the lapse of that period, become and be void to all intents and purposes whatever.

And be it further ordained and enacted, That each and every memorial to be registered as aforesaid shall be in writing and attested by two witnesses. And the memorial of every deed, conveyance, contract in writing, or will, shall be made under the hand of some or one of the grantors or covenantors, or of some or one of the grantees or covenantees, or of some or one of the devisees in such will, his, her, or their heirs, executors, curators, or administrators, tutors or guardians, or trustees, and the memorial of every notarial obligation, judgment, judicial act, or proceeding, recognizance, privileged or hypothecary right or claim, to be registered as aforesaid, shall be under the hand of the creditor or person entitled to the debt or sum of money stipulated, recovered, established, or intended to be secured by such notarial obligation, judgment, judicial act or proceeding, recognizance, privileged or hypothecary right or claim, his, her, or their heirs, executors, curators, tutors or guardians, or trustees. And every memorial of a contract of marriage, or of the appointment of a tutor or guardian to minors, or of a curator to persons interdicted, to be registered as aforesaid, shall and may be under the hand of any one of the several persons hereinafter authorized and required to cause and procure the registration of such memorial. And every memorial of a deed, conveyance, contract in writing, or will, shall express the day of the month and the year of the date thereof, and the names, places of abode, and additions of the parties to such deed, conveyance, or contract in writing, and the name of the devisor or testatrix of such will, and of all the witnesses to such deed, conveyance, contract in writing, or will, and the places of their abode, or the name or names of the notary or notaries before whom the same has been executed, or of one of them having the custody of the original instrument; and shall mention and describe the lands, tenements, and hereditaments granted, conveyed, devised, charged, or affected by such deed, conveyance, contract in writing, or will, according to the description thereof contained in such deed, conveyance, contract in writing, or will, or to the same effect, and also the nature and general purpose and character of such deed, conveyance, contract in writing, or will. And every memorial of a notarial obligation, to be registered as aforesaid, shall specify the date thereof, and the name or names of the notary or notaries before whom the same has been made and executed, or of one of them having the custody of the

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

original obligation, and the names, places of abode, and additions of the obligor and obligee therein named, and for what sum or sums of money the same has been made and entered into, and also shall mention and describe the lands, tenements, and hereditaments, hypothecated, charged, or affected by such notarial obligation, according to the description thereof contained in such notarial obligation, or to the same effect. And every memorial of a judgment, judicial act or proceeding, recognizance, privileged right or claim to be registered as aforesaid, shall express and contain, in case of such judgment, judicial act or proceeding, the names, places of abode, and additions of the parties, plaintiffs and defendents therein, the sum or sums of money thereby recovered or adjudged, and the time of the recovery of such judgment, or of the accomplishment and completion of such judicial act or proceeding; and in case of recognizances, the date of the recognizance, the names, places of abode, and additions of the cognizors and cognizees therein, and for what sum or sums of money, and before whom the same was acknowledged, and a description of the lands, tenements, and hereditaments, charged or affected by such recognizance; and in case of privileged and hypothecary rights and claims, the names, places of abode, and additions of the creditors and debtors respectively, the amount of the debt, the nature and general purpose and character of the written security or document conferring or affording evidence of the privilege or hypothec, and a description of the lands, tenements, and hereditaments, charged, encumbered, or affected with such privilege or hypothec, and the date of such written security. And every memorial of the appointment of a tutor or guardian to minors, and of a curator to persons interdicted, shall express and contain the name, place of abode, and addition of the tutor or curator, and the names of each of the minors or interdicted persons of whom he has been appointed tutor or curator, and the name and description of the judge by and under whose authority such appointment has been made, and shall also express whether such memorial is to be registered in respect of all the real estates of such tutor or curator, or of a part only, and if of a part, of what part; and if such memorial be made by any other person than the tutor or curator himself, it shall also express the name, place of abode, and addition of the person by whom it is made.

And be it further ordained and enacted, That for the purpose of effecting the registration of memorials, to be registered as aforesaid, every memorial, made and executed in the manner hereinbefore required, shall be presented and delivered to the registrar or his deputy at the office where the same is to be registered, and the same shall be acknowledged by the person or persons by whom the same shall have been executed, or one of them, or shall be proved by one of the witnesses to the execution thereof, on oath before the said registrar or his deputy, who is hereby empowered to administer the said oath; and together with every such memorial there shall be produced to the said registrar or his deputy the deed, conveyance, contract in writing, the will or the probate or office copy of such will, the notarial obligation, instrument in writing, judgment, recognizance, appointment of a tutor or guardian, and of a curator, judicial act and proceeding, privileged or hypothecary right or claim, of which such memorial is to be registered, or a notarial copy of any such document, if the original be executed in the notarial form and be in the custody of a notary, or an office copy of any such document or writing as aforesaid as may have validity or proceed from the authority of a court of justice or the judge of any court. And the said registrar, or his deputy, shall endorse a certificate on every such deed, conveyance, will, probate, or office copy of a will, notarial obligation, instrument in writing, judgment, recognizance, appointment of a tutor or curator, judicial act or proceeding, privileged or hypothecary right or claim, notarial or office copy, produced as aforesaid, and therein mention the certain day, hour, and time at which such memorial shall be entered and registered, expressing therein also in what book and page and under what number the same shall be entered; and the said registrar or his deputy shall sign the said certificate when so endorsed; and all certificates so endorsed and given shall be taken and allowed as evidence of such respective registries in all courts of justice whatsoever.

Provided always, and be it further ordained and enacted, That any memorial to be registered as aforesaid that may be made and executed at any place within this province, not being within the district wherein the lands, tenements, or hereditaments, real or immoveable estates therein mentioned, may lie, shall be entered and registered by the registrar of such district or his deputy, on the

production and delivery to such registrar or his deputy of an affidavit, sworn before one of the judges of any Court of King's Bench or of Queen's Bench, or of the Common Pleas, by which the execution of such memorial shall be proved by one of the witnesses to the same. And provided also, That any memorial to be registered as aforesaid that may be made and executed in Great Britain or Ireland, or in any of the colonies or possessions belonging to the Crown of the United Kingdom of Great Britain and Ireland, shall be entered and registered upon the production and delivery to the registrar or his deputy of an affidavit sworn before the mayor or chief magistrate of any city, borough, or town corporate in Great Britain or Ireland, or the chief justice or a judge of the supreme court of any such colony or possession, by which the execution of such memorial shall be proved by one of the witnesses to the same. And provided also, That any memorial to be registered as aforesaid that may be made or executed in any foreign state shall be entered and registered upon the production and delivery to the registrar or his deputy of an affidavit sworn before any minister plenipotentiary, or minister extraordinary or any chargé d'affaires, or any consul of Her Majesty, her heirs or successors, resident and accredited within such foreign state (who is hereby empowered to administer the oath in this behalf), by which the execution of such memorial shall be proved by one of the witnesses to the same.

Provided also, and be it further ordained and enacted, That where there are more writings than one for making and perfecting any conveyance or security which do name, mention, or in anywise affect or concern the same lands, tenements, or hereditaments, real or immoveable estates, it shall be a sufficient memorial and registry thereof if all the same lands, tenements, and hereditaments, real or immoveable estates, and the parishes, townships, or extra-parochial places wherein the same lie, be only once named or mentioned in the memorial, registry, and certificates of any one of the deeds or writings made for the perfecting of such conveyance or security, and that the dates of the rest of the said deeds or writings relating to the said conveyance or security, with the names and additions of the parties and witnesses, and the places of their abode, be only set down in the memorials, registries, and certificates of the same, with a reference to the deed or writing, whereof the memorial is so registered, that contains or expresses the parcels mentioned in all the said deeds, and directions how to find the registering of the same.

Provided also, and be it further ordained and enacted, That all memorials of wills that shall be registered in manner aforesaid, within the space of six months after the death of every respective devisor or testatrix dying within the province of Upper or Lower Canada, or within the territories now included in the said provinces, or within the space of three years after the death of any devisor or testatrix dying in any country or place beyond the limits of the said provinces, shall be as valid and effectual against subsequent purchasers, grantees, judgments, judicial acts and proceedings, recognizances, privileged and hypothecary rights and claims, as if the same had been registered immediately after the death of such respective devisor or testatrix, anything hereincontained to the contrary thereof in anywise notwithstanding: And provided also, That in case the devisee, or person or persons interested in the lands, tenements, or hereditaments, real or immoveable estates, devised by any such will as aforesaid, by reason of the concealment or suppression, or the contesting of such will, or other inevitable difficulty, without his, her, or their wilful neglect or default, shall be disabled from exhibiting a memorial for the registry thereof, within the respective times hereinbefore limited, and that a memorial shall be entered in the said office, of such contest or other impediment, within the space of six months after the decease of such devisor or testatrix, who shall die within either of the provinces of Upper or Lower Canada, or within the space of three years next after the decease of such devisor or testatrix who shall die in any country or place beyond the limits of the said provinces; then, and in every such case, the registry of the memorial of such will, within the space of six months next after his, her, or their attainment of such will or a probate thereof, or removal of the impediment whereby he, she, or they have been disabled or hindered from exhibiting such memorial, shall be a sufficient registry within the meaning of this Ordinance anything hereincontained to the contrary thereof in anywise notwithstanding: Provided nevertheless, That in case of any concealment or suppression of any will or devise, no purchaser or purchasers for valuable consideration shall be

No. 194

Regulating the Registry of Titles to Lands, Tenements, &c.

defeated or disturbed in his, her, or their purchase, nor shall any plaintiff in any judgment, nor any hypothecary or privileged creditor, or incumbrancer, be defeated of his, her, or their debts, by any title made or devised by such will, unless the will be actually registered within five years after the death of the devisor or testatrix.

Provided also, and be it further ordained and enacted, That in cases of sales or alienations equivalent to sales of lands, tenements, and hereditaments, real or immoveable estates, on which the "Droit de quint," or the "Droit de lots et ventes," shall accrue and become due, and also in cases of mutations on which the "Droit de relief" shall accrue and become due, all memorials that shall be registered in manner aforesaid of such "Droit de quint," or "Droit de lots et ventes," or of such "Droit de relief," accrued and become due as aforesaid, within forty days after any such sale or alienation equivalent to sale, shall be made known to the seignior or seigniors entitled to the same, shall be as valid and effectual against subsequent purchasers and incumbrancers, and all other persons, as if the same had been registered immediately after the sale, or alienation equivalent to sale, or the mutation on which the same shall have accrued and become due, anything hereinbefore contained to the contrary thereof notwithstanding.

Provided also, and be it further ordained and enacted, That no creditor shall be entitled, by reason of any registered memorial of a mortgage, hypothec, or privilege, to a preference or priority before other creditors, for more than two years' arrears of interest on the debt or capital sum thereby secured, unless a memorial of his claim for arrears of interest to a specific amount beyond the arrears of two years, shall have been separately registered, as being due under such mortgage, hypothec, or privilege, and unless such creditor do, at the time of presenting such memorial to the registrar or his deputy, make oath before such registrar or his deputy (who is hereby empowered to administer such oath), that the said specific amount of interest remains due and unpaid to him, or unless an affidavit to the same effect be sworn to before one of the judges of the Court of King's Bench or Common Pleas for this province (who is hereby empowered to take such affidavit), and delivered with such memorial to the said registrar or his deputy.

Provided also, and be it further ordained and enacted, That the provisions of this Ordinance and anything herein contained, shall not extend to leases for a less period than nine years.

And be it further ordained and enacted, That the registration of memorials of hypothecs and hypothecary rights and claims, as directed by this Ordinance, which shall be made within ten days next before the bankruptcy of the debtor or debtors, shall give no priority over other creditors of the same debtor or debtors, and shall produce no effect whatever.

And be it further ordained and enacted, That each and every of the registers to be used for the registration of memorials therein, as aforesaid, shall, before the making of any entries, be authenticated by a memorandum, to be written on the first page thereof, and signed by the prothonotary of the Court of King's Bench, or of the division of the Court of Common Pleas, sitting in the district or territorial division within which such registers are to be used; by which memorandum shall be certified the purpose for which the said register is intended, the number of leaves contained therein, and the day, month, and year on which such memorandum shall be made, and shall also be authenticated by the numbering of each of the said leaves in words at full length, with the initial letters of the name of the said prothonotary subscribed thereto; and every memorial that shall be entered in every such register shall be numbered, and the day of the month, and the year, and hour of the day when every memorial is registered, shall be entered in the margin of the said registers; and the said registrar, or his deputy, shall duly file the said memorials, and shall enter or register the said memorials consecutively in the same order in which they shall respectively come to hand, and in such manner as to leave no blank or interval between the memorials so registered.

And be it further ordained and enacted, That every registrar, to be appointed as aforesaid, shall keep in his registry office an index, to be contained in a proper book provided for that purpose, wherein shall be entered, in alphabetical order, the names of the persons mentioned in the memorials, to be registered as aforesaid, by and to whom any real or immoveable estates, as mentioned in the said

memorials, may have been alienated, hypothecated, mortgaged, charged, or incumbered, and by or against whom any judgments, as mentioned in such memorials, may have been recovered, and by and against whom, as also mentioned in such memorials, any legal or tacit hypothec, or any privileged or hypothecary right or claim, may be registered as aforesaid, with reference to the entries of the memorials, as registered, of and concerning the real and immoveable estates alienated, hypothecated, mortgaged, charged, or incumbered, by and to such persons respectively, and the numbers of such entries, and the pages of the register containing such entries, and the name of the parish, township, seigniority, city, town, village, or extra-parochial place, where the said real or immoveable estates may be situated, so as to afford, by means of an index to names as aforesaid, as far as may be practicable, an easy and ready reference to every memorial to be registered as aforesaid. And every such registrar shall also keep in his registry office an alphabetical list or calendar of all parishes, townships, seignories, cities, towns, villages, and extra-parochial places within the district for which such registrar shall have been appointed, with references under the respective heads of such local divisions to all and every the entries of registered memorials, relating to real or immoveable estates comprised within the said local divisions respectively, and the numbers of such entries, and with a designation of the names of the parties mentioned in such entries, and of the real and immoveable estates to which the same may relate, so as to afford, by means of an index to estates, as far as may be practicable, a like easy and ready reference to every memorial to be registered as aforesaid. And every such registrar shall also keep a minute or day-book in which shall be entered the year, month, day, and hour when any memorial shall be brought for registration, the names of the parties in such memorial, and of the person by whom such memorial shall be so brought, the nature of the instrument, right, or claim whereof registration is thereby required, and a general designation of the real estate intended to be affected by such memorial.

And be it further ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect, it shall be incumbent on married men, and on the tutors or guardians of minors, and the curators of interdicted persons, to cause and procure to be registered, without delay, a memorial of all and every the hypothecs and incumbrances to which their lands, tenements, and hereditaments, real or immoveable estates, shall become and be subject or liable to and in respect of their wives, and to and in respect of such minors, and interdicted persons respectively; and if any married man, tutor, or curator shall fail to cause or procure such memorial as aforesaid to be registered, whereby any such hypothec or incumbrance shall become and be postponed to, and rank after, a subsequent registered hypothec or incumbrance or shall consent to or permit any subsequent hypothec or privilege to be acquired on his lands, tenements, real or immoveable estates, without expressly declaring or disclosing, in the instrument establishing such subsequent hypothec or privilege, that the same premises have already become and are subject to the hypothec of such married woman, minors, or interdicted persons, and without the reservation of priority in favour of the hypothecs last mentioned, every such married man, tutor, or curator so offending in the premises, shall be held to be guilty of a fraud, to be considered a misdemeanor in law, for which an indictment shall lie, and shall also be liable for all damages and costs sustained by the party injured, and for the satisfaction thereof, after judgment recovered, shall also be subject to execution against his person, and to be kept and detained in prison until the amount of damages and costs for which judgment shall be so recovered be paid or satisfied.

And be it further ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect, it shall be incumbent on every subrogate (subrogé) tutor to a minor or minors, and on the relations and friends, who shall after the said day have concurred in the election of any tutor or guardian to such minor or minors, to ascertain that a memorial has been registered at the instance of the said tutor of the hypothecs of such minor or minors on the lands, tenements, and hereditaments, real or immoveable estates, of the said tutor, as required by this Ordinance, and in default of such registration, to cause and procure a memorial of the said hypothecs to be registered without delay in the manner prescribed by this Ordinance. And if any subrogate tutor, and any such relations and friends, shall fail to execute this duty, he and they shall be jointly and severally liable for all damages that may be sustained in the premises by the said minor or minors. And from and after the said day it shall in like manner

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

be incumbent on the relations and friends who shall after the said day have concurred in the election of any curator to an interdicted person or persons, to ascertain that a memorial has been registered at the instance of the said curator, of the hypothecs of such interdicted person or persons, on the lands, tenements, and hereditaments, real or immoveable estates, of the said curator, as required by this Ordinance, and in default of such registration, to cause and procure a memorial of the said hypothecs to be registered without delay in the manner prescribed by this Ordinance. And if such relations and friends shall fail to execute this duty they shall be jointly and severally liable for all damages that may be sustained in the premises by the said interdicted person or persons.

And be it further ordained and enacted, That in case married men, tutors, curators, subrogate-tutors, and the relative and friends who shall have concurred in such election as aforesaid, shall fail to cause and procure memorials to be registered in the manner prescribed in the two next preceding sections of this Ordinance, it shall be lawful, in every such case, for any relation or friend of any such married man, or his wife, or for any relation or friend of any such minor or interdicted person, or for any such wife or minor, to cause and procure such memorial as aforesaid to be registered in the manner prescribed by this Ordinance.

And be it further ordained and enacted, That no action shall be brought or be maintainable in any of Her Majesty's courts of justice in this province, in the name, or by or on the part of any husband, for any cause of action derived from or under his contract of marriage, whereof the registration is required by this Ordinance, or in the name, or by or on any part of any tutor or guardian to a minor or minors, or of any curator to a person or persons interdicted, in such capacities respectively, until after a memorial shall have been registered in the manner prescribed by this Ordinance, of such contract of marriage, or of the appointment of such tutor or curator respectively.

And be it further ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect in cases where minors shall contract marriage, after the said day it shall be incumbent on the father, mother, tutor, or guardian of any such minor, by and with whose authority and consent such marriage shall have been contracted, to cause and procure a memorial to be registered of the hypothecs established in and by the contract of marriage of such minor; and in default thereof they and each of them jointly and severally shall be liable for all damages that may be sustained by such minor, by reason of the omission to register such memorial as aforesaid.

And be it further ordained and enacted, That it shall be lawful for any judge or judges by whom any appointment of a tutor or curator shall be made, by and with the advice and consent of the relations and friends assembled for the election of such tutor or curator, to restrict the hypothec resulting from such appointment to certain specific lands and tenements, real or immoveable estates, of such tutor or curator; in which case all other the lands, tenements, and hereditaments, real or immoveable estates, of such tutor or curator, shall stand and be exonerated from any hypothec whatever by reason of any such appointment; and it shall be incumbent on the tutor or curator, subrogate tutor, relations and friends, in every such case, to cause and procure a memorial to be registered of the hypothecs on such specified lands and premises, and on none other.

And be it further ordained and enacted, That in cases where the hypothec resulting from the appointment of a tutor to minors, or of a curator to interdicted persons, shall not have been restricted as aforesaid by the instrument or act of appointment, and where the general legal hypothec thereby established shall notoriously exceed a sufficient security for the gestion or administration of such tutor or curator, it shall be lawful for the judge or judges in whom the power of appointing tutors and curators in such cases resides, by and with the consent of the subrogate tutor, and with the advice of the relations and friends of any such interdicted person, to be assembled for that purpose, to restrict the hypothec in such cases to such specific lands and tenements as may afford a complete security to such minor or interdicted person; and thereupon, and after the registration of a memorial of such restricted hypothec, all other the lands, tenements, hereditaments, real or immoveable estates, of any such tutor or curator shall stand and be exonerated from any hypothec whatever, for or by reason of the appointment of such tutor or curator.

And be it further ordained and enacted, That from and after the day on which

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

this Ordinance shall come into force and effect, no general hypothec shall be stipulated in, or constituted by, or result from, any deed, contract, or obligation in writing whatsoever, to be thenceforward made and entered into, and no conventional hypothec, charge, or incumbrance on lands, tenements, or hereditaments, real or immoveable estates, shall, from and after the day last aforesaid, be consti, tuted or acquired in or by virtue of any deed, contract, or obligation in writing which shall be executed or made after that day before a notary or witnesses, or before notaries, or before any court of justice or judge, or otherwise howsoever, unless the lands, tenements, and hereditaments, real or immoveable estates, intended or alleged to be hypothecated, charged, or incumbered by such deed, contract, or obligation in writing, or such acknowledgment thereof, or by which any such hypothec may be claimed, be therein specially described; nor unless the sum of money intended to be secured by such hypothec, charge, or incumbrance, be in the same deed, contract, or obligation in writing, or the acknowledgment thereof, specified; and no such hypothec as last aforesaid shall be constituted or acquired for any other purpose than for securing the payment of a sum or sums of money specially mentioned as aforesaid.

And be it further ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect, no legal or tacit hypothec shall, for any cause whatsoever, be constituted or subsist on lands, tenements, or hereditaments, real or immoveable estates, in this province, except for the causes and in the cases following, that is to say, upon the lands, tenements, and hereditaments, real and immoveable estates, of married men, to and in respect of their wives, for securing the restitution and payment of all dotal sums of money, claims, and demands which they may have on their husbands for or by reason of any succession or inheritance which may devolve upon and accrue to such married women, and of any donation which may be made to them during the continuance of their marriage, which hypothec shall be accounted from the respective periods at which such succession or inheritance shall so devolve and accrue, or such donation shall receive execution; and upon the lands, tenements, and hereditaments, real or immoveable estates, of tutors or guardians to minors, and curators to interdicted persons, to and in respect of such minors and interdicted persons, as a security for the due administration of such tutors and curators, and the payment of all sums of money which they may be found to owe at the close of their administration; and upon the lands, tenements, and hereditaments, real or immovable estates, of debtors and persons who have contracted and entered into, or shall or may contract or enter into, any debt, suretyship, engagement, or liability to Her Majesty, her heirs or successors, for and in respect of which an hypothec is established and allowed by the existing laws of this province; any law, usage, or custom to the contrary thereof in any wise notwithstanding.

And be it further ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect, no hypothec shall be constituted by, or derived from, any judgment, judicial act or proceeding, to be rendered, made, or had after that period, on any lands, tenements, or hereditaments, real or immoveable estates, of the defendant or defendants, debtor or debtors, against whom such judgment, judicial act or proceeding, shall be rendered, made, or had, than those whereof any such defendant or debtor shall be seized and possessed, at the time of the rendering of such judgment, or the accomplishment and completion of such judicial act or proceeding, which last-mentioned lands, tenements, and hereditaments, real and immoveable estates, shall alone be thereby bound: nor shall any hypothec be established by, or derived from, any judgment, judicial act or proceeding, which shall not award a specific sum of money, and such hypothec shall be established and subsist for and in respect of such sum of money only; save and except judgments containing an adjudication of interest and costs of suit, or of interest and costs only, which adjudication may be made, as now practised, without the express mention of the amount of interest or costs in the judgment, and shall nevertheless carry with it an hypothec, any law, usage, or custom to the contrary thereof in anywise notwithstanding.

And be it further ordained and enacted, That the privileged creditors, of whose privileges and privileged rights and claims memorials shall and may be registered in pursuance of this Ordinance, are and shall be adjudged to be the following, that is to say, firstly, the vendor, upon and in respect of the real estate sold by him, for the recovery of the price thereof; secondly, the persons by whom money, to be applied to the purchase of a real estate, has been lent and advanced, provided

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

that it be ascertained, by the instrument or writing evidencing the loan, that it was intended to be so applied, and by the acquittance of the vendor that the payment of the price was made by and with the money so lent and advanced; thirdly, co-heirs and co-partitioners, upon and in respect of the real estates of the succession and the real estates held by them as tenants in common, for the execution of the warranty incident to the partition made among them, and for the difference and return in money *(soulte et retour)* to make up for the inequality of lots included in any such partition; fourthly, architects, builders, or other workmen employed in the building, rebuilding, or repair of buildings, canals, or other erections or works, provided that by an expert named by any Judge of the Court of King's Bench for the district, or by the Judge of the District Court in the judicial district within which the buildings or premises aforesaid are situated, there shall have been previously made a *procès verbal* establishing the state of the premises in respect of the works about to be made, and provided also, that within six months after the completion of such works the same shall have been accepted and received by an expert, in like manner named, and provided also that the privilege in such cases shall in no instance extend beyond the value ascertained by such second *procès verbal* as aforesaid, and shall be reducible to the amount of increased value given to the premises by such works at the period of the alienation of the real estate on which the said works shall have been erected or made; fifthly, the lenders of money applied to the payment of the workmen in such cases as last aforesaid, provided that such intended application of the money lent be ascertained by the instrument or writing evidencing the loan, and that it be ascertained by the acquittance of such workmen that they were paid and satisfied by and with the money so loaned.

And be it further ordained and enacted, That in the cases hereinbefore mentioned of partition of estates by and between co-heirs or co-partitioners, and also of sales by licitation at their instance, the privilege of such co-heirs or co-partitioners for the difference or return in money as aforesaid, and of the price of the sale by licitation, shall remain and be preserved from the period of the partition or of the sale by licitation, provided a memorial of the same be registered within thirty days from those periods respectively, during which no hypothec shall be established or acquired, or the estate charged with the pecuniary demands now mentioned, or either of them, to the prejudice of the creditor of such difference or return in money, or of such price. And in cases where the privilege of architects, builders, and workmen, and the lenders of money applied to the payment of such workmen, may obtain as aforesaid, the said privilege shall be accounted from the registration of the memorial of the first *procès verbal* establishing the state of the premises, provided a memorial of the second *procès verbal* establishing the acceptance of the work shall have been registered within thirty days from the date of such second *procès verbal.* And in case of creditors or legatees, who may demand or be entitled to demand the separation of the estates of their deceased debtor or deceased testator, from those of his heir or legal representative, the hypothec, rights, and interest of such creditors and legatees in and to the estates of every such debtor or testator shall remain and be preserved in their full force, provided a memorial of such their rights be registered, in respect of each and every of the said estates, within six months after the death of any such debtor or testator; and during the said period of six months no hypothec shall be established by the heir or legal representative of such debtor or testator on any such estates, or be acquired thereupon, to the prejudice of such creditors or legatees: Provided always, and be it further ordained and enacted, That the privileged debts hereinbefore mentioned, whereof a memorial shall not be registered within the time limited as aforesaid, shall, nevertheless, retain their hypothecary character, and there shall be attached to them an hypothec in respect of third persons from the period at which a memorial thereof shall be registered as required by this Ordinance.

And be it further ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect, in all cases where donations or deeds of gift *inter vivos* may be made of lands, tenements, and hereditaments, real or immoveable estates, situate in this province, whereof the registration is required by law, it shall be lawful to register a memorial of every such donation or deed of gift *inter vivos* in the Registry Office for the district in which such lands, tenements, and hereditaments, real or immoveable estates, shall be situated, in the manner prescribed by this Ordinance, instead of a registration thereof, at full length, at the place or places and in the manner required by the laws now in force

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

in this province; and a memorial of such donation, or deed of gift *inter vivos*, registered as aforesaid, shall have the same force and effect, in respect of such real or immoveable estates so situated, to all intents and purposes whatsoever, as such registration thereof at full length, in pursuance of the said laws, would or might have; any law, usage, or custom to the contrary thereof in any wise notwithstanding.

And whereas the alienation of the real estates of married women, held in free and common soccage, and those held under other and different tenures in this province, is governed by different rules; and whereas it is expedient that such alienations of real estates, under whatever tenure the same may be held, should be governed by the same rules: Be it therefore ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect, it shall be lawful for any married woman, being of the age of twenty-one years or upwards, residing within this province, and seized of lands, tenements, or hereditaments, real or immoveable estates, held in free and common soccage, or *en fief* or *à titre decens*, or *en franc aleu*, or under any other tenure whatever, and situated in this province, by deed or conveyance to be made and executed jointly with her husband, to sell, alien, and convey any such lands, tenements, or hereditaments, real or immoveable estates, for and upon such considerations and conditions and to and for such use and uses as to her and her husband shall seem meet: Provided always, That before the execution of any such deed or conveyance, every such married woman shall be examined, apart from her husband, before one of the Judges of the Court of Queen's Bench or Common Pleas for this province, or before any District Court in any district in this province, touching her consent to the sale or alienation to be affected by any such deed or conveyance, and shall have declared before such Judge or Court that, without any coercion or fear of coercion on the part of her husband, she gives her free and voluntary consent to such sale or alienation, which consent shall be certified on the back or at the bottom of every such deed by the Judge or Court before whom the same shall have been declared as aforesaid: And provided also that when any such married woman shall reside without the limits of this province, it shall be lawful for her, by deed or conveyance made and executed jointly with her husband, to sell, alien, and convey, any such lands, tenements, or hereditaments, real or immoveable estates, whereof she may be seized as aforesaid, without any previous examination or declaration of her consent as hereinbefore required; and every such deed and conveyance shall have the same force and effect as if executed by such married woman while sole: And provided also, that for or by reason of any such sale or alienation of the real or immoveable estate of any married woman as aforesaid, no legal or tacit hypothec shall be constituted or subsist on the real or immoveable estates of the husband of such married woman, for any compensation or indemnity to or for such married woman on account of such sale or alienation; nor shall any privilege or hypothecary right or claim for any such compensation or indemnity, at any time afterwards, be made or exercised by any such married woman or her legal representatives, or any of them.

And be it further ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect, it shall be lawful for any married woman, being of the age of twenty-one years or upwards, to join with her husband in the sale or alienation of lands and tenements, real or immoveable estates, held in free and common soccage, or *en fief*, or *à titre decens*, or *en franc aleu*, or under any other tenure whatever which shall or may be subject or liable to or for her legal or customary dower, and in any deed or conveyance which may be made for the purpose of such sale or alienation, to release her dower and right to dower in and upon all or any part of the lands and tenements, real and immoveable estates so sold or alienated, and such release shall effectually extinguish her dower and right to dower in and upon the lands and tenements, real or immoveable estates, in respect of which such release shall be granted, and be held and taken to be a valid bar to any right or claim to dower of such married woman in or upon any such premises; and no hypothec shall be constituted, attach, or subsist, on any other the lands and tenements, real or immoveable estates of the husband by whom such alienation jointly with his wife shall be made for any compensation or indemnity to or for such married woman on account of such sale or alienation, nor shall any privileged or hypothecary right or claim to such compensation or indemnity, or any privileged or hypothecary recourse of any kind, accrue to or become vested in her heirs, or other legal representatives or assigns, for or by reason of any such re-

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

lease of dower as aforesaid, any law, usage, or custom to the contrary notwithstanding.

And be it further ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect, it shall not be lawful for any married woman to become security or responsible, or incur any liability whatever, in any other capacity or otherwise, than as *commune en biens* with her husband, for the debts, contracts, or obligations which may have been contracted or entered into by her husband before their marriage, or which may by her said husband be contracted or entered into at any time during the continuance of any such marriage, and all suretyships, contracts, or obligations made or entered into by any married woman after the day last mentioned, in violation of this enactment, shall be absolutely null and void to all intents and purposes whatsoever.

And be it further ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect, the legal or customary dower, and the right to legal and customary dower of the child, children, or issue of any marriage shall be had and exercised solely and exclusively upon and in respect of funds, tenements, real or immoveable estates, subject to the dower of his, her, or their mother, whereof his, her, or their father was seized and possessed at the time of his death, and also upon and in respect of those on which the dower and right of dower of his, her, or their mother, may not have been by her released or barred during the continuance of her marriage, and not upon any other lands and tenements, real or immoveable estates whatever, any law, usage, or custom to the contrary thereof in any wise notwithstanding.

And whereas it is highly expedient in all cases of sales to facilitate the valid and effectual alienation and conveyance of lands, tenements, and hereditaments, real or immoveable estates, held in free and common soccage by establishing a short, inexpensive, and legal form of conveyance of the same: Be it therefore ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect, an indenture, deed, or writing of bargain and sale, made, sealed, and delivered before two witnesses, or made and executed before one notary and two witnesses, or before two notaries, whereby the intention of the bargainor to sell, and of the bargainee to purchase an estate of inheritance or freehold in any such lands and premises, shall be made manifest, shall be a good and valid conveyance for transferring, passing, and assuring to the bargainee, his heirs and assigns, not only the use of and in the same, but also the lawful seizin, estate of inheritance, or freehold and possession of the bargainor of and in all and every such lands, tenements, and hereditaments, real or immoveable estates, with their appurtenances, without any livery of seizin, attornment, or other formality whatsoever; and every such indenture, deed or writing of bargain and sale may be in the form contained in the Schedule No. 3 to this Ordinance subjoined, or in any other form or words to the same effect, and shall admit and be susceptible of all the covenants, dispositions, and clauses which may or might legally be introduced into or made part of a conveyance by feoffment, or lease and release, any law, usage, or custom to the contrary notwithstanding.

And be it further ordained and enacted, That in all indentures, deeds, or writings of bargain and sale, made as aforesaid after the day on which this Ordinance shall come into force and effect, whereby an estate of inheritance in fee simple is limited to the bargainee and his heirs, the words "grant," "bargain," and "sell," shall import, and be construed and adjudged in all courts of judicature to be express covenants to the bargainee, his heirs and assigns, from the bargainor, for himself, his heirs, executors, curators, and administrators, that the bargainor, notwithstanding any act done by him, was at the time of the execution of such indenture, deed, or writing, seized of the hereditaments and premises thereby granted, bargained, and sold as of an indefeasible estate in fee simple, free from all incumbrances (rents and services due to the lord of the fee only excepted), and for quiet enjoyment thereof against the bargainor, his heirs and assigns, and all claiming under him, and also for further assurance thereof, to be made by the bargainor, his heirs and assigns, and all claiming under him, unless the same shall be restrained and limited by express particular words contained in such indenture, deed, or writing; and the bargainee, his heirs, executors, curators, administrators, and assigns respectively, shall and may in any action to be brought assign a breach or breaches thereupon, as they might do in case such covenants were expressly inserted in such bargain and sale.

And whereas it is necessary to make provision for the preservation of titles to

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

real estates, which have been and may be executed before witnesses: Be it therefore ordained and enacted, That from and after the day on which this Ordinance shall come into force and effect, any person or persons having or claiming title to any lands, tenements, or hereditaments, real or immoveable estates, situated in this province, may register at full length, in the registry offices aforesaid respectively, all and every or any the deeds, conveyances, wills, or writings, executed before witnesses, by or under which such title shall be claimed; and the said registrars, or their deputies respectively, are hereby authorized to enter and register all such deeds, conveyances, wills, and writings as shall be so brought to be registered, at full length, by engrossing them in books bound in leather; and the said registrars, or their deputies respectively, shall, in the margin of every such entry, mention the time of every such entry and registration, and shall indorse and sign a certificate on such deed, conveyance, will, or writing in manner as by this Ordinance is directed when a memorial is entered, and shall safely keep all and every the books wherein such entries and registrations shall be made, in the said public offices respectively, there to remain upon record; and all copies of such entries and enrolments of such deeds, conveyances, wills, and writings so registered at full length, which shall be certified and signed by the said registrars or their deputies respectively, shall be allowed in all courts of justice to be good and sufficient evidence of such deeds, conveyances, wills, and writings so registered, and which may be destroyed by fire or other accident.

And be it further ordained and enacted, That at the time any deed, conveyance, will, or writing shall be brought to the registrar's office, to be registered or enrolled at full length as aforesaid, one of the witnesses to the execution of such deed, conveyance, or writing, or to the signing and publishing of such will, shall make oath before the said registrar or his deputy, that such deed, conveyance or writing was duly executed by the grantor or grantors, or that such will was signed by the devisor or testatrix, which oath the said registrar or his deputy is empowered and required to administer.

Provided always, and be it further ordained and enacted, That such deeds, conveyances, wills, and writings as shall be made and executed, or published in any place in the said province, not being within the district in which the lands, tenements, and hereditaments therein mentioned lie, may be entered and registered at full length by the aforesaid registrar or his deputy, in case an affidavit, sworn before one of the judges of the Court of Queen's Bench or Common Pleas, or before any district court, be brought with such deed, conveyance, will, or writing to the said registrar or his deputy, wherein one of the witnesses to the execution of such deed, conveyance, or writing, or to the signing and publishing of such will, shall swear that he or she saw the said deed, conveyance, or writing executed, or in case of wills, such will signed and published by the devisor or testatrix.

Provided also, and be it further ordained and enacted, That such deeds, conveyances, wills, and writings as shall be made and executed, or published in any part of Great Britain or Ireland, or in any colony or possession belonging to the Crown of the United Kingdom of Great Britain and Ireland, may be entered and registered at full length by the registrar of any district in this province, or his deputy, in case a like affidavit sworn before the mayor or chief magistrate of any city, borough, or town corporate in Great Britain or Ireland, or the chief justice or a judge of the supreme court of any such colony or possession, be brought with such deed, conveyance, will, or writing to the said registrar or his deputy; and provided also, and be it further ordained and enacted, that such deeds, conveyances, wills, and writings as shall be made and executed or published in any foreign state, may be entered and registered at full length by any such registrar, in case a like affidavit, sworn before any minister plenipotentiary, or minister extraordinary, or any *chargé d'affaires* or any consul of Her Majesty, her heirs or successors, resident and accredited within such foreign state (who is hereby empowered to administer the oath in this behalf), be brought with such deed, conveyance, will, or writing to the said registrar or his deputy.

And be it further ordained and enacted, That every such registry, at full length, of such deeds, conveyances, wills, and writings in the said registry offices as aforesaid, shall be deemed and adjudged to be the entry of a memorial thereof pursuant to this Ordinance, and shall have the same force and effect upon the estate or estates therein mentioned, in relation to all subsequent deeds, conveyances, wills, and writings, and to all other intents and purposes, as if a memorial of such deed, conveyance, will, or writing, so registered at full length, had been entered

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

and registered in the said registry office as aforesaid, pursuant to this Ordinance; and the certificate signed and indorsed on such deeds, conveyances, wills, and writings, registered at full length, shall be taken and allowed as evidence of such registry in all courts of justice whatsoever.

And be it further ordained and enacted, That in case of mortgages, notarial obligations, judgments, judicial acts and proceedings, recognizances, privileged and hypothecary rights and claims, whereof memorials shall be entered in the said registrars' office as aforesaid, and in case of mortgages, where the mortgage deed shall be registered at full length pursuant to this Ordinance, if at any time afterwards a certificate shall be brought to the said registrar or his deputy, signed by the mortgagee in such mortgages, the creditors named in such notarial obligations, the plaintiffs in such judgments, the cognizees in such recognizances, the hypothecary or privileged creditors named in such judicial acts or proceedings, privileged rights or claims, their respective heirs, executors, curators, administrators or assigns, and attested by two witnesses, whereby it shall appear that all monies due on such mortgage, notarial obligation, judgment, judicial act or proceeding, recognizance, privileged, or hypothecary right or claim respectively, have been paid or satisfied, in discharge thereof, which witnesses shall, upon their oath, before any one of the judges of the Court of Queen's Bench, or Common Pleas, or before the said registrar or his deputy, who are hereby respectively empowered to administer such oath, prove such monies to be satisfied or paid accordingly, and that they saw such certificate signed by the said mortgagees, hypothecary or privileged creditors, plaintiffs, or cognizees, their respective heirs, executors, curators, administrators, or assigns; then and in every such case, the said registrar or his deputy, shall make an entry in the margin of the register, against the registry of the memorial of such mortgage, notarial obligation, judgment, judicial Act or proceeding, recognizance, privileged right or claim, or against such deed, registered at full length respectively, that such mortgage, notarial obligation, judgment, judicial Act or proceeding, recognizance, privileged right or claim, has been satisfied and discharged according to such certificate to which the same entry shall refer, and shall afterwards file such certificate to remain upon record in the said registry office.

And be it further ordained and enacted, That memorials and certificates of discharge, to be registered in pursuance of this Ordinance may be in the forms contained in the Schedule No. 4 to this Ordinance subjoined, or in any other forms by which the requirements of this Ordinance may be fulfilled.

And be it further ordained and enacted, That whenever the registrar of any district shall cease to be such registrar, in consequence of his resignation or removal from office, and when any such registrar shall die, it shall be the duty of every such registrar, who shall cease to hold the said office, and of the heirs, executors, curators, or other legal representatives of every such registrar who shall die, to deliver to the successor of every such registrar who shall so resign, be removed, or die, on his demand, all and every the registers, books, indexes, memorials, records, documents, and papers appertaining to the office of such registrar; and in case the registrar so resigning, or removed from office, or the heirs, executors, curators, or other legal representatives of any such deceased registrar, shall refuse or neglect to deliver to the successor of every such registrar, all such registers, books, indexes, memorials, records, documents, and papers, as aforesaid, they, each and every of them so refusing or neglecting shall be held to be guilty of a misdemeanor in having disobeyed this enactment, and shall besides be liable to make satisfaction to the parties aggrieved or injured, for all such damages and costs as he, she, or they shall sustain by reason of such refusal or neglect.

And be it further ordained and enacted, That every such registrar to be appointed as aforesaid, shall be allowed for the filing, entry, and registration of every memorial to be registered in pursuance of this Ordinance, the sum of two shillings and sixpence, and no more, in case the number of words therein do not exceed four hundred words; but if such memorial shall exceed four hundred words, then after the rate and proportion of sixpence per every hundred words, contained in such memorial over and above the first four hundred words, and the like fees for the like number of words contained in every deed, conveyance, will, and writing registered at full length as aforesaid, and in every certificate or copy given at the said office, and no more; and for every search in the said office, if the names of the parties to, or who have executed the deed or instrument to be searched for be given, one shilling and no more; and when the names of the parties are not given, two shillings and no more.

And be it further ordained and enacted, That every registrar to be appointed as aforesaid, or his sufficient deputy, shall give due attendance at his office every day in the week, excepting Sundays and holidays, between the hours of nine in the forenoon and three in the afternoon, for the despatch of all business belonging to the said office; and every such registrar or his deputy, as often as required, shall make searches concerning all memorials that are registered, and all deeds, conveyances, wills, and writings registered at full length as aforesaid, and give certificates concerning the same, under his hand, if required by any person.

And be it further ordained and enacted, That if any such registrar, to be appointed as aforesaid, or his deputy, shall neglect to perform his or their duty in the execution of the said office, according to the rules and directions in this Ordinance contained, or commit, or suffer to be committed, any undue or fraudulent practice in execution of the said office, and be thereof lawfully convicted, then and in every case such registrar shall forfeit his said office, and pay treble damages with full costs of suit to every person or persons that shall be thereby injured, to be recovered by action of debt or information in any of Her Majesty's courts of record in this province.

And be it further ordained and enacted, That if any person or persons shall at any time, forge or counterfeit any such memorial, certificate, or indorsement, as is hereinbefore mentioned or directed, and be thereof lawfully convicted, every such person so offending shall incur and be liable to such pains and penalties, as in and by an Act made in the fifth year of the reign of Queen Elizabeth intituled, "An Act against Forgery of False Deeds and Writings," are imposed upon persons for forging and publishing false deeds, charters, or writings sealed, court-rolls, or wills whereby the freehold or inheritance of any person or persons, of, in, or to any lands, tenements, and hereditaments shall or may be molested or changed; and that if any person shall at any time foreswear himself before any registrar appointed as aforesaid, or his deputy, or before any judge, district court, or person hereby authorized to administer an oath in any of the cases hereinbefore mentioned, and be thereof lawfully convicted, every such person or persons so offending shall incur and be liable to the same penalties as if he or she were guilty of wilful and corrupt perjury in any of Her Majesty's Courts of Record in the province.

And be it further ordained and enacted, That the provisions of this Ordinance shall extend to, include, and be binding on Her Majesty, her heirs and successors, in all the particulars herein contained; and memorials to be registered, for and on behalf of Her Majesty, her heirs or successors in pursuance of this Ordinance, may be made and executed by the receiver general of the province, or the secretary and registrar of the province, or the inspector general of Her Majesty's domain, or by any other person holding an office under the government of Her Majesty, her heirs or successors in this province, and having in his hands, custody, or power, the title, deed, will, notorial obligation, judgment, instrument, or writing, or a notarial or office-copy thereof, or probate of such will, whereof a memorial is to be and may be registered; and every memorial to be registered for and on behalf of Her Majesty, her heirs or successors, shall express and contain the name, office, and place of abode, of the person by whom such memorial shall be made, the name, place of abode and addition of the debtor, or person against whom such memorial is to be, and may be registered, the date and nature of the title, conveyance, instrument, written security, document, or writing to which such memorial shall relate, and therein mentioned, and the nature and amount (if the amount be ascertained), of the debt, right, claim, demand, or liability for and in respect of which such memorial is to be, and may be registered.

And be it further ordained and enacted, That a certain Act of the legislature of this province, made and passed in the session held in the tenth and eleventh years of the reign of His late Majesty King George the Fourth, intituled "An Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Stanstead, and Missiskoui;" and also a certain other Act of the same legislature, made and passed in the first year of the reign of His late Majesty King William the Fourth, intituled "An Act to amend an Act passed in the Eleventh Year of the Reign of His late Majesty, intituled 'An Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Stanstead, Shefford, and Missiskoui, and to extend the Provisions of the said Act;'" and also a certain other Act of the same legislature made and passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled "An Act to extend the Provisions of the Act to establish Registry Offices in the Counties of Drummond, Sherbrooke, Shefford, and Missiskoui, to Lands held in free and common Soccage in the Counties of the Lake of the Two

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

Mountains and Lacadie," shall from and after the day on which this Ordinance shall come into force and effect, be, and the same are hereby repealed: Provided always, and be it further ordained and enacted, That the repeal of the said three last-mentioned Acts of the legislature of this province as aforesaid, shall not invalidate any Act, matter, or thing done previously to such repeal, nor alter, impair, or affect any title or right acquired under the provisions of the said Acts or any of them; but every such Act, matter, and thing, title and right, shall have the same force and effect as if this Ordinance had not been made: And provided also, and be it further ordained and enacted, That all and every the registers, books, indexes, records, documents, and papers appertaining to the county registry offices established under and in pursuance of the said three Acts of the legislature of this province, shall be transmitted by the county registrars of the said county offices respectively, or the persons who now hold the said offices, into the registry office for the district within which such county registry offices as aforesaid shall respectively be situated, there to remain, and make part of the records of such district registry office in the custody of the registrar thereof for the time being: And provided also, and be it further ordained and enacted, That every registry at full length of deeds, conveyances, contracts of marriage, wills and writing, or of any clause, or part thereof, in the county registry offices aforesaid, in pursuance of the said last-mentioned three Acts of the legislature of this province, or any of them, shall be deemed and adjudged to be the entry of a memorial thereof, pursuant to this Ordinance, and shall have the same effect upon the estates thereinmentioned, in relation to all subsequent deeds, conveyances, contracts of marriage, wills and writings, and to all other intents and purposes, as if a memorial of any such deed, conveyance, contract of marriage, will, or writing, or of any such clause or part thereof, had been entered in a district registry office, pursuant to this Ordinance, and the certificate signed and indorsed on such deeds, conveyances, wills, and writings, registered at full length, shall be taken and allowed as evidence of such registries in all courts of justice whatsoever.

And with a view to the use of a uniform set of books in the several registry offices in this province, be it further ordained and enacted, That it shall be incumbent on the secretary and registrar of this province, under such directions in this behalf as he may receive from the Governor of this province, to provide for, and transmit to each of the registry offices to be established in pursuance of this Ordinance, on or before the day on which this Ordinance shall come into force and effect, a uniform set of books, to be used in each of the said offices respectively, as a register, indexes, and minute or day-book, the costs of which books shall be defrayed out of any unappropriated moneys in the hands of the receiver general of this province; and like books when required shall from time to time be provided by the said registrars respectively for their respective offices, at their own expense.

And be it further ordained and enacted, That it shall be lawful for the Governor of this province, by warrant under his hand and seal, from time to time, when he may deem it necessary or expedient, to authorise and require the attorney or solicitor-general, or other law officer of the Crown, or some other fit and proper person or persons, to visit the several or any of the registry offices established in pursuance of this Ordinance, and to inquire into and examine the state and condition of such offices respectively, and the registers, books, indexes, memorials, documents, and papers therein, appertaining to such offices respectively, and to ascertain whether the provisions of this Ordinance be, or be not, therein well and sufficiently executed; of which visit and examination a report in writing shall, by the person or persons authorised as aforesaid, be made to the Governor of the province, by whom the same shall be laid before the provincial legislature at the next folllowing session thereof.

And be it further ordained and enacted, That the words "Governor of this province" wherever they occur in the foregoing enactments, shall be understood as meaning and comprehending the Governor, or the person authorised to execute the commission of Governor within this province for the time being.

And be it further ordained and enacted, That it shall be lawful for the Governor of this province, with the advice of Her Majesty's Executive Council, by his proclamation in this behalf, to fix and declare the day from and after which this Ordinance shall have force and effect, provided that such day shall not be later than the thirty-first day of December, which will be in the year of our Lord One thousand eight hundred and forty-one.

And be it further ordained and enacted, That if at the time when the proclamation mentioned in the next preceding section shall issue, a certain Ordinance passed in the fourth year of Her Majesty's reign, and intituled "An Ordinance to provide for the more easy and Expeditious Administration of Justice in Civil Causes and Matters involving small Pecuniary Value and Interest throughout this Province," shall not be in force, then it shall be lawful for the Governor of this province, in and by the proclamation aforesaid, to divide this province into districts for the purposes of this Ordinance, and to declare and appoint that any one or more of the municipal districts into which this province may be divided, under the authority of a certain Ordinance passed in the present session of the legislature of this province, and intitutled "An Ordinance to provide for the better Internal Government of this Province by the Establishment of Local or Municipal Authorities therein," shall from and after the day to be appointed in such proclamation, form, or shall be united into a district for all the purposes of this Ordinance, and that a registry office shall from and after the said day be kept in and for each district so constituted for the purposes of this Ordinance, at such place as shall be appointed in such proclamation; and it shall be lawful for the Governor of this province by any proclamation to be issued in like manner at any time before the twenty-ninth day of December in the year of our Lord One thousand eight hundred and forty-two, to change the place at which the registry office shall be held in any district to be constituted in the manner mentioned in this section; anything in any part of this Ordinance contrary to the provisions of this section notwithstanding.

And be it further ordained and enacted, That this Ordinance and the provisions herein contained, shall not cease or expire on the first day of November, which will be in the year of our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent and public law, and in force in this province until the same shall be repealed or altered by competent legislative authority; and all judges justices, and other persons therein concerned, shall take notice thereof, though the same be not specially pleaded.

SCHEDULE No. 1, referred to in the foregoing Ordinance.

Oaths to be taken by Registrars and Deputy Registrars of Districts.

1. Oath of Allegiance.

"I, *A. B.*, do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria. So help me God."

2. Oath of office to be taken by Registrars and Deputy Registrars.

"I, *A. B.*, registrar (or deputy-registrar, as the case may be) for the district of , do solemnly swear, that I will truly, honestly, and faithfully perform and execute the office of registrar (or deputy-registrar, as the case may be) for the district of , and all and every the duties enjoined and required to be done and performed by me as such registrar (or deputy-registrar) in and by an Ordinance of the legislature of this province, made and passed by the Governor of this province, by and with the advice and consent of the Special Council for the affairs thereof, intituled "An Ordinance to prescribe and regulate the registering of titles to Lands, Tenements, and Hereditaments, real or immoveable Estates, and of Charges and Incumbrances on the same, and for the Alteration and Improvement of the Law in certain Particulars, in Relation to the Alienation and Hypothecation of real Estates, and the Rights and Interest acquired therein," so long as I shall continue in the said office; and that I have not given or promised, directly or indirectly, nor authorized any person to give or promise, any money, gratuity, or reward whatsoever, for procuring or obtaining the said office for me. So help me God."

SCHEDULE No. 2, referred to in the foregoing Ordinance.

Condition of recognizance to be entered into by Registrars for Districts.

"Whereas the said *A. B.* hath been appointed registrar for the district of , in pursuance of an Ordinance or law of this Province, made and passed by the Governor of this Province, by and with the advice and consent of the Special Council for the affairs thereof, in the fourth year of Her Majesty's reign, intituled "An Ordinance to prescribe and regulate the registering of Titles to Lands, Tenements, and Hereditaments, real and immoveable Estates, and of Charges and Incumbrances on

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

the same; and for the Alteration and improvement of the Law in certain Particulars, in Relation to the Alienation and Hypothecation of real Estates, and the Rights and Interest acquired therein." Now the condition of this recognizance is such, that if the said *A. B.* do, and shall well and truly, honestly and faithfully execute the said office, and perform and fulfil all and every the duties enjoined and required to be done and performed by him as such registrar, in and by the said Ordinance or Law, in all things therein mentioned, then this recognizance tobe void and of no effect; otherwise to be and remain in full force and virtue."

SCHEDULE No. 3, referred to in the foregoing Ordinance.

Form of a Deed of Bargain and Sale, executed before witnesses.

" This Indenture, made the day of , between *A. B.*, of , &c., of the one part, and *C. D.*, of , &c., of the other part, witnesseth that for and in consideration of the sum of , current money of the Province of Lower Canada, to the said *A. B.*, in hand paid by the said *C. D.* at or before the execution of these presents (the receipt whereof is hereby acknowledged by the said *A. B.*), he the said *A. B.* hath granted, bargained, sold, and confirmed, and by these presents doth grant, bargain, sell, and confirm unto the said *C. D.*, his heirs and assigns for ever, all that certain lot of land (insert here a description of the property sold), to have and to hold the said lot of land and premises hereinbefore granted, bargained, and sold, or intended so to be, with their and every of their appurtenances unto, and to, the use of the said *C. D.*, his heirs and assigns for ever. In witness, &c.,

A. B. (*L. S.*)
C. D. (*L. S.*)

Signed, sealed, and delivered in the presence of

E. F.
G. H.

SCHEDULE No. 4, referred in the foregoing Ordinance.

Forms of Memorials and Certificates of Discharge.

1. Memorial of a Deed of Bargain and Sale, executed before Witnesses.

" A memorial to be registered of a deed of bargain and sale, bearing date the day of , in the year of our Lord , made between *A. B.*, of , in the district of , esquire, of the one part, and *C. D.*, of , of the other part (a full description of the parties to be inserted as in the deed); by which said deed of bargain and sale, the said *A. B.*, for the considerations therein expressed, did grant, bargain, sell, and confirm unto the said *C. D.*, his heirs and assigns, all that (insert a description of the property sold), to hold to the said *C. D.*, his heirs and assigns for ever; which said deed of bargain and sale now to be registered, is witnessed (specify here the names of the witnesses to the execution of the deed); and the same deed is required to be so registered by the said *C. D.* As witness his hand, this day of ."

C. D.

Signed in the presence of

I. K.
L. M.

2. Memorial of a Deed of Bargain and Sale by way of Mortgage, executed before Witnesses.

" A memorial to be registered of a deed of bargain and sale, bearing date the day of , in the year of our Lord , made between *A. B.*, of , of the one part, and *C. D.*, of , of the other part; by which said deed of bargain and sale, the said *A. B.* did grant, bargain, sell, and confirm unto the said *C. D.*, his heirs and assigns, all that (here insert description of the mort-

gaged premises), to hold to the said *C. D.*, his heirs and assigns for ever; subject, nevertheless, to redemption, upon payment to the said *C. D.*, his heirs, executors, curator, administrators, or assigns, of the sum of pounds, and lawful interest, as in the said deed of bargain and sale now to be registered is expressed; which said deed of bargain and sale is witnessed, as to the execution thereof by the said *A. B.*, by *I. D.* of , and *E. G.*, of ; and as to the execution thereof by the said *C. D.*, of ; and the same deed is hereby required to be registered by the said *C. D.* As witness his hand this day of ."

C. D.

Signed in the presence of

E. F.
G. H.

3. Memorial of an onerous Deed of Gift *inter vivos*.

" A memorial to be registered of a notarial copy of a deed of gift *inter vivos*, bearing date at , the day of , in the year of our Lord , made between *A. B.*, of , and *C. D.* his wife, by him in this behalf duly authorized, of the one part, and *E. F.*, of , of the other part (a full description of the parties to be inserted as in the deed); before *G. H.*, public notary, and witnesses (or before *I. K.* and another, public notaries, as the case may be); by which said deed of gift the said *A. B.* and *C. D.*, his wife, did give, grant, and confirm unto the said *E. F.*, his heirs and assigns, all that (insert a description of the property conveyed by the deed of gift); to hold to the said *E. F.*, his heirs and assigns for ever; subject, nevertheless, to a certain life-rent, consisting of (insert the particulars of which the life-rent is composed); which said life-rent is payable by the said *E. F.* to the said *A. B.* and *C. D.*, his wife, each and every year during the term of their natural lives, as in the said deed of gift, *inter vivos*, now to be registered, is expressed. And the said deed of gift is hereby required to be registered by the said *E. F.* As witness his hand this day of

E. F

Signed in the presence of

L. M.
N. P.

4. Memorial of a will, or of a probate, or an office copy, or a notarial copy thereof.

A memorial to be registered of the probate (or the original will, or an office or notarial copy, as the case may be) of the last will and testament of *G. H.*, late of , in the county of , in the district of , bearing date , by which will the said testator did give and devise unto (as in the will) to hold ; which said will was executed by the said testator in the presence of *A. B.* of *C. D.*, of , and *E. F.* of ; and the probate of the said will (or the original, or an office, or notarial copy as the case may be) is hereby required to be registered by *O, P.* one of the devisees therein named, as witness his hand this day of .

O. P

Signed in the presence of

R. S.
T. V.

5. Memorial of a notarial obligation.

A memorial to be registered of a notarial copy of a notarial obligation, (or of the original if it be the original) bearing date the day of , in the year of our Lord , made and entered into by *A. B.* of , before *E. F.* public notary, and witnesses (or before *G. H.* and another public notaries, if the case be so), whereby the said *A. B.* owned himself to be indebted to *C. D.* of ; in the sum of pounds to be paid , and for receiving the payment of the said sum of money and interest, hypothecated all that , (insert the description of the hypothecated

No. 194.

Regulating the Registry of Titles to Lands, Tenements, &c.

premises, as contained in the notarial obligation) which said notarial copy of the said notarial obligation is hereby required to be registered by the said *C. D.* as witness his hand this day of .

C. D.

Signed in the presence of

I. K.
L. M.

6. Memorial of the appointment of a tutor or guardian to minors, forthe preservation of the legal or tacit hypothec, resulting from such appointment.

A memorial to be registered of the appointment of *A. B.* of (insert the place of abode and addition of the tutor) to be tutor or guardian to *C. D.*, *E.* , minors, under the age of twenty-one years, issue of the marriage of the late *G. H.* (the name of the father) deceased, with the late I. *K.* (the name of the mother) also deceased, which appointment was made by and under the authority of *L. M.* (insert the name and the description of the judge by whom the appointment has been made,) at (the place where the appointment was made,) on the day of , in the year of our Lord ; and the said appointment is hereby required to be registered for the preservation of the legal or taci-hypothec resulting therefrom, on all the real or immoveable estates of the said *A. B.*, situated in the district of (the name of the district within which the registration is made,) by *N. O.* of (insert the name and description of the person requiring the registration), as witness his hand this day of .

N. O.

Signed in the presence of

O. P.
R. S.

7. Memorial of a judgment.

A memorial to be registered of a judgment in Her Majesty's Court of Common Pleas, in the division thereof, being the division held in the territorial division of the term of in the year of our Lord between *A. B.* of , plaintiff, and *C. D.* of , defendant in a plea of debt for pounds, with interest from , and costs taxed at pounds ; which said judgment was rendered on the day of the said month of , and is hereby required to be registered by the said *A. B.*, as witness his hand this day of

A. B.

Signed in the presence of

J. F.
T. P.

8. Certificate of discharge from a judgment whereof a memorial has been registered.

To the registrar for the district of .

I. A. B. , do hereby certify, that *C. D.* of , hath paid and satisfied to me all such sum and sums of money as was or were due and owing upon a judgment recovered in Her Majesty's Court of Common Pleas, in the division thereof, being in the division held in the territorial division of , of the term of in the year of our Lord , by me the said *A. B.* against the said *C. D.* for pounds debt, and pounds. costs, a memorial whereof was registered on the day of , in the year of our Lord , in Register B. No. , and I do hereby require an entry of such payment and satisfaction to be made, in the register wherein the same is registered, pursuant to the Ordinance or law in such case provided, as witness my hand this day of in the year of our Lord .

A. B.

Signed and satisfaction acknowledged in the presence of

J. H. of
L. M. of

9. A Certificate to discharge a mortgage.

To the registrar for the district of

I, *A. B.* of (the mortgage in the deed or his heirs, executors, curators, or administrators) do hereby certify that *C. D.* of hath paid and satisfied all sum and sums of money as was or were due and owing upon an indenture of mortgage, bearing date the day of , in the year of our Lord , made between the said *C. D.* of the one part, and me the said *A. B.* of the other part; a memorial whereof was registered on the day of , in the year of our Lord , in the register *B.*, No. , and I do hereby require an entry of such payment and satisfaction, to be made in the register wherein the same is registered, pursuant to the Ordinance or law in such case provided; as witness my hand this day of , in the year of our Lord

A. B.

Signed and satisfaction acknowledged in the presence of

O. P. of .
R. S. of .

10. A certificate to discharge a neutral obligation, and extinguish the hypothec thereby constituted.

To the registrar of the district of

I, *A. B.* of the hypothecary, obligee, or creditor, his heirs, executors, curators, or administrators) do hereby certify that *C. D.* of , hath paid and satisfied all such sum and sums of money as was or were due and owing upon a notorial obligation, bearing date the day of , in the year of our Lord , made and entered into by the said *C. D.* to me and in my favour, as the obligee therein named, before *E. F.* public notary and witnesses (or before *E. F.* and another, public notaries, as the case may be), whereof a memorial was registered, on the day of , in the year of our Lord , in register *B.*, No. ; and I do hereby require an entry of such payment and satisfaction to be made in the register wherein the same is registered, pursuant to the Ordinance or law in such case provided, as witness my hand this day of in the year of our Lord .

G. B.

Signed and satisfaction acknowledged in the presence of

J. K. of .
L. M. of .

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in special council, under the great seal of the Province, at the Government House in the city of Montreal, the ninth day of February, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty-one.

By his Excellency's Command,

W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the ninth day of February, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

W. B. LINDSAY,
Clerk Special Council.

No. 195.

Incorporating the City and Town of Quebec.

(Copy.)

No. 195.

CAP. 31.—*An Ordinance to amend the Ordinance to Incorporate the City and Town of Quebec.*

WHEREAS it is expedient to repeal in part and to amend the Ordinance of the Legislature of this province, passed in the fourth year of Her Majesty's reign, and intituled "An Ordinance to incorporate the City and Town of Quebec," and to vest certain further powers in the corporation thereby constituted, and to remove certain doubts which have arisen as to the true intent and meaning of certain clauses of the said Ordinance: Be it therefore ordained and enacted by his Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, constituted and assembled by virtue and under the authority of an Act of Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, and intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby declared, ordained, and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that the Proclamation mentioned and referred to in the second section of the said Ordinance is and shall be understood to be a certain Proclamation of his Excellency Alured Clarke, Esquire, Lieutetant-Governor of the Province of Lower Canada, issued under the Great Seal of the said Province, and bearing date the seventh day of May in the year of our Lord One thousand seven hundred and ninety-two; any error in the citation of the said Proclamation in the section aforesaid to the contrary notwithstanding.

And be it further ordained and enacted, That the fifteenth section of the said Ordinance shall be and is hereby repealed.

And be it further ordained and enacted, That on the first day of December in the year of our Lord One thousand eight hundred and forty-two, all the members of the council of the said city appointed under the authority of the said Ordinance shall go out of office and on the first day of December in each succeeding year one of the members of the council for each ward shall go out of office; and on the first day of December in the year of our Lord One thousand eight hundred and forty-three, that member of the said council for each ward shaall go out of office, who shall have been elected by the smallest number of votes in such ward in the year of our Lord One thousand eight hundred and forty-two; and in the year One thousand eight hundred and forty-four, that member of the said council for each ward shall go out of office who shall have been elected by the next smallest number of votes in the said year of our Lord One thousand eight hundred and forty-two; and thenceforward those members of the council for each ward respectively shall go out of office who shall have been members thereof for the longest time without re-election: Provided always, That if any two or more members of the council for any ward shall have been elected by an equal number of votes in the said year One thousand eight hundred and forty-two, or if no poll shall have been taken in any ward in the said year, then it shall be determined by a majority of the council which of the members thereof for such ward shall go out of office in the year One thousand eight hundred and forty-three, and in the year One thousand eight hundred and forty-four, respectively: Provided also, That if on the first day of December in the year one thousand eight hundred and forty-three, or in the year One thousand eight hundred and forty-four, respectively, there shall be a vancancy or vacancies in the office of any member or members of the council for any ward who would not under the provisions of this section have gone out of office on that day, then a member or members of the council shall be elected for the ward to fill such vacancy, as well as in the place of the member who shall then go out of office under the provisions of this section: And provided further, That any member going out of office may be re-elected if then qualified according to the provisions of the said Ordinance.

And be it further ordained and enacted that the twenty-third and twenty-fourth sections of the said Ordinance shall be and are hereby repealed.

And be it further ordained and enacted, That at the first quarterly or special meeting of the council of the said city after the election in said year One thousand eight hundred and forty-two, and in each subsequent year, the said council shall elect from among the members of the said council six persons, or so many as may then be requisite with those alderman remaining in office to make the number of six, (if so many members there be duly qualified, and if there be not then such less number as may be so qualified), to be aldermen of the said city until the time when they shall respectively cease to be members of the said council under the provisions of the third section of this Ordinance, and no longer: Provided always, That any alderman going out of office in any year, may, if re-elected as a member of the council at the next or any subsequent elections of councillors, be re-elected as an alderman.

And be it further ordained and enacted that the twenty-sixth section of the said Ordinance shall be and is hereby repealed.

And be it further ordained and enacted, That if any extraordinary vacancy shall occur in the office of member of the council of the said city, for any ward thereof, after the first election of members of the said council, the inhabitant householders and persons qualified to vote in the ward for which such vacancy shall have occurred shall, on a day to be appointed by the mayor after such vacancy shall have occurred, elect from the persons qualified to be members of the council a person duly qualified to fill such vacancy; and such election shall be held, and the voting and other proceedings shall be conducted in the same manner and subject to the same provisions as are by the said Ordinance and by this Ordinance provided with respect to other elections of members of the said council; and every person so elected shall hold such office until the period at which the person in the room of whom he shall have been elected would in the ordinary course have gone out of office, and shall then go out of office, but may be immediately re-elected if then duly qualified: Provided always, that no election shall take place to supply any such extraordinary vacancy after the first day of September in any year.

And be it further ordained and enacted, That the twenty-seventh section of the said Ordinance shall be and is hereby repealed.

And be it further ordained and enacted, That at the first quarterly or special meeting of the said council after the election of members thereof, in the year of our Lord One thousand eight hundred and forty-two, and in each succeeding year, the said council shall elect out of the members thereof a fit person to be mayor of the said city, who shall continue in office until the day on which the election of members of the council shall be held in the month of December then next ensuing; and in case a vacancy shall occur in the office of mayor, by reason of any person who shall have been elected to that office not accepting the same, or by reason of his dying or ceasing to hold the said office, the said council shall at the first general or special meeting of the said council after such vacancy elect out of members of the council another fit person to be mayor for the remainder of the period for which the mayor whose place is to be supplied was to serve.

And whereas it is expedient that auditors of the said city should be appointed before the time mentioned in the twenty-fifth section of the said Ordinance: Be it therefore further ordained and enacted, That the council of the said city may at any quarterly or special meeting to be held before the first day of December in the present year of our Lord One thousand eight hundred and forty-one, elect from among the persons qualified to be members of the council two persons who shall be and be called auditors of the city of Quebec, until the first quarterly meeting after the day last mentioned, and may at the last-mentioned quarterly meeting elect two persons qualified as aforesaid to be auditors for the said city until the first day of December, One thousand eight hundred and forty-two: Provided always, that in every such election of auditors, no member of the council shall vote for more than one person to be such auditor as aforesaid: And provided also, that no member of the said council, nor clerk of the said city, shall be elected an auditor as aforesaid: And provided also, that the election of auditors in each year, under the provisions of the said twenty-fifth section of the said Ordinance, shall be made at the first quarterly or special meeting next after the first day of December, and not on the ninth day of December, (unless that day be one of the days on which such quarterly or special meeting shall be held,) anything in the said section to the contrary notwithstanding: And provided further, that any vacancy in the office

No. 195.

Incorporating the City and Town of Quebec.

of auditor, whether occurring before or after the first day of December, in the year of our Lord One thousand eight hundred and forty-two, may be filled up by the said council, by an election to be had in the manner and under the provisions aforesaid, at any general or special meeting; and the person so elected shall hold his office until the time when the person whose place he shall have been elected to supply would have gone out of office.

And whereas doubts have arisen as to the true intent and meaning of that enactment of the thirty-sixth section of the said Ordinance, whereby a casting vote is given to the mayor, or to the chairman presiding at meetings of the council in certain cases: Be it therefore declared and further ordained and enacted, That the casting vote so given to the mayor or person presiding in the cases aforesaid, shall be a double vote, that is to say, he may first vote as a member of the said council, and if the votes be then equally divided, he may give a second or casting vote, and so determine the question then before the council.

And be it declared and further ordained and enacted, That the words "one third part of the entire number of councillors composing the said council," in the said thirty-sixth section of the said Ordinance, do, and shall mean, and shall be construed to mean one third part of the whole number of the members of the said Council; and generally that the word "Councillor" and the word "Councillors" whenever they occur in the said Ordinance do and shall mean any member or the members of the said council, unless by the context it shall appear clearly that the said words respectively are intended to apply exclusively to a member or members of the said council who is not or are not the mayor or an alderman or aldermen of the said city.

And be it further ordained and enacted, That the notice required by the thirty-eighth section of the said Ordinance to be given by the mayor with regad to any special meeting to be called by him under the provisions of the said section, shall specify the business for which the proposed meeting is to be held, anything in the said section to the contrary notwithstanding.

And whereas doubts have arisen as to the true intent and meaning of certain parts of the forty-first section of the said Ordinance, Be it therefore declared and further ordained and enacted, That the said council have and shall have power and authority in the manner and for the purposes in the said section mentioned, to make rates and assessments to the amount of one shilling in the pound in any one year on the assessed yearly value of the property liable to such assessment, over and above the amount of the assessment of sixpence in the pound, which might have been before the passing of the said Ordinance levied on such property by the justices of the peace for the district of Quebec, by virtue of the powers and authorities transferred to the said council by the forty-third section of the said Ordinance; that is to say, the rates and assessments which the said council are authorized to assess and levy on real or personal property, or both, within the said city, under the authority of the said forty-first section, and of the said forty-third section of the said Ordinance, and subject to the provisions thereof, may in the whole amount to, but shall not exceed, one shilling and sixpence in the pound on the assessed yearly value of the property liable to such rates and assessments.

And be it further ordained and enacted, That in addition to the duties which the said council are by the forty-first section of the said Ordinance authorized to impose on persons exercising certain trades and callings within the said city, it shall be lawful for the said council in like manner to impose a duty or duties on proprietors, owners, or keepers of theatres, circuses, or public exhibitions or shows of any kind, or of horses or carriages of any kind kept for pleasure or for hiring out, or of billiard-tables, or dogs, within the said city, and on wholesale and retail dealers in goods, wares, or merchandise of any kind, keepers of eating-houses, coffee-houses, or ordinaries, auctioneers, grocers, bakers, butchers, hucksters, pawnbrokers, livery-stable keepers, or carters, within the said city, and on all persons acting as ferrymen to the said city, or plying for hire for the conveyance of persons by water to the said city from any place not more than nine miles distant from the same, and to impose, by any bye-law or bye-laws imposing any such duty or duties such fines not exceeding five pounds, and such imprisonment not exceeding thirty days for any one offence, on any person exercising any of the callings or trades aforesaid, without having paid the duty imposed on persons exercising the same, as they may think proper for enforcing the payment of such duties.

And be it further ordained and enacted, That the said council shall have power and authority by any bye-law to be passed for that purpose to increase the amount

of the commutation-money payable by each person liable to statute labour on the highways within the city, to any sum not exceeding five shillings currency for each person so liable; and to enact that each and every person so liable shall pay the amount of such commutatio-nmoney so fixed, and shall not be allowed to offer his personal labour on the said highways instead thereof; and to exempt from the payment of such commutation-money any class of persons to whom they shall deem it right to grant such exemption on account of the limited means of such persons to pay the same.

And be it further ordained and enacted, That all the powers and authority heretofore vested in the justices of the peace for the district of Quebec to make any tariff of rates of ferryage to the city of Quebec from any place within nine miles of the said city, or to make any regulation or bye-laws for the governments of persons plying as ferrymen to the said city from places within the said limits, shall be and are hereby transferred to and vested in the said council, who shall have full power and authority to make such rules, regulations, and bye-laws concerning such rates of ferryage and for the government of the said ferrymen, and of all landing-places within the city of Quebec, as they shall deem expedient: Provided always, That all rules and regulations made in the behalf aforesaid by the said justices of the peace, and in force at the time of the passing of this Ordinance, shall remain in force and be observed under the direction of the said council, until they shall repeal or alter the same; and provided also, that nothing herein contained shall in any way diminish the powers of the Trinity House of Quebec, or the power of the said justices of the peace, or of the Governor, Lieutenant-Governor, or person administering the government of this Province, to grant or refuse a licence to any ferryman, or to save any person from being liable to any penalty by law imposed on persons acting as ferrymen without such licence.

And be it further ordained and enacted, That in addition to the subjects, matters, and things for and with regard to which the said council are by the said Ordinance authorized and empowered to make bye-laws, it shall be lawful for the said council to make bye-laws which shall be binding on all persons within the said city, for the following purposes, that is to say: For establishing a board or boards of health for and within the said city, and for appointing the members thereof, and for making all such regulations as they may deem necessay for preserving the inhabitants thereof from contagious and infectious diseases, or for diminishing the danger of or arising from the same; and for imposing such penalties not exceeding five pounds currency, and such imprisonment not exceeding thirty days for any one offence, as they shall deem necessary for enforcing such bye-laws and regulations: For regulating the measurement of all firewood, coals, and salt, and the weight and measurement of all grain brought into the said city for sale and consumption three-in, and for appointing measurers and weighers of all such articles, and establishing and regulating the fees to be paid to such officers, and the duties they shall perform: For assessing the proprietors of real property for such sum or sums as may at any time be necessary to defray the expenses of making or repairing any common sewer in any public street or highway within the said city and immediately in front of such real property respectively, and for regulating the mode in which such assessments shall be collected and paid: For directing and requiring the removal, at any time not less than six months after the passing of this Ordinance, of any door-steps, porches, railings, or other projections into or obstructions in any public street or highway within the said city, by and at the expense of the proprietors of the real property in or on which such projection or obstruction shall be found: For defraying out of the funds of the said city the expense of lighting the said city or any part thereof with gas, or with oil, or in any other manner, and of performing all such work of any kind as may be necessary for such purpose, and for obliging the proprietors of real property in any part of the city so lighted or to be lighted to allow such work to be performed on or in such property respectively, and such pipes, lamps, lamp-posts, and other contrivances or things as may be necessary for the purpose aforesaid to be fixed in or upon such property or any building thereon; the expense of all such work being in every case defrayed by the said council, and out of the funds of the said city: For altering the level of the footpaths or side-walks in any street or highway within the said city, in such manner as the said council shall deem conducive to the convenience, safety, and interest of the inhabitants of the said city: Provided always, That the said council shall and may make compensation out of the funds of the said city to any person whose property shall be injuriously affected by any such alteration of the level of any foot-

No. 195.

Incorporating the City and Town of Quebec.

path in front thereof: For regulating all vehicles of any kind whatever in which any articles shall be exposed for sale in any public market, or in any street or public place within the said city, and for imposing a duty or duties on such vehicles, and establishing the mode in which such duty or duties shall be collected and paid: And by any such bye-law for any of the purposes aforesaid, or for any other purpose for which they are authorized by this Ordinance to make any bye-law, the said council may impose such fines not exceeding five pounds, and such imprisonment not exceeding thirty days, as they may deem necessary for enforcing the same.

And be it further ordained and enacted, That the said council shall have full power and authority by any bye-law to change the site of any market or market-place within the said city, or to establish any new market or market-place, or to abolish any market or market-place then or now existing, or to appropriate the site thereof, or any part of such site, for any other public purpose whatever, any law, statute, or usage to the contrary notwithstanding; saving to any party aggrieved by any act of the said council, under the authority of this section, any remedy such party may by law have against the corporation of the said city for any damage by such party sustained by reason of such act.

And be it further ordained and enacted, That the seventh section of the Act of the Provincial Legislature, passed in the thirty-ninth Year of the Reign of His Majesty King George the Third, and intituled, "An Act for the better regulating the Weights and Measures of this Province," shall be and is hereby repealed in so far as regards the said city of Quebec, and from and after the passing of this Ordinance the said council may cause the different articles sold in any market to be weighed and measured (when required by any party interested therein) by such person or officer, and under such regulations, and on the payment of such fees, as the said council shall, by a bye-law, from time to time appoint and make in that behalf.

And be it further ordained and enacted, That the fiftieth section of the said Ordinance shall be and is hereby repealed.

And be it further ordained and enacted, That from and after the passing of this Ordinance, and until the first day of May next after the passing thereof, and no longer, all and every the powers and authority, privileges, duties, and obligations vested in or imposed on the "Fire Society" in and for the said city, under and by virtue of a certain Ordinance, passed in the second Year of Her Majesty's Reign, and intituled, "An Ordinance to suspend for a limited time certain Parts of Two Ordinances therein mentioned, as far as the same relate to the City of Quebec, and to establish a Society therein for Preventing Accidents by Fire," shall be and are hereby transferred to and vested in and imposed upon the said council of the said city, who are hereby substituted for the said Fire Society, to and for all intents and purposes whatsoever, except only in those cases in which provision is hereby made to the contrary; and the said Fire Society shall forthwith deliver and pay over to the said council all books, papers, documents, moneys, and things in the possession of such Fire Society, at the time of the passing of this Ordinance: Provided always, That so much of the said Ordinance as provides for the appointment of the members of the said Fire Society, or of the president thereof by the Governor of this province, or for the appointment of any secretary or treasurer, other than the clerk or treasurer of the said Council and their assistants, and so much thereof as limits the fines and penalties to be imposed for the infraction of any regulations or bye-laws made under the authority of the said Ordinance, or requires that the bye-laws made under its authority should be passed or published in any special manner, or should be confirmed by any Court or Judges, or as relates to the number of members of the society who shall form a quorum, or to the duties of any member of the society within or with regard to any particular ward or division of the said city, or as directs that the accounts of the said society shall be made up to and at any particular time, or that prosecutions for the recovery of moneys or of penalties shall be instituted by the secretary, treasurer of the society, or that the said officer shall defend any action instituted against the society, and generally so much of the said Ordinance as may be in anywise inconsistent with or repugnant to the provisions of the Ordinance to incorporate the city and town of Quebec, as hereby amended, shall be and so much of the said Ordinance passed in the second Year of Her Majesty's Reign is hereby repealed; and the bye-laws and regulations which the said council is authorized to make, alter, or repeal under the provisions of this section and by virtue of the powers heretofore vested in the said Fire Society, and hereby transferred to the said council,

may be passed, and shall be subject to disallowance, and shall if not disallowed have force and effect in the same manner and under the same provisions as other bye-laws of the said council, and may be enforced by fine and imprisonment, to a like amount and for a like time: Provided always, That all bye-laws of the said Fire Society in force at the time of the passing of this Ordinance shall remain in force until repealed or altered by the said council, and all fines thereby imposed may be sued for and recovered as if imposed under the authority of this Ordinance; and so much of all such fines and penalties, whether imposed by any bye-law of the said society or of the said council, as shall belong to the corporation of the said city, and all moneys to be received and collected by the said council under the powers vested in them by this section, shall form part of the general funds of the said city, and shall and may be applied by the said council, who may apply and are hereby authorized to apply such part of the said general funds as they may deem expedient to any purposes for which the said Fire Society was, before the passing of this Ordinance, authorized to apply any part of the funds at their disposal, anything in any Ordinance or law to the contrary notwithstanding.

And be it further ordained and enacted, That from and after the said first day of May next after the passing of this Ordinance, the said Ordinance passed in the second year of Her Majesty's reign, and intituled, "An Ordinance to suspend for a limited time certain Parts of Two Ordinances therein mentioned, as far as the same relate to the City of Quebec, and to establish a Society therein for Preventing Accidents by Fire," and all bye-laws made by the said Fire Society or by the said council under the authority of the said Ordinance, shall be repealed; and the books, papers, documents, moneys, and things delivered and paid over to the said council in pursuance of the next preceding section of this Ordinance, shall remain the property of the corporation of the said city, and under the control of the said council.

And be it further ordained and enacted, That from and after the said first day of May next after the passing of this Ordinance, a certain Ordinance passed in the seventeenth year of the reign of His late Majesty King George the Third, and intituled "An Ordinance for Preventing Accidents by Fire," and a certain Ordinance passed in the thirtieth year of the reign aforesaid, and intituled "An Act or Ordinance to amend an Act or Ordinance for Preventing Accidents by Fire, passed in the Seventeenth Year of His Majesty's Reign," and a certain Act passed in the fifty-ninth year of the same reign, and intituled "An Act to repeal in part an Ordinance passed in the Seventeenth Year of His Majesty's Reign, intituled, 'An Ordinance for Preventing Accidents by Fire,' and for other purposes therein mentioned," shall be and remain repealed in so far as they relate to the said city of Quebec.

And for the better protection of the lives and property of the inhabitants of the said city, and for preventing accidents by fire therein, Be it further ordained and enacted, That from and after the said first day of May next after the passing of this Ordinance, the said council of the said city shall have full power and authority to make bye-laws which shall be binding on all persons within the said city for the following purposes; that is to say: For establishing such rules and regulations as they shall deem expedient for preventing accidents by fire, and for the conduct of all persons present at any fire within the said city: For appointing all such officers as they may deem necessary for carrying such rules and regulations as aforesaid into effect, and for prescribing the duties of such officers and providing for them adequate remuneration out of the funds of the said city: For defraying out of the said funds any expenses which they may deem it right to incur for the purchase of engines or apparatus of any kind, or for any other purpose relative to the prevention of accidents by fire, or to the means of arresting the progress of fires: For authorising such officers as shall be appointed by the council for that purpose to visit and examine at suitable times and hours to be established by such bye-laws, as well the interior as the exterior of all houses, buildings, and real property of any description within the said city, for the purpose of ascertaining whether the rules and regulations to be made as aforesaid have been duly observed and obeyed; and for obliging all proprietors, possessors, or occupants of such houses, buildings, or real property, to admit such officers and persons into and upon the same, at the times and for the purposes aforesaid: For causing all chimneys within the said city to be swept in such manner, by such persons, and at such times as the said council shall appoint: For vesting in such members of the said council, and in such officers as shall be designated in such bye-laws, the power of causing to be demolished or taken down all buildings or fences which such members or

No. 195.

Incorporating the City and Town of Quebec.

officers shall deem necessary to be demolished or taken down in order to arrest the progress of any fire: For preventing thefts and depredations at fires, and for punishing any person who shall resist or maltreat any member or officer of the council in the execution of any duty assigned to him, or in the exercise of any power vested in him by any bye-law made under the authority of this section: For defraying out of the funds of the city any expense to be incurred by the said council, in assisting any person in their employ who shall have received any wound or contracted any disease at any fire, or in assisting or providing for the family of any person in their employ who shall perish at any fire, or in bestowing rewards in money, medals, or otherwise, upon any person who shall have performed any meritorious action at any fire: For imposing over and above all other rates, assessments, or duties which the said council are empowered to impose, such tax or duty on and in respect of each chimney actually used in the said city, and payable by the occupant of the house or building in which such chimney shall be, as they shall deem expedient; and for regulating the times and manner in which such tax or duty shall be collected and paid: Provided always, That the said council shall make no further charge for causing any chimney to be swept in the manner to be provided by any bye-law in that behalf as aforesaid.

Provided always, and be it further ordained and enacted, That the said council shall and may, out of the funds of the said city, pay and discharge all debts and obligations lawfully contracted by the said Fire Society, and due at the time of the passing of this Ordinance; and shall also pay and continue to pay the annuity or retiring allowance payable before the passing of this Ordinance by the Fire Society aforesaid, to the person or persons who, immediately before the establishment of the said Fire Society, held the office of overseer to prevent accidents by fire, for the said city of Quebec.

And be it further ordained and enacted, That the said council shall have full power and authority, notwithstanding any law to the contrary, to purchase and acquire, or to take and enter into, after paying, tendering, or depositing the value thereof, to be ascertained as hereinafter provided, such land, ground, or real property of any description within the said city, as may by them be deemed necessary for opening new streets, squares, market-places, or other public highways or places, or for continuing, enlarging, or otherwise improving those streets, squares, market-places, or other public highways or places now made, or as a site for any public building to be erected by the said council, and to pay to, or for the use of, the proprietor or proprietors of such ground or real property, and out of any funds of the said city now in or which shall hereafter come into their hands, such sum or sums of money as may be agreed upon, as the value of such ground or other property by the party proprietor thereof, and the said council respectively, or ascertained in the manner herein after mentioned, in case they shall not so agree upon the same.

And be it further ordained and enacted, That it shall be lawful for all corporations, aggregate or sole, husbands, tutors, or guardians, curators, *grevés de substitution*, and all trustees whatsoever, who are or shall be seized or possessed of, or interested in any piece or pieces, parcel or parcels of ground or other real property within the said city, selected and fixed upon by the said council for any of the purposes aforesaid, not only for themselves, their heirs, and successors, but for and on the behalf of all persons whom they represent, or for whom or in trust for whom they are or shall be seized, possessed, or interested as aforesaid, whether minors, or issue unborn, lunatics, idiots, *femes covert*, or other person or persons, to contract for, sell and convey such piece or pieces, parcel or parcels of ground, to the corporation of the mayor, aldermen, and citizens of the city of Quebec, and such contracts, sales, and conveyances shall be valid and effectual in law to all intents and purposes whatsoever, any law or custom to the contrary notwithstanding: and all corporations and persons whatsoever so contracting, selling, or conveying as aforesaid, are hereby indemnified for and in respect of any such sale which he, she, or they shall respectively make by virtue of or in pursuance of this Ordinance, saving always the right of any person or party to the whole or any part of the purchase money, or compensation to be paid by the said corporation for any real property purchased or taken as aforesaid.

And be it further ordained and enacted, That in all cases where the said council, and the persons seized or possessed of or interested in the said pieces or parcels of ground or other real property, or any of them, or of any part thereof, shall be absent or shall not be known, or shall not by voluntary agreement or by arbitration

settle and determine the price and prices, compensation and compensations, to be paid for the said premises or any part thereof, such price and prices, compensation and compensations shall be ascertained, fixed, and determined in manner following: that is to say, the Justices of the Peace resident within the said city and town of Quebec, in a Special Session to be for that purpose holden, upon a petition to them addressed, and upon proof that notice in writing was given one month previously to the party seized, possessed of, or interested in such pieces or parcels of ground, or real property, or to his, her, or their tutor, curator, administrator, attorney, agent, or curator *ad hoc*, of the intention of the said council to present such petition to the said justices of the peace for the purpose of taking possession of, entering into, and appropriating to the use of the said corporation, such pieces or parcels of ground or other real property, shall summon a jury of twelve disinterested persons taken from among the persons resident within the said city, qualified to be special jurors, in civil cases, and the said jury shall determine upon their oaths the amount of the price or compensation which they shall deem reasonable to be paid by the said corporation for such pieces or parcels of ground or real property as aforesaid: Provided always, That any determination as aforesaid in which any nine of the jurors shall agree, shall, for the purposes of this Ordinance, have the same effect as if all the jurors had agreed therein.

And be it further ordained and enacted, That on payment of the price or prices, compensation or compensations to be fixed and determined as aforesaid, or in case of refusal or neglect to accept the same, or in case it be doubtful to what person or party the same shall of right belong, on the deposit thereof in the hands of the prothonotary of the Court of King's Bench for the district of Quebec, or in the hands of the prothonotary of the first division of the Court of Common Pleas for this province, for the use of the person or persons, or party entitled to the same, the right of property, title and interest in and to such pieces, or parcels of ground, or other real property respectively, for which such price or prices, compensation or compensations shall be payable, shall be divested out of the person or persons, or party seized and possessed thereof, or entitled to the same, and shall become and be vested in the corporation of the mayor, aldermen, and citizens of the city of Quebec; and the council of the said city may after fifteen days' notice in that behalf to the proprietor, possessor, or occupant of the piece or parcel of land to which such award shall relate, enter upon, take possession of, and use such piece or parcel of land for any of the purposes authorised by this Ordinance or the Ordinance herein first cited and amended, any law, statute, or usage to the contrary notwithstanding.

And be it further ordained and enacted, That all the provisions and enactments of the two sections next immediately preceding this section, with regard to the mode in which the value of any real property taken by the said council shall be ascertained, and the amount thereof paid or deposited in certain cases, shall be and are hereby extended to all cases in which it shall become requisite to ascertain the amount of compensation to be paid by the council to any proprietor of real property for any damage by him sustained by reason of any alteration made by order of the said council in the level of any footpath or side walk, or to any party by reason of any other act of the said council, for which they are bound to make compensation, and with regard to the amount of compensation for which damage, the party sustaining the same and the said council shall not agree.

And be it further ordained and enacted, That all corporations, ecclesiastical or civil, whose property, or any part of whose property shall be conveyed to or taken by the said corporation of the city of Quebec, under the authority of this Ordinance, or of the Ordinance herein first cited and amended, may invest the price or compensation paid for the property so conveyed or taken, in other real property in any part of this province, and may take and hold the same without Her Majesty's letters of mortmain, any law to the contrary notwithstanding.

And be it further ordained and enacted, That all monies due or payable to the said council as the amount of any rate, assessment, tax, duty or impost lawfully imposed by or payable to the said council, under the authority of the said Ordinance, to incorporate the city and town of Quebec, or of this Ordinance, may be sued for and recovered with costs in a summary manner, and on the oath of one or more credible witnesses, before any two or more justices of the peace for the district of Quebec, at any weekly sitting of such justices in the city of Quebec; and the amount so recovered, and the costs aforesaid, shall and may be levied by distress and sale of the goods and chattels of the party, defendant, by warrant under the

No. 195.

Incorporating the City and Town of Quebec.

hand and seal of such justices, or of any one of them, if not forthwith paid to the treasurer of the said corporation.

And be it further ordained and enacted, That all offenders against any bye-law lawfully made, or to be made by the said council, or by the said fire society, or by any justices of the peace or other functionaries whatsoever, in whose place and stead the said council have been or hereby are substituted, by virtue of any power transferred to and vested in the said council, may be prosecuted before any two or more justices of the peace for the district of Quebec at any such weekly sitting as aforesaid; and such justices shall have full power and authority on the conviction of any such offender (and any such offender may be convicted on the oath of any one credible witness, other than the informer or prosecutor) to award the penalty or the imprisonment, as the case may be, imposed by any such bye-law for the offence of which such offender shall be convicted, with the costs of prosecution, against such offender, and to commit such offender to the common gaol of the district, if the offence be punishable by imprisonment, and to levy such penalty with costs, if not forthwith paid, by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of any one of such justices; and one moiety of any such penalty shall go to the informer or prosecutor, and the other moiety shall be paid to the treasurer of the said corporation, and form part of the funds at the disposal of the said council: Provided always, That any such prosecution may be brought and conducted in the name and on the behalf of the said corporation, and in that case the whole of any such penalty, as aforesaid, shall be paid to the said treasurer, and form part of the funds aforesaid; and provided also, that the mayor of the said city, or any member of the said council being a justice of the peace for the said district of Quebec, may act as a justice of the peace under the provisions of this section, and of the section next preceding it, and any member, officer, or servant, of the said corporation shall be a competent witness in any suit or prosecution under the said provisions; if he have no direct interest in the issue of such suit or prosecution, or be not otherwise rendered incompetent, any law, usage, or custom to the contrary notwithstanding.

And be it further ordained and enacted, That all the provisions of the forty-second section of the said Ordnance, to incorporate the city and town of Quebec, shall be and are hereby extended to all bye-laws to be made by the said council, under the authority of this Ordinance.

And be it further ordained and enacted, That nothing in this Ordinance contained shall in any manner derogate from or affect, or be construed to derogate from or affect, the rights of Her Majesty, her heirs and successors, except in so far only as the same may be expressly derogated from or affected by the provisions of this Ordinance.

And be it further ordained and enacted, That the words "Governor of this Province," wheresoever they occur in this Ordinance, shall be understood as meaning and comprehending the Governor or any person authorised to execute the commission of Governor within this province for the time being.

And be it further ordained and enacted, That this Ordinance shall be held and taken to be a public Act, and as such shall be judicially taken notice of by all judges, justices, and persons whomsoever, without being specially pleaded.

And be it further ordained and enacted, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the province, at the Government House in the city of Montreal, the ninth day of February, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty-one.

By his Excellency's Command.

(Signed) W. B. LINDSAY,
Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governor of the province of Lower Canada, by and with the

advice and consent of the Special Council for the affairs of the said province, on the ninth day of February, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) W. B. LINDSAY,
Clerk Special Council.

No. 195.
Incorporating the City and Town of Quebec.

Copy).

No. 196.

No. 196.
Incorporating the City and Town of Montreal.

CAP. 32.—*An Ordinance to amend the Ordinance to incorporate the City and Town of* Montreal. [Passed 9th February, 1841.]

WHEREAS it is expedient to repeal in part and to amend the Ordinance of the Legislature of this province, passed in the fourth year of Her Majesty's reign, and intituled "An Ordinance to incorporate the City and Town of Montreal," and to vest certain further powers in the corporation thereby constituted, and to remove certain doubts which have arisen as to the true intent and meaning of certain clauses of the said Ordinance: Be it therefore ordained and enacted by His Excellency the Governor of this province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdon of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, and intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby declared, ordained, and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that the proclamation mentioned and referred to in the second section of the said Ordinance is and shall be understood to be a certain proclamation of His Excellency Alured Clarke, Esquire, Lieutenant-Governor of the province of Lower Canada, issued under the great seal of the said province, and bearing date the seventh day of May, in the year of our Lord one thousand seven hundred and ninety-two; any error in the citation of the said proclamation in the section aforesaid to the contrary notwithstanding.

And be it further ordained and enacted, That the fifteenth section of the said Ordinance shall be and is hereby repealed.

And be it further ordained and enacted, That on the first day of December, in the year of our Lord one thousand eight hundred and forty-two, all the members of the council of the said city appointed under the authority of the said Ordinance shall go out of office; and on the first day of December in each succeeding year one of the members of the council for each ward shall go out of office; and on the first day of December in the year of our Lord one thousand eight hundred and forty-three, that member of the said council for each ward shall go out of office who shall have been elected by the smallest number of votes in such ward, in the year of our Lord one thousand eight hundred and forty-two; and in the year one thousand eight hundred and forty-four, that member of the said council for each ward shall go out of office who shall have been elected by the next smallest number of votes in the said year of our Lord one thousand eight hundred and forty-two; and thenceforward those members of the council for each ward respectively shall go out of office who shall have been members thereof for the longest time without re-election: Provided always, That if any two or more members of the council for any ward shall have been elected by an equal number of votes in the said year one thousand eight hundred and forty-two, or if no poll shall have been taken in any ward in the said year, then it shall be determined by a majority of the council which of the members thereof for such ward shall go out of office in the year one thousand eight

No. 196.

Incorporating the City and Town of Montreal.

hundred and forty-three, and in the year one thousand eight hundred and forty-four respectively: Provided also, That if on the first day of December in the year one thousand eight hundred and forty-three, or in the year one thousand eight hundred and forty-four respectively, there shall be a vacancy or vacancies in the office of any member or members of the council for any ward, who would not under the provisions of this section have gone out of office on that day, then a member or members of the council shall be elected for the ward to fill such vacancy, as well as in the place of the member who shall then go out of office under the provisions of this section; and provided further, that any member going out of office may be re-elected if then qualified according to the provisions of the said Ordinance.

And be it further ordained and enacted, That the twenty-third and twenty-fourth sections of the said Ordinance shall be and are hereby repealed.

And be it further ordained and enacted, That at the first quarterly or special meeting of the council of the said city, after the election in the said year one thousand eight hundred and forty-two, and in each subsequent year, the said council shall elect from among the members of the said council six persons, or so many as may then be requisite with those aldermen remaining in office to make the number of six (if so many members there be duly qualified, and if there be not, then such less number as may be so qualified) to be aldermen of the said city until the time when they shall respectively cease to be members of the said council under the provisions of the third section of this Ordinance, and no longer: Provided always, That any alderman going out of office in any year, may, if re-elected as a member of the council at the next or any subsequent election of councillors, be re-elected as an alderman.

And be it further ordained and enacted, That the twenty-sixth section of the said Ordinance shall be and is hereby repealed.

And be it further ordained and enacted, That if any extraordinary vacancy shall occur in the office of member of the council of the said city for any ward thereof, after the first election of members of the said council, the inhabitant householders and persons qualified to vote in the ward for which such vacancy shall have occurred shall, on a day to be appointed by the mayor after such vacancy shall have occurred, elect from the persons qualified to be members of the council a person duly qualified to fill such vacancy; and such election shall be held, and the voting and other proceedings shall be conducted in the same manner and subject to the same provisions as are by the said Ordinance and by this Ordinance provided with res ect to other elections of members of the said council; and every person so elected shall hold such office until the period at which the person in the room of whom he shall have been elected would in the ordinary course have gone out of office, and shall then go out of office, but may be immediately re-elected if then duly qualified: Provided always, That no election shall take place to supply any such extraordinary vacancy after the first day of September in any year.

And be it further ordained and enacted, That the twenty-seventh section of the said Ordinance shall be and is herely repealed.

And be it further ordained and enacted, That at the first quarterly or special meeting of the said council, after the election of members thereof in the year of our Lord one thousand eight hundred and forty-two, and in each succeeding year, the said council shall elect out of the members thereof a fit person to be mayor of the said city, who shall continue in office until the day on which the election of members of the council shall be held in the month of December then next ensuing; and in case a vacancy shall occur in the office of mayor by reason of any person who shall have been elected to that office not accepting the same, or by reason of his dying or ceasing to hold the said office, the said council shall at the first general or special meeting of the said council after such vacancy elect out of the members of the council another fit person to be mayor for the remainder of the period for which the mayor whose place is to be supplied was to serve.

And whereas it is expedient that auditors of the said city should be appointed before the time mentioned in the twenty-fifth section of the said Ordinance: Be it therefore further ordained and enacted, That the council of the said city may, at any quarterly or special meeting to be held before the first day of December, in the present year of our Lord one thousand eight hundred and forty-one, elect from among the persons qualified to be members of the council two persons who

shall be and be called auditors of the city of Montreal, until the first quarterly meeting after the day last mentioned; and may, at the last-mentioned quarterly meeting elect two persons qualified as aforesaid to be auditors for the said city until the first day of December one thousand eight hundred and forty-two: Provided always, That in every such election of auditors no member of the council shall vote for more than one person to be such auditor as aforesaid; and provided also, that no member of the said council nor the clerk of the said city shall be elected an auditor as aforesaid: And provided also, That the election of auditors in each year under the provisions of the said twenty-fifth section of the said Ordinance shall be made at the first quarterly or special meeting next after the first day of December, and not on the ninth day of December (unless that day be one of the days on which such quarterly or special meeting shall be held), anything in the said section to the contrary notwithstanding: And provided further, That any vacancy in the office of auditor, whether occurring before or after the first day of December in the year of our Lord one thousand eight hundred and forty-two, may be filled up by the said council by an election to be had in the manner and under the provisions aforesaid at any general or special meeting; and the person so elected shall hold his office until the time when the person whose place he shall have been elected to supply would have gone out of office.

And whereas doubts have arisen as to the true intent and meaning of that enactment of the thirty-sixth section of the said Ordinance whereby a casting vote is given to the mayor or to the chairman presiding at meetings of the council in certain cases: Be it therefore declared and further ordained and enacted, That the casting vote so given to the mayor or person presiding in the cases aforesaid shall be a double vote, that is to say, he may first vote as a member of the said council, and if the votes be then equally divided, he may give a second or casting vote, and so determine the question then before the council.

And be it declared and further ordained and enacted, That the words "one third part of the entire number of councillors composing the said council," in the said thirty-sixth section of the said Ordinance, do and shall mean, and shall be construed to mean, one third part of the whole number of the members of the said council; and generally that the word "councillor," and the word "councillors," whenever they occur in the said Ordinance, do and shall mean any member or the members of the said council, unless by the context it shall appear clearly that the said words respectively are intended to apply exclusively to a member or members of the said council who is not or are not the mayor or an alderman or aldermen of the said city.

And be it further ordained and enacted, That the notice required by the thirty-eighth section of the said Ordinance to be given by the mayor, with regard to any special meeting to be called by him under the provisions of the said section, shall specify the business for which the proposed meeting is to be held, anything in the said section to the contrary notwithstanding.

And whereas doubts have arisen as to the true intent and meaning of certain parts of the forty-first section of the said Ordinance: Be it therefore declared and further ordained and enacted, That the said council have and shall have power and authority in the manner and for the purposes in the said section mentioned to make rates and assessments to the amount of one shilling in the pound in any one year on the assessed yearly value of the property liable to such assessment, over and above the amount of the assessment of sixpence in the pound which might have been before the passing of the said Ordinance levied on such property by the justices of the peace for the district of Montreal, by virtue of the powers and authorities transferred to the said council by the forty-third section of the said Ordinance, that is to say, the rates and assessments which the said council are authorised to assess and levy on real or personal property, or both, within the said city, under the authority of the said forty-first section and of the said forty-third section of the said Ordinance, and subject to the provisions thereof, may in the whole amount to, but shall not exceed, one shilling and sixpence in the pound on the assessed yearly value of the property liable to such rates and assessments.

And be it further ordained and enacted, That in addition to the duties which the said council are by the forty-first section of the said Ordinance authorised to impose on persons exercising certain trades and callings within the said city, it shall be lawful for the said council in like manner to impose

No. 196.

Incorporating the City and Town of Montreal.

a duty or duties on proprietors, owners, or keepers of theatres, circuses, or public exhibitions or shows of any kind, or of horses or carriages of any kind kept for pleasure or for hiring out, and of billiard-tables or dogs within the said city; and on wholesale and retail dealers in goods, wares, or merchandize of any kind, keepers of eating-houses, coffee-houses, or ordinaries, auctioneers, grocers, bakers, butchers, hucksters, pawnbrokers, livery stable-keepers, or carters within the said city; and on all persons acting as ferrymen to the said city, or plying for hire for the conveyance of persons by water to the said city from any place not more than nine miles distant from the same, and to impose by any by-law or by-laws imposing any such duty or duties such fines not exceeding five pounds, and such imprisonment not exceeding thirty days, for any one offence, on any person exercising any of the callings or trades aforesaid without having paid the duty imposed on persons exercising the same, as they may think proper for enforcing the payment of such duties.

And be it further ordained and enacted, That the said Council shall have power and authority, by any bye-law to be passed for that purpose, to increase the amount of the commutation money payable by each person liable to statute labour on the highways within the said city to any sum not exceeding five shillings currency for each person so liable; and to enact that each and every person so liable shall pay the amount of such commutation money so fixed, and shall not be allowed to offer his personal labour on the said highways instead thereof; and to exempt from the payment of such commutation money any class of persons to whom they shall deem it right to grant such exemption on account of the limited means of such persons to pay the same.

And be it further ordained and enacted, That all the powers and authority heretofore vested in the justices of the peace for the district of Montreal, to make any tariff of rates of ferryage to the city of Montreal from any place within nine miles of the said city, or to make any regulations or bye-laws for the government of persons plying as ferrymen to the said city from places within the said limits, shall be and are hereby transferred to and vested in the said Council, who shall have full power and authority to make such rules, regulations and bye-laws concerning such rates of ferryage, and for the government of the said ferrymen, and of all landing-places within the city of Montreal, as they shall deem expedient: Provided always, that all rules and regulations made in the behalf aforesaid by the said justices of the peace, and in force at the time of the passing of this Ordinance, shall remain in force and be observed under the direction of the said Council until they shall repeal or alter the same: and provided also, teat nothing herein contained shall in any way diminish the powers of the Trinity House of Montreal, or the powers of the said justices of the peace, or of the Governor, Lieutenant-Governor, or person administering the government of this province, to grant or refuse a licence to any ferryman, or to save any person from being liable to any penalty by law imposed on persons acting as ferrymen without such licence.

And be it further ordained and enacted, That in addition to the subjects, matters and things for and with regard to which the said council are by the said Ordinance authorized and empowered to make bye-laws, it shall be lawful for the said council to make bye-laws, which shall be binding on all persons within the said city, for the following purposes, that is to say: For establishing a board or boards of health for and within the said city, and for appointing the members thereof, and for making all such regulations as they may deem necessary for preserving the inhabitants thereof from contagious and infectious diseases, or for diminishing the danger of or arising from the same; and for imposing such penalties not exceeding five pounds currency, and such imprisonment not exceeding thirty days for any one offence, as they shall deem necessary for enforcing such bye-laws and regulations: For regulating the measurement of all firewood, coals, and salt, and the weight and measurement of all grain brought into the said city for sale and consumption therein, and for appointing measurers and weighers of all such articles, and establishing and regulating the fees to be paid to such officers and the duties they shall perform: For assessing the proprietors of real property for such sum or sums as may at any time be necessary to defray the expenses of making or repairing any common sewer in any public street or highway within the said city, and immediately in front of such real property respectively, and for regulating the mode in which such assessments shall be collected and paid: For directing and requiring the removal, at any time not less than six months after

the passing of this Ordinance, of any door-steps, porches, railings, or other projections into or obstructions in any public street or highway within the said city, by and at the expense of the proprietors of the real property in or on which such projection or obstruction shall be found: For defraying out of the funds of the said city the expense of lighting the said city, or any part thereof with gas or with oil, or in any other manner, and of performing all such work of any kind as may be necessary for such purpose; and for obliging the proprietors of real property in any part of the city so lighted, or to be lighted, to allow such work to be performed on or in such property respectively, and such pipes, lamps, lamp-posts, and other contrivances or things as may be necessary for the purpose aforesaid, to be fixed in or upon such property, or any building thereon, the expense of all such work being in every case defrayed by the said council, and out of the funds of the said city: For altering the level of the footpaths or side-walks in any street or highway within the said city, in such manner as the said council shall deem conducive to the convenience, safety, and interest of the inhabitants of the said city: Provided always, That the said council shall and may make compensation out of the funds of the said city to any person whose property shall be injuriously affected by any such alteration of the level of any footpath in front thereof: For regulating all vehicles of any kind whatever in which any articles shall be exposed for sale in any public market or in any street or public place within the said city, and for imposing a duty or duties on such vehicles, and establishing the mode in which such duty or duties shall be collected and paid; and by any such bye-law for any of the purposes aforesaid, or for any other purpose for which they are authorized by this Ordinance to make any bye-law, the said council may impose such fines not exceeding five pounds, and such imprisonment exceeding thirty days, as they may deem necessary for enforcing the same.

And be it further ordained and enacted, That the said council shall have full power and authority by any bye-law, to change the site of any market or market-place within the said city, or to establish any new market or market-place, or to abolish any market or market-place then or now existing, or to appropriate the site thereof or any part of such site for any other public purpose whatever, any law, statute, or usage to the contrary notwithstanding, saving to any party aggrieved by any act of the said council under the authority of this section any remedy such party may by law have against the corporation of the said city for any damage by such party sustained by reason of such act.

And be it further ordained and enacted, That the seventh section of the Act of the Provincial Legislature, passed in the thirty-ninth year of the reign of His Majesty King George the Third, and intituled "An Act for the better Regulating the Weights and Measures of this Province," shall be and is hereby repealed in so far as regards the said city of Montreal; and from and after the passing of this Ordinance the said council may cause the different articles sold in any market to be weighed and measured when required by any party interested therein, by such person or officer, and under such regulations, and on the payment of such fees as the said council shall, by a bye-law, from time to time, appoint and make in that behalf.

And be it further ordained and enacted, That the fourteenth section of the act of the Provincial Legislature, passen in the forty-seventh year of the reign of His Majesty King George the Third, and intituled "An Act for Building a New Market-house in the City of Montreal, for Removing Part of the Stalls on the Old Market-place, and Regulating the same, and to authorize the Borrowing a certain sum of Money for those Purposes," shall be and is hereby repealed; and all prosecutions for offences against any rules or regulations validly made or to be made concerning any market or market-place in the said city shall and may be prosecuted in the name of the corporation of the said city by such person or persons as the council thereof shall from time to time appoint for that purpose.

And be it further ordained and enacted, That any space under cover along the sides of the market-place established by the provincial Act last above cited may be let by the said corporation for the purpose of selling or exposing to sale therein any kind of commodity or articles whatever, anything in the said Act to the contrary notwithstanding.

And be it further ordained and enacted, That the nineteenth section of the provincial Act last above cited shall be and is hereby repealed; and all fines and penalties imposed by or under the authority of the said Act, or by the said council by virtue of any powers vested in them with regard to the market or market-

No. 196.

Incorporating the City and Town of Montreal.

place in the said Act mentioned, shall be appropriated in the manner hereinafter provided with respect to the fines and penalties imposed by any bye-law of the said council.

And be it further ordained and enacted, That the fiftieth section of the said Ordinance shall be and is hereby repealed.

And be it further ordained and enacted, That from and after the passing of this Ordinance, and until the first day of May next after the passing thereof, and no longer, all and every the powers and authority, privileges, duties, and obligations vested in or imposed on the "Fire Society" in and for the said city, under and by virtue of a certain Ordinance passed in the second year of Her Majesty's reign, and intituled "An Ordinance to suspend for a limited time certain Parts of Two Ordinances therein mentioned, as far as the same relate to the City of Montreal, and to establish a Society therein for Preventing Accidents by Fire," shall be and are hereby transferred to and vested in and imposed upon the said council of the said city, who are hereby substituted for the said "Fire Society" to and for all intents and purposes whatsoever, except only in those cases in which provision is hereby made to the contrary; and the said "Fire Society" shall forthwith deliver and pay over to the said council all books, papers, documents, moneys and things in the possession of such "Fire Society" at the time of the passing of this Ordinance: Provided always, That so much of the said Ordinance as provides for the appointment of the members of the said "Fire Society," or of the President thereof, by the Governor of this Province, or for the appointment of any secretary or treasurer other than the clerk or treasurer of the said council and their assistants, and so much thereof as limits the fines and penalties to be imposed for the infraction of any regulations or by-laws made under the authority of the said Ordinance, or requires that the by-laws made under its authority should be passed or published in any special manner, or should be confirmed by any court or judges, or as relates to the number of members of the society who shall form a quorum, or to the duties of any member of the society within or with regard to any particular ward or division of the said city, or as directs that the accounts of the said society shall be made up to and at any particular time, or that prosecutions for the recovery of moneys or of penalties shall be instituted by the secretary, treasurer of the society, or that the said officer shall defend any action instituted against the society, and generally so much of the said Ordinance as may be in anywise inconsistent with or repugnant to the provisions of the Ordinance to incorporate the city and town of Montreal, as hereby amended, shall be and so much of the said Ordinance passed in the second year of Her Majesty's reign is hereby repealed; and the by-laws and regulations which the said council is authorized to make, alter, or repeal under the provisions of this section, and by virtue of the powers heretofore vested in the said "Fire Society," and hereby transferred to the said council, may be passed, and shall be subject to disallowance; and shall, if not disallowed, have force and effect in the same manner and under the same provisions as other by-laws of the said council, and may be enforced by fine and imprisonment to a like amount and for a like time: Provided always, That all by-laws of the said "Fire Society" in force at the time of the passing of this Ordinance shall remain in force until repealed or altered by the said council, and all fines thereby imposed may be sued for and recovered as if imposed under the authority of this Ordinance; and so much of all such fines and penalties, whether imposed by any by-law of the said society or of the said council, as shall belong to the corporation of the said city, and all moneys to be received and collected by the said council under the powers vested in them by this section, shall form part of the general funds of the said city, and shall and may be applied by the said council, who may apply and are hereby authorized to apply such parts of the said general funds as they may deem expedient to any purposes for which the said "Fire Society" was before the passing of this Ordinance authorized to apply any part of the funds at their disposal, anything in any Ordinance or Law to the contrary notwithstanding.

And be it further ordained and enacted, That from and after the said first day of May next after the passing of this Ordinance, the said Ordinance passed in the second year of Her Majesty's reign, and intituled "An Ordinance to suspend for a limited time certain Parts of Two Ordinances therein mentioned as far as the same relate to the City of Montreal, and to establish a Society therein for preventing Accidents by Fire," and all by-laws made by the said Fire Society, or by the said council under the authority of the said Ordinance, shall be repealed;

and the books, papers, documents, moneys, and things delivered and paid over to the said council in pursuance of the next preceding section of this Ordinance, shall remain the property of the corporation of the said city, and under the control of the said council.

And be it further ordained and enacted, That from and after the said first day of May next after the passing of this Ordinance, a certain Ordinance passed in the seventeeth year of the reign of His late Majesty King George the Third, and intituled "An Ordinance for preventing Accidents by Fire," and a certain Ordinance passed in the thirtieth year of the reign aforesaid, and intituled "An Act or Ordinance to amend an Act or Ordinance for preventing Accidents by Fire, passed in the Seventeenth Year of His Majesty's Reign," and a certain Act passed in the fifty-ninth year of the same reign, and intituled "An Act to repeal in part an Ordinance passed in the Seventeenth Year of His Majesty's Reign, intituled 'An Ordinance for preventing Accidents by Fire,' and for other Purposes therein mentioned," shall be and remain repealed in so far as they relate to the said City of Montreal.

And for the better protection of the lives and property of the inhabitants of the said city, and for preventing accidents by fire therein, be it further ordained and enacted, That from and after the said first day of May next after the passing of this Ordinance, the said council of the said city shall have full power and authority to make bye-laws which shall be binding on all persons within the said city, for the following purposes, that is to say; For establishing such rules and regulations as they shall deem expedient for preventing accidents by fire, and for the conduct of all persons present at any fire within the said city: For appointing all such officers as they may deem necessary for carrying such rules and regulations as aforesaid in effect, and for prescribing the duties of such officers and providing for their adequate remuneration out of the funds of the said city: For defraying out of the said funds any expenses which they may deem it right to incur for the purchase of engines or apparatus of any kind, or for any other purpose relative to the prevention of accidents by fire, or to the means of arresting the progress of fires: For authorising such officers as shall be appointed by the council for that purpose to visit and examine at suitable times and hours to be established in such bye-laws, as well the interior as the exterior of all houses, buildings, and real property of any description within the said city, for the purpose of ascertaining whether the rules and regulations to be made as aforesaid have been duly observed and obeyed, and for obliging all proprietors, possessors, or occupants of such houses, buildings, or real property, to admit such officers and persons into and upon the same at the times and for the purposes aforesaid: For causing all chimneys within the said city to be swept in such manner, by such persons, and at such times as the council shall appoint: For vesting in such members of the said council, and in such officers as shall be designated in such bye-laws, the power of causing to be demolished or taken down all buildings or fences which such members or officers shall deem necessary to be demolished or taken down in order to arrest the progress of any fire: For preventing thefts and depredations at fires, and for punishing any person who shall resist or maltreat any member or officer of the council in the execution of any duty assigned to him, or in the exercise of any power vested in him by any bye-law made under the authority of this section: For defraying out of the funds of the city any expense to be incurred by the said council in assisting any person in their employ who shall have received any wound or contracted any disease at any fire, or in assisting or providing for the family of any person in their employ who shall perish at any fire, or in bestowing rewards in money, medals, or otherwise, upon any person who shall have performed any meritorious action at any fire: For imposing over and above all other rates, assessments, or duties which the said council are empowered to impose, such tax or duty on and in respect of each chimney actually used in the said city, and payable by the occupant of the house or building in which such chimney shall be, as they shall deem expedient; and for regulating the times and manner in which such tax or duty shall be collected and paid: Provided always, That the said council shall make no further charge for causing any chimney to be swept in the manner to be provided by any bye-law in that behalf as aforesaid.

Provided always, and be it further ordained and enacted, That the said

No. 196.

Incorporating the City and Town of Montreal.

council shall and may out of the funds of the said city pay and discharge all debts and obligations lawfully contracted by the said Fire Society and due at the time of the passing of this Ordinance; and shall also pay and continue to pay the annuity or retiring allowance payable before the passing of this Ordinance by the Fire Society aforesaid to the person who immediately before the establishment of the said Fire Society held the office of overseer to prevent accidents by fire for the said city of Montreal.

And be it further ordained and enacted, That the said council shall have full power and authority notwithstanding any law to the contrary, to purchase and acquire, or to take and enter into, after paying, tendering, or depositing the value thereof to be ascertained as hereinafter provided, such land, ground, or real property of any description within the said city as may by them be deemed necessary for opening new streets, squares, market-places, or other public highways or places, or for continuing, enlarging, or otherwise improving those streets, squares, market-places, or other public highways or places now made, or as a site for any public building to be erected by the said council, and to pay to or for the use of the proprietor or proprietors of such ground or real property, and out of any funds of the said city now in or which shall hereafter come into their hands, such sum or sums of money as may be agreed upon as the value of such ground or other property, by the party proprietor thereof and the said council respectively, or ascertained in the manner hereinafter mentioned in case they shall not so agree upon the same.

And be it further ordained and enacted, That it shall be lawful for all corporations, aggregate or sole, husbands, tutors, or guardians, curators *grevés de substitution*, and all trustees whatsoever, who are or shall be seized or possessed of, or interested in, any piece or pieces, parcel or parcels of ground or other real property within the said city, selected and fixed upon by the said council for any of the purposes aforesaid, not only for themselves, their heirs and successors, but for and on behalf of all persons whom they represent, or for whom or in trust for whom they are or shall be seized, possessed, or interested as aforesaid, whether minors, or issue unborn, lunatics, idiots, *femes covert*, or other person or persons, to contract for, sell, and convey such piece or pieces, parcel or parcels of ground, to the corporation of the mayor, aldermen, and citizens of the city of Montreal, and such contracts, sales, and conveyances shall be valid and effectual in law, to all intents and purposes whatsoever, any law or custom to the contrary notwithstanding: and all corporations and persons whatsoever so contracting, selling, or conveying as aforesaid, are hereby indemnified for and in respect of any such sale, which he, she, or they shall respectively make, by virtue of or in pursuance of this Ordinance, saving always the rights of any person or party to the whole or any part of the purchase-money or compensation to be paid by the said corporation for any real property purchased or taken as aforesaid.

And be it further ordained and enacted, That in all cases where the said council, and the persons seized or possessed of or interested in the said piecet or parcels of ground or other real property or any of them, or of any pars thereof, shall be absent, or shall not be known, or shall not by voluntary agreement or by arbitration settle and determine the price and prices, compensation and compensations to be paid for the said premises, or any part thereof, such price and prices, compensation and compensations shall be ascertained, fixed, and determined in manner following, that is to say: the justices of the peace resident within the said city and town of Montreal, in a special session to be for that purpose holden upon a petition to them addressed, and upon proof that notice in writing was given one month previously to the party seized, possessed of, or interested in such pieces or parcels of ground or real property, or to his, her, or their tutor, curator, administrator, attorney, agent, or curator, *ad hoc*, of the intention of the said council to present such petition to the said justices of the peace for the purpore of taking possession of, entering into, and appropriating to the use of the said corporation, such pieces or parcels of ground or other real property, shall summon a jury of twelve disinterested persons taken from among the persons resident within the said city qualified to be special jurors in civil cases, and the said jury shall determine upon their oaths the amount of the price or compensation which they shall deem reasonable to be paid by the said corporation for such pieces or parcels of ground or real property as afore-

said: Provided always, That any determination as aforesaid in which any nine of the jurors shall agree shall, for the purposes of this Ordinance, have the same effect as if all the jurors had agreed therein.

And be it further ordained and enacted, That on payment of the price or prices, compensation or compensations, to be fixed and determined as aforesaid, or in case of refusal or neglect to accept the same, or in case it be doubtful to what person or party the same shall of right belong, on the deposit thereof in the hands of the prothonotary of the Court of King's Bench for the district of Montreal, or in the hands of the prothonotary of the second division of the Court of Common Pleas for this province, for the use of the person or persons or party entitled to the same, the right of property, title, and interest, in and to such pieces or parcels of ground or other real property respectively, for which such price or prices, compensation or compensations shall be payable, shall be divested out of the person or persons or party seized and possessed thereof or entitled to the same, and shall become and be vested in the corporation of the mayor, aldermen and citizens of the city of Montreal, and the Council of the said city may, after fifteen days' notice in that behalf to the proprietor, possessor, or occupant of the piece or parcel of land to which such award shall relate, enter upon, take possession of, and use such piece or parcel of land for any of the purposes authorized by this Ordinance or the Ordinance herein first cited and amended, any law, statute, or usage to the contrary notwithstanding.

And be it further ordained and enacted, That all the provisions and enactments of the two sections next immediately preceding this section with regard to the mode in which the value of any real property taken by the said Council shall be ascertained, and the amount thereof paid or deposited in certain cases, shall be and are hereby extended to all cases in which it shall become requisite to ascertain the amount of compensation to be paid by the Council to any proprietor of real property for any damage by him sustained by reason of any alteration made by order of the said Council in the level of any footpath or sidewalk, or to any party by reason of any other act of the said Council for which they are bound to make compensation, and with regard to the amount of compensation for which damage the party sustaining the same and the said Council shall not agree.

And be it further ordained and enacted, That all corporations, ecclesiastical or civil, whose property or any part of whose property shall be conveyed to or taken by the said corporation of the city of Montreal under the authority of this Ordinance or of the Ordinance herein first cited and amended, may invest the price or compensation paid for the property so conveyed or taken in other real property in any part of this province, and may take and hold the same without Her Majesty's letters of mortmain, any law to the contrary notwithstanding.

And be it further ordained and enacted, That all moneys due or payable to the said council, as the amount of any rate, assessment, tax, duty, or impost lawfully imposed by or payable to the said council under the authority of the said Ordinance to incorporate the city and town of Montreal, or of this Ordinance, may be sued for and recovered with costs in a summary manner and on the oath of one or more credible witness, before any two or more justices of the peace for the district of Montreal, at any weekly sitting of such justices in the city of Montreal; and the amount so recovered and the coasts aforesaid shall and may be levied by distress and sale of goods and chattels of the party defendant, by warrant under the hand and seal of such justices or of any one of them, if not forthwith paid to the treasurer of the said corporation.

And be it further ordained and enacted, That all offenders against any bye-law lawfully made or to be made by the said council or by the said Fire Society, or by any justices of the peace or other functionaries whatsoever in whose place and stead the said council have been or hereby are substituted by virtue of any power transferred to and vested in the said council, may be prosecuted before any two or more justices of the peace for the district of Montreal, at any such weekly sitting as aforesaid, and such justices shall have full power and authority on the conviction of any such offender (and any such offender may be convicted on the oath of any one credible witness other than the informer or prosecutor) to award the penalty or the imprisonment, as the case may be, imposed by any such bye-law for the offence of which such offender shall be convicted, with the costs of prosecution, against,

No. 196.

Incorporating the City and Town of Montreal.

such offender, and to commit such offender to the common gaol of the district, if the offence be punishable by imprisonment, and to levy such penalty with costs, if not forthwith paid, by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of any one of such justices; and one moiety of any such penalty shall go to the informer or prosecutor, and the other moiety shall be paid to the treasurer of the said corporation, and form part of the funds at the disposal of the said council: Provided always, That any such prosecution may be brought and conducted in the name and on the behalf of the said corporation, and in that case the whole of any such penalty as aforesaid shall be paid to the said treasurer, and form part of the funds aforesaid: And provided also, That the mayor of the said city, or any member of the said council, being a justice of the peace for the said district of Montreal, may act as a justice of the peace under the provisions of this section and of the section next preceding it, and any member, officer, or servant of the said corporation shall be a competent witness in any suit or prosecution under the said provisions, if he have no direct interest in the issue of such suit or prosecution, or be not otherwise rendered incompetent, any law, usage or custom to the contrary notwithstanding.

And be it further ordained and enacted, That all the provisions of the forty-second section of the said Ordinance to incorporate the city and town of Montreal shall be and are hereby extended to all bye-laws to be made by the said council under the authority of this Ordinance.

And be it further ordained and enacted, That nothing in this Ordinance contained shall in any manner derogate from or affect or be construed to derogate from or affect the rights of Her Majesty, her heirs and successors, except in so far only as the same may be expressly derogated from or affected by the provisions of this Ordinance.

And be it further ordained and enacted, That the words "Governor of this province," wheresoever they occur in this Ordinance, shall be understood as meaning and comprehending the Governor or any person authorised to execute the commission of Governor within this province for the time being.

And be it further ordained and enacted, That this Ordinance shall be held and taken to be a public Act, and as such shall be judicially taken notice of by all judges, justices, and persons whomsoever, without being specially pleaded.

And be it further ordained and enacted, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council under the Great Seal of the Province, at the Government House in the city of Montreal, the ninth day of February, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and forty-one.

By his Excellency's Command,

(Signed) W. B. LINDSAY.

Clerk Special Council.

I hereby certify the preceding to be a true copy of an Ordinance passed by the Governer of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, on the ninth day of February, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,

Clerk Special Council.

(Copy.)

No. 197.

No. 197.

Amending the Laws relative to Winter Roads.

CAP. 33.—*An Ordinance to amend the Laws relative to Winter Roads.*

[Passed 9th February, 1841.]

WHEREAS it is expedient to make further provision for the more effectual improvement of the Winter Roads in this province: Be it therefore ordained and enacted by his Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the second and third years of the reign of Her present Majesty, intituled "An Act to amend an Act of the last Session of Parliament, for making temporary Provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the session held in the third and fourth years of the reign of Her present Majesty, intituled "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby ordained and enacted by the authority of the same, and by virtue of the powers in them vested by the said Acts of Parliament, that it shall be the duty of each overseer of highways in this province, within twenty-four hours after the cessation of each fall of snow or snow-drift, by which the beaten track upon any part of any public road under his superintendence or control shall be covered to a depth exceeding eight inches, with loose and unbeaten snow, to order verbally or in writing that such part of the road as shall be so covered be opened and beaten for a width of at least twelve feet by the person or persons bound to keep the same in repair, who shall be and are hereby declared to be bound to beat and open such part of such road in the manner aforesaid within twenty-four hours after such order, under a penalty of ten shillings currency for each day during any part of which the requirements of this section shall remain uncomplied with by such person or by such overseer; and it shall be the duty of each overseer of highways to prosecute each person who shall become liable to any such penalty by neglecting to comply with the requirements aforesaid with regard to any road under the superintendence of such overseer, within six days after such person shall have become so liable, under a penalty of ten shillings currency for each person so liable whom he shall neglect to prosecute within the period aforesaid.

And whereas doubts have arisen as to the true intent and meaning of certain parts of the Ordinance passed in the third year of Her Majesty's reign, and intituled "An Ordinance to provide for the Improvement during the Winter Season of the Queen's Highways in this Province, and for other Purposes;" Be it therefore declared and further ordained and enacted, That each and every of the enactments of the said Ordinance with regard to winter carriages or vehicles without wheels used for the conveyance of passengers and their baggage, to the amount of one hundredweight for each passenger, and with regard to persons so using the same, on any or on any part of the Queen's highways or public roads within this province to which the provisions of the said Ordinance shall then extend, do and shall extend and apply to all winter carriages or vehicles without wheels used on any part of the said highways or roads, for any purpose or in any way whatever, excepting always winter carriages or vehicles without wheels used for the conveyance of loads other than passengers and their baggage to the amount aforesaid, to which the enactments of the first section of the said Ordinance do and shall apply.

And be it further ordained and enacted, That all penalties imposed by this Ordinance shall and may be recovered, applied, and accounted for, in the manner by the said Ordinance provided with regard to penalties thereby imposed; and if such penalty and the costs of prosecution be not forthwith paid, the offender may in like manner be committed by the justice of the peace before whom he shall

No. 197.

Amending the Laws relative to Winter Roads.

have been convicted to the common gaol of the district for a period not exceeding eight days: Provided always, That the justice of the peace before whom any offender shall be convicted of any offence against the enactments of the said Ordinance or of this Ordinance may, at his discretion, cause the amount of the penalty imposed for such offence, and the costs of prosecution, if the said penalty and costs be not forthwith paid, to be levied by distress and sale of the goods and chattels of the offender by warrant under the hand of such justice of the peace, instead of committing such offender to the common gaol of the district as aforesaid.

And be it further ordained and enacted, That the words "the main public or post road by which communication is had between the town of Three Rivers and the city of Quebec," in the fifth section of the said Ordinance, do and shall mean and be construed to mean the Saint Foy road from the city of Quebec to its junction with the route commonly called "*La Suède*," the said route to the foot of the hill called "*La Côte de Champigny*," the road leaving the said route near the said *Côte*, and leading past the farm commonly called Hough's Farm, to the church of the parish of Saint Augustin, and thence to the route or road leading downward to the main front road along the bank of the River Saint Lawrence, in the parish of La Pointe aux Trembles, the said route or road, and the said main road along or nearest to the bank of the said river from the parish last mentioned to the south-western boundary of the district of Quebec.

And be it further ordained and enacted, That this Ordinance shall be and is hereby made permanent, and shall remain in force until repealed or altered by competent authority.

(Signed) SYDENHAM.

Ordained and enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government-House in the city of Montreal, the ninth day of February, in the fourth year of the reign of our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord One thousand eight hundred and forty-one.

By his Excellency's command,

(Signed) WM. B. LINDSAY.
Clerk Special Council.

I hereby certify the preceding to be a true Copy of an Ordinance passed by the Governor of the Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said Province, on the ninth day of February, One thousand eight hundred and forty-one, and in the fourth year of Her Majesty's reign.

(Signed) WM. B. LINDSAY,
Clerk Special Council.

LONDON: Printed by WILLIAM CLOWES and SONS, Stamford Street,
For Her Majesty's Stationery Office.

CANADA.

RETURN to an ADDRESS of the Honourable The House of Commons, dated 19 February 1841 ;—*for*,

COPY of a DESPATCH from the GOVERNOR-GENERAL of *British North America*, transmitting a Return from the Principal of the Seminary of *Montreal*, showing the Names of those who, since the passing of the Ordinance 3 Vict. c. 30, have commuted the Tenure of their Property; with a Statement of the Amount of that Property.

Ordered, by The House of Commons, *to be Printed*, 23 *February* 1841.

COPY of DESPATCH from the Governor-general of *British North America* to *Lord John Russell.*

Government House, Montreal,
20 January 1841.

My Lord,

WITH reference to my despatches of the 13th March and 28th June last, I have the honour to transmit to your Lordship herewith the copy of a Return furnished to me by the Principal of the Seminary of Montreal, showing the names of those who, since the passing of the Ordinance 3 Vict. c. 30, have commuted the tenure of their property, with a statement of the amount of that property. Your Lordship will find by a comparison of this return with the petition against the ordinance sent home last summer, that amongst those who have most largely profited by its enactment, are several of the signers of that petition.

For Despatch 13 March, *vide* Papers ordered by the House of Commons to be printed, 10 April 1840, No. 225.
For Despatch 28 June, *vide* page 2.

I am happy to say that all excitement on the subject has now subsided; and I can conceive no probability of its being renewed, except it were supposed that there was a possibility of the ordinance being interfered with in England. How little such an interference would accord with the wishes or interests of those who last year petitioned the Crown, your Lordship will easily understand from perusing the enclosed list.

I have, &c.
(signed) *Sydenham.*

LISTE des PERSONNES qui ont affranchi leurs Propriétés en vertu de l'Ordonance 3 Vict· cap. xxx, depuis Juillet 1840, jusqu'en Janvier 1841.

NOMS DES PERSONNES.	NATURE ET SITUATION DES PROPRIETÉS.	VALEUR.		
		£.	s.	d.
O. T. Bruneau, M.D. - - - -	Emplacement en Ville - -	215	–	–
L. D. Omer, not., & N. Valois, tanneur - - - - - -	Terrein Faubg. St. Antoine -	450	–	–
Oliver Berthelet, ecuier - -	Ditto - - ditto - - -	900	–	–
Dem. Chaboillez - - - - -	Ditto, Faubg. de Québec - -	79	–	–
James Wilson, brush-maker - -	Emplacement Faubg. St. Laurent	180	–	–
Homer Taylor, cabinet-maker -	Ditto - - ditto - - -	112	10	–
Henry Ward, porter - - - -	Ditto - - ditto - - -	112	10	–
James Walker, trader - - - -	Ditto - - ditto - - -	250	–	–
Alpin M'Intosh, carpenter - -	Ditto - - ditto - - -	135	–	–
Louis Boyer, dit Quintal, & Flore Theodóre Serres, dit St. Jean. - - - (commerçants) -	Terre et emplacement au Faubg. de Québec et St. Laurent -	4,031	13	4

(*continued*)

CANADA.

NOMS DES PERSONNES.	NATURE ET SITUATION DES PROPRIETÉS.	VALEUR. £.	s.	d.
L. Comte & L. Pascal Comte, maçon et entreprenens	Terre Faubg. St. Laurent, Coteau St. Louis	400	–	–
George M'Kenzie, innkeeper	Emplacement en Ville	805	–	–
John Try, esq.	Ditto Faubg. St. Laurent	235	–	–
Robert Smith, joiner	Terrein - ditto	500	–	–
Thomas Hewith, teacher of music	Emplacement ditto	265	–	–
James Ferrier, esq.	Terrein - ditto	1,228	–	–
Marie L. Pickle, épouse de T. Dufort	Emplacement en Ville	700	–	–
William Gauld, farmer	Terre au Coteau St. Pierre	1,900	–	–
John & Wm. Dunlop, plasterers	Emplacement Faugb. St. Laurent	135	–	–
William Macintosh, esq.	Terre à la Chine	1,900	–	–
Heritiers Robert M'Kenzie	Terrein Faubg. St. Antoine	1,500	–	–
John Smith, merchant	Ditto - St. Laurent	1,143	18	3
James Hutchison, esq.	Emplacement en Ville	800	–	–
John Adams Perkins, merchant	Ditto Faubg. St. Laurent	800	–	–
James Mason, M.D.	Terre à Ste. Anne, du bout de l'Iser	690	–	–
Mad. Letourneux	Verger au Faubg. St. Antoine	1,200	–	–
William Pawson, merchant	Terrein au Faubg. St. Laurent	953	–	–
Heritiers Wm. Hutchison, Mon. & Md. Lunn, G. W. Campbell, M.D. et son épouse & Js. Hutchinson, esq.	Emplacement en Ville	919	–	–
Charles Bowman, merchant	Ditto - ditto	1,685	–	–
Mr. C. Meredith, avocat	Ditto - ditto	1,162	10	–
Walter M. Peddie, merchant	Terrein Faubg. St. Laurent	219	–	–
Jean B. Saucer, bedeau	Emplacement en Ville	500	–	–
Henry Judah, avocat	Ditto - ditto	962	–	–
R. F. Maitland & Co., merchants	Ditto - ditto	3,890	–	–
Hon. Jules Quesnel, esq.	Terrein au Faubg. St. Laurent	1,200	–	–
V. V. Lachapelle, jun., commerçant	Isle de la Visitation Sault au Recattet	250	–	–
Hubert Paré, marchand	Emplacement en Ville	4,000	–	–
André Ominet, avocat	Ditto - ditto	1,800	–	–
Robert & Ben. Brown, & Wm. M. Elliot - merchants, London	Ditto Faubg. St. Antoine	760	–	–
Charles Geddes, merchant	Ditto - St. Laurent	600	–	–
Hon. Peter M'Gill (mayo	Ditto en Ville	1,530	–	–
John Redpatch, esq.	Terreins au Faubg. St. Antoine	4,000	–	–
John M'Kenzie, merchant	Emplacement en Ville	2,500	–	–
William Farqhuar, merchant	Ditto Faubg. de Québec	80	–	–
Richard Robinson, carpenter	Ditto - St. Laurent	175	–	–
Alexander M'Kenzie, esq.	Terres et moulins Riviere du Nord, Lac des Deux Montagnes	2,400	–	–
Hon. J. Gerrard, esq.	Terrein Faubg. St. Antoine	2,000	–	–
Dem. Marie Ann Johnson	Terre Courant Ste. Marie	3,250	–	–
Wm. & Thos. Molson, merchants	Terrein Faubg. de Québec	6,800	–	–
Henry Leonard Turner, marchand	Terre à St. Laurent	1,670	–	–
Jean B. Baudry, marchand	Emplacement Faubg. St. Laurent	500	–	–
Hon. Sam. Gale, judge	Terre au pied du Courant	1,500	–	–
	£.	65,973	11	7

Séminaire de Montréal,
19 Janvier 1841.

(signed) *J. Quiblier*, Supr.

(133.)

COPY of a DESPATCH from the Governor-General of *British North America* to Lord *John Russell*.

For Despatch, 13 March, No. 68, *vide* Papers ordered to be printed by the House of Commons, 10 April 1840, No. 225.

Government House, Montreal,
28 June 1840.

My Lord,

IN my despatch of the 13th March last, No. 68, I informed your Lordship that it was my intention to re-introduce into the special council, at its meeting, with such

such modifications as I deemed necessary, the ordinance for incorporating the ecclesiastics of St. Sulpice, and providing for the gradual extinction of seigniorial rights within their possessions, which was last year passed by Sir John Colborne and the council; but which could not be rendered effective under the powers of the council as then constituted. I accordingly sent down to them on the 30th ult. the draft of an ordinance for that purpose, which, after the fullest discussion, was passed, and having received my assent, is included among the ordinances which accompany my despatch of the 27th instant.

I have already stated to your Lordship, in my despatch, No. 68, my views as to the general policy of this measure and my concurrence in the opinion of the Commissioners of Inquiry, that after so long an acquiescence by the government in the claims of the seminary, it would be impossible with justice now to take advantage of any defect in their legal title to interfere with their property, or to impose on them terms of a rigorous nature. It is only necessary, therefore, that I should direct your attention to the alterations in the present ordinance, introduced with a view to bring it more into conformity with the heads of the ordinance proposed in Mr. C. Buller's Report to the Earl of Durham, all which alterations, I may remark, are restrictions upon the seminary, and in favour of the public or the censitaires.

For Mr. Buller's Report, *vide* App. (E.) to Lord Durham's Report on the Affairs of British North America, presented by Her Majesty's Command, 1839, page 184.

In the first clause of the ordinance passed by Sir John Colborne and the special council, it was provided that all rules, &c. for the temporary government of the corporation, "save only those which are now followed and in force," should, before coming into operation, be approved by the executive government. The present ordinance requires, that not the future rules only, but those also which already exist, should be submitted for the approval of the government.

The second clause of the present ordinance defines the purposes and objects to which the property of the Seminary may be applied, which was omittedjects to former.

In the fifth clause, a slight alteration is introduced in the terms of commutation, by which an advantage is conferred on the censitaires.

By the 8th clause the priority of the hypothec of the Seminary for the commutation-money, as for the rights it represents, is expressly secured, and the droit de banalité is abolished with regard to each lot of which the tenure is commuted. The object of the agreement being to put an end to all seigniorial rights at the option of each individual censitaire, I considered even the partial reservation of any one of these rights by the seminary as improper.

By the 11th clause the maximum of arrears which may be received by the seminary for the fief and seigniory of Montreal is limited to 44,000 *l.* currency, and for the seigniories of the Lake of Two Mountains and St. Sulpice to 12,700 *l.* currency, any surplus to be paid over to the provincial treasury.

The 12th clause provides that the farm of St. Gabriel shall be sold by public sale after notice in the newspapers for one month.

In the 13th clause, respecting the investment of the disposable monies of the corporation, the authority to invest them in chartered and incorporated bodies in the colonies is omitted.

By the 14th clause, the seminary is required to furnish "a full, clear and detailed statement" of their revenue and expenditure, in such manner and form, and with such attestation of "correctness," as the governor shall prescribe, instead of the summary statement required under the former ordinance; and finally, under the extended powers of the governor and special council the ordinance is made permanent.

Your Lordship will perceive that none of these alterations affect the principle of the ordinance, and that their object and tendency is to bring it as much as possible into accordance with the agreement made under Mr. C. Buller's mediation. The ordinance passed last year undoubtedly failed to carry into effect some of the provisions of that agreement, and the conditions imposed on the seminary were less stringent than they should have been to be in accordance with his Report. This objection has now been completely removed by the changes introduced by the special council.

I have every reason to believe that, notwithstanding the clamour raised by a few individuals in this city, and the violence of the press, the measure is approved by the moderate men of all parties. In the special council there were but two members who voted against it, and although the persons who signed the address to the Throne transmitted in my despatch, No. 68, have since sent an agent to

CANADA.

England, they declined, in answer to an unofficial communication which I made to them, to suggest any alterations or modifications of the ordinance.

In fact, it is not possible to deny that the terms of agreement with the seminary are most advantageous to the censitaires, and such as no other seigneur within the province, whether the Crown, or an individual, would consent to accept, and this accordingly is not denied by the parties. For years past the loudest complaints have been made by the inhabitants of Montreal, and more especially by the British community, of the injury which they suffered from the seignorial tenure possessed by the Seminary.

The strongest representations were repeatedly made to induce the legislature or the government to favour, if not to compel, a settlement of the matter; and this settlement is now effected, upon terms far more favourable, in a pecuniary sense, to the censitaires and the possessors of property under the seminary, than could have been anticipated, and to which, last year, according to Mr. Buller's Report, they assented.

The only ground, therefore, on which, as I understand it, the parties who have signed the petition to The Queen, oppose this settlement now, is that they set up an objection to any settlement at all with the seminary, alleging that that body has no legal right to the property, and that the matter must be considered as entirely new, and therefore, not authorizing the establishment of a corporation for such purposes, or with such an amount of property at its disposal.

Upon this, I have only to remark, that if the legal title of the seminary be a bad one, the property belongs to the Crown, and the faith of the Crown being pledged to the seminary, by repeated acts for the last 60 or 70 years, as is sufficiently shown in the Report of the Commissioners, it would not be possible for the Ministers of the Crown to resume the property, or assent to any act which should deprive the Seminary of it, without a fair and equitable compensation. Less than what is now given to them would not probably be considered sufficient for this purpose, and thus the only effect of now refusing to ratify their contract would be (so far as mere pecuniary considerations are involved), not to reduce the advantages to the Seminary, but to place the Crown in the position of Seigneur, compensating, as it is in honour bound to do, the latter, but offering very different, and less advantageous terms to the censitaires, for the right of commutation.

For Report of the Commissioners, *vide* Report of the Commissioners appointed to inquire into Grievances complained of in Lower Canada, presented by Her Majesty's Command, 1837, page 143.

But in a political point of view the disallow anceof this ordinance would be most disastrous. After years of contention, the matter was at last finally adjusted between the contending parties, through the mediation of Mr. Buller; the bargain thus made was ratified by the legislature here; it was approved by Her Majesty's Government and by both Houses of Parliament, and a special clause introduced into the Canada Government Bill by the Duke of Wellington, I believe, enabling that settlement to receive legal force. After all this, upon the representation of some few individuals, now to break up all that has thus passed, and to leave the question open to fresh discussion and fresh excitement, without the possibility of the Crown being able to consent to the measure which the petitioners affect to seek, namely, the abandonment of the Seminary, would entail the most disastrous consequences upon the colony. Upon these considerations, I adhere to the opinions of my predecessors, Lord Durham and Lord Seaton, and earnestly recommend the confirmation of the ordinance by Her Majesty.

Undoubtedly, if I considered the Crown to be free from any obligation, and that (supposing the strict legal right to be with it and not with the Seminary), I was at liberty to recommend the appropriation that I thought best, I should not make the present one. Although the Seminary is a most useful body, and manages its affairs greatly to the advantage of the province, I would willingly, under such circumstances, adopt a less exclusive distribution of such large Crown funds; and, above all, I would increase them greatly by making those who would then be the sensitaires of the Crown purchase their freedom at a much higher rate. But I am not in a situation, hampered as the Crown is by its previous engagements, to take such a course, and therefore, for the same reasons, I come to the same conclusion as those to whom I have above referred have done.

I have, &c.
(signed) *C. Poulett Thomson.*

CANADA.

COPY of a DESPATCH from the GOVERNOR-GENERAL of *British North America*, transmitting a Return from the Principal of the Seminary of *Montreal*, showing the Names of those who, since the passing of the Ordinance 3 Vict. c. 30, have commuted the Tenure of their Property; with a Statement of the Amount of that Property.

(*Mr. Vernon Smith.*)

Ordered, by The House of Commons, *to be Printed*,
23 *February* 1841.

Under 1 *oz.*

CANADA.

RETURN to an ADDRESS of the Honourable The House of Commons, dated 10 March 1841 ;—*for*,

COPY of a DESPATCH from Lord *Goderich* to Lord *Aylmer*, dated 13 September 1831.

Colonial Office, 11 March 1841.

R. VERNON SMITH.

Ordered, by The House of Commons, *to be Printed*, 11 *March* 1841.

COPY of a DESPATCH from Lord *Goderich* to Lord *Aylmer*.

(No. 63.)

My Lord, Downing-street, 13 Sept. 1831.

I HAVE received your Lordship's despatch, dated the 15th July 1831, No. 62, recommending the introduction of certain ecclesiastics into the Seminary of St. Sulpice at Montreal, with the view of maintaining and perpetuating that institution. A similar application has been made to me on behalf of certain priests, who are strongly recommended by the community of St. Sulpice at Paris. In order to determine the proper course to be taken with reference to these applications, I have thought it necessary to review all the correspondence between Lord Bathurst and Mr. Huskisson, and your Lordship's predecessors in the government of Lower Canada, on this subject. It appears to me impossible to detach the particular question which you have brought under my notice from the more general topics embraced in that correspondence. I think, also, that it is highly inexpedient any longer to postpone the final arrangement of a subject affecting so many and such important interests ; I proceed, therefore, to convey to your Lordship such instructions, as, upon a very deliberate review of the whole case, seems to me indispensable.

I find that, in the year 1827, a negotiation took place between the Rev. Mr. Roux, acting in the capacity of Superior of the Seminary of Montreal, and the late Mr. Huskisson.

That discussion terminated in an arrangement, the terms of which were communicated by Mr. Huskisson to Lord Dalhousie, with instructions to carry it into effect. Your Lordship is aware of the circumstances which defeated the execution of that design. It could answer no useful purpose to recount them on the present occasion. The legal incapacity of Mr. Roux and his associates to perform their part of the contract seems at length to have been generally admitted, and the measure would appear to have been abandoned by the unanimous consent of all the parties more immediately concerned.

I notice this ineffectual endeavour at the outset, because it is essential to show that the discretion of his Majesty's Government is unfettered by what has passed, and that it is open to them to act with the same freedom, as though the arrangement with Mr. Roux had never been made, or had been abandoned in the most express and formal manner. There can be no doubt that at this distance of time, and after all that has occurred, neither party could insist on recurring to it.

Though such is my view of the actual state of the question, I am not to be understood as desirous to escape from any of the pledges which were advisedly given by my predecessors in office on this subject, or as impeaching the accuracy of the judgment which they exercised ; on the contrary, all that has subsequently

occurred has only fixed in my mind the conviction that they were right in their general principle, and that but for the misapprehension under which they laboured of some of the facts, there was no part of their instructions which would not have admitted of execution to the great advantage of the province. I think, as they did, that it is an object of the highest importance to emancipate from the restrictions of the feudal law a great commercial city enjoying natural advantages so extraordinary as those of Montreal; that this tenure must impede many improvements of the greatest value which are required for the increase and security of trade, and that, if rescued from this absolute and improvident code, Montreal might rapidly assume a prominent rank among the cities of the first order on the American continent. Nor am I shaken in this opinion by the statement that the inhabitants themselves feel little solicitude on the subject. Supposing the assertion to be accurate, which I have considerable reason to doubt, nothing is more natural than that an advantage which has never been enjoyed should not be adequately appreciated. It would be superfluous to adduce arguments to show that a tenure which imposes the most burthensome charges on every change of property, and on every improvement made by the occupier, must be adverse to the prosperity of a commercial city. That individuals whose wharves and warehouses need no enlargement should find their interest in perpetuating restrictions which discourage competition, and that they should represent this selfish clamour as the public voice, is so entirely in accordance with the general experience of all countries, as to be altogether unworthy of regard. This is one of those questions on which the general principles of commercial policy may be confidently opposed to individual opinions founded on local knowledge.

I further concur with my predecessors in deprecating the continuance of an institution, which, instead of supplying the vacancies which occur in the governing body from amongst its own pupils, has been compelled to recruit its strength from the priesthood of a foreign country, closely allied to Lower Canada by many ties of language, origin and ancient subjection.

I also agree with Lord Bathurst and Mr. Huskisson in thinking it a just subject of regret, that so large and important a portion of a new country should be held in mortmain, and should be placed under the government of an ecclesiastical corporation, which, to the ordinary objections incident to the secular transactions of all such bodies, adds the peculiar difficulty of claiming its estate by so disputable a title, as scarcely to venture upon the most necessary controversy with its own tenants.

The preceding considerations, with others of a similar tendency, convince me that it would be highly desirable to carry into effect Mr. Huskisson's design, supposing that it could be accomplished without injustice to individuals, and without incurring the obloquy of an unpopular contest with a body of ecclesiastics, who enjoy a strong and just hold on the respect and attachment of society.

Were I disposed to advert with much care to the abstract question of legal right, I apprehend there would be little difficulty in establishing the title of the Crown to the Seigneurie of Montreal. On this head I find the most perfect coincidence of opinion amongst all the successive law-officers of the Crown under whose consideration the question has been brought. I am not unaware of the weight of the legal authorities which have been adduced on the other side; nor is it possible to deny the existence of many circumstances which would constitute an equitable claim to relief against the rigid application of the rules of law to this case. Still the legitimate conclusion from the whole appears to be, that should his Majesty be advised to assert his right by an action at law, it would be impossible to make a valid and successful defence.

I thus advert to the powers which I believe to be vested in his Majesty, not with any view to enjoin or to justify their exercise on this particular occasion; my design is altogether of a different, and indeed of an opposite nature. I have no measure in view by which the members of the College of St. Sulpice could sustain any loss, or by which the religious designs of that institution would in any degree be frustrated, or by which any part of their endowment would be desecrated or rendered applicable to secular objects. The members of the Seminary themselves can scarcely be more solicitous than I am to prevent whatever might seem to derogate from their just claims to esteem and confidence, or might defeat the pious and charitable designs of their foundation.

It appears to me very practicable to reconcile the general public interests to which I have adverted, with the most scrupulous regard for the interests of the Seminary of Montreal, and of the objects of their charity. It is much to be regretted that these ends should ever have been considered as incompatible; or that jealousies should have been excited in reference to a subject on which the Government had all those claims to confidence, which the perfect absence of all selfish or party objects can afford.

The purpose of my present Despatch is to instruct your Lordship to open a friendly negotiation with the existing members of the Seminary of St. Sulpice at Montreal. I am perfectly aware of the legal objections which have been made to the recognition of the corporate character in which they assume to act. I am apprized of the arguments by which their inability to bind the society at large or to enter into any valid contract are maintained; nor am I ignorant of the inference which has been drawn, that to treat with persons in such a situation is unmeaning, or injurious. With all due respect for the judgment of those with whom these and similar objections originated, I must regard them as misplaced and inconclusive.

Let the alleged incapacity of the existing members be admitted to the fullest possible extent, still it will not be denied that they are in actual possession of the seigniory; that they do, in point of fact, assume the character and exercise the rights of a corporate body; or that, if litigation were unavoidable, they would be the defendants in any action which might be brought to establish his Majesty's title. If this be so, the legal discussions which have occurred respecting their capacity to surrender the charter and estates of the Seminary are quite irrelevant. If these individuals are the persons with whom it would be necessary to litigate, they must also be the persons with whom it is proper to negotiate. It is quite impossible to bring questions like the present to a close, if a course, dictated alike by justice, good-will and common sense, must be abandoned, until every technical objection is answered. Confident, as I am, that the gentlemen now composing the Seminary will give me credit for the most friendly intentions, and placing, as I do, a ready reliance on their own frankness and good faith, I think it right to desire that without any further reference to your legal advisers, your Lordship will have the goodness to take the conduct of this affair into your own hands, and to address yourself directly, and at once, to the members of the Seminary. You will acquaint them that the wish of his Majesty's Government is, that the Corporation should, in due form of law, be declared to be extinct; and that all its territorial possessions should, in the most solemn and authentic manner, be declared to be vested in the King.

You will, at the same time, acquaint them, that his Majesty will, at the moment of these declarations being made, issue a new charter for their incorporation, and endow them with revenues arising from the possessions of the Seminary, equal in annual amount to the income of which they have hitherto been in the receipt; that income being calculated upon an average of the last ten years, or upon an average embracing a smaller or greater number of years, if, for any reason, the number which I propose should conduce to an unfair result.

Your Lordship will further announce his Majesty's willingness to grant the new charter of incorporation in whatever form the members of the Seminary may think most desirable; provided, of course, that nothing be demanded contrary to law or manifestly unreasonable,—a danger which, I am convinced, there is no just cause to apprehend.

The surplus revenue which, after the completion of this arrangement, might result from the estate, could not justly be applied, except to purposes approaching as closely as may be practicable to those of the original foundation. His Majesty's Government disclaim, in the most unqualified manner, any intention of applying them to any other purpose. They do not even desire to reserve to themselves the power of selecting the specific objects towards which that surplus revenue is to be applied. To obviate every possibility of cavil on that head, your Lordship, on the completion of the arrangement, will place this surplus income at the disposal of the provincial legislature, precisely in the same manner as the income of the Jesuits' estates, with the single restriction that the fund must not be diverted from the general object of defraying the expense of education or religious instruction.

When the possessions of the Seminary shall be absolutely vested in his

Majesty, your Lordship will cause notice to be publicly given, that any of the tenants may commute the feudal tenure for a tenure in free and common soccage, on condition of the land or buildings being charged with a permanent quit-rent, equivalent to the rights which may thus be surrendered by the Crown. The terms of commutation should, however, of course be easy, especially at first. I should anticipate that the change would proceed slowly at its commencement, and advance with rapidity as experience might prove its advantages. Even, however, should the change be much more tardy, I cannot doubt that the general revenue might be improved. There can be no reason to apprehend its diminution.

It has been urged, that the Covernment would thus be taking upon itself an unrequited and invidious office, and, without augmenting its own revenue, would be placed in a disagreeable relation to the tenants of the estate. I answer, first, by totally denying that opposition or contrast between the interests of the Government and of the public at large which the objection supposes. I know not what other requital, or compensation for labour, or unmerited obloquy the Government can desire, than the satisfaction of advancing the general welfare of the province ; nor how that object can be better promoted than by relieving the second city of Lower Canada from burthensome charges, and at the same time making a permanent provision for the religious and literary education of the youth of the province.

But though, with a view to ends of this magnitude, neither labour nor undeserved odium must be declined, there is certainly no reason why any unnecessary suspicion or ill-will should be incurred. I therefore think it right that the management of this property should be placed in the hands of Commissioners, to be selected without any reference whatever to their supposed political opinions or connexions, but exclusively with a view to their station in society, their established characters, and their qualifications for such a trust. The expense of management ought to be very inconsiderable, because the Commissioners would be able to avail themselves of the services of the Surveyor-general, and the officers of that department. Perhaps it might be practicable to place the Jesuits' estates under the management of the same body,—a subject to which, however, it is needless to advert any further at present.

Such are the objects which I am anxious to accomplish. It remains to notice the method of carrying them into effect.

It seems necessary to the final settlement of the question, that the extinction of the ancient Corporation and the title of the King to its possessions, should be ascertained by the judgment of a competent tribunal. With the concurrence of the existing members of the Seminary, an amicable suit might be commenced for that purpose, in which, by consent of all parties, judgment might be given for the Crown. That judgment, and the issuing of the new charter, might be strictly coincident and contemporary acts.

Should it be apprehended that a decree of this nature would have such a retrospective effect as to endanger titles holden under acts of the extinct Corporation, or as to involve the members in pecuniary or other responsibilities, I cannot doubt that the provincial legislature would indemnify the parties against every such risk. Acts which have been done in good faith would of course be thought entitled to such protection.

Until I learn the result of the offer which I have thus instructed your Lordship to make, I must of course decline to authorize any addition to the existing number of the members of the Seminary.

Should the proposal be declined, I shall on every account lament that decision. In that event, your Lordship will instruct the law officers forthwith to adopt the necessary measures for obtaining the judgment of the proper tribunal respecting the title of the Crown to the Seigneurie of Montreal, and respecting the right of the existing members of the Seminary to act in a corporate character. You will, however, apprize those gentlemen, that, even should the suit be successful, it will not necessarily follow that the offer I have now made will be retracted. It will remain for his Majesty to judge whether the interests of the province would be best promoted by the assertion of his rights to the Seigneurie, or whether my present offer should be renewed. I can, however, at present state, that the single object which will in either event be pursued by his Majesty's Government will be the advancement of education and religion in Canada. I trust,

however,

however, that the refusal of my offer is not to be apprehended. If it be accepted, the question will be settled in the spirit of mutual confidence and good-will, and at a very trifling expense of labour, time or money. Should it be rejected, the settlement must be preceded by an expensive and dilatory process, and by the appearance at least of hostility between parties on whom it is particularly incumbent to exhibit to society at large an example of moderation and mutual respect. His Majesty's Government will, in either case, be absolved from the responsibility, and my present Despatch will remain as a proof that no practical effort was omitted to avert a litigation at once so indecorous and so unprofitable.

In the spirit of frankness which has dictated the preceding instructions, I am further to desire that your Lordship will transmit to the members of the Seminary of Montreal a copy of this Despatch, without the omission of any part of it.

I have, &c.
(signed) *Goderich.*

CANADA.

Copy of a DESPATCH from Lord *Goderich* to Lord *Aylmer*.

(*Lord John Russell.*)

Ordered, by The House of Commons, *to be Printed*,
11 *March* 1841.

128.

Under 1 oz.

CANADA.

CORRESPONDENCE

RELATIVE TO

EMIGRATION TO CANADA.

Presented to both Houses of Parliament by Command of Her Majesty.

LONDON:
PRINTED BY W. CLOWES AND SONS, STAMFORD STREET,
FOR HER MAJESTY'S STATIONERY OFFICE.
1841.

SCHEDULE.

FROM LORD JOHN RUSSELL, LORD SYDENHAM, &c.

No.		Date. 1840.	SUBJECT.	Page
1.	The Rt. Hon. C. P. Thomson to Lord John Russell	May 16.	Returns showing the Instalments due in the present year on sales of Crown Lands in Lower Canada	5
2.	Sir G. Arthur to Lord John Russell	July 28.	Plan for granting 50 Acre Lots of Land to Emigrants	8
3.	Lord Sydenham to Lord John Russell	Aug. 8.	Weekly Lists from the Emigration Agent	8
4.	Lord John Russell to Lord Sydenham	Aug. 17.	With Report from the Land and Emigration Commissioners relative to certain Ships which had fallen short of Provisions on the voyage to Quebec	18
5.	Lord Sydenham to Lord John Russell	Sept. 11.	Weekly return of Emigrants	21
6.	Lord Sydenham to Lord John Russell	Sept. 28.	Weekly return of Emigrants	23
7.	Lord John Russell to Lord Sydenham	August 31.	Introduction of the system of selling the Waste Lands of the Crown at an uniform price—Revocation of Lord Durham's Proclamation, 31st October, 1836, giving a conditional right of pre-emption	30
8.	Lord John Russell to Lord Sydenham	Sept. 8.	Transmitting Report of the Commissioners of Colonial Land and Emigration, relative to the method of disposing of Crown Lands	30
9.	Lord Sydenham to Lord John Russell	Oct. 12.	In reply to the two preceding Despatches	35
10.	Mr. Under Secretary Stephen to the Land and Emigration Commissioners.	Nov. 14.	With Copy of Lord Sydenham's Despatch of the 12th October	38
11.	Lord John Russell to Lord Sydenham	Oct. 24.	With Report from the Colonial Lands and Emigration Commissioners as to the measures adopted for checking the evasion of the provisions of the Passengers' Act	38
12.	Lord J ohnRussell to Lord Sydenham	Nov. 19	Enclosing Letters from the Land and Emigration Commissioners reporting upon the Cases in which the provisions of the Passengers' Act have been infringed	41
13.	Lord Sydenham to Lord John Russell	Nov. 24.	Objections to the alterations suggested by the Land and Emigration Commissioners relative to the size of the lots of land put up for sale	46
14.	Mr. Under Secretary Stephen to the Land and Emigration Commissioners.	Dec. 23.	Transmitting Copy of Lord Sydenham's Despatch of the 24 November respecting the size of the lots of land put up for sale	46
15.	Lord John Russell to Lord Sydenham	Dec. 22.	Transmitting Report of the Land and Emigration Commissioners relative to the complaint preferred by the passengers in certain emigrant ships	46
		1841.		
16.	Mr. Under Secretary Stephen to the Land and Emigration Commissioners.	January 1.	Requesting they would report as to the precautions to be taken for the further protection of emigrants	49

No.		Date. 1841.	SUBJECT.	Page
17.	Lord John Russell to Lord Sydenham - - -	Jan. 12.	Further communication from the Land and Emigration Commissioners respecting the complaints of certain Emigrants -	49
18.	Lord Sydenham to Lord John Russell - - -	Dec. 23.	Reporting the appointment of Dr. Rolph to the office of Agent for Emigration to the Canadas -	50
19.	Mr. Under Secretary Stephen to the Land and Emigration Commissioners.	Jan. 26.	Transmitting Lord Sydenham's Despatch respecting Dr. Rolph's appointment - - - - -	53
20.	The Land and Emigration Commissioners to Mr. Under Secretary Stephen - - - - -	Feb. 18.	Acknowledgment of Despatch, announcing Dr. Rolph's Appointment - - - - -	53
		1841.		
21.	Lord John Russell to Lord Sydenham - - -	March 9.	Transmitting Correspondence with the Treasury respecting the payment of Dr. Rolph's Allowance as Emigration Agent - -	54
		1840		
22.	Lord Sydenham to Lord John Russell - - -	Dec. 26	Enclosing Report from the Medical Superintendent on the Emigration to Canada during the year 1840 - - - -	56
		1841		
23.	Mr. Under Secretary Stephen to the Land and Emigration Commissioners.	Jan. 29.	Transmitting Copy of preceding Despatch - - - - -	61
		1840		
24.	Lord John Russell to Lord Sydenham - - -	Oct. 27.	Relative to the extent of the free grants of Land to Emigrants	61
		1841		
25.	Lord Sydenham to Lord John Russell - - -	Jan. 14.	In reply to preceding Despatch -	61
26.	Lord Sydenham to Lord John Russell - - -	Jan. 26.	Transmitting Annual Report of the Agent for Emigrants at Quebec for 1840—Suggestions for the encouragement of Emigration - - - - - -	71

COPIES and EXTRACTS of CORRESPONDENCE relative to EMIGRATION into CANADA.

From Lord John Russell, Lord Sydenham, &c.

(No. 107.) No. 1.

COPY of a DESPATCH from the Right Hon. C. POULETT THOMSON to Lord JOHN RUSSELL.

MY LORD, Government House, Montreal, 16th May, 1840.

No. 1.
Right Hon. C. P. Thomson to Lord John Russell.
16th May, 1840.

I HAVE the honour to transmit Returns showing the instalments due, and to fall due, in the present year, on sales of Crown lands in Lower Canada, and the state of the funds derived from sales on "quit rent," together with two explanatory letters on the subject from the Commissioners of Crown Lands.

I have, &c.,

(Signed) C. POULETT THOMSON.

The Right Hon. Lord John Russell,
&c. &c. &c.

Enclosure 1, in No. 1.

LOWER CANADA.—Statement of Instalments and Arrears due on Sales of Crown Lands in Lower Canada, as they appear on the 31st December, 1839, made by order of his Excellency the Administrator of the Government, dated 7th February, 840.

Townships.	Due in 1839.	Due in 1840.	Total.	Townships.	Due in 1839.	Due in 1840.	Total.
	£. s. d.	£. s. d.	£. s. d.		£. s. d.	£. s. d.	£. s. d.
Armagh .	372 10 6	12 10 0	385 0 6	Brought forward . .	6,196 12 11	423 15 0	6,620 7 11
Ashford .	103 15 6	26 17 3	130 12 9				
Aston and Aug.	558 16 2	105 12 0	664 8 2	Ely . .	180 4 4	..	180 4 4
				Frampton .	41 5 0	..	41 5 0
Ascot . .	..	..	..	Farnham .	107 16 3	4 13 9	112 10 0
Acton . .	73 3 1	..	73 3 1	Gosford .	644 2 9	330 12 9	974 15 6
Brome . .	64 14 2	..	64 14 2	Grenville .	133 2 6	3 2 6	136 5 0
Brompton .	20 11 7	20 11 7	41 3 2	Grantham .	143 15 0	..	143 15 0
Buckland .	176 17 2	..	176 17 2	Hatley . .	47 17 0	17 10 9	65 7 9
Barnston .	22 5 0	..	22 5 0	Halifax. .	33 15 0	..	33 15 0
Bolton . .	15 0 0	..	15 0 0	Hull . .	363 6 10	..	363 6 10
Buistrode .	36 17 6	..	36 17 6	Hemmingford.	25 3 7	..	25 3 7
Broughton.	30 0 0	..	30 0 0				
Bristol . .	1,406 8 0	139 2 11	1,545 10 11	Hunterstown	337 10 0	.	337 10 0
Buckingham	100 16 8	14 1 3	114 17 11	Harrington	264 0 0	1 11 3	265 11 3
Blandford .	835 17 3	..	835 17 3	Hamilton .	56 11 7	..	56 11 7
Compton .	23 0 0	4 13 9	27 13 9	Horton. .	68 2 8	..	68 2 8
Cranbourne	6 10 0	..	6 10 0	Ixworth .	15 0 0	..	15 0 0
Clarendon .	295 3 4	67 10 0	362 13 4	Inverness .	32 17 0	..	32 17 0
Chatham .	73 15 0	..	73 15 0	Kingsey .	1,478 6 3	..	1,478 6 3
Caxton. .	1,550 18 3	..	1,550 18 3	Kildare .	13 2 6	3 2 6	16 5 0
Carleton .	10 3 1	..	10 3 1	Kempt Road	111 1 8½	..	111 1 8½
Dunham .	67 3 9	9 7 6	76 11 3	Leeds . .	15 0 0	..	15 0 0
Durham .	18 15 0	..	18 15 0	Litchfield .	391 16 10½	22 12 6	414 9 4½
Eardley .	275 15 8	..	275 15 8	Lochaber .	50 7 3½	..	50 7 3½
Eaton . .	57 16 3	23 8 9	81 5 0	Melbourne .	16 7 1	16 11 11	32 19 0
Carried forward . .	6,196 12 11	423 15 0	6,620 7 11	Carried forward . .	10,767 4 1½	823 12 11	11,590 17 0½

Statement of Instalments and Arrears due on Sales of Crown Lands in Lower Canada, &c.—*continued.*

Townships.	Due in 1839.			Due in 1840.			Total.			Townships.	Due in 1839.			Due in 1840.			Total.		
	£.	*s.*	*d.*	£.	*s.*	*d.*	£.	*s.*	*d.*		£.	*s.*	*d.*	£.	*s.*	*d.*	£.	*s.*	*d.*
Brought forward . .	10,767	4	1½	3	12	11	11,590	17	0½	Brought forward . .	11,716	10	11	898	17	6	12,615	8	5
Maddington	20	0	0	..			20	0	0	Sutton . .	55	18	6	..			55	18	6
Maria . .	45	4	11½	..			45	4	11½	Shipton .	130	19	6	8	8	9	139	8	3
Newton .	101	9	9	21	13	11	123	3	8	Stanfold .	195	1	8	73	2	6	268	4	2
New Richmond.	128	0	3	..			128	0	3	Simpson .	290	1	3	..			290	1	3
										Somerset .	284	15	7	214	0	0	498	15	7
Orford . .	27	0	0	..			27	0	0	Templeton.	628	14	11½	7	11	0½	636	6	0
Onslow .	316	19	11	..			316	19	11	Tring . .	123	15	0	..			123	15	0
Rawdon .	64	4	0	..			64	4	0	Thetford .	120	0	0	..			120	0	0
Riv. du loup	33	1	11	..			33	1	11	Upton . .	227	16	11	7	3	1	235	0	0
Ristigouche.										Wickham .	295	16	8	..			295	16	8
Stanstead .	42	9	7	30	0	11	72	10	6	Wendover .	515	12	6	..			515	12	6
Stukely .	2	7	8	..			2	7	8	Wentworth	115	12	6	..			115	12	6
Stanbridge .	168	8	9	23	9	9	191	18	6	Warwick .	155	12	6	..			155	12	6
										Wakefield .	450	17	7½	6	6	0½	457	3	8
Carried forward . .	11,716	10	11	898	17	6	12,615	8	5	Total . .	15,307	6	1	1,215	8	11	16,522	15	0

Office of Crown Lands, Quebec, 4th March, 1840.

JOHN DAVIDSON,
T. BOUTHILLIER.

Enclosure 2, in No. 1.

LOWER CANADA.—Statement of Arrears of Quit-Rent due on purchases of Crown Lands, as they appear on the 31st of December, 1839.

Townships.	Capital Amount.			Annual Payment.			Arrears due 31st December, 1839.			Townships.	Capital Amount.			Annual Payment.			Arrears due 31st December, 1839.		
	£.	*s.*	*d.*	£.	*s.*	*d.*	£.	*s.*	*d.*		£.	*s.*	*d.*	£.	*s.*	*d.*	£.	*s.*	*d.*
Brome . .	118	15	5	5	18	9	51	17	6	Brought forward . .	16,244	12	5	812	4	5	4,713	5	6
Bolton . .	448	16	0	22	8	0	59	7	3										
Barnston .	361	19	4	18	2	0	82	16	6	Kildare .	382	10	0	19	2	6	73	7	6
Compton .	461	19	6	23	2	0	64	1	5	Leeds . .	744	8	0	37	4	11	288	8	3
Clifton . .	123	18	1	6	3	10	30	17	4	Milton .	337	10	0	16	17	6	102	10	0
Cranbourne	208	0	0	10	8	0	67	12	0	Melbourne .	210	15	0	10	10	9	48	8	11
Chatham .	195	0	0	9	15	0	38	10	0	Newport .	137	10	0	6	17	6	13	0	0
Caxton and Aug.	922	2	10	46	1	11	325	2	10	Nelson .	83	0	3	4	3	0	18	5	0
										Onslow .	212	10	0	10	12	6	67	10	0
Clarendon .	850	0	0	42	10	0	225	12	8	Potton . .	529	0	0	26	9	0	99	3	0
Dunham .	1,783	15	7	89	3	9	340	3	3	Rawdon .	20	0	0	1	0	0	10	0	0
Dudswell .	100	0	0	5	0	0	12	0	0	Shefford .	664	19	2	33	5	0	111	14	0
Durham .	50	0	0	2	10	0	13	15	0	Stanbridge.	1,779	1	7	88	19	1	503	3	10
Eaton . .	614	13	9	30	14	9	96	12	5	Sutton . .	853	17	0	42	13	10	217	6	0
Eardley .	780	0	0	39	0	0	312	0	0	Stanstead .	752	4	4	37	12	3	108	10	8
Ely . .	25	0	0	1	5	0	2	10	0	Stukely .	37	10	0	1	17	6	1	17	6
Frampton .	236	12	0	11	16	7	59	11	10	Stoneham .	70	0	0	3	10	0	29	10	0
Farnham .	773	17	6	38	13	10	163	18	5	Shipton .	50	0	0	2	10	0	5	0	0
Granby .	543	15	0	27	3	9	127	3	9	Templeton .	654	15	0	32	14	9	267	7	6
Hull . .	4,741	5	0	237	1	3	1,719	10	9	Tewkesbury	60	0	0	3	0	0	27	0	0
Hereford .	162	10	0	8	2	6	43	2	6	Tingwick .	25	0	0	1	5	0	1	5	0
Halifax .	79	13	9	3	19	9	26	10	2	Westbury .	20	0	0	1	0	0	1	0	0
Inverness .	2,250	0	0	112	10	0	746	11	5	Windsor .	63	17	6	3	3	10	12	15	6
Ireland. .	157	10	0	7	17	6	52	7	6	Wickham .	7	10	0	0	7	6	0	1	10
Kingsey .	255	9	1	12	15	6	51	11	0										
										Total . .	23,940	10	3	1,197	0	10	6,720	10	0
Carried forward. .	16,244	12	5	812	4	5	4,713	5	6										

Office of Crown Lands, Quebec, 4th March, 1840.

JOHN DAVIDSON.
T. BOUTHILLIER.

Enclosure 3, in No. 1.

SIR,

Office of Crown Lands, Quebec, 4th March, 1840.

No. 1.
Right Hon. C. P. Thomson to Lord John Russell.
16th May, 1840.

Encl. 3, in No. 1.

IN compliance with the orders of his Excellency the Administrator of the Government, conveyed in Mr. Assistant Secretary Montizambert's letter of the 7th February last, we have the honour to transmit in duplicate a statement of instalments now due by purchasers of Crown lands, amounting to 15,307*l.* 6*s.* 1*d.*; to this we have added a statement of the sums which will fall due during the present year, amounting to 1,215*l.* 8*s.* 11*d.*, forming together the sum of 16,522*l.* 15*s.*; and we have further prepared a statement which exhibits

No. 1.
Right Hon. C. P. Thomson to Lord John Russell.
16th May, 1840.

Encl. 3, in No. 1.

the capital on which interest annually accrues upon sales made previous to 1832-33, on what is termed quit-rent, and showing the amount of interest or quit-rent now in arrear.

Of the amount of instalments now in arrear, 6,703*l.* 16*s.* 4*d.* is due by the British American Land Company, without reference to the sums payable by them under their arrangement with the home Government; this sum of 6,703*l.* 16*s.* 4*d.* being due on purchases made by them at the public sales held under the authority of this department.

We feel ourselves unable to offer an opinion as to the probable amount which may be paid in during any given quarter; the sums in arrear do not bear interest, a portion of them has been owing for several years, and some of the principal purchasers will delay their payments until they find the British American Land Company called upon to pay up the instalments due by them.

The average receipts for the last two years are 2,358*l.* 5*s.*, and unless measures are adopted to enforce payment, we do not believe that the receipts for the current year will exceed that sum.

We avail ourselves of the present occasion to request you to move his Excellency the Governor-General to consider the peculiar position in which this department (as charged with the management of the waste lands of the Crown) is now placed.

1st. By the proclamation of the Earl of Durham of 18th June, 1838, suspending sales of Crown lands.

2nd. The proclamation of 11th September, 1838, directing scrip to be issued in favour of militia claimants, redeemable in Crown lands.

3nd. His Lordship's proclamation of 31st October, 1838, confirming all squatters in occupation, previous to 10th September, 1838, by granting them pre-emption at a price to be fixed by the Crown; and we trust that his Excellency will see fit to issue some order on the subject. Nine hundred and eleven persons have now lodged claim to pre-emption under the terms of Lord Durham's proclamation, as squatters on Crown lands, and 97 persons have lodged claims to a similar indulgence as squatters on clergy lands; it is however to be observed that Lord Durham's proclamation holds out no promise to squatters on clergy lands.

We have every reason to believe that many persons have squatted on public lands since 1838, and as they will plead the indulgence promised to those actually settled previous to September 1838, as a reason why they should be similarly dealt with, and urge in addition, that they could not obtain regular locations, it is of importance that some regulation should be made for the government of this department in such cases.

In the neighbouring provinces which were affected equally with this by the order of Lord Durham, which suspended all sales, we observe that sales of Crown lands have been resumed; and we very respectfully suggest that we consider the time to have arrived when they may be resumed with advantage in this province, not only with a view to afford to emigrants and others the means of acquiring lands they may require for settlement, but also to meet the engagements of the Government towards those who hold militia scrip, and to the persons who have without authority settled on the waste lands of the Crown, previous to September, 1838.

We have, &c.

(Signed) JOHN DAVIDSON.
T. BOUTHILLIER.

T. W. C. Murdoch, Esq., Chief Secretary, Montreal,
&c. &c. &c.

Enclosure 4, in No. 1.

SIR, Office of Crown Lands, Quebec, 7th March, 1840.

WITH reference to the letter which we had the honour to address you on the 4th instant, with the Return of arrears due on Crown lands sold, we have perceived that there has been a clerical error in stating the whole amount due by the British American Land Company as an arrear due on Crown lands only purchased by them. Encl. 4, in No. 1.

The entire arrear due by the British American Land Company is correctly stated at 6,703*l.* 16*s.* 4*d.*, but it is composed of the following items:—

	£.	s.	d.
Arrears on purchases of Crown Lands	1,276	10	5
Ditto ditto Clergy Lands	5,427	5	11
	£6,703	16	4

And we have now to request that you may permit this explanation to be appended as supplementary to our letter of the 4th instant.

To prevent the possibility of any misapprehension, we beg leave to add, that the error in stating the arrear of the British American Land Company does not affect the amount of instalments due on Crown lands, that being, as stated, 16,522*l.* 15*s.*

We have, &c.

(Signed) JOHN DAVIDSON.
T. BOUTHILLIER.

T. W. C. Murdoch, Esq., Chief Secretary, Montreal,
&c. &c. &c.

No. 2.
Sir G. Arthur to Lord John Russell.
28th July, 1840.

(No. 59.) No. 2.

COPY of a DESPATCH from Sir GEORGE ARTHUR to Lord JOHN RUSSELL.

MY LORD, Government House, Toronto, 28th July, 1840.

No doubt your Lordship has been informed of the number of immigrants who have arrived at Quebec. Out of 17,000, which the last Returns show to have landed in the Lower Province, upwards of 6,000 have come into the Upper Province. The total number landed in Toronto during the current year has been 1,925, the rest having remained and settled in the intermediate country between Bytown and Toronto. I have every reason to believe that but very few of those who have come into the Upper Province have proceeded to the States. I am, however, making inquiries for the purpose of ascertaining, if possible, what proportion have gone there; and although great difficulties will be found in arriving at any approximation on this subject, I am not without hopes of being able to obtain some information which may be relied upon.

Hitherto there has been no difficulty in disposing of the immigrants who have arrived. Many of them appear to be of a class who have emigrated in consequence of the representations of relatives and friends who had been settled in this country. They had, therefore, provision made for their accommodation before their arrival; and they have disposed of themselves accordingly, without any assistance on the part of the Government, beyond that of advice and direction.

The demand for labour consequent on the emigration of labourers from this country during the last few years, and which is, of course, particularly felt during the period of hay and grain harvest, has hitherto provided for the others.

Should, however, immigration continue to a similar extent, as the field for labour on individual account may fairly be considered as occupied by the immigrants already arrived, it will become necessary for the Government to take steps for the provision for the new comers.

A plan for granting lots of 50 acres of land, upon condition of actual improvement to the extent of one quarter of the grant, has been matured, and is ready to be put in operation should the emergency occur to which I have alluded.

No doubt the Governor-General has communicated with your Lordship on this matter, as it has been the subject of correspondence with His Excellency. I shall, in order to put your Lordship in full possession of this proposed arrangement, take an early opportunity of submitting the details.

I cannot let the present opportunity pass, without strongly impressing upon your Lordship the importance which I attach to the introduction of the principle of making free grants of land in small quantities, to immigrants, as the only practicable means of retaining in the province labourers imbued with British feelings. Although I am aware of the objections which have been urged, in theory, to this course, I cannot refrain from mentioning two striking instances in which its successful operation has been clearly demonstrated. I allude to the "Talbot District," and the settlement of "Cavan," both of which were settled in this manner, and are now in a most flourishing and thriving condition.

The confining the grants to small quantities of land, contrary to what has, with the exception of the instances above mentioned, been hitherto the case in this country, appears to me to obviate all the objections to the principle of the plan.

I have &c.

(Signed) GEORGE ARTHUR.

The Right Hon. Lord John Russell,
&c. &c. &c.

(No. 148.) No. 3.

COPY of a DESPATCH from the Right Hon. C. POULETT THOMSON to Lord JOHN RUSSELL.

No. 3.
Right Hon. C. P. Thomson to Lord John Russell.
8th August, 1840.
No. 1.
No. 2.
No. 3.
No. 4.

MY LORD, Castle St. Lewis, Quebec, 8th August, 1840.

I CONTINUE to transmit to your Lordship the weekly lists which I receive from the emigration agent for this province, as affording the best means of keeping your Lordship informed of the progress of emigration to these provinces.

It would appear from Mr. Buchanan's remarks, that in many instances the provisions of the Passengers' Act have been disregarded. Where this can be brought home to the parties on their arrival here, the necessary steps will be taken to enforce

No. 3.
Right Hon. C. P. Thomson to Lord John Russell.
8th August, 1840.

the penalties; but it is evidently of much greater importance to prevent than to punish neglect, and this can be done only by the Government officers at the port of embarkation. I would therefore beg to call your Lordship's particular attention to Mr. Buchanan's remarks in regard to the insufficiency of the provisions brought out in these ships, and the extortion practised by the captains of them on emigrants who may be compelled to purchase provisions in the course of the voyage. The enforcement of the 3d and 6th clauses of the Passengers' Act would probably put an end to this evil, and would protect the emigrant from the rapacity which appears to be exercised towards him. Your Lordship will also observe that in the ship ————, from Liverpool, there were upwards of 30 passengers beyond the number allowed by law, a fact which should not have escaped the notice of the emigrant agent, or the Collector of Customs at that port.

I have, &c.

(Signed) C. POULETT THOMSON.

The Right Hon. Lord John Russell,
&c. &c. &c.

No. 3.
Right Hon. C. P. Thomson to Lord John Russell.
8th August, 1840.

Encl. 1, in No. 3.

Enclosure 1,

WEEKLY RETURN of EMIGRANTS arrived at the Port of Quebec and Montreal, from

Date.	Vessel's Name.	Master.	Where from.	Number of Emigrants.			
				Male.	Female.	Children under 14 Years.	Total.
1840.							
July 5 . . .	Edward and Mary	Wright . . .	Westport . .	95	66	40	201
July 6 . . .	Amanda . . .	Davis . . .	Halifax . . .	1	..	..	1
July 7 . . .	Elizabeth . .	Downes . . .	Cork. . . .	65	45	57	167
July 8 . . .	Robert Burns .	Messenger . .	Liverpool . .	54	46	34	134
,,	Lady . . .	Levecque . .	Bay St. George .	3	..	..	3
July 9 . . .	Hercules . .	Davidson . .	Aberdeen . .	18	13	11	42
,,	Arthorp . . .	Murphy . . .	Sligo . . .	55	50	32	137
,,	Corinthian . .	Davidson . .	Hull	10	6	6	22
July 10 . . .	Dolphin . . .	Roche . . .	Cork. . . .	40	34	26	100
,,	Carrick . . .	Dowes . . .	Westport . .	79	40	15	134
				420	300	221	941

England	156
Ireland	739
Scotland	42
Lower parts	4
	941
Previously reported	15,421
	16,362
To corresponding period last year . . .	5,106
Increase in favour of 1840	11,256

Emigrant Department, Quebec, 11th July, 1840.

NOTE.—The emigrants arrived during the past week are chiefly labourers, and a few farmers with small capital, a large majority of them are desirous of going to Upper Canada, or to where they will meet with employment.

A very respectable body of passengers came out in the Hercules, from Aberdeen, and Corinthian, from Hull, they are all in good circumstances, and are amply provided with means to proceed to their destination, which is Upper Canada, with the intention of purchasing lands in the London and Western Districts. Two families are returning to Illinois, where they have resided for some years.

There was, I regret to state, a good deal of distress among the passengers, by the ———— ————, and ——— from ———, which was chiefly owing to their long voyage, being upwards of seven weeks at sea, their supply of provisions ran short, and many were supported by the charity of their fellow passengers, after they had spent their money in purchasing food from the captain.

in No. 3.

No. 3.
Right Hon. C. P. Thomson to Lord John Russell.
8th August, 1840.

Encl. 1, in No. 3.

the 4th day of July to the 11th day of July, 1840, both days inclusive.

Occupation.	If sent out by Parishes or Government aid.	If voluntary.	Observations.
Labourers and servants .	..	201	Many of these were destitute and assisted from this Office; the most part proceeded to Upper Canada, and a few went to join their friends in the United States.
. . .	..	1	. . . . .
Labourers, and a few farmers.	..	167	All of these had sufficient means to pay their way; two families only required assistance. The general portion of them are going to Upper Canada, and a few to the States.
Farmers, labourers, and trades.	..	134	These possess good means. About twenty of them, say four families, are from Scotland, and all are going to the Upper Province.
. . .	..	3	. . . . .
Farmers	..	42	These are very respectable people, and all in good circumstances; and, with the exception of two families, who are returning to Illinois, they are all proceeding to Upper Canada.
Labourers, a few farmers and trades.	..	137	The most part of these mean to settle at Toronto and its vicinity, where the farmers intend to purchase.
Farmers and farm labourers	..	22	These are in possession of sufficient means, and are going to the Upper Province.
Labourers, trades, and farmers.	..	100	The principal part of these possess sufficient means, but a few families are destitute. Some are going to the States; the chief part are proceeding to Upper Canada.
,, ,,	..	134	These in general are supplied with sufficient funds; a few families are without means. Some remain in Quebec; a few families are to stop in the vicinity of Montreal, and the remainder to Upper Canada.
		941	

(Signed) A. C. Buchanan, Chief Agent.

The passengers in the Arthorp, from Sligo, and Elizabeth, from Cork, were also similarly situated.

I have been obliged to give assistance during the past week to about 40 families; many among these received assistance owing to their long detention in the hospital at quarantine. I consider the city unusually free from emigrants at this season, owing to the opposition of the Hart steam-boat, as on the night she starts the fare is reduced from 7*s*. 6*d*. to 2*s*. 6*d*., whereby many are able to proceed up, who otherwise could not have done, unless assisted. A few families from Westport are proceeding to join their friends in Kildale and Rawdon.

Enclosure 2,

No. 3.
Right Hon. C. P. Thomson to Lord John Russell.
8th August, 1840.

Encl. 2, in No. 3.

WEEKLY RETURN of EMIGRANTS arrived at the Port of Quebec and Montreal, from

Date.	Vessel's Name.	Master.	Where from.	Number of Emigrants.			
				Male.	Female.	Children under 14 Years.	Total.
1840.							
July 12 . . .	Leven Lass . .	Wright . . .	Glasgow. . .	26	19	14	59
,,	Sisters . . .	Hall	Aberdeen . .	14	11	16	41
July 13 . . .	Clyde . . .	Reid	London . . .	14	12	26	52
,,	Ann Grant . .	Murdoch . .	Glasgow. . .	38	15	19	72
,,	Dumfries . .	Gowan . . .	Belfast . . .	144	118	107	369
July 15 . . .	Independante .	M'Appin . .	,,	136	105	102	343
,,	Anne Liffey . .	Dody . . .	Liverpool . .	112	87	95	294
				484	367	379	1,230

England	346
Ireland	712
Scotland	172
	1,230
Previously reported	16,362
	17,592
To corresponding period last year . . .	5,234
Increase in favour of 1840	12,358

Emigrant Department, Quebec, 18th July, 1840.

NOTE.—The emigrants arrived during the past week are, with the exception of a few families, all in good circumstances, and in possession of ample means, particularly the Scotch and English, many of whom brought out considerable amount of capital. They are, with a few exceptions, all proceeding to Upper Canada to join their friends. A large portion of the Scotch are going to settle in the Bathurst District, others to the Johnston, Newcastle and London Districts, and a few to the Huron tract.

I regret to have to report a case of gross misconduct and ill-treatment on the part of Captain ————, of the ship —— ——, from ————, with 72 passengers. This vessel arrived here on the 13th instant, after a passage of 77 days, nearly the whole of which time the passengers were obliged to work at the pumps night and day, the ship making in heavy weather 17 inches of water per hour. A few days after sailing, the ship lost her fore and main topmasts in a gale of wind, which they were unable to replace, having no spare spars on board, and she continued to make so much water, that the crew was unable to keep her clear; 30 of the passengers then formed themselves into watches to pump, for which the captain promised to pay them 20*s.* each on arrival at the nearest port, for which he promised to steer; he however kept on his course, notwithstanding the leaky state of the vessel, and her being otherwise unfit to continue the voyage for want of means to refit the spars she had lost. Their stock of provisions running short, the passengers were obliged to purchase from the captain at most exorbitant prices, paying him for bread at the rate of 37*s.* 4*d.* per cwt., for which the captain acknowledged to me only cost him 17*s.* 6*d.* per cwt., barley 3*d.* cost 1½*d.*, and other things in proportion; they had also to purchase provision from vessels they spoke at sea, and some of them expended upwards of 7*l.* to 8*l.* extra for provision over and above the stock they had originally laid in for the voyage.

in No. 3.

the 11th day of July to the 18th day of July, 1840, both days inclusive.

No. 3.
Right Hon. C. P. Thomson to Lord John Russell.
8th August, 1840.
Encl. 2, in No. 3.

Occupation.	If sent out by Parishes or Government aid.	If voluntary.	Observations.
Farmers and trades . .	..	59	Are in good circumstances, and proceeded in the vessel to Montreal, going to Bathurst, Newcastle, and London districts, and some to Perth.
Farmers, labourers, and trades.	..	41	Proceeding to Toronto, Hamilton, &c.; a few are going to the States, and all have plenty of means.
Farmers and farm labourers.	..	52	Came from Sussex and Windsor, and going to Upper Canada, to join their friends at Kingston, Perth, and Toronto. One family of nine persons are going to Oswego to their connexions, who wrote home for them last year, and all of them possess good means.
Farmers and trades . .	1	71	These are a very respectable body of young healthy emigrants, with plenty of means, and are all gone to Upper Canada, with the exception of three, who have remained in Quebec at work. They were eleven weeks at sea, and bitterly report of the cruel treatment given them by the captain during the voyage.
Farmers, labourers, and trades.	..	369	Proceeding to Kingston, Toronto, &c., and in general possess good means; some were destitute, and assisted from this Office with a passage to Montreal.
Farmers, labourers, trades, and servants.	..	343	Going to Toronto and the London district, where many of them intend to purchase land and settle. The few whose funds were exhausted have been assisted with a free passage to Montreal.
Trades, servants, and a few farmers.	..	294	Were nine weeks at sea; eleven children died with small-pox during the voyage; also two adults. Two died on arrival at Grosse Isle, and 43 were left there in hospital, in which are included the hands of the ship. Those who came up had in general plenty of means; and such as were destitute I forwarded to Montreal free.
	1	1,229	

(Signed) A. C. Buchanan, Chief Agent.

On arrival of the vessel here, the passengers made their complaint to this office, and stated that the captain refused to allow those who worked at the pumps the remuneration he promissed them, viz., 20*s.* each; and it was not until repeated application to Captain ———, both by letter and in person, that I could obtain a settlement from him of the above sum, and 5*s.* a-head which he had charged them for tax. It is to be regretted that the law does not compel him to refund the overcharge on the provisions which he sold them.

I have caused information to be lodged against him for the infringement of the sixth clause of the Imperial Passengers' Act, for not having a list of the prices of his provisions open for the inspection of his passengers. A statement of the decision, with an affidavit sworn to by eight of the passengers, as also one by the first mate of the vessel, I shall forward for the information of his Excellency the Governor-General in a few days.

I regret to report that on board the Anne Liffy, from Liverpool, with 294 passengers, there has been a great deal of sickness, small-pox and typhus; they had 13 deaths at sea, and two on arrival at Grosse Isle; she has left 43 cases in hospital at quarantine.

I have been obliged to extend relief to upwards of 20 families during the past week, chiefly from this vessel, and from the Independence from Belfast, and to a number of young men and women who have been discharged from the hospital here and at quarantine, numbering in all about 113 persons.

No. 3.
Right Hon. C. P. Thomson to Lord John Russell.
8th August, 1840.

Encl. 3, in No. 3.

Enclosure 3,

WEEKLY RETURN of EMIGRANTS arrived at the Port of Quebec and Montreal, from

Date.	Vessel's Name.	Master.	Where from.	Number of Emigrants.			
				Male.	Female.	Children under 14 Years.	Total.
1840.							
July 20 . . .	Catherine . .	Masson . . .	Liverpool . .	145	120	91	356
July 24 . . .	Margaret Boyle.	W. Smith . .	Greenock . .	5	4	5	14
,,	Chapman . .	Christie . . .	Plymouth . .	9	6	5	20
,,	Victory . . .	Pecket . . .	Hull . . .	31	22	18	71
,,	Pomona . .	Coyle . . .	Dublin . . .	103	70	53	226
,,	James Smith .	Babin . . .	Arichat . . .	1	..	..	1
				294	222	172	688

England	447
Ireland	226
Scotland	14
Lower Ports	1
	688
Previously reported	17,592
	18,280
To corresponding period last year	5,381
Increase in favour of 1840	12,899

Emigrant Department, Quebec, 25th July, 1840.

NOTE.—The emigrants arrived this week are chiefly Irish, and consist of farm labourers and mechanics. In the ship ————, from ————, with 356 passengers, all Irish, there has been a number of families landed here in great distress, caused by long detention in ————, some of them being kept there waiting for a vessel upwards of a month after they had engaged and paid their passage. I beg to enclose you two affidavits sworn to before a magistrate, in corroboration of this charge. Many more of the passengers made complaints of a similar nature. This vessel also brought out upwards of 30 passengers more than she is entitled to carry by law, for which she was fined by the collector in the sum of 20*l.* sterling.

The master of the ———— stated that his passengers were shamefully treated by the passenger brokers in ————, ———— ———— ————, and ———— ————, these parties forward nearly all the emigrants from that port, and I regret to say that there has not a single vessel arrived from there this season, that there has not been complaints made of a similar nature. The ———— made her passage in 46 days, which is so far fortunate, as on her arrival, many of her passengers were out of

in No. 3.

No. 3.
Right Hon. C. P. Thomson to Lord John Russell.
8th August, 1840.

Encl. 3, in No. 3.

the 18th day of July to the 25th day of July, 1840, both days inclusive.

Occupation.	If sent out by Parishes or Government aid.	If voluntary.	Observations.
Farmers, labourers, trades, and servants.	..	356	Going to Kingston, Oxford, Johnston District, &c. Two families are going to Kilkenny and one to Salmon River; about 70 of them were assisted with a free passage to Montreal.
Farmers	..	14	Proceeding to Perth and its neighbourhood; they are respectable and intelligent people.
Farmers, labourers, and trades.	..	20	Proceeding to the Newcastle and London District, Coburgh, Port Hope, &c.; they are respectable people, with good means.
Farmers and farm labourers	..	71	These are in good circumstances. Two families, 13 in number, are going to Fredericton. N.B.—The remainder are going to Upper Canada.
Farmers, labourers, trades, and servants.	..	226	Proceeding to Kingston, Brockville, Toronto, &c., and to Seymour, Newcastle District. Two families are going to their friends in the States.
. . .	..	1	. . . . .
	..	688	

(Signed) A. C. Buchanan, Chief Agent.

provisions, the Captain acted in the kindest manner, and assisted those in distress from his own stock.

There were some very respectable emigrants arrived this week from Hull, Plymouth, and Greenock, all in good circumstances, they have proceeded to Upper Canada, with the exception of two families, who are going to Fredericton, New Brunswick.

In the Pomona, from Dublin, with 226 passengers, generally in good circumstances, the greater part are going to the Upper Province, a number of them young men. I have sent in to the townships of Leeds and Inverness, where there is abundance of employment to be had. In fact, there is no scarcity of employment anywhere at present, if the emigrants would only be content with the ordinary standard wages of the country. Several hundred labourers would meet with immediate employment in the Home and Western district, wages during harvest, 3*s*. 9*d*. currency per day. The emigrant agent at Montreal writes me that there is abundance of employment in and about that city. A large number of additional hands will be required to work on the roads.

No. 3.
Right Hon. C. P. Thomson to Lord John Russell.
8th August, 1840.

Encl. 4, in No. 3.

Enclosure 4,

WEEKLY RERURN of EMIGRANTS arrived at the Port of Quebec and Montreal, from

Date.	Vessel's Name.	Master.	Where from.	Number of Emigrants.			
				Male.	Female.	Children under 14 Years.	Total.
1840.							
July 31	Thomas Rowel	Henderson	Newfoundland	6	..	..	6
August 3	Commercial	Scott	Londonderry	123	92	52	267
,,	Greenhow	Bell	Newry	8	7	6	21
,,	Hotspur	Steele	Newfoundland	2	..	..	2
,,	True Briton	Foster	Halifax	1	..	..	1
August 4	Express	Mann	Newfoundland	6	4	3	13
,,	Windscales	Connolly	Mary Port	15	13	17	45
August 6	Mary Ann	H. Allard	Marimiche	14	10	9	33
,,	Kingston	Rex	Cork	41	35	17	93
August 7	St. James	Crawford	Killala	92	35	12	139
,,	Marquis of Normanby.	Greigg	Sligo	82	64	28	174
				390	260	144	794

England	45
Ireland	691
Lower Ports	55
	791
Previously reported	18,280
	19,071
To corresponding period last year	5,689
In favour of this year	13,382

Emigrant Department, Quebec, 10th August, 1840.

NOTE.—The emigrants arrived during the past week are chiefly of the labouring classes, and nearly all from Ireland.

In the barque *Commercial*, from Londonderry, with 267 passengers, they landed here in good health, after a passage of 59 days. A few families were in poor circumstances, owing to their long passage and detention at Derry after the day fixed for sailing, and had to purchase provisions from the captain at double prices.

I extended assistance to six families, 28 persons, by giving them a free passage to Montreal. Nearly all her passengers are going to Upper Canada, where they have friends. About 10 of them are going to Bathurst, in New Brunswick, where their relations have been settled for some years. The passengers in the *Greenhow*, from Newry, 21 in number, are in easy circumstances. They went to Upper Canada, intending to settle near Kingston. In the *Windscales*, from Mary Port, in Cumberland, were 45 passengers, very respectable people: they have all proceeded to settle in Upper Canada, about Toronto and Hamilton.

The passengers in the *Kingston*, from Cork, 93 in number, are chiefly labourers, and a few tradesmen. They had a long passage of 69 days; the passengers ran short of provisions, and had to purchase at exorbitant prices from the master. The water furnished to the passengers was frequently so bad as to be almost unfit for use, which was owing to its being put into bad casks. On inquiry, I found that the crew were using the same water, and that neither water, or provisions were inspected before sailing.

in No. 3.

No. 3.
Right Hon. C. P. Thomson to Lord John Russell.
8th August, 1840.

Encl. 4, in No 3.

the 25th day of July to the 8th day of August, 1840, both days inclusive.

Occupation.	If sent out by Parishes or Government aid.	If voluntary.	Observations.
Trades	..	6	Proceeded to Kingston, and were residents of St. John's Newfoundland for two years.
Labourers, a few farmers, and a few trades.	..	267	Have all proceeded to Upper Canada; a few were destitute of means to pay their way; was obliged to expend what cash they had in purchasing provisions from the captain at a dear rate, in consequence of a long voyage.
Farmers and labourers .	..	21	They have all gone to Upper Canada to settle, and have plenty of means.
Trades	..	3	Went to Montreal.
,, ,,			
,, ,,	..	13	Part went to Kingston, the remainder will remain in Quebec for some time.
Farmers and trades . .	..	45	They are respectable people, with good means, and have gone to Toronto and Hamilton.
Farmers and farm labourers	..	33	Ten of these are passengers who came from Ireland this season, the others were residents below for some years; two families were residents at Prince Edward's Island for 20 years, and sold out their farms there in order to go to Upper Canada for the benefit of a milder climate.
Labourers, a few trades, and a few farmers.	..	93	Many of them were entirely destitute, and assisted with a free passage to Montreal, and also provisions from this office.
The chief part are labourers, with a few trades and a few farmers.	60	253	They are all going to Upper Canada, where a large number have friends.
	60	734	

(Signed) A. C. Buchanan, Chief Agent.

I extended assistance to 10 families, about 30 persons, who were in the most distress, in provisions and a passage to Montreal, where they will meet with employment. There were a few cabin passengers, who bring out a good deal of capital, and are proceeding to settle in Upper Canada, where they intend to purchase lands.

Thirty-three passengers in the *Mary Ann*, from Marimachi, are very respectable. Two families, named Barkley, numbering 14 persons, have resided in Prince Edward's Island since 1819. They have sold their property there, and are going to settle in the home district for the benefit of a milder climate. The remainder are emigrants of this season, who are going to their friends in Upper Canada.

In the brig *St. James*, from Killala, with 136 passengers; and the *Marquis of Normanby*, from Sligo, with 174 passengers; the former was 96 days on her voyage, and the latter 63. The passengers suffered great privations on account of their long and tedious passage, and many of them arrived here in great distress, being quite destitute of money or provisions. About 60 of the passengers by the *Marquis of Normanby* were sent by Sir Robert Gore from his estates near Sligo. They were supplied with a free passage and provisions to this port, but, owing to their tedious passage, they landed here totally destitute. I have had to give relief to upwards of 150 persons from these vessels. Their destination is chiefly Upper Canada, and a few of the young men and women are going to the United States.

No. 3.
Right Hon. C. P. Thomson to Lord John Russell.
8th August, 1840.
Encl. 5, in No 3.

Enclosure 5, in No. 3.

Province of Lower Canada, District and City of Quebec.

I, PATRICK LEARY, late of the parish of Carrickmacross, in the county of Monaghan, Ireland, and now of the city of Quebec, in the province of Lower Canada, being duly sworn, depose and say, That on or about the 25th day of April last, I engaged passage for myself and family, five in number, with ——— ———, who acted in the capacity of agent for ——— ———, passenger brokers in Liverpool, to whom I paid the sum of two pounds to secure my passage in the ship ——— ———, which was to sail on the 10th of May, and was directed to proceed immediately to Liverpool, when I would pay the remainder of my passage money, amounting to eight guineas in all. I arrived in Liverpool on the 3d day of May, and proceeded to the office of ——— ———, and paid the remainder of my passage money, for which I received a ticket; but was told in a few days afterwards that the ship in which I had engaged my passage, viz., the ——— ———, had her full complement of passengers, and that I would be sent in the next vessel for Quebec. We were then detained until the ——— sailed, viz., on the 5th of June, and on our going on board, were charged an additional sum of four shillings and sixpence, viz., for emigrant tax. When I engaged my passage, the agent promised that I would be allowed my support during any time I would be detained after the day fixed on for the vessel's sailing.

I further swear that I only received from —— —— four shillings, and two measures of potatoes, to assist in supporting myself and family during the time I was detained in Liverpool, viz., from 10th of May to 5th of June, during which time I was living on the store of provisions prepared for the voyage, and that I landed here yesterday without any provision, and with only one shilling and eightpence in money. I had to purchase a bushel of potatoes at Gross Isle, for which I paid two shillings.

And I further swear, that when I left my home I had forty shillings in cash, over and above the money necessary to pay my passage as per agreement with ———, ———'s agent, but that owing to my long detention in Liverpool, and —— —— not fulfilling his agreement with me, myself and family have landed in our present destitute condition; and further deponent saith not.

Sworn before me this 21st day of July, 1840.
WILLIAM PHILLIPS, J. P.

his
PATRICK × LEARY.
mark.

Province of Lower Canada, Quebec.

I, PETER SCOTT, late of Liverpool, England, now of Quebec, in the province of Lower Canada, being duly sworn on the Holy Evangelists, saith, That on Friday, the 15th day of May last, deponent and his family, thirteen in number, landed in Liverpool, proceeded to ——— ——— office, ship agent, agreed for his and family's passage in the ship ——— for which he deponent paid eighteen sovereigns, and was informed by the said ———, that the ship would sail on the 18th, and if she did not, he, the said ship agent, would pay for the support of Peter Scott and his family while they were detained in Liverpool.

Deponent further states, that he was detained for twenty-one days, at a heavy expense, which cost him eight sovereigns, and that he never received any compensation in money or value from the aforesaid —— ——, ship agent of Liverpool.

Deponent further saith, that on the 4th of June, when the ship ——— put into the river to go to sea, he with his family were ordered on shore by —— ———, agent for —— ——— ——, ship agent, and if it was not for the kindness of the Government agent, he, deponent and family, would have been put on shore, and detained longer, at an expense in Liverpool, as ——— ———, with whom he had engaged his passages by the ship Catherine had no authority whatever to grant the same.

Sworn before me this 21st day of July, 1840.
WILLIAM PHILLIPS, J. P.

his
PETER × SCOTT,
mark.

(No. 203.)

No. 4.

COPY of a DESPATCH from Lord JOHN RUSSELL to Lord SYDENHAM.

No. 4.
Lord John Russell to Lord Sydenham.
17th August, 1840.
To Despatch, 7th July, *vide* Papers relative to Emigration ordered by the House of Commons to be printed, 8th Aug. 1840. No. 613, p. 90.

MY LORD, Downing Street, 17th August, 1840.

WITH reference to my Despatch of the 7th July, I enclose herewith, for your Lordship's information, a copy of a letter from the Commissioners of Colonial Lands and Emigration, containing Reports from the Government emigration agents at Liverpool, Cork, and Londonderry, on the allusion made in Mr. Buchanan's Report for 1839 to some ships which had fallen short of provisions on the voyage to Quebec.

I have, &c.
(Signed) J. RUSSELL

The Right Hon. Lord Sydenham, &c. &c. &c.

Enclosure in No. 4.

No. 4.
Lord John Russell to Lord Sydenham.
17th August, 1840.

Encl. in No. 4.

Colonial Land and Emigration Office, 9, Park-street, Westminster,
11th August, 1840.

SIR,

WITH reference to the mention made in Mr. Buchanan's Report for 1839, of some ships which had fallen short of provisions on the voyage to Quebec, and also to that part of our letter of the 2d ultimo, which stated that inquiry would be made into the circumstances attending their departure, in order to see whether any inattention in enforcing the regulations of the Passengers Act, was attributable to the Government agents at the ports from which the vessels sailed, we have now the honour to enclose, for the information of Lord John Russell, copies of the answers which have been returned by those officers to our inquiries on the subject. We are glad to perceive from these papers, that there does not appear to have been any neglect of duty in the case of the vessels to which our notice was attracted.

In Lieut. Henry's letter will likewise be found such information as he could supply on the case of the emigrants who proceeded by the —— —— to Quebec, in consequence of having been disappointed of a passage to New York.

With regard to the sentence in Lieutenant Ramsay's letter relative to the difficulty of enforcing at all times the full supply of provisions, when found by the passengers themselves, we have instructed him that the regulations of the statute in that particular must not be relaxed.

We have, &c.
(Signed) J. FREDERICK ELLIOT.
EDWARD E. VILLIERS.

James Stephen, Esq.,
&c. &c. &c.

EXTRACT of a LETTER from Lieutenant HENRY, R.N, dated Government Emigration Office, Liverpool, 20th July, 1840.

"I beg to state, that both the '——— ———' and '———' passed under the inspection of the Government Emigration Agent, when it appears it was ascertained, as far as was practicable, that the passengers were provided with at least the quantity of provisions enjoined by the Act, in the presence of the captains, as will appear by the certificate of the master of the '———,' which I enclose, whose testimony, it is to be regretted, does not appear to have been called for at the time, and inferring from what I have myself witnessed, in cases of unavoidable detention, a too early exhaustion of provisions may not unfrequently be ascribed to wasteful habits and prodigal expenditure. In reference to the sale of provisions on board, as the masters invariably and publicly protest, at the period of inspection, against supplying the passengers with any articles of provisions on the passage, in the event of their being subsequently induced to do so, it could only be ascertained in the colony whether or not they had complied with the regulations of the Act as respects a scale of prices.

"With regard to the complaint of a party of passengers having been transferred from a New York ship to the '——— ———,' it appears, the persons named in the margin were all that had engaged their passage with the agent in Belfast, ——— ———, no longer in office, and that they had tickets for Quebec."

McCallan and five children.
Curren and five children.

Liverpool, 6 June, 1839.

THIS is to certify that I have on board the "———," myself master for this voyage, bound for Quebec, a sufficient quantity of fuel for the passengers, 28 casks of water containing 5000 imperial gallons, as particularly expressed below, and that I am satisfied that the passengers have the quantity of provisions stipulated by the Passengers' Act. I am also satisfied with the accommodation of the passengers, as regards the berths and space allotted to each, and of the seaworthiness of the ship, and that the berths are securely fixed.

5 long leaguers
13 short ditto } 5,000 gallons.
10 puncheons

re w's water:—
18 casks containing 1,600 gallons.

6,600

(Signed) HENRY LAST.

SIR, Government Emigration Office, Cork, 22d July, 1840.

I HAVE the honour to acknowledge the receipt of your letter of the 18th instant, and the fourth part of the correspondence relating to Canadian affairs, calling my attention to the letter of the Governor to the Secretary of State, and to a passage in the report from the Emigration Agent at Quebec relative to the brig ———, in which the emigrants stated that they were short of provisions, by being told that 25 or 30 days would be sufficient; and requiring me to state, for the information of the Commissioners of Land and Emigration, if that vessel had been under my supervision, what measures were taken to ensure the requisite quantity of provisions being on board, and whether it is not found practicable to enforce the regulation which provides for a scale of the prices of provisions to be sold being hung up in emigrant ships.

No. 4.
Lord John Russell to Lord Sydenham. 17th August, 1840.

Encl. in No. 4.

In reply to which, I beg to observe that the ——— was visited several times by me while fitting out, and both passengers and master cautioned as to the quantity of provisions being provided, and directed him to have an officer stationed to inspect them, as they were brought on board by the respective parties. As some difficulty is experienced on clearing in ascertaining the exact quantity on board, as when the vessel has proceeded to Cove, and *ready* for sailing, the clearing officers of the Customs, with their boat's crew, go on board and scrutinize both as to the quantity of provisions and number of passengers on board, and who inform me that the ——— was fully provided; so that I can only suppose that there had not been proper economy used in the issue of the provisions, as, if unrestricted, much waste will ensue, to prevent which, I have always urged the necessity of masters of emigrant ships taking them under their own immediate charge. As to any statement that they were deceived by the brokers having told them that 25 or 30 days' provisions were sufficient, I entirely disbelieve, as it is too much opposed to their interest (but that persons unconnected with them may have told them so is possible,) as papers, similar to the one enclosed, with the accompanying declaration, are issued in all the offices for emigration here, both to the individuals when engaging their passages, as well as placed publicly in the offices; and it is not possible for them to have been ignorant of the quantity required, and I believe the statement only made for the purpose of exciting compassion and relief at Quebec.

With respect to posting the scale of prices of provisions on board, I can only observe that the emigrant ships from this port do not carry provisions for sale, and which the owners of the ——— state was the case with that vessel last year, and consequently that part of the Act could not be complied with here, the breach of which cannot be ascertained until the vessels arrived at Quebec; and it is much to be regretted that steps were not then taken to enforce the penalty, or of giving such information to this office, that the vessel might be proceeded against on her return, the bond being in force only for one year. I have thus endeavoured to reply to your letter, and must add my regret that we are not furnished with fuller powers, and a boat's crew to enable us to visit vessels at all times, as the boats of the Customs cannot always be granted; and it is advisable that the masters of emigrant ships should be responsible for the provisions for the period provided for by the Act.

I ought to remark, that the ——— put into Newfoundland, after being at sea for 40 days, and when the passengers might have provided themselves with a further supply, as the vessel remained there 14 days. In consequence of the conduct of the master on that voyage, he was dismissed from the command on the vessel's return.

I have, &c.

(Signed) Charles Friend, Lieut. Royal Navy.

S. Walcott, Esq.,
&c. &c. &c.

Sir, Emigration Office, Londonderry, 23d July, 1840.

I have had the honour of receiving your letter of the 18th instant, accompanied with the Parliamentary paper, referring to a report received from the Agent at Quebec relative to the brig Albion, that left this port in June 1839, and requiring to know from me whether this vessel had cleared out from this port under my supervision, and if so, what measures were taken to ensure the shipment of a sufficiency of provisions under the regulation of the Passengers' Act.

I have the honour to report, for the information of the Commissioners, that the same measures were taken by me in this case as is observed by me in clearing out all other passenger vessels, namely, a close inspection of each passenger's provisions before going on board, and enforcing, as far as is practicable, each person having a sufficient supply of provisions for the voyage.

I beg leave to observe, that, generally speaking, the persons who emigrate from this to the British possessions in America are of the poorest class. It is, therefore, difficult in many cases to enforce the full complement of provisions required by the Passengers' Act, but I do so in every case as far as is practicable.

There were two or three passengers in the brig ——— who were not provided with a sufficient quantity of provisions, and whom I would not allow to proceed on the voyage; but on receiving an assurance from the captain that he would supply them gratis if necessary on the voyage with what they might require, I allowed them to proceed under these conditions.

On the arrival of the said brig this season, I had a conversation with the captain, who informed me that there were a few of the passengers short of provisions, which he supplied.

I have, &c.

(Signed) Robert Ramsay.

S. Walcott, Esq.,
&c. &c. &c.

(No. 159.) No. 5.

No. 5.
Right Hon. C. P. Thomson to Lord John Russell.
11th Sept. 1840.

COPY of a DESPATCH from the Right Honourable C. POULETT THOMSON to Lord JOHN RUSSELL.

MY LORD, Toronto, 11th September, 1840.

I HAVE the honour to enclose, for your Lordship's information, the weekly Return of emigrants arrived at the ports of Quebec and Montreal between the 15th and 22nd of August.

I would beg your Lordship to direct the attention of the Emigration Commissioners to the case of the vessel detailed in the memorandum of the Chief Emigrant Agent for Lower Canada, which is appended to the Report. The conduct of the agents in Dublin, seems also, if correctly stated, to have been highly reprehensible, in informing the emigrants that three or four weeks' provisions only would be sufficient for their use during the voyage.

I have, &c.

(Signed) C. POULETT THOMSON.

The Right Hon. Lord John Russell,
&c. &c. &c.

No. 5.
Right Hon. C. P. Thomson to Lord John Russell.
Sept. 11, 1840.

Encl. in No. 5.

Enclosure in

WEEKLY RETURN of EMIGRANTS Arrived at the Port of Quebec and Montreal, from

Date.	Vessel's Name.	Master.	Where from.	Number of Emigrants.			
				Male.	Female.	Children under 14 Years.	Total.
1840.							
August 16 . .	Lotus . . .	Hammond . .	Cork . . .	6	2	5	13
,,	Trial . . .	Davidson . .	Dublin . . .	36	24	17	77
,,	Esperance . .	Leguff . . .	Magdalen Islands	1	..	..	1
,,	Sir William Wallace.	Young . . .	Newport and Belfast.	4	4	3	11
,,	Astrea . . .	Donovan . .	Dublin . . .	47	49	46	142
August 19 . .	Hibernia . .	Wedgwood . .	Sligo . . .	54	42	32	128
,,	British King .	Brown . . .	Cromarty . .	58	47	52	157
,,	Jane . . .	Toby . . .	Sligo . . .	39	47	34	120
August 21 . .	Agenoria . .	Giffney . . .	Liverpool . .	4	..	..	4
,,	Westmoreland .	Duncan . . .	Leith . . .	30	18	28	76
August 22 . .	Sarepta . . .	Buck . . .	London . . .	7	1	2	10
,,	Viola	Langstaff . .	Sligo . . .	78	68	39	185
			Total . .	364	302	258	924

England	14
Ireland	676
Scotland	233
Lower Ports	1
	924
Previously reported	19,507
	20,431
To corresponding period last year . . .	6,421
Increase in favour of 1840	14,010

Emigrant Department, Quebec, 22nd August, 1840.

NOTE.—The emigrants arrived during the past week are Irish and Scotch, and consist of farmers' labourers and traders; the majority of them are in good circumstances, more particularly the Scotch emigrants in the British King, from Cromarty, 157 in number; these people, notwithstanding the long passage of 71 days, landed in good health, and, with the exception of about 20 of their number, have all proceeded to Upper Canada to settle in the London district. They bring out capital to the amount of from £7,000 to £8,000. One family are going to their friends in Sherbrook eastern townships, and a few are returning to Prince Edward's Island. The brig ——, ————, master, with 142 passengers from Dublin, arrived here after a passage of 73 days; they suffered great distress from the want of provisions. These poor people state that the agents, ——— ————, in Dublin, told them that from three to four weeks supply would be ample. During the last month of the voyage they were depending entirely on the scanty supplies obtained from the vessels they spoke at sea; and on arrival at Grosse Isle were in a state of starvation. The master states that the quantity of provisions laid in by the passengers were not inspected by any officer previous to sailing. The master appears to be intemperate, and on his arrival here he and several of his crew were taken up by the police, and his conduct was so bad that the magistrates sent him to the common gaol to hard labour for ten days.

The passengers by the Hibernia, Jane, and Viola, from Sligo, 428 in number, landed here in good health, but owing to their long passage (the average of which was 74 days) they suffered much for want of provisions, and were obliged to purchase from the captain at high rates. The passengers per the ———— complained of exorbitant prices, and I am happy to say, that on representing it to the master he refunded part of his charge, which proved of great service to many of them.

In the ————, ———, master, were 76 very respectable Scotch and North of England passengers, all in good circumstances, and going to Upper Canada to settle; they had a very long and tedious passage of 84 days, owing to their having the misfortune to lose their first mate. After being out about three weeks, he fell overboard and was drowned; the charge of the vessel then devolved on the second mate, owing to the master having lost his mind from the effects of intemperance, and not able to appear on deck, sometimes for three weeks at a time. This officer, on whom the duty of navigating the vessel devolved, was not qualified to the task, being unable to keep a correct reckoning; and it appears most providential that the vessel ever arrived here. The passengers

No. 5.

No. 5.
Right Hon. C. P. Thomson to Lord John Russell.
Sept. 11, 1840.

Encl. in No. 5.

the 15th day of August to the 22d day of August, 1840, both days inclusive.

Occupation.	If sent out by Parishes or Government aid.	If voluntary.	Observations.
Farm labourers . . .	. .	13	They proceeded immediately to Montreal, and intended settling about Kingston and Toronto.
Labourers and trades . .	. .	77	
. . .	. .	1	
Farm labourers . . .	. .	11	
Farmers, labourers, and trades.	. .	142	Proceeded to Perth, Kingston, Hamilton, and Coburg.
„ „	. .	128	Some of the single men are at work in Quebec.
Farmers and farm labourers	. .	157	Ten are going to Prince Edward's Island, and two families to Sherbrooke, the remainder are proceeding to Upper Canada.
„ „	. .	120	Are in good circumstances and have gone to the Upper Province, a few are gone to the States to join their friends.
. . .	. .	4	
Farmers and farm labourers, and trades.	. .	76	One family going to Leeds in Lower Canada, a few of the tradesmen remain at Quebec at employment, the remainder are going to Toronto and Hamilton.
Trades and labourers . . .	9	1	Going to Toronto, all young men.
Farmers and farm labourers	. .	185	The principal part are going to Upper Canada, and a few to the States.
Total . .	9	915	

A. C. Buchanan, Chief Agent.

also report that the water furnished them was frequently so bad as to be sometimes quite unfit for use.

The number of families assisted during the week were 14, numbering 80 persons, a number of whom were convalescents from the Quarantine Hospital.

(No. 165.) No. 6.

Copy of a DESPATCH from Lord Sydenham to Lord John Russell.

My Lord, Government House, Montreal, 28th September, 1840.

No. 6.
Lord Sydenham to Lord John Russell.
28th Sept. 1840.

I have the honour to transmit, for your information, the weekly Returns of emigrants arrived at Quebec and Montreal, which I have received from the Chief Agent at Quebec since that which accompanied my Despatch, No. 159, of the 11th instant.

Nos. 16, 17, 18, and 19.
22nd August to 19th September, 1840.

I have, &c.

The Right Hon. Lord John Russell, &c. &c. &c.

(Signed) SYDENHAM.

No. 6.
Lord Sydenham to Lord John Russell.
Sept. 28, 1840.

Encl. 1, in No. 6.

Enclosure 1,

WEEKLY RETURN of EMIGRANTS Arrived at the Port of Quebec and Montreal, from

Date.	Vessel's Name.	Master.	Where from.	Number of Emigrants.			
				Male.	Female.	Children under 14 Years.	Total.
1840.							
August 25 . .	Margaret Pointer	Isaac . . .	Greenock . .	2	..	..	2
August 26 . .	Creole . . .	Taylor . . .	Cork	8	4	5	17
August 27 . .	Amelia . . .	Teasdel . . .	London . . .	1	..	..	1
,,	Jamaica. . .	Martin . . .	Greenock . .	18	17	23	58
August 28 . .	Munico . . .	Dawson . . .	Limerick . .	30	31	29	90
			Total . .	59	52	57	168

England	1
Ireland	107
Scotland	60
	168
Previously reported	20,431
	20,599
To corresponding period last year . . .	6,634
Increase in favour of 1840	13,965

Emigrant Department, Quebec, 29th August, 1840.

NOTE.—The emigrants arrived during the past week are chiefly labourers and farmers; those by the Jamaica from Greenock, 58 in number, are in good circumstances; a few of the young men are going to settle in Montreal, the remainder to Upper Canada.

The passengers by the Munico from Limerick, 90 in number, landed here in good health, after a long passage of 79 days; they were obliged to put into St. John's, Newfoundland, for a supply of provisions. Three families landed in a very destitute state, numbering 14 persons; they had no means of purchasing provisions, and were supported by the captain after their own supply was ex-

Enclosure 2,

Encl. 2, in No. 6.

WEEKLY RETURN of EMIGRANTS Arrived at the Port of Quebec and Montreal, from

Date.	Vessel's Name.	Master.	Where from.	Number of Emigrants.			
				Male.	Female.	Children under 14 Years.	Total.
1840.							
August 31 . .	Mariness Hope .	Luckey . . .	Londonderry .	23	25	25	73
,,	Breeze . . .	O'Donnell . .	Limerick . .	3	3	..	6
,,	Five	Moore . . .	London . . .	26	24	42	92
September 1 .	Sir George Provost.	Mackey . . .	Liverpool . .	97	72	102	271
September 3 .	Gaspie Packet .	Bruelot . . .	Alecatina . .	2	..	..	2
September 4 .	Mary . . .	Bondreau . .	Baie de chaleur .	5	3	3	11
,,	Despatch . .	Walsh . . .	Waterford . .	4	1	3	8
,,	Try Again . .	Heacock . . .	Cork . . .	3	1	..	4
				163	129	175	467

England	363
Ireland	91
Lower Ports	13
	467
Previously reported	20,599
	21,066
To corresponding period last year . . .	6,755
Increase in favour of 1840	14,311

Emigrant Department, Quebec, 7th September, 1840.

in No. 6.

No. 6.
Lord Sydenham to Lord John Russell.
Sept. 28, 1840.

Encl. 1, in No. 6.

the 22d day of August to the 29th day of August, 1840, both days inclusive.

Occupation.	If sent out by Parishes or Government aid.	If voluntary.	Observations.
Farmers	. .	2	They have all proceeded to the Upper Province.
„	. .	17	
Trade	. .	1	
Farmers and farm labourers	. .	58	
Farmers and farm labourers, and trades.	8	82	
Total . .	8	160	

A. C. Buchanan, Chief Agent.

pended; a few of them obtained work here, and the rest proceeded to Montreal on their route to Upper Canada. One family, eight in number, had their passage paid out by Mr. Bydon, Colonel Wyndham's agent.

I have been under the necessity of extending relief to 10 families, in all 47 persons, who were destitute of food, and were proceeding to their friends in the Upper Province.

About 300 passengers are in Grosse Isle.

in No. 6.

Encl. 2, in No. 6.

the 29th day of August to the 5th day of September, 1840, both days inclusive.

Occupation.	If sent out by Parishes or Government Aid.	If Voluntary.	Observations.
Farmers and farm labourers	. .	73	Will principally settle in the Huron tract and some in the Home District.
Farmers	. .	6	Went to Kingston to settle where they have friends.
Labourers and a few trades	90	2	Proceeded to Montreal.
Farmers, farm labourers, and trades.	. .	271	Two families remain in Quebec; the remainder went to Kingston, Port Hope, Toronto, and Hamilton.
Traders	. .	2	. . .
Farmers	. .	11	Proceeded to the Upper Province.
Trades	. .	8	
Farmers	. .	4	
	90	377	

A. C. Buchanan, Chief Agent.

No. 6.
Lord Sydenham to Lord John Russell.
Sept. 28, 1840.

Encl. 2, in No. 6.

NOTE.—The passengers arrived during this week consist of labourers and farmers. In the brig Mariness Hope, from Londonderry, were 73, all in good circumstances, and a few families possessing small capital from 60 to 150 sovereigns each. They proceeded immediately on their route to Toronto, furnished with every information necessary for their guidance; two families intend purchasing from the Canada Company, in the Huron Tract, and others in the Home and Gore District.

Among the emigrants this week were 90 paupers, assisted to emigrate by their respective parishes, 30 of whom were from the Union House of Industry at New Port; they all landed here in good health and proceeded immediately to Montreal. In the barque Sir George Provost were 271 passengers from Liverpool, they had a long and tedious passage of 70 days, and many of them suffered from want

Encl. 3, in No. 6.

Enclosure 3,

WEEKLY RETURN of EMIGRANTS arrived at the Port of Quebec and Montreal from

Date.	Vessel's Name.	Master.	Where from.	Number of Emigrants.			
				Male.	Female.	Children under 14 Years.	Total.
1840.							
September 6	Brilliant	Elliot	Aberdeen	10	6	7	23
,,	Bornio	Gorman	Limerick	8	7	13	28
,,	John Bell	Black	Ross	10	7	14	31
September 10	Quebec Packet	Stephens	Cromarthy	23	15	22	60
September 11	Hypolite	Painchard	Magdalen	2	..	..	2
,,	Oberon	Edwards	Waterford	2	..	..	2
,,	Belona	Wylie	Greenock	2	..	..	2
,,	Unity	Smith	Baychulan	3	..	..	3
				60	35	56	151

Ireland	61
Scotland	85
Lower Ports	5
	151
Previously reported	21,066
	21,217
In corresponding period last year	6,944
Increase in favour of 1840	14,273

Emigrant Department, Quebec, 12th September, 1840.

NOTE.—The emigrants arrived this week are all in good circumstances, and have landed in excellent health; their destination is chiefly Upper Canada. In the brig Quebec Packet, from Cromarthy, were 60 passengers, who bring out from 800*l.* to 1,000*l.* in gold among them. They are all proceeding to settle in the Gore district, with the exception of one family, who are returning to their friends in the State of New York; the only pecuniary assistance I have been obliged to grant this

No. 6.
Lord Sydenham to Lord John Russell.
Sept. 28, 1840.

Encl. 2, in No. 6.

of provisions; Captain Mackey supplied several families with provisions gratis, who had not the means of purchasing, and he was obliged to put into St. John's, Newfoundland, for a fresh supply, where they were detained nine days. Owing to their long passage, 11 families landed here in great distress, numbering 59 persons; they were forwarded up to Montreal and furnished with two days' provisions; the young men and those unincumbered with families obtained employment about the coves and shipping, wages 3*s.* per day.

Both this city and Montreal are unusually free of distressed and unemployed emigrants, all those who are anxious and willing to work, and who will accept the regular wages of the country, will meet with abundance of employment, viz., from 2*s.* 6*d.* to 3*s.* per day without food.

---

in No. 6.

Encl. 3, in No. 6.

the 5th day of September to the 12th day of September, 1840, both days inclusive.

Occupation.	If sent out by Parishes or Government aid.	If voluntary.	Observations.
Farmers.	..	23	Proceeded to Perth, Port Hope, and Hamilton.
. . .	..	28	A few have remained in Quebec, the remainder went to Kingston and Toronto.
Farmers and trades . . .	..	31	
Farmers, farm labourers, and trades.	..	60	Principally proceeded to the Gore District, some to Toronto and Hamilton, and one family and a single man went to join their friends at Bytown.
Dealers	..	2	In Quebec.
Trades	..	2	Ditto.
,, ,,	..	2	Went to the Upper Province.
Dealers	..	3	In Quebec.
	..	151	

A. C. Buchanan, Chief Agent.

week among these passengers was to one poor woman with three children, who is going to her husband at Bytown.

The arrival of a large number of vessels during these last few days have furnished an increased demand for labourers and tradesmen, who will find abundance of employment during this and the ensuing month with good wages.

No. 6.
Lord Sydenham to Lord John Russell.
Sept. 28, 1840.

Encl. 4, in No. 6.

Enclosure 4,

WEEKLY RETURN of EMIGRANTS arrived at the Port of Quebec and Montreal from

Date.	Vessel's Name.	Master.	Where from.	Number of Emigrants.			
				Male.	Female.	Children under 14 years.	Total.
1840.							
September 12 .	Canada	Allan	Greenock . . .	13	10	8	31
,,	Queen	Thompson . . .	London	6	10	2	18
,,	Energy	Irvine.	Limerick . . .	10	16	5	31
,,	Llantornan Abbey	Dalton	Bristol	3	..	1	4
,,	Vittorie	Simpson . . .	Plymouth . . .	..	1	4	5
September 13 .	Mary Ann Hatton	Vero	Liverpool . . .	19	8	26	53
,,	Cherub	Duggan. . . .	Londonderry . .	71	53	35	159
September 14 .	Albion	Hick	Bristol	1	1	3	5
,,	Hartford. . . .	Baline	Newfoundland .	5	..	..	5
,,	Esperance . . .	Lebuff	Halifax	4	..	..	4
,,	Urania	Clarke	Cork	1	..	..	1
,,	Industry. . . .	Barret	Sligo	2	4	5	11
,,	Lord Goderich .	Duncan	London	1	..	..	1
September 15 .	Ann	O'Brien	Donegal. . . .	7	7	..	14
,,	Prince George .	McFarlane. . .	Leith	2	1	..	3
,,	William Walker.	Moore	Gloucester . . .	1	1	1	3
,,	Centenary . . .	Forster	Sligo	1	..	..	1
,,	William Burton.	Woodcock . . .	London	1	1	1	3
,,	South Durham .	Miller.	Liverpool . . .	2	..	..	2
September 16 .	Josepha	Leitch	Belfast	44	44	66	154
,,	Thomas Ritchie.	Thrift.	Bridgwater . .	3	3	9	15
,,	Clio	Brown	Padstow. . . .	24	10	24	58
,,	Dealy	Stowett	Bantry	1	4	7	12
,,	Sarah	Allan	Aberdeen . . .	6	4	10	22
,,	Spey	Dobson	Killala	20	19	21	60
,,	Lord Palmer . .	John McNeill .	Dundee	9	5	8	22
				257	202	238	697

England.	152
Ireland	458
Scotland.	78
Lower Ports	9
	697
Previously reported	21,217
	21,914
To corresponding period last year	7,149
	14,765

Emigrant Department, Quebec, 21st September, 1840.

NOTE.—The emigrants arrived this week are generally in good circumstances; their destination, with few exceptions, is Upper Canada. The passengers in the Clio, from Padstow, 58 in number, are chiefly mechanics and farmers; a few of the former remain in Montreal for employment, the remainder are going to the townships of Aspadel and Darlington in the New Castle district and Whitby in the Home district; they all possess sufficient means to enable them to settle on their own lands, and have friends and relations already settled in that part of the country.

The passengers per the Josepha, from Belfast, 154 in number, landed in good health, and proceeded immediately on their route to Kingston, Port, Hope, Toronto, and Hamilton; a number of the young men intended remaining in Montreal for employment.

Among the arrivals this week were about 80 Scotch emigrants from Greenock, Aberdeen, and Dundee, all in good circumstances, and intend settling in Upper Canada. I regret to report several families arrived in distress on board the Cherub, from Londonderry; they were 91 days on the pas-

in No. 6.

the 12th day of September to the 19th day of September, 1840, both days inclusive.

Occupation.	If sent out by Parishes or Government aid.	If voluntary.	Observations.
Farmers and servants	..	31	Proceeded in the vessel to Montreal, and were to settle in Toronto.
Farmers and Trades.	..	18	Proceeded to the Upper Province.
Labourers and Trades	..	31	Went to Belville and Toronto.
Labourers	..	4	Proceeded to Montreal, Prescot, Perth, and some to the Johnstown District; a few remain in Quebec employed.
. . .	5	..	
Labourers	..	53	
Farmers and labourers	..	159	Many landed in distress from a long passage of 91 days. Some are employed in Quebec, the residue went to Prescot, Kingston, and Toronto; the cabinet-maker went to Montreal for employment.
Cabinet-maker	..	5	
Dealers	..	5	In Quebec.
,, ,,	..	4	Ditto.
Trade.	..	1	A few of these are employed at Quebec, the remainder have gone to Upper Canada.
Farmers.	..	11	
Trade.	..	1	
Farmers and labourers. . . .	..	14	
Servant and farmer	..	3	
Trade.	..	3	
Farmer	..	1	
Trade.	..	3	
Trades	..	2	
Farmers and labourers	..	154	These are people with good means, and are going to Kingston, Toronto, Hamilton, and Port Hope.
Two farmers and one trade . .	..	15	Some remain in Montreal; the principal portion of them will settle in the Newcastle District.
Trades and a few labourers . .	..	58	
Farmers	..	12	
Farmers and trades	..	22	Are respectable people, and proceed to Upper Canada.
Farm labourers	..	60	Went to Cornwall, Brockville, Kitly District of Bathurst, &c.
,, ,,	..	22	
	5	692	

(Signed) A. C. Buchanan, Chief Agent.

sage, and suffered much for want of provisions; they put into St. John's, Newfoundland, and obtained a supply, which was, however, all expended previous to reaching this port. I found on arrival here a large number of her passengers in distress, and was under the necessity of sending a supply of oatmeal and bread immediately on board, and extended assistance to 11 families, 57 persons; they were, with the exception of two, all poor women with large families who were coming out to their husbands that were settled in the Upper Province: and the truth of their statement being fully substantiated by letters they had with them, these and a few families in the Spey, from Killala, who also had a long passage of 82 days, were the only persons I found deserving or requiring assistance.

I continue to receive most favourable accounts from all quarters of the increasing demand for labourers; a letter received from the Honourable S. Hat, Chambly, stating that a large number of labourers would find immediate employment on the canal, wages 3*s*. a-day.

(No. 213.) No. 7.

Copy of a DESPATCH from Lord John Russell to Lord Sydenham.

No. 7.
Lord John Russell to Lord Sydenham.
31st August, 1840.
Vide p. 5.

My Lord, Downing Street, 31st August, 1840.

I have hitherto refrained from adverting to your Despatch, No. 107, of the 16th of May, in which you enclose Returns and Reports from the Commissioners of Crown Lands in Lower Canada, on account of the expectation that you would communicate to me your opinion as to the proper course of proceeding on the important topics to which it relates.

For Despatch, 22nd June, *vide* Papers relative to Emigration, ordered by the House of Commons to be printed, 8th May, 1840. No. 613, p. 94.

On one subject, namely, the mode of disposing of the public lands of the Crown, your Lordship has addressed a Despatch (22nd June, No. 124,) to me; that despatch I immediately referred to the Commissioners of Colonial Land and Emigration for their report. At the same time I apprized them that it would, in my opinion, be most desirable to introduce into Canada the system of selling the waste lands of the Crown at an uniform price, and suppressing the payment of the purchase-money on land by instalments. I have not yet received the Commissioners' Report, but I hope that I shall soon be in possession of it; I will then send you a copy of it.

I should have been very glad to have had the advantage of your Lordship's advice, in regard to the course to be pursued with respect to Lord Durham's Proclamation of the 31st of October, 1838, which gives a conditional right of pre-emption to land, occupied by persons denominated squatters; but, considering that it may be of much importance to you to know my views on this subject before the meeting of the United Legislature, I will inform you, that as it is apparent from the financial statement of the Commissioners that the land revenue has greatly diminished, in consequence of the system at present in operation, it will be proper that you should issue a Proclamation revoking the Proclamation of the Earl of Durham relating to squatters, and limiting to one month after date the right of claiming the pre-emption allowed by that proclamation. Strictly speaking, those persons who have squatted since 1838, on the Crown lands and clergy reserves, are altogether excluded from participating in the advantages of Lord Durham's Proclamation.

On the remaining difficulty in which the Commissioners are placed by Lord Durham's Proclamation of the 11th of September, 1838, which directs scrip to be issued in favour of militia claimants, redeemable in Crown lands, I have also to request a report from you.

I have, &c.

The Right Hon. Lord Sydenham, &c. &c. &c. (Signed) J. RUSSELL.

(No. 221.) No. 8.

Copy of a DESPATCH from Lord John Russell to Lord Sydenham.

No. 8.
Right Hon. Lord John Russell to Lord Sydenham.

My Lord, Downing Street, 8th September, 1840.

In my Despatch of the 31st ultimo, I informed your Lordship that I had referred, for the consideration of the Commissioners of Colonial Lands and Emigration, your Despatch, No. 124, of the 22nd June, reporting the resumption of the sale of the Crown lands in Lower Canada, and recommending important modifications in the method of disposing of them.

For Despatch, 22nd June, No. 124, *vide* Papers relative to Emigration, ordered by the House of Commons to be printed, 8th Aug. 1840, No. 61, p. 94. August 4th.

I have now the honour to transmit to you a copy of the Report which I have received from those gentlemen on the subject, and I recommend the suggestions which are contained in it to your consideration. I consider the principles correct, although they may require modification from local circumstances.

I have, &c.

The Right Hon. Lord Sydenham, &c. &c. &c. (Signed) J. RUSSELL.

Enclosure in No. 8.

Colonial Land and Emigration Office,
9, Park-street, Westminster, August 4, 1840.

SIR,

No. 8.
Lord John Russell to Lord Sydenham.
8th Sept. 1840.
Encl. in No. 8.

WE have had the honour to receive your letter of the 28th ultimo, accompanied by a Despatch from the Governor-General of British North America, announcing his intention of selling the Crown lands in Lower Canada at a fixed price, and we will proceed, in compliance with Lord John Russell's directions, to report any measures which have occurred to us as desirable in carrying into effect and completing this decision.

There are, however, one or two general observations which, in touching for the first time upon the disposal of land in Canada, we should be desirous to offer, before entering on the more immediate questions of detail involved in the present reference.

In the first place, we cannot refrain from expressing our satisfaction at the change which the decision of the Governor-General will introduce into the whole of the previous plans of disposing of the public lands in the townships of Lower Canada. The errors of those plans, beginning with the method of free grants, and followed by an imperfect system of sale, have, we doubt not, prevented the settlement and cultivation of the lands appropriated under them, and probably tended more than any other cause to check the growth and prosperity of the colony. We rejoice, therefore, to think that a period will now be put to the uncertainties and discouragements of sale by auction; to the delays, expense, and difficulties hitherto experienced in obtaining the issue of the patents, conferring on the purchaser his title; and to the two-fold evils of allowing the purchase-money to be paid by instalments, namely, the heavy loss which often accrued to the revenue on the one hand, and on the other, the temptation to persons with inadequate capital to possess themselves of lands which they are unable to bring into cultivation. By avoiding the mistakes or abuses of former modes of proceeding, the one now proposed will prevent the recurrence of the evils which resulted from them, and will establish a sounder system for the future.

This was as much as it lay in the executive authority alone to effect. The operation of the change can only be prospective. The important task of remedying the past, so far as it admits of remedy, will require for its accomplishment measures of a different kind, which, depending upon legislative aid, have not come directly into notice on the present occasion, but to which we are unwilling to omit all allusion.

No more powerful picture can be presented of the ill consequence from past errors than is afforded by the Report and Evidence, forming Appendix B. to Lord Durham's Report. Although it appears that much waste land in the township districts of Lower Canada still remains in the possession of the Crown, yet by far the largest portion of the territory, containing the most fertile soil, and in situations the most favourable for settlement, has become private property, and continues for the most part in its original state of wildness, neither inhabited nor cultivated. The quantity of wild land in the possession of individuals is stated to be a million and a half of acres (403) and out of 1,300,000 acres held by the largest proprietors in Lower Canada, whose names are given (361), at least one million are stated to be in a perfectly unimproved state, while of the whole body of these proprietors, only six reside upon their land. The communications between the several parts of such districts as are cleared, and the means of transporting such produce as is raised from them, are exceedingly imperfect, and it is stated in the Report of Lord Durham's Commissioner, p. 7, that "in some extensive and fertile tracts, the whole, or nearly the whole of which has been granted, the population is not 1 to every 10 square miles." Until, therefore, the present proprietors shall clear and cultivate their lands, or dispose of them to others who have capital to expend upon the work, it can hardly be expected that any regulations for the future disposal of Crown lands, however salutary in themselves, can suffice to secure the welfare of the colony.

The question then of the proper cure for the existing evils which are obstructing the settlement of the townships of Lower Canada, and the development of its resources, becomes exceedingly important. For our own part we can see no other remedy than the one which is so ably urged in the Report we have alluded to throughout our remarks on this subject: namely, the imposition of a land-tax. Other plans, such as a process of escheat for non-performance of settlement duties, appear open to grave, if not insurmountable objections; but the arguments by which the more simple and effectual plan of imposing a small charge upon land is supported, appear to us unanswerable.

Upon examining the evidence, we observe a remarkable concurrence of testimony in favour of this measure on the part of the proprietors themselves, though, of course, on the supposition that the proceeds will be applied either in forming roads and effecting other improvements in the colony, or in the conveyance of emigrants. One gentleman, who had resided in the province more than 25 years and was the proprietor of about 50,000 acres of wild land, expressed his agreement in the measure, although entailing on himself an immediate charge, as the only means of forcing the vast tracts of appropriated wastes into actual cultivation and settlement. His own experience had led him to the conviction of its necessity. It was then 20 years since he had purchased wild land at a low price, expecting that it would advance in value as the settlement of the colony advanced. Yet so far was he from realizing this expectation, that he found, after the lapse of so many years (when the accumulated interest upon the money invested had increased the amount of his outlay 150 per cent.), that he could obtain no more for the land than it had originally cost him.

The only point on which we would express a different opinion from the writer of the Report in Lord Durham's Appendix is, that we should make all lands, and not merely those which remain wild, chargeable with the tax. Where the lands have been purchased unconditionally,

No. 8.
Lord John Russell to Lord Sydenham.
8th Sept. 1840.

Encl. in No. 8.

and *bonâ fide* paid for, the imposition of a tax on them, solely because they are uncultivated, would be of questionable justice. There would, also, be obvious practical difficulties in determining what land should be considered entirely wild or not; and further difficulties in ascertaining the value of the lands thus pronounced subject to the tax.

Precedent and experience also are in favour of the course we prefer. In the General Report of the Lower Canada Commissioners in 1836, it is sated that wild lands in the United States are subject to assessment, not because they are unproductive or uncultivated, but for the reason that they constitute property, and that all property, be its nature what it may, is equally considered to be rateable and taxable. And in the evidence taken before the Waste Lands Committee of the House of Commons, Mr. Stephenson says (page 201), that in the State of New York and most other States there is a tax which operates both on settled and unsettled lands. In Upper Canada, by the Act 59 Geo. III. cap. 7, uncultivated land was rated, in common with all landed property, for local purposes, but without any exemption of other lands, or any circumstance of a penal character. The rate was general upon all lands, the cultivated being assessed, once for all, at 20*s.* per acre, and the uncultivated at 4*s.* per acre.

Adverting, then, to the difficulties, and the possibly doubtful principles, of a distinguishing tax upon wild lands, and considering, also, the real nature of the practice in other countries, which might, at first sight, appear to afford a precedent for that course, we should recommend a tax upon all lands indiscriminately, but the amount of it so calculated as to press lightly upon those which are cultivated and consequently productive to their owners, while it might, at the same time, be expected to compel the alienation, or lead to the forfeiture, of large tracts held in a permanently unimproved condition.

The whole question of a land-tax, we are aware, must be dealt with by legislative authority. We have only been led to allude to it on the present occasion as one which, when a proper opportunity occurs, will involve considerations of higher importance than any other point connected with the regulation of land in Lower Canada.

Returning now to the intended mode of disposing in future of such wild lands as are still vested in the Crown, we may commence by offering a few remarks on the subject of price.

In fixing the amounts that have been named, we observe that reference has been made to the price of the public lands in the United States, with a view to preventing capitalists from effecting their purchases in that country; and there can be no question that this is one of the circumstances to be taken into account.

In case, however, it should be desired, hereafter, to advance somewhat beyond the rates in the United States, we think it may be doubted whether a small difference in the price of land would alone induce settlers of capital from the United Kingdom to establish themselves in a foreign country, and forego the privileges of British subjects; and in the case of the humbler description of emigrants, we apprehend that they for the most part cross the border rather in search of wages and the means of livelihood, than in order to acquire land which they have not the means to cultivate. Another point to be observed is, that not merely the price paid for the land is to be considered, but the circumstances attending its possession. In those parts of the United States which adjoin Canada, all lands, as soon as they become private property, are subject to assessment for local purposes. It is otherwise in Lower Canada; and while we believe that it would be a great advantage to the colony, as a political measure, that similar imposts were raised there and applied to similar purposes; yet in a pecuniary point of view, there can be no doubt that the difference must be reckoned to abate the whole cost of land to its purchaser. Moreover, the party who buys land in the United States has not the benefit, which we trust will henceforward be afforded to the purchaser in Canada, of having the amount of his purchase-money laid out in the indirect improvement of his estate, either by the introduction of labourers into the colony, or by the construction of roads or other useful public works.

We have thought it our duty to point out these considerations as probably admitting of some excess of price in Lower Canada, should it be thought advisable on other grounds, beyond the price in the United States. But we do not at this moment suggest any increase in the higher, at least, of the two amounts already named in the province. It may be useful that the experiment of a rate as low as this one should be tried. And it has been stated that the prices at present fixed are to be considered only temporary.

There is, however, one point connected with the question of price, on which we would venture to dissent from the plan which has been under our consideration: we mean the establishing of different rates for different localities. Upon general principles we think it not more desirable in the settlement of a colony, that the price of its waste lands should be fixed, than that it should be uniform. If there are two prices established, one for good land which is well situated, and the other for inferior which is more remote, the poor man, whose acquisition of land it is not desirable to facilitate, will be tempted by its cheapness to buy the last good portion, and then from inability to cultivate it, will end by perpetuating the greatest evil from which the colony has so long been suffering. We would therefore submit it for consideration whether it would not be better that the lands in Lower Canada should be sold at one uniform price, and that the price should be 6*s.* per acre, being the sum fixed by the Governor General for such waste lands as are most advantageously situated.

One object of paramount importance in renewing the sale of public lands in Lower Canada, and in commencing a better system, is that some improvement should be effected in the mode of surveying them. The former careless and incomplete system of survey has already produced a serious amount of loss and inconvenience to the proprietors of the land, and has laid we fear the ground of endless litigation for the future. It has been said in the country, that

every grant is a lawsuit. In the evidence taken by Lord Durham's Commission of Inquiry, the Commissioner of Crown lands mentions the case of two townships which had come officially before him, in which no one lot agreed with the diagram of the survey. No lot was in its proper place, and some had two and a half times the contents of others, although marked as of equal extent. There were lakes also, which were entirely omitted, occupying nearly the whole of some lots. He understood the case to have been, that if the surveyor did run the outlines of the township he was commissioned to survey, it was as much as was ever done, and the whole of the field notes and subdivions was mere fiction. The consequence is, that complete uncertainty exists as to the titles and boundaries of lands granted by the Crown, and the Commissioner apprehends that questions of disputed property are waiting in great numbers, until land shall have become more valuable, when the Crown will be called in upon every occasion to defend its own grant, without having the means of defence, unless measures shall have been previously taken to remedy the evil. (App. B., Q. 241—260.) Another witness, a land agent of great experience, bore evidence to similar facts, and instanced a number of townships, in which the inaccuracy of the surveys had already been fully ascertained. He mentioned that a patent for four lots had recently been put into his hands, three of which he had discovered not to be in existence. He adds that inconvenience is now beginning to be seriously felt from this cause; and that many people are so well aware of the doubt which hangs over their property, that they refuse to sell with a guarantee of title.—(Q. 322—325.) It is much to be desired that measures may be taken for remedying an evil so seriously affecting the interests of the land-holders, and threatening loss and inconvenience to the public. But at all events, we hope that no lands will in future be sold under the new system, unless a survey has been actually made of them, and an accurate drawing and description of each lot been furnished to the land-granting department. It is against all principles of expediency and justice that the Crown should profess to sell particular and definite portions of land to private individuals, unless the limits, circumstances, and position of such lands have really been ascertained and defined. We would therefore recommend, if there be any reason to suppose that the land now offered for sale as already surveyed, has been carelessly or imperfectly laid out, that a fresh survey of it be ordered.

We would further suggest, that in all new surveys, or all re-surveys as above proposed, the land should be divided, not as formerly into sections of 200 acres, but into equal parts of square miles; and we would recommend that those parts should consist of 320 acres, or one half of a square mile. By avoiding a further subdivision, the expense of the surveys will be considerably reduced, while the land will still not be sold in portions inconveniently large. As the highest of the two prices now fixed by the Governor-General, the cost of each such lot will be £96; and we think it not desirable that persons, who are without that amount of capital to expend upon the purchase, should become the proprietors of unreclaimed land.

The next recommendation we have to submit, with a view of facilitating the future sales of waste lands in Lower Canada is, that land-offices should be established at convenient towns in the several districts in which it is likely that purchases would be made; as, for example, at Sherbrooke in the Eastern townships, at Hull on the Ottawa, and at some appropriate place in the district of Gaspé. The principal office should be at the seat of Government. Charts should be kept there, for public inspection, of all lands which had been properly surveyed, and were ready for sale: and at this office purchases ought to be capable of being effected of lands situated in every part of the province. In each district-office charts should also be kept of all lands ready for sale within that district; and an applicant there ought to be able to make a purchase of lands so situated, without the necessity of either personally, or by agent, resorting any where else; but it would be necessary that the completion of his purchase should be suspended during the time requisite for a communication by post between the local and the chief office, to ascertain that the same lot had not already been sold at the latter. This rule might perhaps be inverted as to the district of Gaspé, in which, on account of its distance, it would probably be better that the purchases on the spot should be absolute, and those at the seat of Government dependent on a communication with the district office.

This would be the proper place for us to observe, that the whole purchase money ought to be required to be paid up at once, and that after payment, the utmost attainable promptitude should be used in issuing the Patent, were it not that the Governor-General has already expressed his intention of providing for these purposes.

We will merely throw out the remark, that we have found amongst the records of the Colonial department, a very lucid exposition of the cumbrous and complicated process which formerly obstructed the completion of the titles, contained in Lord Gosford's Despatch of the 28th July, 1836. A fertile source of delay had up to that time existed in the unnecessary multiplication of checks; and we quite agree in the opinion expressed in Lord Gosford's Despatch, that such a system "introduced a reciprocal dependence between the different departments, destructive alike of accuracy, and of that full sense of responsibility, which it is desirable that each should possess." We believe that most of the improvements then suggested have been carried into effect, but if further amendments should be found desirable, in order to ensure the proper expedition in issuing the land-patents, we think it probable that useful hints might be derived from this document, which we doubt not is preserved amongst the official correspondence in Lower Canada.

The establishment of a fixed price at which persons may select their own lands in the surveyed districts renders it necessary to consider with precision what are to be the exceptions from this right of choice. The usual reserves for roads and public works should continue to be made. But we may take this opportunity of stating that we do not think that the deeds of grant should henceforward reserve to the Crown a right to minerals,—a reservation from which little profit has been derived in any part of the Colonial empire, while yet it must act

No. 8.
Lord John Russell to Lord Sydenham.
September 8, 1840.

Encl. in No. 8.

as a discouragement to enterprise; nor yet are we disposed in favour of the practice of reserving a right to the use of stone or timber for public purposes,—a right which would appear burthensome on the land, and a serious abridgment of the privileges of private property.

In the regulations which we have proposed for the sale of lands in Lower Canada, we only had in view country sections. We believe that at former periods there were examples of the reservation of town or village lots, which have contained smaller quantities of land than the others, and been disposed of on higher terms. Should any such lots remain unsold, a point on which we are not informed, though we do not suppose it probable, we presume that the Governor-General would fix a higher price upon them, according to the circumstances; but we do not consider that it is desirable for the Government in future to lay out the sites of towns, and sell the land on such sites in small subdivisions, believing that in all cases the formation and growth of secondary towns will proceed more rapidly when left to the judgment and enterprise of private parties.

Besides the subject of reserves, another very important question, raised by naming a fixed price at which a purchaser may select and claim any section of the public lands, is the manner of dealing with unauthorized occupants of such lands. It appears that this is a very numerous class, and we are disposed to think a very useful one in a country where every foot of land has to be cleared from timber and the accumulated growth of ages before it can be cultivated. It is observed in the Report of the Commissioners of 1836, that in the wild parts of Lower Canada "it is impossible for a man to establish a human habitation, and not do more good than harm." It would not be right, of course, where the system of sale has been introduced, to permit any one to acquire a property in land without fulfilling the condition of payment; but we think it would be unjust and inexpedient to allow another party, who applied at the land office for any spot of land which had been occupied without authority from the Crown, to reap the benefit of the labour and exertions of the actual occupant, by purchasing it away from him, and that too at a price no higher than had been set upon Crown lands which had remained wholly uncleared. We therefore think, that whenever, in the course of settlement, lands so occupied should come to be included in the surveys of any district which should be declared open for sale, the unauthorized occupant should be called upon to decide whether he would exercise his right of purchase and become the proprietor of the lot, or whether it should be announced to the public as part of the disposable land of the colony. In this latter case it would appear expedient that he should be ejected, or else it would seem that the encouragement to unauthorized occupation was so great as to render the system of sale almost nugatory.

As connected with the subject, we may mention that a great proportion of these occupants are said to be natives of the United States, and consequently incapable of acquiring property in land; but of their superior skill and industry in clearing the ground they occupy there can be no doubt. In fact, it is not to be supposed that any class of persons coming from an old country can equal their knowledge, courage, and endurance in contending with and overcoming the passive resistance of the wilderness. It seems obviously desirable that so useful a description of settlers should be enabled to acquire a title to land themselves; and we therefore hope that the Legislature in Canada, as we believe has been the case in the Upper Province, will afford facilities to the naturalization of well-conducted and resident foreigners who may be desirous of acquiring a recognised property in land.

For facility of reference it may be convenient that we should briefly recapitulate the principal suggestions offered in this report.

After inviting attention to the importance of considering the measure of a land-tax, when a proper opportunity shall occur, we recommend—

1st. That there shall not be two prices of land in Lower Canada, but only one uniform price, and that this should be 6*s.* per acre, being the higher of the two rates contemplated in the proposals from the colony.

2ndly. That no land should in future be sold, unless known to be adequately surveyed; and, therefore, that if any of the districts at present open for sale, as being surveyed, should be on good grounds supposed to be insufficiently and incorrectly laid out, a fresh survey should be ordered before any further sales in it are effected.

3rdly. That district offices for the sale of land should be established in the most convenient situations for the purpose, besides the principal office at the seat of Government.

4thly. That in contending against delay in the preparation and issue of titles for land, the expediency of concentrating the duty and the responsibility should be borne in mind.

5thly. That the usual reserves for roads and public works should continue to be made; but that in the deeds of grant there should no longer be reservations of minerals to the Crown, or of a right to timber and stone for public purposes.

6thly. That all lands should be measured and sold alike, without laying out and selling on different conditions town or village allotments.

7thly. That provision should be made for not depriving unauthorized occupants of Crown lands, when reached by the progress of settlement, of the fruits of their industry, without allowing them a right of pre-emption.

And, 8thly. That facilities should be afforded to resident and well-conducted foreigners to acquire a valid title to landed property.

We have, &c.
(Signed) T. Frederick Elliot.
Edward E. Villiers.

James Stephen, Esq.,
&c. &c. &c.

(No. 179.) No. 9.

No. 9.
Lord Sydenham to
Lord John Russell.
October 12, 1840.

COPY of a DESPATCH from Lord SYDENHAM to Lord JOHN RUSSELL.

MY LORD, Government House, Montreal, 12th October, 1840.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatches of the 31st August and 8th September, Nos. 213 and 221. As the subjects of these Despatches are intimately connected, I answer them together.

It is unquestionable that the land revenue of Lower Canada has been very inconsiderable during the last few years, but, in attributing the diminution, as I understand your Lordship to do, to the effect of Lord Durham's proclamations respecting squatters and militia men, your Lordship appears to have fallen into an error. At the time when Lord Durham commenced his inquiry into the disposal of the Crown lands he suspended the sale of them, and that suspension continued until it was altered lately by myself.

The only sums, therefore, received since then on account of the land revenue have been instalments for lands previously purchased, rents on lands under lease and payments for licences to cut timber. These sources of revenue are of course inconsiderable when compared with the proceeds of the sale of land when the old system was in full operation. I feel confident that as soon as the new system shall be in operation, the land revenue will not only equal, but exceed what it was in former years. I do not perceive that it can be affected in any way by Lord Durham's proclamations respecting squatters, because by setting up all unappropriated Crown land for sale at a fixed price, the exclusive privilege conceded to that class by Lord Durham, is at once neutralized. But in order to avoid any difficulty, the notice, of which the enclosed is a copy, was issued from the Crown Land Office simultaneously with the new land regulations, requiring that all claims under Lord Durham's proclamations should be lodged before the 22nd January next. Your Lordship's Despatch contemplates closing those claims at even an earlier date; but as the curtailment of the time would now be comparatively immaterial, and as any interference with a notice of this nature might give rise to complaint and be regarded as a breach of faith, I trust your Lordship will not disapprove of my leaving the matter as it at present stands.

I now proceed to notice the report of the Land and Emigration Commissioners, and in doing so I must express the satisfaction I have derived from the different communications from those gentlemen with which your Lordship has favoured me, exhibiting, as they do, great attention to the important subject entrusted to them, and expressing opinions in which for the most part I quite concur.

First, the Commissioners express their dissent from the principle of affixing different prices on land in different localities. Were Lower Canada a wilderness now about to be settled for the first time, I should agree with the Commissioners. The principle of leaving the choice of the purchaser unfettered and uninfluenced is no doubt abstractedly correct, but it cannot be applied to such a country as this without modification. Under the old system settlement has been encouraged in every part of the province indiscriminately; and although concentration has naturally taken place in localities enjoying peculiar advantages, there is a very large population scattered through the more remote parts of the province. To fix a uniform price on all lands would draw away population from these less favoured districts, and concentrate it altogether in the neighbourhood of the large towns and rivers. This would not only be a hardship on the more remote districts, but would have a bad political effect by leaving those districts, principally inhabited by French Canadians, to grow up in their national prejudices and habits without any sympathy with their fellow colonists.

The fear expressed by the Commissioners that the low price of the inferior lands may tempt those who should be labourers to become landholders is, I think, quite visionary. As the whole price must be paid at the time of sale, and as there is no intention of breaking up the land into small locations, there is no ground to apprehend that men without capital can become purchasers. It is not from the acquisition of land by *poor* men, but from the speculation of the rich, that the country has suffered and continues to suffer. And for this evil the remedy is not to be found in an increase of price, but in the imposition of an annual tax.

On this latter point, the imposition of a tax, your Lordship is well aware of my opinion, as it was one great object of the municipal clauses proposed by me for the Union Bill. The omission of those clauses has indeed put it out of my power to adopt any immediate step in the matter, and for this most serious evil Her Majesty's

No. 9.
Lord Sydenham to Lord John Russell.
October 12, 1840.

Government and Parliament are deeply responsible; but my whole experience in these provinces tends to confirm my opinion of the necessity of such a measure. Mr. Buller, in his report to Lord Durham, contemplated, as the Commissioners observe, a tax on wild lands only; but I agree with them that the tax should be on all lands, whether wild or cultivated, and that it should be uniform in amount. On cultivated lands it would in fact be scarcely felt, but it would operate as a penal tax on wild land, and would compel the owners either to cultivate or to dispose of it. If applied to local improvements, such as the opening and maintenance of roads, the repair of bridges, &c., it would be the greatest boon ever conferred on the country; and so general is the concurrence of opinion in its favour that I do not altogether despair of being able to obtain its imposition. Some of those who, from holding large tracts of wild land will be most seriously affected by it, generally admit that in a short time they would gain rather than lose by it.

In respect to the amount of the price fixed by me as compared with the upset price in the United States, the remarks of the Commissioners originate in a want of accurate acquaintance with the circumstances of the respective countries. It is true that land is subjected in some of the States of the Union to direct taxation, which, *pro tanto*, increases its price to the purchaser; but on the other hand, the facilities of communication are so much greater in the United States, population so much denser, and the market so much more accessible, that land there with all its incumbrances is far more valuable than land in Canada. I have little hesitation in saying, that land in the state of Vermont, or New York, is cheaper at 6*s*. 3*d*. than in Canada at 6*s*. It is to be remembered too that, although the settler may pay fewer taxes in money for the land he occupies on our side of the line, he is in reality exposed to far heavier charges in another shape. Those taxes go to make roads, establish communications, and at once improve the value of his property and diminish the expense of cultivation and residence to the settler in the United States; whilst, on our side, under the present system, although the tax-gatherer does not demand it, a far greater outlay than he could claim is expended by the settler in a variety of charges arising from the absence of these advantages which are the result of the tax.

The Commissioners are further mistaken in supposing that there is any sentiment among those who emigrate from England, sufficiently strong of itself to counterbalance any considerable advantages which they might obtain by settling in the States. Such is not the case. In order to retain our emigrants, and more especially that valuable class, the small English farmer, we must make it their advantage to stay with us; and I should therefore decidedly disapprove of any increase in the price of land, for the present at least, beyond what I have proposed.

With respect to the survey of the land, I entirely agree in the observations of the Commissioners. Of late years, a much more perfect system has, I am informed, been pursued; but there is no doubt that, in former times, surveys were very inaccurately made, and descriptions very carelessly drawn up. The difficulties which may arise from this, when the country comes to be more thickly settled, and land increases in value, it is perhaps impossible to exaggerate; and I should be very anxious to adopt some steps, while it is yet possible, to avert them. But the question is of so much importance, and so intimately affects the rights of property, that I require more time for consideration before pronouncing any opinion as to what should be done. In the mean time, your Lordship may be assured that every care shall be taken to ensure the accurate survey of all land which may hereafter be sold. I shall refer, for the consideration of the Commissioners of Crown Lands, and the Surveyor-General, the proposition that, in future, lots should be laid out in equal parts of a square mile, the smallest lot consisting of one-half of a square mile; and I shall reserve my opinion on this point till I receive their report.

I also concur in the opinion of the Commissioners, respecting the establishment of land offices in several parts of the province. Indeed, that system has, to a great extent, prevailed for several years in both the Canadas; and, in regard to the speedy completion of patents, your Lordship will observe, in the notice issued from the Land Office, it is expressly stated that steps will be taken for that purpose. The present system is cumbrous and dilatory to an excessive degree; but I trust I may be able to effect such alterations as will ensure the issuing of a patent within a week or ten days after the payment of the purchase-money.

The reservation of minerals has hitherto been inserted in all grants, in conformity with the Royal Instructions; but I have no doubt that, for the future, it may be better omitted. If it has any effect at all, it must be injurious. The reservation of

No. 9.
Lord Sydenham to Lord John Russell.
October 12, 1840.

particular descriptions of timber is a more serious question; but, even with respect to this, I am disposed to think that an alteration should take place. The only timber which the Crown requires is that for masts in the Royal Navy. This timber, on account of its size, is more valuable for masts than for any other purpose, and would consequently be always disposed of to the Admiralty agent, in preference to any other purchaser. The privilege of the Crown has hitherto been, in fact, inoperative; and the only attempt to put it in force (that which has been directed by your Lordship, in favour of Messrs. Chapman,) has called forth very strong and forcible remonstrances from all parties interested in the trade. I shall have to address your Lordship more at length on this point hereafter. In the mean time, I would merely request that the clause relative to reservations in grants may be omitted from the Royal Instructions.

The encouragement of settlers from the United States, by any direct alteration of the existing law, I should deprecate at the present moment. Practically, there is, I believe, no difficulty in their acquiring land; but I do not think it would be advantageous to confer on them, as a right, what they now enjoy only on the sufferance of the British Government. With every respect for their energy and intelligence, and fully admitting that, as the pioneers of civilization, they are superior to every other people, I do not think it would be wise, by any general measure, to invite their settlement in large numbers in the more populous portions of Canada. There is a spirit of propagandism among American citizens, which makes it necessary to observe great caution in this matter. At the same time, I think that, in individual cases, their claims to be admitted to the rights of British subjects, on certain conditions, should be considered in the most liberal spirit; and I am happy to believe that, for several years past, this spirit has prevailed in both provinces.

I have now gone through all the suggestions of the Commissioners of Land and Emigration; and it is satisfactory to me to find that there is little difference between the views of those gentlemen and my own. The subject of the disposal of the Crown lands is one of the most important which it is my duty to consider; and, in the settlement of the executive departments, under the Union Bill, it will be my endeavour to make such arrangements as may ensure an efficient discharge, for the future, of the duties of the Commissioners of Crown Lands and Surveyor-General. The errors of former systems, and the long-continued neglect of this branch of the public service, have no doubt created difficulties of a very serious nature; but I trust that it may be in my power to overcome them, and to introduce into this portion of the administration a system which may be both advantageous and satisfactory to the public.

I take this opportunity of acknowledging your Lordship's Despatch of the 1st August last, No. 195, and of informing you that I have directed the questions proposed by the Land and Emigration Commissioners to be printed and distributed among all those who may be able to give accurate information on the points adverted to by them.

For the Land and Emigration Commissioners' Letter, *vide* Papers relative to Emigration, ordered by the House of Commons to be printed, 8th Aug. 1840. No. 613, p. 9.

I shall take another and early opportunity of replying to the communication from the Commissioners, on the subject of emigration, transmitted in your Despatch, No. 201, of the 13th August.

I have, &c.
(Signed) SYDENHAM.

The Right Hon. Lord John Russell,
&c. &c. &c.

Enclosure in No. 9.

Office of Crown Lands,
Quebec, 10th August, 1840.

Encl. in No. 9.

NOTICE to persons who have settled upon Waste Lands of the Crown, without title, and who were actual and *bonâ fide* settlers previous to the 10th day of September, 1838.

PUBLIC Notice is hereby given, that his Excellency the Governor-General, having been pleased to fix the price of Crown lands, and to cause the same to be publicly advertised by this department, under date of 22d July last, all persons claiming pre-emption under the Earl of Durham's proclamation of the 31st October, 1838, must file the vouchers and certificates required in compliance with the terms thereof within six months from the date of the advertisement fixing the price of Crown lands, in default of which all right of pre-emption will cease and determine on the 22d January next

No. 10.
J. Stephen, Esq., to the Commissioners of Colonial Lands and Emigration.
Nov. 14, 1840.

No. 10.

COPY of a LETTER from JAMES STEPHEN, Esq., to the COMMISSIONERS of COLONIAL LANDS and EMIGRATION.

GENTLEMEN, Downing Street, 14th November, 1840.

No. 179, Oct. 12. p. 35.

I AM directed by Lord John Russell to transmit, for your information, the enclosed copy of a Despatch from Lord Sydenham, containing his observations on your Report of the 4th August last, respecting the system to be observed, in future, with regard to the sale of the Crown lands in Lower Canada.

I am to inform you that, as Lord Sydenham entirely agrees in the general principles which you advocate, Lord John Russell is not disposed to interfere with the Governor's discretion on the points upon which, often for political reasons, he differs from you.

I have &c.
(Signed) J. STEPHEN.

The Commissioners of Colonial Lands
and Emigration.

(No. 246.)

No. 11.

No. 11.
Lord John Russell to Lord Sydenham.
October 24, 1840.
For Despatch 8th August, *vide* p. 8.
October 16.

COPY of a DESPATCH from Lord JOHN RUSSELL to Lord SYDENHAM

MY LORD, Downing Street, 24th October, 1840.

HAVING referred, for the consideration of the Commissioners of Colonial Lands and Emigration, your Lordship's Despatch, No. 148, of the 8th August, I have now the honour to transmit, for your information, the enclosed copy of a report which I have received from them on the subject.

I trust that the measures which they have adopted, coupled with the orders which I have requested the Lords of the Treasury to issue to the customs officers at the out-ports, will interpose an effectual check to the evasion, in future, of the provisions of the Passengers' Act, relative to the victualling of emigrants.

I have, &c.
(Signed) J. RUSSELL.

The Right Hon. Lord Sydenham,
&c. &c. &c.

Enclosure in No. 11.

Colonial Land and Emigration Office,
9, Park-street, Westminster,
16th October, 1840.

SIR,

Encl. in No. 11.

WITH reference to your letter of the 10th ultimo enclosing the copy of a Despatch to Lord John Russell from the Governor-General of British North America, together with the remarks made by the Emigration Agent for Lower Canada on the weekly lists of Emigrants that arrived at Quebec in July and the early part of August last, we beg to state that we have forwarded these lists, and Mr. Buchanan's remarks to Lieutenant Henry, the Government Emigration Agent at Liverpool, for his information, and any observations he may have to offer.

With regard to the case of the ————, particularly alluded to in the Governor-General's Despatch, as we are in possession of a previous report from Lieutenant Henry, we beg leave to enclose that communication with a view to its being transmitted to the Governor-General. It will be seen that Lieutenant Henry's notice had been drawn to this case before the receipt of the present papers, and that he had furnished his explanations upon it, and adopted such measures as appeared to him practicable, in order to prevent the recurrence of similar evils.

We avail ourselves of this opportunity to enclose a circular which we have addressed, in consequence of Mr. Buchanan's Reports, to all the naval Emigration agents under this department; and we would take the liberty of suggesting that it might be attended with advantage to furnish a copy of this Circular to the Board of Customs, with a view to issue similar instructions to the officers of that department at any ports not provided with distinct Government Agents, from which passenger ships may be in the habit of sailing.

Annexed are the names and particulars of ships which are stated in the present papers to have arrived short of provisions from ports of the above-mentioned description.

We have, &c.,
(Signed) T. FREDERICK ELLIOT
ROBERT TORRENS.

James Stephen, Esq.,
&c &c. &c.

No. 11.
Lord John Russell to Lord Sydenham.
October 24, 1840.

Encl. in No. 11.

Government Emigration Office, Liverpool,
25th August, 1840.

SIR,

I HAVE the honour to report that a few days ago I was apprized by the Collector of the Customs that he had been officially informed of the circumstance of more passengers having been found on board two ships from this port on their arrival at Quebec than authorized to carry, and that the lists which accompanied them were inaccurate in all the particulars of numbers, names, and ages, at the same time requesting me to endeavour to discover the cause of the errors and excess. Conscious myself of having been scrupulously particular in my inspections, and conceiving the passenger broker to be implicated, I desired him to address to me or to the Collector a statement of all he knew on the subject, which, having received yesterday, I, with a letter from myself, handed to the Collector copies of both I now enclose. And I would beg to add, that I very much fear, while the present classification of children continues, it will be found impracticable altogether to prevent mistakes and misstatements; and I do hope, in revising the Act, the Commissioners will see the propriety of reducing them to *one* class, and recognizing indiscriminately *all* under 14 as children; each are to be computed as equal to half an adult; *all* should be counted, as I doubt not more deception is practised in regard to infants, than in either of the other subdivisions. In the mean time, to insure correct copies of the lists used by me to inspect the passengers being sent in the ships, which it seems was not the case on the occasion referred to, the Collector and Comptroller, at my suggestion, have addressed me a letter stating that henceforth no list will be received by them without a certificate of its accuracy being appended, attested by the signatures of the master and broker, and countersigned by me; but this only applies to ships coming under the Act, and something more is required to put an end to the long-practised system of fraudulent returns. Captains of ships bound to New York, I know, are often prompted and prevailed upon by the passenger brokers, to evade the Act when they have not many passengers over the prescribed number, and were they not watched by this office, I apprehend the law would soon become a dead letter.

I have, &c.,

S. Walcott, Esq.,
&c. &c. &c.

(Signed) JOHN HENRY.

GENTLEMEN,

Government Emigration Office, 24th August, 1840.

IN reference to your communication of the 20th instant, on the subject of official information received by you of two emigrant ships from this port, the ——— ——— and the ———, having arrived at Quebec with more passengers on board of each than allowed by law, I beg to state that both these ships came under my supervision, the former being inspected on the 13th of May, while at anchor in the river, and the latter also in the river on the 5th of June; and in the process and completion of this duty the whole of those, and only those, specified in the lists were passed upon the poop and the after part of the quarter-deck, and there kept until a search for intruders had been effected below, when every one not entitled to a passage was sent on shore; and as the answers to the questions I put in reference to the ages of the children accorded with the figures affixed to their names, further and more fully corroborated by the assurance of a gentleman from the office of the agents of the ship, that he interrogated the heads of each family himself on this point, I entertained no doubt of the Act having been complied with in every particular; at the same time it is but too evident these ships carried out more passengers than authorized, and that the lists sent with them did not correspond with those furnished for the investigation. This latter point admitted, and in the accompanying letter just received accounted for by the Charterer, the cause of the excess is a matter of mere mystery, although as a fact of general application, in cases of detention subsequent to clearing at the Customs, especially when at that period the complement is incomplete, that additions and alterations are occasionally made I have every reason to believe; and when paasengers are numerous, aided as they are by parties on board, it certainly requires no ordinary care to frustrate the attempts of intruders.

I have, &c.
(Signed) JOHN HENRY,
Government Emigration Agent.

Eleal Acnaud, Esq. and J. Grimes, Esq.

SIR,

Liverpool, 22nd August, 1840.

IN reply to your communication respecting the ships ——— ——— and ——— for Quebec, I cannot but express my surprise that such a discrepancy should have occurred between the number of passengers landed at Quebec and the number cleared for here, as you may remember you were very particular in the mustering of these vessels, and called over every soul in the ship, and I assure you there was not a single person sent on board either of these ships after you inspected them in the river, unless there happened to have been an individual ashore whose name was on the list, but even that I think did not occur. And you may also recollect that the owners' agent or clerk was on board both vessels (as they both belonged to the same owners), and after *you* had examined each ticket and family, he also counted the number and examined their age, as well as he could guess, and passed them up on the quarter poop-deck of the ———, which was well guarded by the mate and crew of the ship. Out of the latter vessel we brought ashore two families whose names were not in the list, and for whom we found there was not room.

When the emigrant comes to my office to take passage for himself and family, we do not in one case out of 50, no not in 100 cases, see the children, and we are obliged to take the ages given by their parents; at that season of the year particularly it would be impossible to inspec

No. 11.
Lord John Russell to Lord Sydenham.
October 24, 1840.

Encl. in No. 11.

every family, as our offices would never be clear of children, &c.; we only charge to *Quebec* by the *adult* passenger: the parties being well aware of this may give us false ages, and in such a number of people a little difference in families will make a *great* difference in the ship's complement, but I positively assure you there was no intentional alteration made in the lists, but the ages inserted as given in to us.

I am well satisfied there was not a passenger on board either vessel whose names are not inserted in *your* list, but I recollect there were several parties whose names were originally in your list, and on our mustering we found they were not on board, but others were whose names were not in the list; and you will no doubt recollect you allowed us to alter these names, and substitute other names to the extent of those who were absent, but no further; and coming ashore from the vessel I went to the office to have similar alterations made in the two lists for the Custom-house; but as it was drawing near the close of Custom-house hours, and the captain and agents being anxious to get the vessels cleared on these days, so as to start with the early tide, we had not time to finish the alteration, and knowing that the number was found to be correct, did not consider it so much a matter of importance the changing of the names. And this I have no doubt will account for there being a number on board whose names were not in the lists forwarded by these vessels, but am satisfied there were names in the lists *who were not on board.* Passengers often change from one ship to another, and I recollect particularly in the case of one of these ships, that I had a vessel going to Philadelphia on the morning that she went into the river, and I gave a number of the passengers the option of going in her to Philadelphia, which many of them embraced, so that we could not tell exactly, until we came to muster, what passengers had left the ship, so as to erase their names and substitute the others.

I must again repeat my suspicion and regret that such a difference should have taken place in these vessels, after the very particular manner in which they were inspected by you and the owners, and all parties on board. It is very possible that a few individuals, who had no right to be there, may have stowed themselves away, although a thorough search was made through the vessel.

I have sent several other ships out *this season* and preceding years to Quebec, and nothing of the kind has occurred with them.

I remain, &c.

Lieutenant Henry, Royal Navy. ——.

(Circular.)

Colonial Land and Emigration Office, 9, Park Street, Westminster,
16th October, 1840.

Sir,

August 8, 1840.

I am desired by the Commissioners of Land and Emigration to transmit to you the enclosed extract of a Despatch from the Governor-General of British North America, communicated to them by Lord John Russell.

It appears from the returns of the Government emigration agent for Canada, which accompanied this Despatch, that several of the vessels which went with emigrants to Quebec during the present season, the provisions of a large portion of the passengers were exhausted before their arrival, and that great extortions were practised on the emigrants, who were compelled to purchase provisions in the course of the voyage. As in several of these ships the duration of the voyage was shorter than the time allowed by the Passengers' Act, it may fairly be inferred that the quantity of provisions put on board at the commencement of the voyage was less than required by law, and that much of the evil complained of would have been prevented if the third and sixth clauses of the Passenger's Act had been effectually enforced. On a subject of so much importance, the Commissioners deem it proper to furnish you with some suggestions as to the best mode of carrying out those provisions of the Act to which I have thus referred.

The second clause of the Passengers' Act regulates the quantity of provisions which are required to be put on board every ship that clears out under the Act, but leaves it to the option of the parties whether they shall be provided by the ship or by the passengers themselves. In both cases the provisions ought to undergo a personal inspection by the Government emigration agent, if there is one, and by an officer of the Customs in all other cases; and the ship should on no account be cleared out until this point has been satisfactorily ascertained. When the passengers victual themselves, it will be necessary to examine separately the provisions of each passenger; and care must be taken that the same provisions are not counted twice over. One way of preventing any fraud of this kind is to muster all the passengers on deck, and to cause each family to show their provisions in turn, and afterwards take them below, until all the passengers have been examined. But each emigration agent will be at liberty to adopt whatever method he may find most convenient, provided only it be such as to ensure the accomplishment of the end.

It may sometimes happen that fresh passengers will be admitted on board, without an adequate supply of provisions, after the ship has undergone inspection. It will, therefore, be your duty to take care that the list of passengers is correct; and in order to effect this object, you will furnish to the chief officer of Customs, at the port at which you are stationed, a certificate, signed by the master and broker of the ship, and countersigned by yourself, that the list is accurate. Should the master of any vessel refuse you the means of ascertaining the accuracy of the list, you will not fail to direct the attention of the Customs' officers to the circumstance; and you will warn the captains of all such vessels, that for every wilful incorrectness in this document they render themselves liable, under the 16th section of the Act, to a penalty, and under the 19th section to a forfeiture of their bond; and that legal proceedings will be taken, if necessary, at the expiration of the voyage, by the officer entrusted with the duty of administering the Act in the colony.

No. 11.
Lord John Russell to Lord Sydenham.
October 24, 1840.
Encl. in No. 11.

The sixth clause requires that a table of prices of provisions should be exhibited on board each ship. This part of the Act has been sometimes evaded by persons declining to comply with it, on the grounds that it is not their intention to sell provisions. If any objection of this kind should be advanced, you will explain to the captain that the exhibition of a table of prices does not compel him to sell provisions or stores, but that it gives him the option of doing so in the event of scarcity; and that, by the neglect of this precaution, he places it out of his own power to sell provisions under any circumstances, except with a liability to a penalty. It would be desirable that the table of prices, like the list of passengers, should be signed by the captain, and countersigned by yourself.

I have, &c.
——— (Signed) S. Walcott.

Extract from a Despatch to Lord John Russell from his Excellency the Governor-General of British North America, dated Quebec, 8th August, 1840.

It would appear from Mr. Buchanan's remarks, that in many instances the provisions of the Passengers' Act have been disregarded. Where this can be brought home to the parties on their arrival here, the necessary steps will be taken to enforce the penalties; but it is evidently of much greater importance to prevent than to punish neglect, and this can be done only by the Government officers at the port of embarkation. I would, therefore, beg to call your Lordship's particular attention to Mr. Buchanan's remarks in regard to the insufficiency of the provisions brought out in these ships, and the extortions practised by the captains of them on the emigrants who may be compelled to purchase provisions in the course of the voyage. The enforcement of the third and sixth clauses of the Passengers' Act would probably put an end to this evil, and would protect the emigrant from the rapacity which appears to be exercised towards him.

Remarks by Mr. Buchanan.

There was, I regret to state, a good deal of distress among the passengers by the ——— ——— and the ———, from Westport, which was chiefly owing to their long voyage, being upwards of seven weeks at sea; their supply of provisions ran short, and many were supported by the charity of their fellow-passengers, after they had spent their money in purchasing food from the captain.

In the —— ——, their stock of provisions running short, the passengers were obliged to purchase from the captain at most exorbitant prices, paying him for bread at the rate of 37*s*. 4*d*. per cwt., for which the captain acknowledged to me only cost him 17*s*. 6*d*. per cwt.; barley 3*d*., cost 1½*d*.; and other things in proportion.

October 16.

Sir, Downing Street, 30th October, 1840.

I am directed by Lord John Russell to transmit to you the enclosed copy of a Circular Instruction, which has been issued by the Commissioners for Colonial Lands and Emigration to their several agents at the outports, relative to the enforcement of the provisions of the Passengers' Act in regard to the victualling of emigrants; and I am to request that, in laying this letter before the Lords Commissioners of the Treasury, you will move their Lordships to direct the Board of Customs to issue similar instructions to their officers at any ports not provided with emigrant agents, from whence passenger ships may be in the habit of sailing.

I have, &c.
(Signed) J. Stephen.

C. E. Trevelyan, Esq.
&c. &c. &c.

(No. 262.) No. 12.

Copy of a DESPATCH from Lord John Russell to Lord Sydenham.

No. 12.
Lord John Russell to Lord Sydenham.
Nov. 19, 1840.
p. 38.

My Lord, Downing-street, 19th November, 1840.

With reference to my Despatch of the 24th ultimo, No. 246, I transmit to your Lordship, for your information, the enclosed copy of a further report from the Commissioners of Colonial Lands and Emigration, on the subject of the cases brought under notice by Mr. Buchanan, in which the provisions of the Passengers' Act have been infringed.

I beg to call your Lordship's special attention to the suggestion of the Commissioners, that masters of vessels guilty of a violation of that Act should be prosecuted in the Provincial Courts.

I have, &c.
(Signed) J. RUSSELL.

The Right Hon. Lord Sydenham,
&c. &c. &c.

Enclosure in No. 12.

Colonial Land and Emigration Office,
Sir, 9, Park-street, Westminster, 14th November, 1840.

Encl. in No. 12.

With reference to our letter of the 16th of October, in which we acknowledged Mr. Buchanan's weekly reports enclosed in Lord Sydenham's Despatch of the 8th of August, and reported some of the steps we had taken upon them, we have the honour further to state, for

No. 12.
Lord John Russell to Lord Sydenham.
Nov. 19, 1840.

Encl. in No. 12.
Lieutenant Henry, October 19.
Lieutenant Friend, October 19.
Lieutenant Ramsay, October 24.
Lieut. Shuttleworth, October 27.

Lord John Russell's information, that we selected each case in which there appeared complaints connected with ports at which there were emigrant agents, and forwarded them to the officers concerned for any explanations they might have to offer. We now beg leave to enclose, with a view to their being forwarded to the Governor-General, copies of the Reports received from those agents,

Some of the present letters from the agents in this country illustrate the necessity of a revision of the Passengers' Act, of which measure we shall take care not to lose sight.

We perceive with great satisfaction the frequent communications now made from the colony of Mr. Buchanan's remarks, and we have no doubt that the report by that gentleman of every well-founded complaint will be very conducive to the efficiency of the departments at each end of the voyage, and to that protection which it must be the constant endeavour of both to afford to poor emigrants. At the same time we must observe that in several of the cases which have been deservedly noticed by Mr. Buchanan in his present reports, it appears doubtful whether the remedy could be applied anywhere else than in the colony.

It is remarkable that in several of the instances in which the shortness of provisions has been complained of, it proves, on inquiry, that a greater number of persons were landed at Quebec than were embarked with the knowledge of the authorities in this country. This is an evil of which we apprehend the correction must necessarily depend on such means as may exist of enforcing a penalty for false lists in the colony. From the nature of many ports, especially in Ireland, where they are so often situated at the inmost parts of deep loughs, and where the eagerness of people all along the coast to embark is so great, it is scarcely possible to prevent the masters of vessels from receiving, if they choose, a larger number of passengers than are cleared out from the Custom-house. The only mode of providing for such cases would appear a prosecution in the colony, if the lists, and the passengers actually brought out, are at variance.

In the same manner, if exorbitant prices should have been charged for provisions during the voyage, no table of prices having been exhibited at the time of departure, it appears to us that the master might be sued in the colony under the 16th clause of the Passengers' Act. The officers in this country state that they find themselves unable to compel the exhibition of a table of prices, for the master replies to them that he does not intend to sell provisions at all. But if at the end of the voyage it is discovered that he has nevertheless trafficked upon the people's necessities, and disposed of food to them at extravagant rates, he would clearly fall within the penalty for violating the 6th clause of the Act, which requires that a table of prices "shall be maintained for continual reference, as well during the period in which passengers shall be engaged as during the whole of the voyage." We have given fresh injunctions to the emigration agents to endeavour to enforce this clause before the vessel sails. If the master, however, evaded it in the manner above alluded to, we think it would be well worth trying at Quebec, in any case in which provisions had been sold at extortionate prices, whether a remedy might not be found by suing the master for the infraction of the 6th clause of the Passengers' Act.

We have, &c.,
(Signed) T. Frederick Elliot,
Robert Torrens,
Edward E. Villiers.

James Stephen, Esq.,
&c. &c. &c.

Sir, Government Emigration Office, Liverpool, October 19th, 1840.

I have the honour to acknowledge the receipt of your letter of the 16th instant, with four lists of emigrants arrived at Quebec in July and part of August, comprising certain comments from the pen of Mr. Buchanan, and two copies of affidavits, as also a "Circular," designed to obviate the evils exhibited, and to prevent the recurrence of the complaints referred to and reported in those papers, which, as far as practicable, shall be rigidly adhered to and enforced; in the mean while, I would beg to offer a few observations in reference to implications and imputations of neglect on the part of the Government Agents at home, fairly deducible from the several documents, herewith returned as desired; and in the first place, as respects myself, I assuredly am unable to assent to the assumed dereliction of duty in several particulars, if not on sundry occasions. I cannot charge myself with a single act of remissness in the use of all available means to give effect to the provisions of the Passengers' Act, and fully alive to the great importance of the third clause, the points it embraces have ever excited my solicitude, and received my sedulous attention, and in the investigation of the provisions, it is my invariable practice with the parties found insufficiently supplied, a common occurrence, to withhold their passage tickets, the guarantee for their passage, until the quantity is completed, which, notwithstanding their disregarded pleas and pleadings of poverty, is soon accomplished. But, however abundant the original supply, so long as it is left to the disposal of Irish indifference, and entrusted to the discretion of proverbially improvident Irish habits, the duration of the stock will always be subject of doubt and danger, and occasional complaints of early exhaustion will, I fear, continue to occur. But if the suggestion already submitted by me in reference to the prime article, biscuit, were adopted, by placing it under safe and satisfactory control, under every event a sufficiency would be ensured. And I would again take the liberty of pressing this point on the favourable consideration of the Commissioners, with this slight modification, that instead of, as on a former occasion, limiting the supply to half a hundred weight I now conceive it preferable to make it imperative for the ship to find five pounds per week for each adult, the issue to commence the day after leaving the port of embarkation, and to continue uninterruptingly throughout the whole of the ensuing voyage; leaving the passengers to provide themselves with, say a quarter of a hundred weight, of any other sort of bread stuff they may choose. This proposed improvement in the present objectionable system of victualling I have mentioned to several captains experienced in the carriage of passengers, who, after succeeding in convincing them that the serving out of this

No. 12.
Lord John Russell to Lord Sydenham.
Nov. 19, 1840.
Encl. in No. 12.

one article would cost them little or no trouble, and relieve them from no small anxiety, have invariably recognized the propriety of the proposition, as the most effective measure to prevent the waste they so often witness, and to secure the end and object so much desired.

As to the affidavits, I am sorry to say they present slight specimens of thousands of kindred complaints that have come under my cognizance; a prolific source of vexation and villany, which can be at once removed by the enactment of a law, compelling an early publication of the period of intended departure, and insisting, irrespective of the cause of delay, that the passengers be paid at the rate of 1*s.* per day for every day they may be detained beyond 48 hours after the day fixed for sailing; and unquestionably owners, charterers, &c., are far better prepared to risk delays arising from weather, &c., than are poor emigrants. Nor would I anticipate any formidable objection to a measure so salutary; on the contrary, I believe the majority of those here connected with the passenger trade would cheerfully acquiesce in a law to this effect. In the mean time it is my invariable practice at the period of inspection to examine the tickets, and wherever I find claims for detention established, by the previously anticipated date of sailing therein specified, I insist on such claims being settled before granting a certificate to enable the ship to clear at the customs. But verbal promises, however profuse, and which are never acknowledged, cannot be enforced. ———— has some time since, I am glad to say, abandoned the trade, owing I believe to the exposure of his partner in public courts, where I was constrained to summon him, to induce, for it appears he could not have been compelled, to refund the passage money of a poor woman with three children he attempted to send out in the "————" to Quebec, instead of to New York, where her husband resided, and where I subsequently sent her, having obtained a passage for her under the ordinary fare.

Although I make no doubt of several persons having been smuggled out in the ———— and I also think it probable considerable misstatements were made by the parents of the ages of their children, I can only account for so large an alleged excess by allowing the possibility of some miscalculations on the other side of the Atlantic.

I sent the affidavit of Patrick Leary to ———— on Saturday, and have been waiting ever since for his promised explanation; but it seems he has not had time to enter upon it yet; to-morrow I shall probably receive it, when, if it appear worthy of notice, I shall forward it to you.

I have the honour, &c.

Stephen Walcott, Esq.,
Secretary.

(Signed) John Henry.

————

Form of Passage Ticket, when Passengers are not wholly found by the Ship.

For the class ship of tons register burthen, to sail on the day of 184 ; but if detained 48 hours beyond that period, the passengers to be allowed detention money at the rate of 1*s.* per day until final departure.

NO.	NAMES.	AGES.	
			Equal to adults to have a passage in the of the above-named ship, on payment of , being the full amount agreed for, including
1			
2			
3			head-money, if any, and every other charge.
4			The ship to find berths, water, fuel, cooking apparatus, medicines, and 5 lbs. of biscuit per week for each
5			
6			adult, with space for the stowage of luggage, consisting
7			of wearing apparel and provisions.
8			Deposit
9			
10			Balance , to be paid before the ship
11			leaves the dock.
12			

Signed _____

It would be necessary to render this document a legal acknowledgment for the amount paid.

(Signed) J. H.

————

Sir, Liverpool, 19th October, 1840.

In reply to your inquiries respecting the case of Patrick Leary, passenger per ship Catherine, for Quebec, I beg to inform you that, so far as his statement goes, that he was engaged by ———— for the ————, it is correct; but when he arrived from Ireland, that ship had her legal complement of passengers on board. You, sir, are aware of the system of Irish agents sending forward passengers without any previous advice, so that it is impossible to take them in the vessels for which they were first engaged; in that case we make them allowance for their detention, and make the delay as light on them as possible. I recollect very clearly the case of Leary, and the expense I incurred by him was fully more than half his passage-money. I paid their lodgings all the time they were in Liverpool, and gave them considerable supply of provisions out of my store. My people recollect clearly giving him potatoes and oatmeal, what was considered about sufficient for his family; and although I did not give him much money, he keeps completely out of view in his affidavit the money paid him by ———— by my orders, and which came out of my pocket. That gentleman happened to be here a short time before the sailing of the ————, and I gave him 4*l.* 13*s.* to distribute among two or three families which he engaged, and am satisfied that Leary got at least 30*s.* of that money. I unfortunately did not keep any memorandum of the separate sums paid them. I also forgave them the hospital money which he had then a right to pay:

No. 12.
Lord John Russell to Lord Sydenham.
Nov. 19, 1840.

Encl. in No. 12.

he only paid 4*s.* 6*d.*, and the amount he should have paid was 18*s.* Besides, I engaged room in a vessel belonging to ————, for the purpose of sending off those passengers who were disappointed in the ————; but Mr. Leary preferred waiting for the ———, belonging to myself, because he considered her a better ship.

Now, sir, with these facts before you, I submit it to you, could I have done more for these poor people, after the unavoidable disappointment which occurred.

I remain, &c.

Lieut. Henry, R. N. (Signed) ————.

It appears, by his own statement, he had only 40*s.* on leaving home more than would pay the balance of his passage, and they always require to purchase some little necessaries for the voyage here, which is of itself a proof that I was liberal with him: his steam-boat fare from Ireland and hospital money would have taken the greater part of that sum.

This is to certify, that I have on board the ship ————, bound for Quebec, myself master, 48 casks, containing 14,300 imperial gallons of water; that I am satisfied the passengers have sufficient provisions, agreeable to the Act of Parliament; and am also satisfied with the fitting up and space allotted for the passengers, and also of the ship's seaworthiness.

(Signed) George Masson.

21	casks, containing	500	gallons, =	10,500
2	,,	350	,,	700
2	,,	250	,,	500
5	,,	160	,,	800
18	,,	100	,,	1,800
48				14,300

249 adults.
19 crew.

268 at 50 gallons each, 13,400

900 over.

Sir, Government Emigration Office, Cork, 19th October, 1840.

I have the honour to acknowledge the receipt of your Circular and extract from a Despatch of his Excellency the Governor-General of British North America, with your letter of the 16th instant, annexing an extract from Mr. Buchanan's weekly list and remarks on vessels arriving at Quebec with emigrants.

I have the honour to observe, with respect to the ———— and ————, that notwithstanding Mr. Buchanan's report, that both those vessels were repeatedly inspected by me, and that I have every reason to believe that they left Cork with their full quantity of provisions, and that the cause of the deficiency must have resulted from the want of proper economy in the issue of them, or from a portion of the potatoes becoming damaged on the voyage so protracted, for it appears the ———— was 69 days, or within one day of the full period for which she was provided. The water-casks were inspected both by myself and the Custom-house officers: there were six casks of the number which had had wine in, but which were burnt inside and lime put into each cask, and which I considered would render them fit for water; the others were all throughly cleansed, and water from the Water-pipe Company put into them. These vessels had no provisions on board beyond what was required for their own crews for the voyage; and if provisions were sold without a list of prices on the voyage, Mr. Buchanan had it in his power to punish the parties, and thus prevent a recurrence; as, had the lists been posted on board on her departure, they would, if it answered the master's purpose, be removed immediately after sailing; and it is only at Quebec that the breach of the law in this respect can be ascertained. On referring to the number of passengers said by Mr. Buchanan to have been on board of these vessels, there appears to be considerable difference from the numbers actually embarked here, the Custom-house lists being—

The ————	269 tons	143	$= 114\frac{1}{6}$
The ————	141 tons	82	$= 77\frac{4}{6}$

While the list of Mr. Buchanan states the numbers—

The ————	167
The ————	93

Consequently passengers must have been taken on board after clearance, contrary to law, and which ought to be rigorously looked into. I regret that Mr. Buchanan should, on such reports as he had, assert that the ———— had not been inspected here. The Government agents are fully disposed to detect evils, and to remedy them as far as in their power, but the agents at Quebec must contribute their assistance by punishing the parties offending. I have no hesitation in saying, that I fully believe not a vessel has sailed from Cove for the last six years uninspected by either myself or the Custom-house, and every step taken to ensure the proper quantity of provisions being on board. My office being at Cork, nine miles distant from the port of departure, the final examination devolves on the Custom-house officers at Cove, agreeably to the Act, as soon as the vessel has proceeded to Cove and is quite ready for sailing, and everybody on board, the officers of the Customs, with their boat's crew, repair on board with the list of the emigrants furnished them agreeable to clause 11 of the said Act, and muster them individually on deck, while the boat's crew rummage below to ascertain there are no other people secreted on board, and the provisions are then finally examined. This is done generally with the sails loose and the anchor apeak; and, wind and weather permitting,

No. 12.
Lord John Russell to Lord Sydenham.
Nov. 19, 1840.

Encl. in No. 12.

he vessel then sails: the list is corrected, and a duplicate given to the master, the other copy remaining at the Custom-house.

I fear the suggestions of the Commissioners as regards the examination of the provisions individually could scarcely be enforced here, the emigrants being principally provided agreeable to the lists enclosed, each individual would have near 400 pounds of potatoes, so that a small vessel with only 100 passengers would have upwards of 20 tons to be produced on deck at once, besides other provisions. The means I adopt is to desire the master to have a trusty officer stationed to see that the respective parties bring the proper quantity with them on board before they are put below, as it is their interest to see that they are fully provided. With respect to the suggestion of the Commissioners relating to the lists of emigrants, I fear we cannot compel the masters or brokers to furnish them, they being required by law only to furnish the Customs with them in duplicate,—and which are only delivered at the time of clearing when the numbers are ascertained, as both names and numbers repeatedly fluctuate till the last moment, so that no lists that we could procure could give any information to the Custom-house; but I am strongly of opinion that the respective collectors should require a certificate from the Government agent before clearing, as to the fitness of the vessel for the number of passengers, as repeatedly recommended by me; much inconvenience and discomfort would be prevented, and which may readily be done by an order to the collectors from the Commissioners of Customs, when the required certificate could be withheld until the provisions of the Act are complied with; at present we have no authority, and both brokers and masters can refuse our examining their ships. Nor can the Customs acknowledge our authority without an order to that effect from the Commissioners of Customs, although they are always ready to render us any assistance in the execution of our duties; and I have arranged with the collector here to arrange in future for the exhibition of the prices of provisions, whether there may be any on board for sale or not.

I have, &c.

Stephen Wallcott, Esq., &c. &c. &c.

(Signed) Charles Friend.

Sir, Emigration Office, Londonderry, 24th October, 1840.

I have had the honour of receiving your letter of the 16th instant, accompanied by a circular, and a reference to a report received from the Government emigration agent at Quebec, respecting the barque ————, which sailed from this port in June last.

I have the honour to report for the information of the Commissioners, that the above-named barque was detained here four days after the passengers were embarked. The master, on being directed to clear out the ship at the Custom-house, refused to do so under a plea that he had not received the balance for his freight from the broker.

I immediately noticed to him that he would be compelled to support the passengers for each day's detention until the vessel was cleared out, which had the desired effect; I also caused him to put an additional supply of provisions on board for the passengers in lieu for the detention.

From Mr. Buchanan's report it appears that 267 persons were landed from the ———— at Quebec, whereas 237 was the number given in at the Custom-house by the broker, and signed by the captain, making a difference of 30 persons, that must have been put on board after leaving this quay, and must also have been the reason of the deficiency of provisions.

The parties have an opportunity of putting people on board in any part of the river after leaving this, without my knowledge or that of the Customs. The provisions of each emigrant are examined separately before going on board.

The provisions of the sixth clause of the Passengers' Act shall be strictly complied with, by having a scale of provisions exhibited in each passenger ship in future, and signed by each master.

I have, &c.

Stephen Walcott, Esq., &c. &c. &c.

(Signed) Robert Ramsay.

Sir, Government Emigration Office, Sligo, 27th October, 1840.

I have the honour to acknowledge the receipt of your favour of the 16th instant, and should have replied to it sooner, but for the circumstance of Lieutenant Ramsay of Derry's letter having been enclosed to me, and mine to him. I wrote to him on the subject and forwarded his, and I have now mine before me.

Upon reading the report of Mr. Buchanan, I regretted deeply to find that the ————, from Sligo, was amongst the number of vessels short of provisions. I am certainly unable to account for this circumstance, as my examination of the ———— passengers and provisions was as strict as in any of the other vessels that sailed from this port during the past season, 30 in number.

I assure you it has ever been my practice to examine the provisions of each passenger separately, and most carefully as to quantity, and to prevent the slightest fraud have marked the meal-bags, potato-sacks, &c., as they underwent inspection; and in every case where I found the person short of the proper quantity, refuse to allow them to proceed in the vessel until more is procured.

With respect to the number of passengers, I always muster them on deck and call their names as they appear on the list, and if I discover the least error I compel the master and broker to make out an entire new list; I also search the vessel to prevent any persons concealing themselves, and in the event of finding any cause them to be taken ashore.

I have read the circular most attentively, and shall attend to the several suggestions therein contained, furnish the chief officer of Customs here with a certificate, signed by the master and broker of the ship, and countersigned by myself that the list is accurate, and cause the table of prices of provisions to be exhibited on board each ship.

I am, &c.

(Signed) Peter Shuttleworth, R. N.,
Government Emigration Agent.

Stephen Walcott, Esq., &c. &c. &c.

No. 13.
Lord Sydenham to Lord John Russell.
Nov. 24, 1840.
p. 35.

(No. 197.) No. 13.

Copy of a DESPATCH from Lord Sydenham to Lord John Russell.

My Lord, Government House, Montreal, 24th November, 1840.

With reference to my Despatch of the 12th ultimo, No. 179, I have the honour to inform your Lordship that I have consulted the Commissioners of Crown Lands, and the Surveyor-General, on the subject of the alteration proposed by the Colonial Land and Emigration Commissioners, in the size of the lots of land to be put up to sale. The Commissioners dissuade the substitution of lots of 360 acres for those of 200 acres hitherto laid out, on the ground that past experience has proved the latter to be a convenient size, and that there is no sufficient probable benefit to counterbalance the discontent that would result from the change; and in regard to the size of townships, I must object to any change, as it would interfere with the arrangements already made or in progress for the internal government of this province. Upon this point, therefore, I should propose to leave things as they have heretofore been.

I have, &c.

The Right Hon. Lord John Russell, &c. &c. &c. (Signed) SYDENHAM.

No. 14.
Mr. Stephen to the Commissioners of Colonial Lands and Emigration.
December 23, 1840.
Nov. 24, No. 197, p. 46.

No. 14.

Copy of a LETTER from James Stephen, Esq., to the Commissioners of Colonial Lands and Emigration.

Gentlemen, Downing-street, 23rd December, 1840.

With reference to my Letter of the 14th ultimo, I am directed by Lord John Russell to transmit to you the accompanying copy of a Despatch from Lord Sydenham, communicating his objections to the alteration which you suggested in your report of the 4th of last August, in respect to the size at which lots of land should be surveyed and laid out in Lower Canada.

I have, &c.

(Signed) J. STEPHEN.

The Commissioners of Colonial Lands and Emigration.

No. 15.
Lord John Russell to Lord Sydenham.
December 22, 1840.
p. 21.

(No. 274.) No. 15.

Copy of a DESPATCH from Lord John Russell to Lord Sydenham.

My Lord, Downing-street, 22nd December, 1840.

With reference to your Despatch, No. 159, of the 11th September, in which you enclose weekly returns of emigrants landed at Quebec and Montreal, I have the honour to transmit to your Lordship, for your information, a copy of a report, with Enclosures, from the Commissioners of Colonial Lands and Emigration, on the subject of the complaints preferred by the passengers in the ships ——— and ———.

I have, &c.

(Signed) J. RUSSELL.

The Right Hon. Lord Sydenham, &c. &c. &c.

Enclosure in No. 15.

Colonial Land and Emigration Office, 9, Park Street, Westminster,

Sir, 16th December, 1840.

Encl. in No. 15.

We have the honour to acknowledge the receipt of your letter of the 21st October, enclosing some further weekly returns of emigrants landed at Quebec and Montreal, which had been received from the Governor of Canada. Having found, in these returns, two cases of complaints against ships which had sailed from ports where there are emigration agents, we forwarded them to those officers for any explanation they might have to offer; and we now beg leave to enclose, for Lord John Russell's information, and with a view to their being forwarded to the Governor, copies of the letters which we addressed to those agents, and of the reports received from them in reply.

To Lieut. Hodder.
To Lieut. Forrest.
Lieut. Hodder, November 14.
To Lieut. Hodder, November 18.
Lieut. Hodder, November 20.
Lieut. Forrest, November 10.

With respect to the case of the ———, from Dublin, it will be observed that Lieutenant Hodder distinctly asserts that the passengers' provisions were inspected by him previously to the departure of the vessel, and that, on the detention of the ship beyond the day fixed for sailing, he also put the people in the way of obtaining from the brokers the means of subsistence during that period. The ——— was, however, unfortunately no less than 73 days on her voyage, the average length being no more than about 42 days; and to this fact, we presume, must be attributed in a great measure the scarcity of provisions which prevailed on board.

We beg to call attention to the statement contained in Lieutenant Hodder's letter, that "the

No. 15.
Lord John Russell to Lord Sydenham.
December 22, 1840.
Encl. in No. 15.

——— cleared under his certificate of 109 adults, composed of 137 individuals, and that she arrived at Quebec with 142," and to repeat the suggestion which we offered in our letter of the 14th ultimo, that the authorities in the colony should be advised, in every case where the ists and the number of passengers actually brought out are at variance, unless where the number has been increased by births, to have recourse to a prosecution of the master for an infraction of the Passengers' Act.

With regard to the case of the ———, from Leith to Quebec, in which the water is alleged to have been of bad quality, it appears that every necessary step was taken by Lieutenant Forrest previous to the sailing of the vessel, and that there were no grounds for objecting to the supply of water then on board. This ship, however, was also no less than 84 days on her voyage.

We fear that there are no precautions which it is at present in our power to take, which could have prevented the danger to which the ——— was exposed by the misconduct and incompetence of her officers.

We cannot close these remarks without expressing the satisfaction which we continue to feel at the receipt of these returns from the emigration agent at Quebec. They are prepared in a manner highly creditable to that officer; and we conceive that the Governor-General has rendered a material service to the cause of emigration by causing them to be regularly transmitted to this country.

It is our intention to obtain, as far as possible, similar returns from all the colonies to which any extensive emigration is directed.

We have, &c.
(Signed) Robert Torrens.
Edward E. Villiers.

James Stephen, Esq,
&c. &c. &c.

No. 1.

Sir, 9, Park Street, Westminster, 7th November, 1840.

I am directed by the Commissioners of Land and Emigration to transmit to you, for your information, and for any observations you may have to offer, the enclosed extract from a note by Mr. Buchanan, the emigration agent at Quebec, appended to a weekly return of the emigrants who arrived at that port between the 15th and 22nd of August last.

With regard to the allegation that ———, the agents of the ———, told the passengers by that vessel, that from three to four weeks' supply of provisions would be ample, the Commissioners would be glad to receive any information that it might be in your power to supply as to the extent to which the practice of making misrepresentations of this kind is carried on in Dublin, together with any suggestions that may occur to you for counteracting such false statements by the publication of Government notices or otherwise.

I am also to request that you will acquaint the Commissioners whether it be true that the provisions were not inspected previously to the departure of the ———, and if so, that you will state the reason why the inspection was omitted to be made on that occasion.

I have, &c.
(Signed) S. WALCOTT.

Lieutenant Hodder, R. N.
&c. &c. &c.

Return enclosed in the Colonial Office Letter of the 21st October, 1840.

"The brig ———, ———, master, with 142 passengers from Dublin, arrived here after a passage of 73 days. They suffered great distress from the want of provisions. These poor people state that the agents, ———, in Dublin, told them that from three to four weeks' supply would be ample. During the last month of the voyage they were depending entirely on the scanty supplies obtained from the vessels they spoke at sea, and on arrival at Grosse Isle were in a state of starvation. The master states that the quantity of provisions laid in by the passsengers was not inspected by any officer previous to sailing."

No. 2.

Sir, 9, Park Street, Westminster, 7th November, 1840.

I am directed by the Commissioners for Land and Emigration to forward to you, for your information, and for any observations you may have to offer, the enclosed extract from a note by Mr. Buchanan, the emigration agent at Quebec, appended to a weekly return of the emigrants who arrived at that port between the 15th and 22nd of August last, containing a complaint of the passengers by the ship ———, from Leith, of the quality of the water furnished them during part of the voyage.

I have, &c.
(Signed) S. WALCOTT.

Lieutenant Forrest, R. N.
&c. &c. &c.

Extract referred to above.

"In the ———, ———, master, were 76 very respectable Scotch and North of England passengers, all in good circumstances, and going to Upper Canada to settle; they had a very long and tedious passage of 84 days, owing to their having the misfortune to lose their first mate. After being out about three weeks he fell overboard and was drowned; the

No. 15.
Lord John Russell to Lord Sydenham.
December 22, 1840.

Encl. in No. 15.

charge of the vessel then devolved upon the second mate, owing to the master having lost his mind from the effects of intemperance, and not being able to appear on deck sometimes for three weeks at a time. This officer, on whom the duty of navigating the vessel devolved, was not qualified for the task, not being able to keep a correct reckoning, and it appears most providential that the vessel ever arrived here. The passengers also report that the water furnished them was frequently so bad as to be sometimes quite unfit for use.

No. 3.

Government Emigration Office, Dublin.
14th November, 1840.

SIR,

HAVING found it necessary to make some preliminary inquiries on the subject of the brig ——, the better to enable me to offer some observations on the several matters relative to the passengers by that vessel, I have delayed replying to your letter till now.

With respect to the allegations that the provisions were not inspected by me, I beg to assure the Commissioners of Land and Emigration that they were examined into, having signed a certificate to that effect.

The examination as hitherto conducted is one of great difficulty, from a want of co-operation on the part of the masters of vessels, which might be materially obviated by rendering their co-operation compulsory through the instrumentality of a *board order* from the Commissioners of Customs, requiring the signature of the master and broker to the certificate issued by me in order to clear out, as suggested in Mr. Buchanan's report. I have frequently been replied to, when asking their assistance, that they had something else to do, it was my look out.

That the inspection of provisions on board the said brig was not known to the master may be true, for I am not aware of having seen him once, for to my inquiries for him, he was always either absent or occupied.

That the agents or other persons told the passengers that three or four weeks' provisions would be sufficient, I am unable to ascertain; and from observation I am inclined to doubt, they having no interest in the deception that I am aware of.

In order to prevent a recurrence of the evil complained of, I beg to suggest the passengers be victualled altogether by the vessel, in which case the master's vigilance would be called forth to the more careful stowage, as well as to the proper expenditure of the same during the voyage. When passengers find themselves, the stowage is not sufficiently attended to by the officers of the vessels, and the provisions of such a perishable nature, that how the potatoes stand the bruising and trampling they are exposed to by the daily visits of the passengers is some matter of surprise.

In conclusion, I beg to add, that should this statement not appear sufficiently satisfactory I can forward a further detail relative to this vessel, to which Dr. Hall is privy, and which is so far satisfactory to myself, as being of more weight than individual assertion and contradiction. I beg also to observe, the —— cleared under my certificate, of 109 adults, composed of 137 individuals, and that she arrived at Quebec with 142.

I have, &c.

S. Walcott, Esq.
&c. &c. &c.

(Signed) F. E. HODDER, Government Agent.

No. 4.

SIR,

9, Park Street, Westminster, 18th November, 1840.

As the Commissioners of Land and Emigration are desirous of obtaining all the information that can be supplied respecting the brig ———, I am directed to acknowledge the receipt of your letter of the 14th instant, and to request that you would have the goodness to furnish them with the further details to which you allude in the last paragraph of your communication.

I have, &c.

Lieut. Hodder, R.N.

(Signed) S. WALCOTT.

No. 5.

Government Emigration Office, Dublin,
20th November, 1840.

SIR,

IN accordance with the desire of the Commissioners of Land and Emigration to obtain further information relative to the brig ——, I beg to inform you that some of the passengers having embarked seven or eight days previous to the day named for sailing, I examined into their provisions, and found them sufficient, having warned them to be careful, as they would not go to sea for some days; to which they replied they had no occasion to touch their sea stores, as they could provide themselves daily, provided the vessel sailed at the appointed time.

When the sailing day arrived, seeing no preparation for sea, I gave notice to the heads of some of the large families on board, for the purpose of circulating among the passengers the contents of the 14th clause of the Act relating to avoidable detention, which a number of them afterwards came to my office to avail themselves of. I accordingly procured a summons for Mr. ——, the charterer, which was served for the following morning, having appointed to meet the complainants at the police office at the hour stated, where I accordingly attended; and, after waiting a considerable length of time, I went to my office and sent for the parties to inquire into the cause of their non-attendance, when they answered, that Mr. —— had satisfied them by supplying them with some hundred-weight of potatoes, the precise number I

do not recollect; some difference having arisen among the party on the division, they again applied for a fresh summons, which I declined interfering with, considering they had so compromised the whole affair, the magistrates would not take cognizance of it. I in consequence went on board to inquire if any other of the passengers who had taken the precaution of having the sailing day named in their tickets, and who had entered into no compromise, desired redress, if so, I would endeavour to procure it; the general feeling expressed was that Mr. —— had faithfully promised the vessel should put to sea the following day, at which they were satisfied. She accordingly did so.

No. 15.
Lord John Russell to Lord Sydenham.
December 22, 1840.

Encl. in No. 15.

On leaving my office that afternoon I called on Dr. Hall, who was then confined to his house, when I related to him the circumstances detailed, and which he has a distinct recollection of.

I have, &c.,
(Signed) T. E. Hodder.

S. Walcott, Esq.,
&c. &c. &c.

No. 6.

Sir, Leith, 10th November, 1840.

I had the honour to receive your letter of the 7th instant, enclosing an extract from Mr. Buchanan's note relative to the ship ————, and beg to acquaint you, for the information of the Commissioners, that that vessel was duly and carefully inspected by me previously to her sailing. I had occasion to detain her in Leith Roads for two days, in consequence of a large quantity of gunpowder being improperly stowed on board amongst the cargo; that there was much more water on board than was required, which was principally in large butts, which had been in previous use as water-casks on board ship; from the unusual length of the voyage (84 days), it could hardly have been expected to remain sweet, and I am happy to perceive that no casualty occurred from scarcity, there was plenty of provisions on board, and I had occasion to make only two families augment their sea-stock.

I have, &c.,
(Signed) James R. Forrest.

S. Walcott, Esq.,
&c. &c. &c.

No. 16.

Copy of a LETTER from James Stephen, Esq., to the Colonial Land and Emigration Commissioners.

Gentlemen, Downing-Street, 1st January, 1841.

No. 16.
J. Stephen, Esq., to Colonial Land and Emigration Commissioners.
1st Jan., 1841.

With reference to your letter of the 16th ultimo, on the subject of the complaints preferred by the passengers in the ships ———— and ————, in which you express your fear that there are no precautions which it is at present in your power to take, which would have prevented the danger to which the latter vessel was exposed by the misconduct and incompetency of her officers, I am directed by Lord John Russell to request that you will state, for his Lordship's information, what precautions can *in future* be taken in similar cases.

I have, &c.
(Signed) J. STEPHEN.

The Colonial Land and Emigration Commissioners.

(No. 283.) No. 17.

Copy of a DESPATCH from Lord John Russell to Lord Sydenham.

My Lord, Downing Street, 12th January, 1841.

No. 17.
Lord John Russell to Lord Sydenham
12th January, 1841.

With reference to my Despatch, No. 274, of the 22d December, in which I transmitted to you the copy of a report, with Enclosures, from the Commissioners of Colonial Lands and Emigration, respecting the complaints of the emigrants in the ships ———— and ———— I have the honour to send your Lordship the copy of a further letter from the Commissioners, in which, in answer to an inquiry I had proposed to them, they explain the nature of the precautions which might in future be taken to prevent the danger to which the latter vessel was exposed through the incompetency and misconduct of her officers.

I have, &c.
(Signed) J. RUSSELL.

The Right Hon. Lord Sydenham,
&c. &c. &c.

Enclosure in No. 17.

Colonial Land and Emigration Office, 9, Park-street, Westminster,
7th January, 1841.

Sir,

We have the honour to acknowledge your letter of the 1st instant, in which you request us to state, for Lord John Russell's information, what precautions we think might in future be taken to prevent the danger to which the ———— was exposed, through the incompetency and misconduct of her officers. In reply, we beg leave to state that when we hired ships for the conveyance of emigrants to South Australia, we always required that the names of the

Encl. in No. 17.

No. 17.
Lord John Russell to Lord Sydenham.
12th January, 1841.

Encl. in No. 17.

captain and officers should be submitted to us, before the individuals were finally appointed to the vessel. We were thereby enabled to make inquiries as to their characters, and the knowledge that we were so enabled operated as a check upon the owners in the appointment of improper persons. In the case of ships neither hired by us nor taking free emigrants, but yet subject to the provisions of the Passengers' Act, we think that power might be given by law to our officers at the different ports to withhold certificates, if they had any reason to suppose that the management of the vessel had been entrusted to men of bad character, and incompetent as officers.

There is little doubt, we fear, that ship-owners will be exceedingly tenacious of their right to place their vessels in charge of any persons they may think proper; but the case of the ———— shows that the safety of Her Majesty's subjects requires that this right should not be exercised entirely without control.

The subject, however, of the revision of the Passengers' Act is now under our consideration, and if we can succeed in framing a clause for the purpose which we deem unobjectionable in itself, we shall submit it, together with other alterations, to Lord John Russell's consideration.

We have, &c.
(Signed) Robert Torrens.
Edward E. Villiers

James Stephen, Esq.
&c. &c.

(No. 207.)

No. 18.

Copy of a DESPATCH from Lord Sydenham to Lord John Russell.

No. 18.
Lord Sydenham to Lord John Russell,
23d Dec. 1840.

12th Nov. 1840.
25th Nov. 1840.
22d Dec. 1840.

My Lord, Government-house, Montreal, 23d December, 1840.

I have the honour to enclose herewith for your Lordship's information the copies of a correspondence which I have recently had with Dr. Rolph. From this correspondence, your Lordship will perceive that I have appointed him Emigration Agent for the Canadas, and that I propose to apply towards his remuneration a portion of the sum voted by Parliament for an emigration agency, and placed by your Lordship at my disposal. The amount which I have guaranteed to him is 500*l.* I consider this the proper fund from which to effect this service, because by the arrangements which have been made here principally through the instrumentality of Dr. Rolph, the expense of Agency within the colony will be materially diminished, and with the remaining 1,000*l.*, and the means at my disposal in these provinces, I shall be able to provide for it sufficiently.

Dr. Rolph will proceed to England by the steamer from Boston on the 1st proximo, and will immediately resume his labours, both on account of the Government and of the societies by whom he is employed here.

I have been induced to avail myself of Dr. Rolph's services from the great success which has already attended his efforts in this cause, both in Great Britain and in Canada. He has produced to me very high testimonials from some of the largest land proprietors in England and Scotland, and I have reason to know that in Upper Canada, and in the Eastern townships of this province, great confidence is placed in him. He has recently made a tour in Upper Canada, where, by his exertions, emigration societies have been formed on a very extensive scale, and the subject has at last obtained from the people of the province itself that attention which it deserves. Many of the landed proprietors there have put at his disposal lands amounting in the whole to from 25,000 to 30,000 acres, to be given gratuitously to settlers who may have the means of cultivating them; and by the organization of the emigration societies great facilities will be given to emigrants arriving to dispose of their labour.

I am quite sensible that the Land and Emigration Board in London, furnished as they are, or shortly will be, with considerable information relating to these colonies, afford a great facility to persons desirous of emigrating; but I believe that they will derive very valuable assistance from Dr. Rolph upon many most important points of detail peculiar to this country; and valuable as their services may be, it is necessary to employ some more active Agency to stimulate those to whom emigration would be in every way advantageous, but whose attention would not, under ordinary circumstances, be drawn to it. It is highly desirable that some person should be enabled to travel through different sections of Great Britain, to explain to the people *vivâ voce* the advantages which a new country like Canada holds out to the industrious and well-conducted; the facility with which they may reach it; and the arrangements which, if they should decide to emigrate, would be most beneficial to them; and not less so, to explain with equal frankness the little benefit which is to be reaped, either by the emigrant or the province, from casting upon the shores of Canada without means, either for their transport further, or for their maintenance, a host of paupers. I anticipate also great benefit from the communications which Dr. Rolph may have upon this subject with the different societies in London, or with the individuals to whom he is already known, who are engaged in endeavouring to

promote emigration from the Highlands of Scotland and from Ireland, as he is thoroughly acquainted with my opinions, and with the extent and conditions on which I consider emigration should be conducted.

No.
Lord Sydenham to Lord John Russell.
23d Dec. 1840.

This is the task which I propose to confide to Dr. Rolph, and for which his intimate acquaintance with every part of Upper Canada, his untiring energy and devotion to the cause, particularly fit him. I trust, therefore, that your Lordship will approve of this arrangement, and will move the Lords Commissioners of the Treasury to pay to Dr. Rolph the stipulated sum of 500*l.* sterling for his services in such manner as may be most convenient to him, and consonant with the rules of their Lordships' department.

I have, &c.

The Right Hon. Lord John Russell, &c. &c. &c.

(Signed) SYDENHAM.

Enclosure in No. 18.

My Lord, Ancaster, 12th November, 1840.

I have just returned from an extended tour through the Gore, Brock, Wellington, London, Western, and Huron districts, where I have been most cordially and enthusiastically received; and I am especially delighted to inform your Excellency that I have met throughout a happy concurrence of all parties in the hallowed object of promoting emigration, a generous oblivion of past differences, a firm determination for future union and co-operation. An universal desire exists that I should return to England and resume my labours with the North American Colonial Committee at its ensuing re-assembling in January next, and the province would have raised the necessary means for that purpose had there not been an equally strong desire that I should go by your Excellency's direction and under your sanction and authority. During the period I acted as honorary secretary for the North American Colonial Committee, a deputation from that body waited on Lord John Russell in consequence of the Canada Company having memorialized the Government that the remaining debt of 60,000*l.*, due from them to the Government, should be appropriated for the purpose of promoting emigration. Lord John Russell apprized the deputation that a portion of that fund was already anticipated, but that such of it as was not, in conformity with the anxiety of the local legislature and the wishes of the North American Colonial Committee, might be so expended if the Committee would state their views. The Emigration Commissioners were present, and the result of the application was, that the Government, with your Excellency's approbation, would agree to the appointment of agents who should travel through the province during the winter months, and collect information, useful and serviceable, to the arriving emigrants in the spring.

Encl. in No. 18.

Now as this object is rendered unnecessary, by the formation throughout the province of local societies, that fund might, by your Excellency's authority, be used for the establishment of an agency in London; and feeling a confident assurance that, acting with the North American Colonial Committee, I could render myself available in carrying into operation the desires of the friends of emigration, I most respectfully solicit the appointment of agent in Great Britain for that purpose, at your Excellency's hands. At present I am a great pecuniary sufferer by my exertions in the United Kingdom during sixteen months, which have not been lessened by the calls made on me by every part of the province to give an account of my efforts since my return, and to aid in the establishment of branch emigration societies throughout the country. If my appointment should receive the favourable consideration of your Excellency, I shall feel highly honoured in exerting myself to the most of my power to carry your Excellency's views and objects into effect.

I have, &c.

The Right Hon. Lord Sydenham, &c. &c. &c.

(Signed) Thomas Rolph.

Sir, Government-house, Montreal, 25th November, 1840.

I have been commanded by the Governor-General to acknowledge the receipt of your letter of the 12th instant.

His Excellency directs me to assure you that he highly estimates the very valuable services which you have rendered to the colony and the mother-country by your exertions in drawing public attention to the subject of emigration, and that it will afford him sincere pleasure to assist you so far as his means admit of his doing so, in the prosecution of your individual labours, or to avail himself of your abilities in the prosecution of this object on the public account.

The funds, however, which are at his disposal for purposes connected with emigration are extremely limited. The sum to which you allude in your letter as arising from the sale to the Canada Company is either pledged already for expenditure under the control of the Crown, or at the disposal of the United Legislature under the provisions of the Union Act. Nothing, therefore, can be appropriated by the Crown from this source, and there remains only the sum voted by Parliament for the purpose of paying emigrant agents for Canada, which has been placed at the disposal of the Governor-General by the Secretary of State, in addition to anything which his Excellency may be enabled to obtain from the Crown revenues previous to their transfer to the province, after the Union coming into effect. The best consideration which the Governor-General can give to the important subject of emigration, leads him to believe the best means of promoting it under the circumstances in which the Canadas are now placed are, first to encourage the voluntary emigration of the natives of the British Isles by explaining and informing at home the advantages which may reasonably be expected by those who will

No. 18.
Lord Sydenham to Lord John Russell.
23d Dec. 1840.
Encl. in No. 18.

thus seek to establish themselves in this country, and by assisting, with advice and information, those persons there, who, from motives of benevolence or with a desire to relieve their neighbourhood from a superabundant population, may be willing to combine in order to afford the means of transporting poor labourers and their families to these shores. I trust to take such measures within the colony as shall secure to the emigrant, on his arrival, ready means of employment, either from private individuals, upon public works, or by settlement, united with public works, as has been already done in the Garafraxa road.

The degree to which this last-mentioned course can be adopted must depend, in a great measure, upon the Legislature of the province, by whom the extent of public works to be undertaken, as well as the distribution of public lands, must be regulated; but something may be done by the executive, and certainly by private individuals also, who being themselves proprietors of lands which are now almost valueless, have the strongest interest in promoting the settlement of parts of them, with a view of rendering the remainder of value; and the Governors-General will do all in his power, both on the part of the executive and in co-operation with those bodies of persons who have at last turned their attention to the subject, to perfect measures by which the objects he has designated also may be attained.

But with respect to the first course he has pointed out, his Excellency is of opinion that the employment of an agent in England fairly falls within the intention of the Parliamentary grant, which has been placed at his disposal, and there is no one whose services in that situation can, in his opinion, be rendered more valuable than your own; especially as he has understood from you that you were of opinion that arrangements might be made with various proprietors in Great Britain, by which not only emigrants would be transported here with their families, but security given that they should be maintained during the first few months, which as you are well aware is, in the even of their settling without capital, indispensable. If, therefore, the pecuniary remuneration which it will be in his Excellency's power to afford for such a purpose can be arranged, he will have great pleasure in deputing you to England to pursue your labours there during the coming winter and spring, and if you can attend him in Montreal, when the matter may be discussed more fully, he will be happy to enter on it with you.

I have, &c.

Dr. Rolph. (Signed) T. W. C. Murdoch, Chief Secretary.

Sir, Government House, Montreal, 22d December, 1840.

The Governor-General having decided upon availing himself of your services, I proceed briefly to recapitulate the terms of the appointment which his Excellency has conferred upon you, and such general instructions for your guidance as he considers necessary.

You will consider yourself as Emigration agent to the Provincial Government of the two Canadas in the United Kingdom, and you will be recommended in that capacity to the Secretary of State, from whom you will receive every assistance, and whose instructions you will of course obey, if he should think proper to convey any to you. You are expected to occupy yourself with the general duties of your office after your arrival in England, during the spring and early part of the summer, and at the end of that period to return if required to Canada, to give an account of your proceedings. You will correspond with me upon all matters connected with your mission, and afford me, for the use of his Excellency, all the information which you may consider useful to the Provincial Government here. Your remuneration will be 500*l.* sterling, which will be paid to you in England, and further, the expenses of your journey from Ancaster to Boston, of which the amount will be paid you here upon your rendering an account.

You are so well acquainted with the view with which the Governor-General has determined on your mission, that it is unnecessary to furnish you with any precise instructions as to the steps you should take on your arrival in England, nor indeed would it be possible to prescribe any exact course to be followed.

Your principal object will be to explain fully and clearly to parties in England the circumstances of these provinces bearing upon emigration on the one hand, the impossibility of supplying any funds by the sale of lands or otherwise, for the expense of transporting emigrants to this country, and the injurious consequences arising to the emigrants themselves, and to the provinces by casting on the shores of Canada, persons wholly destitute of the means either of transporting themselves to places where work can be provided for them, or of maintaining themselves as settlers. On the other, the advantages which attend the emigration of the poorer classes, provided they can be supplied with sufficient means to reach those parts of the province where their labour is in demand, or to support themselves as settlers during the first months of their residence here; and the great opening which is afforded to persons acquainted with agricultural pursuits, and having small means, of acquiring property, and bettering their condition.

You will explain to parties themselves, or to societies who may be desirous of promoting emigration, that the Provincial Government will afford every facility, and give all the assistance in its power to emigration, conducted on these latter principles. Means will be taken by which information with regard to the places where labour is in demand, and can be at once procured, can be furnished to the emigrant immediately on his arrival at Quebec. Arrangements will be made to secure to the emigrant transport to such places at as cheap a rate as possible. Small grants of land, coupled with conditions for its occupation and clearance, will be furnished in cases when the emigrant commands sufficient means to support himself until it can be rendered productive; and public works will be recommended to the Legislature, upon which labourers will find ready employment at good wages.

You will immediately put yourself into communication with the Emigration Commissioners in London, in order to afford them all the information upon the subject which may be desirable, and you will endeavour to suggest in concert with them, to the Secretary of State, any mea-

sures by which the passage of emigrants to the Canadas may be rendered more secure and less exposed to hardship and suffering, from the neglect or ignorance of the parties employed there, as is the case at present.

This is the general outline of the course which the Governor-General is desirous that you should pursue. The relation in which you stand to different parties in the United Kingdom, as well as to the recently established emigration societies in Canada, will afford you the ready means of acting upon it to advantage. But it is to your intimate acquaintance with the whole subject, and to the zeal which you are known to possess for the great object of promoting a healthy and useful emigration to these provinces, that his Excellency looks for the measures which you may think it advisable to adopt in order to effect it, and to render your mission useful.

I have, &c.

Dr. Rolph. (Signed) T. W. C. MURDOCH, Chief Secretary.

No. 18.
Lord Sydenham to Lord John Russell.
23d Dec. 1840.
Encl. in No. 18.

No. 19.

COPY of a LETTER from JAMES STEPHEN, ESQ. to the COMMISSIONERS of COLONIAL LANDS and EMIGRATION.

GENTLEMEN, Downing Street, 26th January, 1841.

I AM directed by Lord John Russell to transmit to you, for your consideration and report, copy of a Despatch from the Governor-General of British North America, with its Enclosures, reporting the appointment of Dr. Rolph to the office of Agent for Emigration to the Canadas, and explaining the views of the Governor-General in making this appointment.

It should be remarked, that although this appointment does not strictly accord with the views which induced Lord John Russell to recommend the appropriation by Parliament of a sum for emigration agency, yet, in present circumstances, Lord John Russell does not mean to object to it.

But, with regard to the future, he will be glad to learn from you the precautions which, in your opinion, may be necessary for the due control and supervision of agents appointed to act for this country by the Governor of British North America.

I have, &c.

(Signed) J. STEPHEN.

The Commissioners of Colonial Lands and Emigration.

No. 19.
J. Stephen, Esq. to the Commissioners of Colonial Lands and Emigration.
26th January, 1841.

No. 20.

COPY of a LETTER from the COLONIAL LAND and EMIGRATION COMMISSIONERS to JAMES STEPHEN, ESQ.

Colonial Land and Emigration Office, 9, Park Street,

SIR, Westminster, 18th February, 1841.

WE have the honour to acknowledge your letter of the 26th ultimo, in which, with reference to a Despatch, therein enclosed, from Lord Sydenham, announcing Dr. Rolph's appointment as Emigration Agent for Canada, and transmitting the instructions given to that gentleman, you state that Lord John Russell will be glad to learn the precautions which we think necessary for the due control and supervision of an agent appointed in this manner by the Governor-General of British North America to act in the United Kingdom.

In reply, we beg leave to state, that since the receipt of your letter, we have been in communication with Dr. Rolph, for the purpose of ascertaining the exact nature of the duties intended to devolve upon him, and the mode in which he proposed to perform them. It appears that the chief object of his mission is, after duly explaining the limitations of the circumstances under which settlers should come out, to point out to the people of this country in the course of his travels through different districts, the advantages which will attend their emigration to Canada,—to inform them that the Governor-General will give poor settlers free grants of land to the extent of 50 acres; that public works will afford employment at wages, and that there is a constant demand for labour on the part of farmers and capitalists.

Judging from our own experience, Dr. Rolph has undertaken a task which requires to be executed with the greatest delicacy and caution. During the period in which we have held our offices, the difficulty which we have experienced has been not in stimulating, but in repressing the ardour for emigration to the colonies in general, but especially to Canada, which has prevailed over the greater portion of England and Scotland, and over the whole of Ireland. If there were means at our disposal for their conveyance, thousands would be forthcoming almost at a moment's notice. Dr. Rolph is equally with ourselves unable to assist the poor to the means of leaving this country and proceeding to Canada, and we therefore trust that he will use the greatest caution in laying before the people at large a

No. 20.
Colonial Land and Emigration Commissioners to James Stephen, Esq.
February 18, 1841.

No. 20.
Colonial Land and Emigration Commissioners to James Stephen, Esq.
February 18, 1841.

description of the advantages awaiting them in a country which he must also tell them he cannot enable them to reach. Invested as Dr. Rolph will be with the authority of an official agent, importance will be attached to every word he utters, and he will find, as we fear, that almost in spite of all the warning which prudence can suggest to him, and which, with a most just anticipation of the duties probably incumbent on a public servant here, are enjoined upon him in his instructions from Canada, he can scarcely help unsettling the minds of the poor, and raising in them expectations which he will be unable to realize. We trust, therefore, that to the extent to which Dr. Rolph may act, he will exert himself among the rich rather than among the poor, and urge them to assist the latter in their already formed desire to seek their fortunes in the colonies.

As Lord John Russell is aware, there existed last year a disposition on the part of landed proprietors in different parts of the United Kingdom to enter into a subscription to enable the surplus labourers on their estates to emigrate, and if the Government had been able to propose to Parliament to make a grant in aid of their plan, there can be no doubt that a large sum would have been raised by means of such subscriptions. We have reason to believe that the same desire exists at the present moment. And in reference to Dr. Rolph's opinion, which we find mentioned in Mr. Murdoch's letter of the 25th of November, "that arrangements might be made with various proprietors in Great Britain, by which not only emigrants would be transported here with their families, but security given that they should be maintained during the first few months," we will only say, that if Dr. Rolph, while duly guarding the statements made by him on behalf of the public, can make himself instrumental in confirming this disposition and procuring means to grant free passages to a useful number of labourers or small farmers, he will have rendered a service of much importance.

Upon the whole, therefore, we think it would be desirable that we should be informed of the mode in which Dr. Rolph may act upon the general caution which we have above offered. But further than this we are not aware that it would be expedient that we should exercise any authority over that gentleman during his residence in this country as Emigration Agent for Canada. He is acting under direct instructions from the Governor-General of British North America, and we cannot doubt that he will give effect to those instructions, and faithfully report his proceedings to those to whom he is responsible.

It is right also that we should mention that the difficulty which we should otherwise feel in exercising any control over Dr. Rolph, would be increased by the circumstance of his being the agent for private societies and landed proprietors, with whose objects we are not acquainted, and over whose proceedings we have no control. The directions which we might think it necessary to give him in his public capacity, might interfere with the instructions which he had received from the private parties in whose behalf he had engaged to act. At the same time we consider it our duty, and it is one which we shall most cheerfully perform, to give effect to Lord Sydenham's intentions upon the present occasion. We shall render to Dr. Rolph every assistance in our power, and we shall not fail to communicate to him the correct statistical information which we expect shortly to receive from the North American colonies, in answer to the questions which we framed last summer, in accordance with Lord Sydenham's suggestion. We regret, however, to say that we have been unable, from want of room, to comply with the request which Dr. Rolph has made to us, of being allowed to have an office under this roof.

We are, &c.,
(Signed) T. FREDERICK ELLIOT.
ROBERT TORRENS.
EDWARD E. VILLIERS.

James Stephen, Esq.,
&c. &c. &c.

No. 21.

COPY of a DESPATCH from Lord JOHN RUSSELL to Lord SYDENHAM.

MY LORD, Downing Street, March 9, 1841.

No. 21.
Lord John Russell to Lord Sydenham.
March 9, 1841.

I HAVE received your Lordship's Despatch, No. 207, of the 23rd December, reporting the circumstances under which you have appointed Dr. Rolph Agent-General in this country for Emigration to the Canadas, and recommending that he should be paid for this service 500*l.* from the sum voted by Parliament in aid of local agency in the Province. I enclose herewith, for your information, copies of the

No. 1 to 4.

correspondence which has passed between this department and the Treasury on the subject. You will perceive that, although the arrangement made by your Lordship is not exactly in accordance with my intentions, in proposing that Great Britain

should contribute towards the expense of Emigration Agency in Canada, it will not be disturbed. No. 21. Lord John Russell to Lord Sydenham. March 9, 1841.

I hope shortly to address to your Lordship full instructions on the important subject of emigration to Canada.

I have, &c.
(Signed) J. RUSSELL.

The Right Hon. Lord Sydenham,
&c. &c. &c.

Enclosure 1, in No. 21.

SIR, Downing-Street, February 24, 1841.

I AM directed by Lord John Russell to request that you will inform the Lords Commissioners of the Treasury, that the Governor-General of British North America has appointed Dr. Thomas Rolph, Emigration Agent for Canada. The Governor-General has been induced to make this appointment from the success in the service of emigration which has hitherto attended Dr. Rolph's efforts in Great Britain and Canada, and from the persuasion that he will have it in his power, by travelling through Great Britain, and personally explaining what is to be expected from emigration to persons of a class rather above the poorest, to render more service in this cause, if he proceeds with due caution. Although this appointment does not come within the scope and intention of the application which Lord John Russell made to the Lords of the Treasury last year, his Lordship does not propose interfering with it; and Dr. Rolph will be allowed to proceed according to the instructions which he has received from the Governor-General. I am therefore to request that you will move the Lords Commissioners of the Treasury to pay Dr. Rolph the stipulated sum of 500*l.* for his services out of the amount voted by Parliament for Emigration Agency. Encl. 1, in No. 21.

I have, &c.,
(Signed) J. STEPHE

C. E. Trevelyan, Esq.
&c. &c. &c.

Enclosure 2, in No. 21.

SIR, Treasury Chambers, 4th March, 1841.

IN reply to your letter of the 24th ultimo, conveying the recommendation of Lord John Russell that Dr. Thomas Rolph should be paid the sum of 500*l.* for his services as Emigration Agent for Canada: Encl. 2, in No. 21.

I have it in command from the Lords Commissioners of Her Majesty's Treasury to request you will state to his Lordship, that if it be his intention that the payment of the sum in question should be made out of the annual vote of 1500*l.*, for Emigration Agency in Canada, which it has been proposed to place at the disposal of the Governor-General of the British North American Provinces, my Lords will not deem it necessary to object to that arrangement, and in such case they will be ready to make the necessary advance to Dr. Rolph, which will be repayable out of the contemplated vote of Parliament. Answered 5th March.

I have, &c.
(Signed) C. E. TREVELYAN.

James Stephen, Esq.
&c. &c. &c.

Enclosure 3, in No. 21.

(Copy.) Colonial Office, March 5, 1841.

SIR,

IN answer to your Letter of the 4th instant, I am directed by Lord John Russell to request that you will acquaint the Lords Commissioners of Her Majesty's Treasury that the intention of his Lordship with respect to the payment of Dr. Rolph's allowance of 500*l.* was, that it should be made out of the proposed vote of 1,500*l.* for Emigration Agency in Canada. Encl. 3, in No. 21.

I have, &c.
(Signed) R. VERNON SMITH.

C. E. Trevelyan, Esq.,
&c. &c. &c.

Enclosure 4, in No. 21.

SIR, Treasury Chambers, March 9, 1841.

I HAVE it in command from the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Lord John Russell, that, in compliance with the recommendation conveyed in your Letter of the 5th instant, my Lords have directed the Paymaster of Civil Services to pay to Dr. Rolph, or to his assigns, the sum of 500*l.* out of 1,500*l.* proposed to defray Emigration Agency in Canada. Encl. 4, in No. 21. Letter to Dr. Rolph, 11th March.

I have, &c.
(Signed) R. GORDON.

James Stephen, Esq.
&c. &c. &c.

No. 22.
Lord Sydenham to Lord John Russell.
26th Dec. 1840.

(No. 210.)

No. 22.

COPY of a DESPATCH from Lord SYDENHAM to Lord JOHN RUSSELL.

MY LORD, Government House, Montreal, 26th December, 1840.

I HAVE the honour to transmit herewith, for your Lordship's consideration, the copy of a Report from the Medical Superintendent of the Quarantine Station, at Grosse Isle, on the emigration to this province during the season which has lately closed.

It is my intention at a future and I trust an early date, to transmit to your Lordship the Report of the Chief Agent for Emigrants at Quebec, the completion of which has been delayed by the impossibility of getting in the accounts of the expense of forwarding the emigrants, and I shall take that opportunity to make such observations on the general subject as appear to me to be called for. But I will not delay putting your Lordship in possession of the very able and impressive statement of Dr. Douglas in regard to the sufferings of emigrants on their passage across the Atlantic.

It does not appear to me that any effectual measures can be taken in this country to remove the evils which occasion so much distress; but it is impossible to read Dr. Douglas's report without being strongly impressed with the necessity and duty of providing a remedy for those evils without delay. I would, therefore, solicit your Lordship's early attention to this matter, with a view to the adoption of some effectual measures at all the outports, but more especially at Liverpool, to protect the emigrant from disease and destitution on his voyage.

I have, &c.

The Right Hon. Lord John Russell, &c. &c. &c.

(Signed) SYDENHAM.

Encl. in No. 22.

Enclosure in No. 22.

ABSTRACT of Admissions, Discharges, and Deaths at the Quarantine Hospital, Grosse Isle, from May 1st to October 20th.

Description.	Admitted.	Discharged.	Died.	Fever.	Small Pox.	Measles.	Other Diseases.	Total.	Remarks.
Men . .	239	222	17	227	9	..	3	239	About one-fortieth of the whole number of Emigrants.
Women .	157	149	8	151	2	..	4	157	
Children .	165	149	16	107	49	9	..	165	
Total .	561	520	41	485	60	9	7	561	

SIR, Grosse Isle, 20th October.

I BEG to submit, for the information of his Excellency the Governor-General, the above abstract of admissions, discharges, and deaths of emigrants, at the quarantine hospital, for the season ending October 20th, 1840; and in doing so I beg to remark, that by reference to the Table annexed, marked A., it will be seen that the number of sick treated this season at the hospital has been much greater, in proportion to the amount of emigration, than any year since its first establishment, in 1832, (excepting the summer of 1834, when the cholera prevailed extensively in Canada); notwithstanding this greater proportion of sick, the mortality has been on the whole much less, as in number of deaths, 41, is included those who died immediately on arriving at the quarantine station,—feeble old persons and sickly young children, as well as several whose friends, emigrating in a body, were unwilling to be left behind, and made the attempt of accompanying them through in the last stage of diseased lungs.

The increased degree of sickness this season may be ascribed, in a great measure, to three causes:—

1st. To the greater poverty of the emigrants generally, as compared with former years.

2nd. To the prevalence of small-pox in Great Britain, and its consequent more frequent occurrence in emigrant ships on the passage.

3rd. To the greater average length of the voyages of passenger ships that arrived in the month of August.

The first of these causes applies more particularly to the emigrants embarking at the ports of Liverpool, Dublin, and Cork, but more especially from Liverpool; and this is ascribed in a great measure to the means employed to induce the poorer class of Irish labourers to emigrate, who, having previously had little or no intention of so doing, are but indifferently

prepared for such a step. These means are the following:—A speculation is carried on by a class of men called passenger brokers, who charter (for a comparatively small sum) a vessel coming out to Quebec for timber; on board of this vessel they agree to put a cargo of passengers within a certain number of days. The sum which the broker contracts to pay the ship-owner for the vessel, frequently averages less than 20*s.* for each adult passenger, stipulating, however, to provide the requisite berth-places and water-casks. Sub-agents are immediately employed by the broker to ferret out the requisite number of passengers to fill the vessel; and, as I am informed that these agents are paid in proportion to the number of passage-tickets disposed of, it may be inferred that no means are left untried to induce people to purchase. The poor credulous labourer is made to believe that the voyage will not occupy more than three weeks, that little provision is necessary, and that on arriving in Canada he will be immediately forwarded up the country, at the expense of Government, to the places where very high wages are readily obtained. By representations of a like nature, hundreds of Irish labourers, with their families, are induced to embark for this country with but a scanty supply of oatmeal and potatoes for the voyage; often with no clothes but what they have on, and a bundle of straw for a bed. It might be supposed that the officers of the Customs, whose duty it is, would satisfy themselves that the quantity of provisions required by the Passengers' Act was on board every vessel before giving a clearance. But the extreme difficulty, if not impossibility, of ascertaining by actual measurement the quantity of provisions belonging to each man, woman, and child, in a crowded vessel, has led to the custom of relying for this information, in a great measure, upon the statement of the captain. Now as this person, from not having contracted individually with his passengers, has no means of knowing their circumstances, or at all events has taken but little interest in them, or, as have occurred in one or two instances this season, had only joined the vessel two days before leaving port, and when the passengers were all embarked, it may be inferred that his statement can be but little relied upon, though, like most seamen, he invariably declares that his passengers have a confounded lot of baggage.

Presuming however that each passenger has left port with the quantity of provisions required by the Act, yet, as there is no check whatever upon the subsequent expenditure, it invariably happens that after the first few days of sea-sickness have passed, and left them with increased appetites, that great extravagance is carried on; at the expiration of three or four weeks the stock of the more improvident becomes exhausted, and by this time the vessel has perhaps made the banks of Newfoundland, and, if in the spring or early summer, the want of warm clothes is felt, and keeps them huddled in the hold, where a neglect of proper ventilation and cleanliness has already produced a vitiated atmosphere, which, breathed by an ill-clad and half-starved people, produces its usual effect, fever. And when once this becomes generated in so favourable a locale for its development, it spreads with frightful rapidity; the atmosphere becomes charged with febrile miasma, and many of the better fed and clothed passengers, who do not at first take fever, are oppressed with extreme languor and debility from inhaling this tainted atmosphere, and rendered thereby indisposed to the exertion necessary to preserve anything like cleanliness: many cannot be induced to go on deck for the necessary purposes of nature, and in consequence the air becomes daily more unfit for respiration, the disease spreads, and death begins to take place, and the fear caused thereby produces its usual depressing effect in rendering those that yet remain healthy more indifferent to exertion. It frequently happens that the crew or officers of the vessel are the next to suffer; the evil goes on increasing in proportion to the duration of the voyage, until, on the arrival of the vessel at the quarantine station, it resembles a floating pest-house, the fetid exhalations from the hold obliging the pilot and crew to hurry rapidly past the open hatches. On mustering the passengers, it will be found that out of 250 to 300, with which the vessel left port, 12 to 20 have died on the passage, and from 40 to 50 are ill of fever, and require to be sent to hospital; this description may be considered as applicable only to an extreme case, yet during the five years that I have held the office of Medical Superintendent of Quarantine, there have every year arrived passenger ships to which the foregoing description applies. In the year 1836, the barque ——— left Liverpool with 300 passengers; fever broke out on the passage, from the causes above stated, 13 of the passengers died, and 90 had to be sent to hospital on arriving at Grosse Isle. The following year the ships ——— and ——— ——— from Liverpool, with about 300 passengers each, had fever on the voyage; 17 deaths occurred, and 126 were sent to hospital, including several of the crew. This season the barque —— —— left Liverpool with 302 passengers; disease broke out soon after leaving port, and before arriving at the quarantine station, 15 deaths took place, and 46 (including 9 of the crew) were sent to hospital. The captain of this vessel had joined her only two days before leaving port, and when all the passengers were embarked. The barque ——— left Liverpool this season with 353 passengers; fever and small-pox broke out, nine of the passengers died, and 35 had to be admitted to hospital.

During the period of my connexion with this establishment, I have had occasion to remark that the greatest number of sick have always been received from vessels that embarked their passengers at Liverpool; and the invariableness of this occurrence has led me to suppose the existence of other causes than the greater degree of poverty of the emigrants coming from that port; for though want of sufficient food and clothing, inattention to ventilation and cleanliness, are quite causes enough to produce disease, wherever masses of people are cooped up in a small space, yet my attention has been drawn to the remarkable fact that not one of the 11 vessels that left Liverpool this season for Quebec, with their full complement of passengers, has arrived at this station without having had sickness and deaths on the passage. I beg to refer to the annexed paper, marked B, for the names of those vessels, the number of sick, &c.

No. 22.
Lord Sydenham to Lord John Russell.
26th Dec. 1840.
Encl. in No. 22.

This constant occurrence of disease led me to believe that in some instances fever must have been brought on board from the lodging-houses occupied by the passengers before embarking.

I have met with a full confirmation of this opinion within these few days in a paper on the moral economy of large towns, wherein the writer, Dr. M. C. Taylor, in describing the abodes of the Irish labourers in Liverpool, remarks:—"The lodging-houses, crowded with three or four families, was an abomination, but the lodging cellar, the under-ground cave, in which drainage, light, and ventilation were utterly unattainable, where every drop of moisture that sunk into the earthen floor fermented into contagion, and where every exhalation from animate to inanimate bodies rolled in volumes of pestilential mist round the apology for ceiling, without being able to find a vent, presented an accumulation of horrors, such as no one, without personal examinrtion, could believe to exist in a civilized community;" and with reference to the number of labourers occupying these places, he remarks, that "it is a perplexing problem to discover how so many persons as are found to reside in one of the cellars can find space to lay down. It would far transcend the power of words to describe the horrors of these dens; and it can scarcely be necessary to dwell upon the fact, that malignant diseases are perpetually generated in them." From these places do emigrants embark on board of the vessels, bringing with them in their foul clothes and bedding the seeds of disease, which becomes rapidly developed in so favourable a situation as the hold of a ship. Many passenger ships from Liverpool also bring out part cargo in the lower hold, by this means narrowing the space allotted to the emigrants, whose provisions and baggage are usually stowed in this place when the vessel comes out in ballast.

The second cause of the greater number of sick this season among emigrants has been the more frequent occurrence of the small-pox in passenger ships, and this may be attributed to its great prevalence in England last year: to such extent did this disease prevail, that by the returns of the General Register Office, April 14, 1840, it appears that the number of deaths by it alone for the year ending 31st December, 1839, amounted to 8,541. It has been proved, that the continued existence of this disgusting disease is owing, in a great measure, to the revived custom of inoculating for small-pox, which, it is hoped, the Bill introduced to the House of Commons March 10th will have the effect of checking, and by this means removing before another season one of the great causes of disease and death among emigrants in their transit to this country. A reference to the paper marked (C) will give the names of vessels on board of which small-pox occurred this year.

It has been generally found that when this disease has existed for some time in the crowded emigrant ship, that fever likewise appears, and affects those of the passengers who, from having already had small-pox, are not exposed to its attack. This is no doubt owing to the contaminated effluvia from the persons and clothes of the sick, and from which there is no escape.

The other cause of the increased sickness this season has been the unusual length of the passages of emigrant vessels during the latter months of the summer. This was owing, in almost every instance, to the unprecedented continuance of light westerly winds, which detained vessels for weeks in the gulf and mouth of the St. Lawrence, where the currents at that season run constantly to the eastward. On reference to a journal of the weather, I find, that from the 2d of July to the 26th August, a period of 56 days, the wind prevailed constantly from the west, without an intermission of six hours. The number of vessels that have thus suffered from the length of the voyage was 14. The names, duration of passage, I have added in a paper marked (D). Most of these were under the necessity of running into ports in Newfoundland, Cape Breton, Gaspe, and the parishes on the south shore, previous to their being able to make these ports, however, the greatest distress prevailed among the passengers. Whole families were obliged to subsist for days upon a few ounces of biscuit; and the various, means adopted by them to allay the pangs of hunger, such as swallowing salt water, &c., but tended in most instances to aggravate the evil. Infants at the breast and young children from requiring an almost constant supply of nutriment, suffered the most severely, and the mortality and sickness among them was proportionably greater. Though a great number had to be admitted to hospital, yet few deaths took place, and those cases only where organic disease existed.

In concluding this report, I beg to notice the fact, that in consequence of the judicious retrenchment directed to be made by his Excellency the Governor-General this spring in the expenditure of the quarantine establishment generally, it has happened, that though the number of sick treated in the hospital has been greater than any year, save one, since its establishment, yet the total expense has not much exceeded one-third of former years. In no instance this season have emigrants been landed at the sheds on the island and obliged to wash or purify their clothes and bedding, as in former years, except where cases of fever, small-pox, or measles have occurred on the voyage; in which cases it has been customary to cause all the passengers to disembark with their bedding and luggage, which is thoroughly washed, aired, and cleaned, during which time the vessel is subjected to a thorough purification, by scrubbing and whitewashing. As soon as this has been done in a satisfactory manner, and that all the sick have been separated and sent to hospital, and a careful inspection is made to ascertain that every article of clothing and bedding is perfectly clean, the healthy are allowed to embark and proceed. By these means it is conceived that all possibility of spreading disease is completely prevented; though it is a fact well known and admitted by medical men, that the individuals who have been exposed to the contagion of fever are liable to be attacked by it at any period from 11 to 70 days (more especially if the food of the individual has been changed, in the mean time, to one of a more generous kind than when exposed to contagion.) With a full and perfect cognizance of this fact, it would be next to impossible to retain the thousands of emigrants in quarantine for the period of time necessary

No. 22.
Lord Sydenham to Lord John Russell.
26th Dec., 1840.
Encl. in No. 22

to the assurance that each individual who has been a passenger in a fever vessel is no longer liable to disease, such a detention would not only be ruinous to the prospect of the emigrant seeking to settle himself before the approach of winter, but would entail an enormous expense upon Government. By adopting the present system, the public are guaranteed from the spreading of disease by the retention in these hospitals of those actually sick, and by the disinfection of the clothes, baggage of those permitted to proceed; and though it is well known that individual cases do occur among the newly-arrived emigrants, yet such cases being solitary ones, are not capable of affecting, to any extent, the health of the inhabitants of the province. By the present Quarantine Act, vessels bringing passengers are obliged to submit to a second medical inspection on arriving at Quebec, and though a period of from two to three days frequently elapses between the time of vessels leaving Grosse Isle and this second inspection, yet the total number of sick discovered by the inspecting physician out of upwards 22,000 emigrants, has not exceeded, in all, six or eight.

I have, &c.

(Signed) Geo. M. Douglas, M.D., Medical Superintendent.

T. W. C. Murdoch, Esq., Chief Secretary,
&c. &c. &c.

A.

General Abstract of Admission, Discharges and Deaths of Emigrants at the Quarantine Hospital, Grosse Isle, from 1832 to 1840.

Year.	Number of Emigrants Arrived.	Admitted.	Discharged.	Died.	Cholera.	Fever.	Small-pox.	Other Diseases.	Total.	Remarks.
1832	51,422	..	..	..	..	..	..	..	..	No record preserved of the number of sick this year.
1833	22,062	239	212	27	..	159	34	46	239	. . .
1834	30,982	844	580	264	290	404	12	138	844	This year Dr. Panet, medical assistant, died.
1835	11,580	136	116	10	..	24	48	54	136	. . .
1836	27,986	454	396	58	..	338	50	66	454	. . .
1837	31,894	598	541	57	..	481	104	15	598	This year Dr. Christie, medical assistant, died.
1838	2,918	65	59	6	..	42	17	6	65	. . .
1839	7,214	189	180	9	..	147	1	41	189	. . .
1840	22,065	561	520	41	..	485	60	16	561	. . .

B.

List of Passenger Vessels that left Liverpool this Season with the full complement of Emigrants allowed by the Act, showing the Number of Deaths on the Passage, and of Sick admitted to the Quarantine Hospital.

Name of Vessels.	Masters' Names.	Number of Passengers.	Number of Days on the Passage.	Number of Deaths.	Number of Sick Admitted to Hospital.	Disease.	Remarks.
Barque Independent .	James Andrews.	269	40	8	25	Fever and small-pox.	. .
Barque Don . . .	Thomas Muir .	89	42	2	3	Small-pox . .	. .
Ship Thos. Worthington	Thos. Wakeham	279	31	1	7	Fever . . .	. .
Ship Geo. Wilkinson .	Ch. Brown . .	264	50	5	17	Fever and small-pox.	. .
Ship George . . .	William Ray .	379	52	5	24	Fever . . .	. .
Ship Leander . .	John Phelan .	250	49	9	6	Measles . . .	The deaths were mostly children.
Ship John and Robert	Al. M'Keckney .	369	44	3	11	Fever . . .	. .
Brig Robert Burns .	John Messenger	137	41	1	2	Fever and small-pox.	. .
Brig Anna Liffy . .	Ben. Dady . .	302	53	15	46	Ditto . . .	. .
Brig Catherine . .	George Mason .	353	41	9	35	Ditto . . .	. .
Brig Sir Geo. Provost	Adam M'Kay .	274	66	3	30	Fever . . .	. .

No. 22.
Lord Sydenham to Lord John Russell.
26th Dec., 1840.
Encl. in No. 22.

C.

List of Passenger Vessels on board of which the Small-pox occurred on the Voyage out in 1840.

Name of Vessel.	Master's Name.	Ports from whence Sailed.	Remarks.
Ship Emanuel . .	John Pearson . .	London	. . .
Ship Ed. Thorn . .	David Ray . . .	Greenock . . .	. . .
Barque Independent.	James Andrews . .	Liverpool . . .	. . .
Barque Helen . .	William Mearns . .	Belfast	. . .
Barque Nelson Village	George Barclay . .	Ditto	Sixteen deaths from the disease took place on the voyage.
Brig Governor . .	Daniel Gorman . .	Limerick	. . .
Barque Don . . .	Thomas Muir . .	Liverpool . . .	. . .
Ship Marion . . .	William Boneyman .	Cork	. . .
Ship Amazon . .	Charles Brodick . .	Hull	. . .
Ship Geo. Wilkinson	Ch. Brown . . .	Liverpool	. . .
Barque Industry . .	John Stevens . .	Dublin	. . .
Brig Thetis . . .	George Chanynon .	Limerick	. . .
Barque Anna Liffey .	Ben. Dady . . .	Liverpool . . .	. . .
Barque Catherine .	George Mason . .	Ditto	. . .
Barque Queen . .	Robert Thompson .	London	. . .
Brig Cherub . . .	Thomas Duggan .	Londonderry . . .	. . .
Barque M. A. Hatton	Thomas Venn . .	Liverpool . . .	. . .
Total . . 17 Vessels.			

D.

List of Passenger Vessels on board of which Disease and Death were caused by the length of the Voyage in 1840.

Vessels' Name.	Master's Name.	Port.	Number of Days on the Voyage.	Number of Passengers.	Number of Sick on Arriving at Grosse Isle.	Number of Deaths on the Passage.	Remarks.
Barque Ann Grant	William Murdock	Greenock .	74	74	2	1	Leaky vessel.
Brig Kingston .	Robert Rex .	Cork . .	69	95	..	1	. .
Brig Marquis of Normanby.	John Gregg .	Sligo . .	61	173	3	2	Master and boat's crew lost in a fog on the banks while going to a vessel for provision.
Brig St. James .	John Crawford .	Cork . .	63	137	3	1	. .
Brig Brown .	Thomas Jackson	Sligo . .	75	97	4	2	. .
Brig Heby . .	Robert Hutton .	Ditto . .	76	168	1	2	. .
Brig Astrea . .	John Donason .	Dublin . .	70	150	56	5	The passengers of this vessel suffered dreadfully from want of food.
Brig Hibernia .	Thomas Wedgwood.	Sligo . .	72	133	8	5	. .
Brig Jane . .	Thomas Toby .	Ditto . .	73	120	2	1	. .
Brig Viola . .	William Large Staff.	Ditto . .	74	188	3	5	. .
Brig Westmoreland.	Thomas Duncan	Leith . .	82	75	1	1	. .
Brig Marico .	Thomas Dawson	Limerick .	87	95	1	2	. .
Brig Sir Geoge Provost.	Ad. M'Kay . .	Liverpool .	66	274	30	3	. .
Brig Cherub .	Thomas Duggan	Londonderry	88	167	..	4	. .

No. 23.

No. 23.
Mr. J. Stephen to the Commissioners of Colonial Lands and Emigration.
29th January, 1841.

COPY of a LETTER from JAMES STEPHEN, Esq., to the COMMISSIONERS of COLONIAL LANDS and EMIGRATION.

GENTLEMEN, Downing Street, 29th January, 1841.

I TRANSMIT to you, by direction of Lord John Russell, the copy of a Despatch from the Governor-General of British North America, containing the report from the Medical Superintendent of the quarantine station at Grosse Isle, on the emigration to Canada during the last season, and I am to request that you will communicate to me, for the information of Lord John Russell, any observations that may occur to you on the subject.

26th December, No. 210, p. 56.

I have, &c.
(Signed) J. STEPHEN.

The Commissioners of Colonial Lands
and Emigration.

(No. 248.) No. 24.

No. 24.
Lord John Russell to Lord Sydenham.
27th October, 1840

COPY of a DESPATCH from Lord JOHN RUSSELL to Lord SYDENHAM.

MY LORD, Downing Street, 27th October, 1840.

I PERCEIVE, by a Despatch from Sir G. Arthur, that a plan has been matured for granting lots of 50 acres of land to such emigrants as may be unable to procure employment on their arrival in Canada, with a view to prevent their transferring their labour to the United States.

Sir G. Arthur's Despatch, 28th July, 1840, p. 8.

Although I admit the sound policy of this measure, I cannot help thinking that the quantity of land proposed to be given is much too large. On referring to your Despatch No. 26, of the 18th January, I find a report from the emigrant agent, Mr. Hawke, in which it is stated that, on former occasions, grants of five acres each were found to offer a sufficient inducement to unemployed emigrants to remain in the province. At that time, too, the demand for labour in the neighbouring states was much greater than it is understood to be at present. I should wish, therefore, that these gratuitous grants of land should be limited to five acres each, unless there are local circumstances which, in your opinion, require and justify a more liberal appropriation of the Crown lands to the object in view.

For Despatch, 18th January, *vide* Correspondence relative to the Affairs of Canada, presented by command, 1840. Part 4, p. 9.

I have, &c.
(Signed) J. RUSSELL.

The Right Hon. Lord Sydenham,
&c. &c. &c.

(No. 214.) No. 25.

No. 25.
Lord Sydenham to Lord John Russell.
14th January, 1841.

COPY of a DESPATCH from Lord SYDENHAM to Lord JOHN RUSSELL.

MY LORD, Government House, Montreal, 14th January, 1841.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch of the 27th October, No. 248, on the subject of the free grants of land which have been made in Upper Canada, and expressing a doubt whether the extent of those grants, viz., 50 acres, is not excessive.

I ought, perhaps, to have taken an opportunity when I sanctioned the plan, to which reference is now made, of informing you of the principles upon which it was founded, which would have obviated the misapprehension that has arisen from its being supposed that the recommendation contained in Mr. Hawke's report, and confirmed by myself in my Despatch, No. 26, of the 18th January last, was addressed to this plan of settlement, which it is not.

For Despatch, 18th January, *vide* Correspondence relative to the Affairs of Canada, presented by command, 1840. Part 4, p. 9.

There are two modes in which the beneficial employment and settlement of emigrants, by gratuitous grants of land, may be effected.

One, that referred to by Mr. Hawke, in my Despatch above alluded to. This consists in allotting a very small portion of land, such as five acres, to an emigrant, with a view to fixing him, if possible, in the country, and to his becoming a labourer for hire. It is obvious that the possession of such a quantity of land as five acres in the bush will neither enable the emigrant to support himself, nor can tempt him to erect a house. Such a plan, therefore, can only be adopted first in the neighbour-

No. 25.
Lord Sydenham to Lord John Russell.
14th January, 1841.

hood of some settled spots, where a demand for labour already exists, and next must be accompanied with an outlay for the purpose of aiding in establishing the family.

This plan was followed to a considerable extent some years ago, and has answered tolerably well, although it has been attended with expense. It was my intention to pursue it, if I had found opportunities; but in the course of this year I have not, and therefore no settlement of the kind has been made.

For Despatch. 26th May, *vide* Papers relative to Emigration, ordered to be printed by the House of Commons, 8th August, 1840, No. 613, p. 84.

The other, which is that referred to in my Despatch of the 26th May last, consists in the establishment of settlers on waste lands in parts of the country where the Crown possesses large tracts which it is extremely desirable to open, such as is the case in the instance in question of the Garafraxa road.

It is clear that to promote this object, it is necessary to assign such a portion of land to each family as will suffice for their support as permanent settlers, induce them to undertake the expense of erecting the necessary buildings, and maintaining themselves for the first few months until the land is productive, and to conform to the conditions of the grant, by which the penalty of forfeiture is imposed.

Having been in correspondence with Sir George Arthur on this subject during last summer, and having, in the course of my tour through Upper Canada, obtained considerable information respecting it, I had satisfied myself that no quantity of land less than 50 acres, would suffice for this purpose; an opinion which has been since amply confirmed by the fact that many private proprietors of land even within tolerably settled districts, have lately undertaken to offer a similar quantity gratuitously to settlers who would comply with the same conditions; and therefore, acting upon this conviction, I sanctioned the amount of 50 acres in the concessions on the Garafraxa road.

I have deferred replying immediately to your Lordship's Despatch, with a view, however, of obtaining further opinions from Upper Canada upon the point, and I requested Sir George Arthur to furnish me with a report on the subject.

26th December, 1840.

I now transmit to your Lordship a copy of Sir George Arthur's Despatch, and of its enclosures, and in doing so, I would beg to call your particular attention to the memorandum drawn up by Mr. Harrison, the Civil Secretary of Upper Canada. Mr. Harrison has had personal experience of the wants of a settler in the forest, and every credit is due to any statement proceeding from him; his memorandum is an unanswerable argument against any reduction of the free lots below 50 acres, and it at the same time contains practical information as to the clearing of land, which cannot fail to be generally useful.

I have, &c.,
(Signed) SYDENHAM.

The Right Hon. Lord John Russell,
&c. &c. &c.

Enclosure 1, in No. 25.

My Lord, Government House, Toronto, 26th December, 1840.

Encl. 1, in No. 25.

I had the honour to receive, on the 14th instant, your Lordship's communication of the 4th of this month, enclosing copy of a Despatch from the Secretary of State, respecting the free grants of 50 acre lots.

It will afford me pleasure to state to your Lordship, as you request, my opinion on this matter; and I submit it with the greater confidence, as it is one with which I have had long experience, and upon which I have bestowed great consideration since the receipt of your letter.

The Secretary of State, I am much gratified to perceive, admits the policy of the measure, but considers the extent of 50 acres to be too great.

Your Lordship will, perhaps, recollect that, on his first arrival in Canada, Captain Pringle investigated this question on the spot with great perseverance. He set out upon the inquiry under the impression, which he brought with him from England, that lots of 10 acres would be sufficiently extensive; but he ended his laborious research with the conviction that nothing less than 50 acres could be made to answer the purposes of an emigrant who accepted land with an honest intention to settle upon it, and draw a living from it for his family.

The Secretary of State adverts to some report formerly made by Mr. Hawke, in which it is stated that grants of five acres each had been found a sufficient inducement to unemployed immigrants to remain in the province; but the cases are essentially different.

The five acre allotments, to which Mr. Hawke in that report referred, were lots in the immediate vicinity of towns or villages in which *Government erected huts,* and afforded *other valuable assistance.*

The grantees thus had the means of obtaining a very constant demand for their labour;

No. 25.
Lord Sydenham to Lord John Russell.
14th January, 1841.
Encl. 1, in No. 25.

whilst they also had the opportunity of devoting any spare time to clearing and cultivating their own lots.

That plan answered very well so long as situations were to be found adapted to the end, and so long as Government would afford the expense of such assistance as was rendered; but, in a general scheme for settling a large body of immigrants on the wild lands of this province, such very limited grants would be altogether inapplicable.

Your Lordship is aware that the extensive country proposed to be settled was ceded about four years ago by the Sangiac Indians; there are the strongest political considerations against allowing this noble tract of nearly 2,000,000 acres to remain a wilderness; whilst every argument of sound policy points to the beneficial ends to be gained by peopling it with immigrants fresh from the mother country.

The free cession of 500,000 acres to actual settlers would, even in a pecuniary point of view, be a productive disposal of part of this land, for it would fivefold increase the value of the remainder; but it has not been in a pecuniary light that I have regarded the settlement of the country in question.

It is of importance that the fixed resident British population in Canada should, at as early a period as possible, not only equal, but exceed in numbers, the French population. It is of no less importance that we should possess such a general total of population as would rather render Her Majesty's Canadian possessions a position of national strength, which an enemy of Great Britain might at all times respect, than one of comparative numerical weakness, ever looking, in times of danger, to the mother country for support.

The tract of country in question is capable of carrying a large population; and any plan that would tend to settle even 20,000 industrious families upon it, would be of importance to the security of the country as well as to its general prosperity.

The first settlers who enter upon this wilderness have the advantage of being employed upon the road which the Government have undertaken to open, through one part of it, connecting Lake Huron with Lake Ontario. This is of great assistance to them; but their successors will have nothing to depend upon beyond their own means; and therefore, under the terms proposed for settlement, none are permitted to receive a location who cannot show that they can maintain themselves for 12 months. To place mere pauper emigrants upon the land, would be to defeat the whole project. These, indeed, may, by-and-bye, be admitted on the limited location of five acres, if the first enterprise proves successful, and a demand for labour be thereby created.

Your Lordship will bear in mind that Garafraxa, the station at which the first huts have been erected for the new settlement, is 40 miles from the lake shore; the price of flour and meat, therefore, after being carted that distance, must cost the consumer nearly double its price in the settled districts on the frontier; and clothing, with all the implements for farming, will, in like manner, come into their hands at a very great increased charge.

The terms also on which the lots are granted, are exceedingly strict, and no immigrant is likely, under them, to accept an allotment, who does not determine to become a *bonâ fide* settler.

There is one other circumstance to which I cannot avoid calling your Lordship's attention. In the associations which have recently been formed throughout every district of this province to promote immigration, whatever may in other respects be the defects of their scheme, all have agreed in this one particular that it is the interest of every landowner of a lot of 200 acres, to give 50 to an industrious immigrant, who will, with his family, settle upon the land, and upon this conviction, many thousand acres have been subscribed, and immigrants invited to come out and accept them.

These locations, for the most part, are offered in districts less remote than the new Government settlement, and where land does already possess some value, and if it could have been made to appear that lots containing a less quantity than 50 acres, would have answered the purpose, there can be no doubt that a smaller proportion would have been decided upon by general convention of the land proprietors in their several associations.

The course pursued by private individuals in such cases is, generally speaking a fair guide for a public measure, and hence, independent of other considerations, I infer that 50 acres is the least quantity that can afford adequate encouragement for a new settlement, and with all its hardships and privations, together with the important fact that, by the labour of the settlers themselves, a real value is given to the land which otherwise is merely nominal, I do not consider that, in fairness, or even in prudence, a less quantity ought to be offered.

Colonel Talbot who has had more experience in settling emigrants than any person in Canada, and has for more than 35 years devoted himself to the cause, is of opinion that a free allotment granted to an emigrant family, ought not to be less than 100 acres.

I have called upon the Commissioner of Crown Lands, and upon the emigrant agent for reports which are enclosed.

I also enclose a copy of the terms on which the 50 acre lots are granted, with a "Memorandum," prepared by Mr. Harrison, who has had practical experience in the matter, and can well estimate what are the prospects, and what the discouragements of an emigrant who sets himself down with his family in the woods, chiefly dependent upon his own resources, showing the calculation upon which 50 acres are regarded as the proper quantity to be granted in the wilds of Canada.

The circumstances and situation of Canada are peculiar. It is not possible, therefore, with a prospect of coming to a just conclusion, to estimate such a measure as that under consideration by any general rule applicable to other countries; and for many reasons, I should regard it to be very untoward, if the extent of the allotments were to be curtailed. At the same time, I

No. 25.
Lord Sydenham to Lord John Russell, 14th January, 1841.

am well aware, although I have thus unreservedly expressed my opinion, that there are considerations which necessarily influence a minister of state in his decisions which others can by no means justly appreciate.

I have, &c.,

(Signed) GEORGE ARTHUR.

Encl. 1, in No. 25.

The Right Hon. Lord Sydenham,
&c. &c. &c.

Enclosure 2, in No. 25.

SIR, Council Chambers, 17th December, 1840.

Encl. 2, in No. 25.

I RECEIVED this day your letter enclosing copies of Despatches from Her Majesty's Secretary of State for the Colonies, and from his Excellency the Governor-General, on the subject of the proposed plan of placing settlers on free grants of land on the road now opening between Garafraxa and Owen's Sound, upon Lake Huron.

I am commanded to make my observations on the extent of the grants, 50 acres to each settler appearing to Lord John Russell much too large a grant, and his Lordship suggesting that grants of five acres to each settler, might be found sufficient for the intended purpose.

The Owen's Sound road was originally projected for the purpose of opening the country between Lakes Ontario and Huron, through the finest part of Canada. The road was surveyed some years since in accordance with an address from the House of Assembly, and Sir Francis Head procured from the Sangiac tribe of Indians, a cession of the new territory, for which an annuity has been since granted to the Indian tribe. The principal object in view was the peopling the Canadian Eastern shore of Lake Huron, which was almost without population and lying perfectly waste; and this object became one of the greater necessity from the rapidity of the American settlements in the state of Michigan and to the westward.

Nothing, however, could be more evident than that making the road, would be a useless expenditure without a population were placed on the route, which would keep the road open and in repair, and in consequence of the quantity of *unsettled* but *granted* land, and of reserves lying between the southern terminus of the road, and the frontier which placed the projected settlement at a great distance from any close population, the numbers of purchasers were not expected to be at first sufficiently great to make it prudent for any to commence the settlement. In short it appeared, that to make the valuable lands acquired by the Government, saleable or available in any way, both the opening the road, and the placing settlers on each side of it immediately, was absolutely necessary, and as an operation purely financial, as well as for the purpose of opening a country for the reception of immigrants, free from vacant, but located lands, both the road and the settlement were indispensable.

The increase of immigration this season, and the probability of its continued future increase, with the necessity for offering some inducements to keep the new comers in the province after their arrival, offered the strongest inducements for commencing without delay, the road and settlement, and an address from the House of Assembly, presented in consequence of the expected immigration, placed the power of carrying out the plan in the hands of the Executive Government, by obviating the strong objection to free grants of land created by the "Act for regulating the disposal of public lands."

In advising the Government to commence the road and settlement this season, I had in view more the making a nucleus of inhabited land in the new cession, and by that means making the land saleable, than the no less important object of providing for the immigrants. I was glad, however, to see both objects combined, and the work was undertaken with a view to both.

In settling the quantity of land to be given to each settler, I contended against an almost universal opinion or prejudice in the country in favour of large lots of land. None but the poorest of the Upper Canadians, whether native or immigrant, are satisfied with so small a possession as 100 acres. I however thought, and still think, that the quantities of land attempted to be brought into cultivation by individuals, were much too large for their means of improvement, that if there were more farms of 50, the country would be much more prosperous, have more surplus produce, better roads, and moreover, the inhabitants would have the proximity to church, school, and market, which they now want, in consequence of the scattered state of the population. Nothing, however, but actual experience, will convince the people of the province of the soundness of this opinion, and a man who is content with 50 acres of land will be considered as having no enterprize, spirit, or industry, until a prosperous neighbourhood of moderately small land-holders shall exhibit the advantages of the system of limited lots of land.

But, on the other hand, when grants of 50 acres each were recommended, the calculation was very closely made, as to the minimum quantity upon which an industrious man could maintain a family in comfort, and with a proper prospect of bettering his condition. It is very true that near a large town five acres of land would be amply sufficient for this purpose, because the land can there be cultivated as a garden, and the heavy produce of the soil will sell for money at an immediate market, and give the occupant the means of purchasing necessaries which his own land does not produce. But then it is to be remembered that the country settlements must always long precede the erection of towns, and that when these are once established, the land in the vicinity becomes much too valuable to be within the reach of the poor settler, or even of the immigrant of moderate means, who must therefore always be

No. 25.
Lord Sydenham to Lord John Russell, 14th January, 1841.

Encl. 2, in No. 25.

placed, in the first instance, at a considerable distance from towns, and look to the advance of the country, through his and his neighbours' exertions to bring them into existence in his vicinity. The produce which can be raised by a distant settler for the market must therefore consist of articles which require for their production a large quantity of land. These are wheat and cattle, with the product of the dairy; and when the quantity of land necessary to supply the farmer with fire wood in the severe winters of this country, and with fencing timber, is taken into account, and deducted from the extent of his farm land; and when the length of time is considered before the stumps will come out of the ground and leave the land open to cultivation, I do not think that settlers would be right or prudent in accepting a smaller quantity than 50 acres of land. It is to the future state of the land as a cleared farm, that the settler looks for his reward for great exertions, and for many privations; deprive him of this prospect, and I believe he will neither be an industrious man nor a contented subject of the Crown.

Indeed, so far from the opinion that farms of less than 50 acres being taken up by settlers being approved in this country, I may, with the greatest truth, assert, that the most probable course of industrious settlers upon the 50 acre grants will be (although in my opinion to their own disadvantage) the sale of their first clearings and farms, for the purpose of acquiring a larger quantity of wild land. Amongst those who propose going to the new settlement, the most common inquiry is, how much land will be reserved for us to purchase? and when I have answered, that any such reservation would defeat the purpose of the Government, of placing inhabitants thickly on the line of road, hundreds have turned away, saying that they would prefer buying a farm upon credit, to taking for nothing so limited a quantity as 50 acres.

I cannot quote a stronger authority than the proceedings of the Emigration Association, which propose to make free grants of land from private property to the extent of 50 acres, in each 200 acre lot. Surely, if five acres were a sufficient inducement to a settler, they would not give to one what would be sufficient for 10 families. But they well know that the location of a farmer upon 50 acres of their land will have the effect of doubling, or quadrupling the market value of the remainder. The calculation is a good one, provided the plan can be generally carried out, but whether successful or not, it shows most decidedly the opinion of those who, acting for their own pecuniary interests, cannot be supposed to be more liberal in the disposition of their private property than obvious necessity requires.

Whether the Government shall think fit to extend the granting system further than the settlement of the road or not, the country must be benefited. In the latter case, the government territory will become saleable, and fit for individual settlement by purchasers, which it otherwise could not be; and, if the granting system should be continued, hundreds of emigrants may be easily provided for, whose means will be used far more for the public good if left in their own hands than if paid into the public exchequer in the shape of purchase-money for land.

I offer, with great diffidence, one more subject for consideration. The Government has thought it right to offer to the provincial Parliament the land revenue, and, as a necessary consequence, it would seem to me the right of efficient control in the disposition of the land itself. It is, therefore, worthy of examination whether, supposing the colonists all wrong in their ideas of settlement and of the extent of farms, it would be wise to insist upon true theories, to which all their former experience and the course of settlement in America are totally opposed. If the lands of the Crown were, as heretofore, to be held as the places of future habitation of the emigrant population, and with a view to English politics, theoretical experiments might be tried, as to the greatest number of destitute labourers who might be brought to subsist upon the least quantity of land; but, as the matter stands, it appears to me that the opinions and even the prejudices of the colonists must have weight, and when the project comes to be discussed in the provincial Parliament, the question will be, which course opens the most tangible and immediate benefit to the country; and in the discussion, the preconceived opinions, justly formed, or the prejudices of men who have settled the country, and prospered under even a wrong system, will prevail against the soundest and best argued theory that can be proposed.

Sir G. Arthur,
&c. &c.

I have, &c.
(Signed) R. B. Sullivan.

Enclosure 3 in No. 25.

Notice to Persons desirous of Settling at the Owen's Sound Settlement.

Crown Land's Office, 1st November, 1840.

Encl. 3, in No. 25.

Notice is hereby given, that a road through the Crown land, from the north-west angle of the township of Garafraxa to Owen's Sound, upon Lake Huron, is opening at the expense of Government,

Lots of 50 acres of land each, will be laid out on each side of the road.

Settlers, of 21 years of age and upwards, who have never obtained a grant of land from Government, may obtain a lot of 50 acres on the following conditions:—

1st. They are to make application to the Commissioner of Crown Lands, or to the agent on the ground, whenever they shall be ready to become resident, on the tract to be granted,

2nd. Upon giving a satisfactory account of their means of providing for themselves, until a crop can be raised from the ground, they will receive a ticket from the Commissioner at the Crown Land's Office, entitling them to locate the land.

No. 25.
Lord Sydenham to Lord John Russell.
14th January, 1841.
Encl. 3, in No. 25.

3rdly. Upon application to the agent in the first place, he will forward a statement to the Crown Land's Office, of the applicant's age, family, and means of settlement, upon which, if approved, authority for location will issue.

4thly. The tickets issued will be useless to any but the applicants, and unless presented to the agent within one month, from the date, they will not be received by him. Any person who shall receive a ticket, and who shall not proceed to the settlement within one month; or who having been placed upon land there, shall abandon it, will be considered as having lost all claim to receive land.

5thly. Settlers will be required to clear, and place once under crop, one-third of the land located, and to reside on the land until this settlement duty is performed; and, after one-third of the grant shall have been cleared and under crop, the settler shall be entitled to his patent, free of expense.

6thly. The settlement duty is required to be done within four years from the date of the ticket.

7thly. Settlers who are under the necessity of being temporarily absent from their locations, will apply to the resident agent, stating the length of their intended absence, and the reason for it, which will be entered on the agent's book, if the reason for absence seems sufficient; and any person who shall absent himself, without being permitted to do so by the agent, or who shall remain away from the settlement for a longer time than such permission shall authorise, will be considered as having forfeited his location.

8thly. An assignment, or attempt to assign any ticket, or location, will also be considered as a forfeiture of all right in the locatee or the assignee; or, if it shall appear that the locatee has previously obtained a grant of land from Government, his new location shall be forfeited.

9thly. In all cases of abandonment of location, the located land will be considered immediately open for new location or sale.

10thly. As it is not the intention of the Government to offer the settlers any assistance, further than the free grant of land, and the opening of the road, applicants are specially desired to consider for themselves, whether or not they have the means of maintaining themselves and their families, until crops can be raised from the ground.

Government agents have been appointed at the Northern and Southern extremities of the settlement, and further information may be obtained on application to Mr. John Telfer, Owen's Sound, and Mr. James McNabb, Garafraxa.

R. B. Sullivan, Commissioner Crown Lands,

Enclosure 4, in No. 25.

Sir, Emigration Office, Toronto, December 17, 1840.

Encl. 4, in No. 25.

I have the honour to acknowledge the receipt of your letter of the 15th instant, and the accompanying extract of a Despatch from the Secretary of State, on the subject of the proposed arrangements for making grants of land to emigrants on their arrival in the province, and stating his wish to have these grants limited to five acres each, unless circumstances should, in the opinion of the Executive, justify a more liberal appropriation of the Crown lands to the object in view.

I beg to transmit to you herewith copies of all my communications on the subject referred to in the Despatch above mentioned, and in obedience to the commands of the Lieutenant-Governor, I shall proceed to make such remarks on these communications, and the subject of free grants generally, as will place his Excellency in possession of all the information I am able to impart.

The documents marked Nos. 1 and 2 state 1st, the causes which induced the Government to locate indigent emigrants on five acre lots in the vicinity of towns and villages, and 2dly, the reasons why similar locations were made in the townships of Sunnidale and Nottawasaga. The advantages resulting from the location of labouring emigrants in the vicinity of towns, are thus enumerated: "It gives the emigrants an immediate home, and as the demand for labour is irregular, he can always find employment in cultivating his lot when he cannot get work elsewhere. It is an advantage to the neighbourhood, because it opens a market for labour to which any person may have recourse whenever he is in want of a labourer." The farmers of Upper Canada do not like to hire labourers who have families. They have seldom houses to accommodate them, and it is at variance with the system generally adopted by them, which is, to engage single men, and to pay them a part of the consideration for their services, by boarding them in their families.

The experiment in Sunnidale and Nottawasaga was successful in the latter township, because the Government furnished employment in making roads and clearing lands. But the expense could not be continued. About the time, however, that notice was given to the agent in Nottawasaga, to close his accounts, a considerable number of Upper Canadian Loyalists from the Bay of Quinte were located in that township, and an enterprizing gentleman of large capital, the Honourable John McDonald, of Gannanoque, made a large purchase, and furnished money to build a grist and saw-mill. The Government was consequently enabled to withdraw its support without much injury to the settlement. I have also stated in No. 2 my objection to the extension of this system, unless the Government is prepared to employ the settlers until emigrants with capital settle in sufficient numbers to afford labourers employment. In No. 3 it is stated, that the character of the emigration to these Colonies since 1834, has undergone a great change. Few emigrants of capital have settled in the new townships since

No. 25.
Lord Sydenham to Lord John Russell.
14th January, 1841.

Encl. 4, in No. 25.

that date; on the contrary, many emigrants of that class have either sold or let their farms, and taken up their residence in the older settlements. I would beg to observe, that these five acre locations have very little in common with the plan of granting 50 acres of land upon the conditions stated in the Commissioner of Crown Lands "Circular," No. 4. In the first place, it was never intended that deeds should be given for the five acre lots; the settlers were told that they should continue in possession during good behaviour, or until the party could better his condition. His hut was built, and he was placed on the lot, and sustained there at the expense of the Government, until there was a demand for his labour elsewhere. Without work, his five acre lot would not sustain him. If the influx of settlers with capital in new townships had continued as in 1832, 1833, and 1834, five acre locations might still be resorted to with advantage, but unless there is a certainty that the settlement of the township will be sufficiently rapid to furnish labourers with work within a reasonable period, the system would be found impracticable.

Before a settler can obtain a location ticket for 50 acres under the new system, he must show that he can sustain himself and family until a crop can be raised from the ground. He cannot leave the settlement without the permission of the agent, and he must clear and place once under crop one-third of the lot before he obtains a patent. Under these restrictions, 50 acres are, in my opinion, the smallest quantity that could be granted. At least, 20 acres of his lot must remain in a state of nature to supply him with fuel, fencing, and building timber, &c., and if we deduct the space occupied by the stumps and roots of the trees, and occasionally swampy and barren spots, unfit for tillage, there will be but barely sufficient land left for cultivation to support him in even tolerable comfort.

If the plan for settling the waste lands in the colony under consideration, should fail, I know of no other which would be likely to succeed. The temptation to go west, where the climate is milder, and the land unincumbered with timber, is much greater than is generally supposed. It has existed to such an extent as to be familiarly known as the "Prairie Fever."

The value of the 50 acres even at the Government upset price is only 20*l.* currency, but thousands of acres of land of equal quality, and in much better situations, have been, to my knowledge, recently sold by private individuals at 2*s.* 6*d.* per acre. I do not apprehend that any considerable quantity of land will be absorbed by these grants.

The remoteness of the settlement, the almost impassable state of the roads leading to it, added to the obstacles to be overcome in clearing the land, induce a great many persons who have received location tickets, to abandon their claims.

Of the 12,000 emigrants who have entered this province this year, 5,508 visited Toronto, and of this number not more than 150 heads of families could be selected whom I could recommend to the Commissioner of Crown Lands for location on 50 acre grants. A few had sufficient capital to purchase partially cleared farms, but the mass of them was poor labourers who required such daily labour as they had all their lives been accustomed to at home, to enable them to earn a subsistence.

If the system of granting 50 acres to settlers, under the conditions mentioned, is continued for a few years, and if a sufficient number of settlers can be found who have means to bring their grants into cultivation, it will, in my opinion, do more to increase the value of property in the colony, and to improve it politically, than any plan which has hitherto been adopted.

I have, &c.

(Signed) A. B. Hawke,
Chief Emigrant Agent for Upper Canada.

S. B. Harrison, Esq., Private Secretary,
&c. &c. &c.

No. 1.

Memorandum on the Subject of locating Indigent Emigrant Families on Five Acre Lots.

Emigration Offiee, Toronto, 9th July, 1839.

In 1833 frequent complaints were made by gentlemen residing in the neighbourhoods of Brantford, Oxford, aud Cayuga, of the scarcity of labourers; and, in order to remedy the evil, I obtained the sanction of the Lieutenant-Governor to locate indigent emigrant families on portions of the Government reserve in the vicinity of the towns above mentioned. Lots of five acres each were laid out, and huts erected thereon, at the Government expense, and the parties were put in possession, with the assurance that if the land were not required for the purposes for which it was originally set apart, and if they conducted themselves in a proper manner, they should not be disturbed. Upwards of 60 families were thus provided for; and I believe they have invariably done well, and have been of great benefit to their respective neighbourhoods. This system must of course be acted upon to a limited extent in the settled parts of the province. It possesses many advantages. It gives the emigrant an immediate home; and, as the demand for labour is irregular, he can always find employment in cultivating his lot when he cannot get work elsewhere. It is an advantage to the neighbourhood, because it opens a market for labour, to which any person may have recourse whenever he is in want of a labourer. The farmers in Upper Canada do not like to hire labourers who have families. They have seldom houses to accommodate them, and it is at variance with the system generally adapted by them, which is to engage single men, and to pay them a part of the consideration for their services by boarding them in their families.

In 1834 and 1835, between 50 and 60 families of the same class, who arrived late in the season, and for whom labour could not be obtained, were located in similar lots in Sunnidale

No 25.
Lord Sydenham to Lord John Russell. 14th January, 1841.

Encl. 4, in No. 25.

and Nottawasaga; and as there were no settlers in those townships who could afford to hire labourers, they were employed, at the expense of the Government, in opening roads and clearing land during the autumn and winter. These persons have also invariably done well. All of them have cattle, and many have saved enough to purchase 100 acres of land of the Government, which they are now improving. I am of opinion that these townships would have remained unoccupied to this hour, if the Government had not commenced settling them in the manner stated.

Nottawasaga, from its superior fertility, has made greater advances, in point of settlement, than Sunnidale; but both townships have continued to advance steadily, and have, more than once, furnished, in the hour of need, a hardy, loyal set of men, for the defence of the country. From the present appearance of the crops, there is a fair prospect that these townships will have a large quantity of surplus produce to dispose of next winter. A portion of this prosperity is to be attributed to the liberal conduct of a gentleman who owns a large tract in Nottawasaga, the Honourable J. M'Donald, of Gannanoque, to whose public spirit the settlement is indebted for a grist and saw mill, as well as for occasional advances of seed to sow their cleared land.

(Signed) A. B. Hawke,
Chief Emigrant Agent for Upper Canada.

S. B. Harrison, Esq., Private Secretary,
&c. &c. &c.

No. 2.

Plan for carrying into Effect the System of locating Indigent Emigrants, under the Conditions mentioned in a "Memorandum" on the Subject of locating Persons of that Class on Five Acre Lots, submitted to the Consideration of the Lieutenant-Governor 9th July, 1839.

Emigrant Office, Toronto, 13th September, 1839.

Since the "Memorandum" above mentioned was written, I have seen several intelligent persons who have lately visited the five acre settlements in Sunnidale and Nottawasaga, and they assert that three fourths of the Sunnidale settlers have abandoned that township, and taken up their residence in Nottawasaga. In my first "Memorandum" on the subject it is stated "that Nottawasaga, from its superior fertility, has made greater advances, in point of settlement, than Sunnidale;" but I was not aware that any settlers had recently left the township.

I attribute the abandonment of Sunnidale to the inferior quality of the land, and to the difficulty (and at certain seasons of the year the impossibility) of getting their grain to a grist mill. With reference to a plan for the extension of the system, I would beg to observe that there is scarcely a town or village in the province, in the vicinity of which from 5 to 25 families might not be located to advantage, if the Government had funds and land at its disposal for such an object. The expense per family of five persons would be from 7*l.* 10*s.* to 10*l.* currency, viz., 5*l.* for a hut, and from 2*l.* 10*s.* to 5*l.* for transport and provisions. The selection of suitable families has been hitherto left to the emigrant agent.

If it should be found desirable to extend the system to the new townships, as in Nottawasaga, suitable lots of 200 acres each should be selected and laid out in parcels of five acres each, and log huts erected in readiness for the emigrants; but as the Government would have to supply these settlers with employment, the expense would greatly exceed similar locations near towns and villages, for the Government could not withdraw its assistance from settlers of this class until settlers of a better order became sufficiently numerous to afford them work. The indigent settlers in Sunnidale and Nottawasaga were employed in opening roads, so as to afford settlers with capital access to the lands.

If the settlement prospered, the Government would be repaid, in part, at least, by the increased value which would be given to the Crown lands. The settlements should be confined to townships in which the greater part of the land belonged to Government, so that it might reap the advantages which would result from the improvements; but unless there is every probability of a better class of emigrants settling in the township as soon as the roads are opened, the experiment should not be tried on new lands, as it would be impossible for the Government to afford the indigent settlers constant employment.

In the present circumstances of the province, I am of opinion it would be better to confine the settlement of indigent emigrants on five acre lots to the vicinity of towns, in the neighbourhoods of many of which the Government has still park lots at their disposal.

(Signed) A. B. Hawke,
Chief Emigrant Agent for Upper Canada.

S. B. Harrison, Esq.
&c. &c.

No. 3.

Sir, Emigrant Office, Toronto, 21st December, 1839.

I have the honour to acknowledge the receipt of your letter of the 17th instant, and the accompanying copy of a Despatch from Lord John Russell on the subject of the emigration which was set on foot during the last year, by Colonel Wyndham, as well as the copy of the

No. 25.
Lord Sydenham to Lord John Russell.
14th January, 1841.

report made by Mr. Rubidge, who accompanied the emigrants from Europe, and who superintended their location after their arrival in this colony.

As the information required by his Excellency the Governor-General can only be obtained from gentlemen residing in the Newcastle district, I have addressed letters to Mr. Rubidge, superintendent, to Mr. Brown, of Port Hope—who, I am informed, employed the greater part of the settlers in question,—and to Mr. Macdonald, the Crown lands agent for the district above mentioned; and all the information I may obtain from these and other sources, shall be submitted for his Excellency's consideration as soon as it reaches this office.

Encl. 4, in No. 25.

With reference to the means which exist of profitably employing any others who, under a similar arrangement, may be induced to emigrate to this colony, I would beg to observe that various places have been allotted to furnish emigrants of this class with labour.

The best resource is undoubtedly employment on public works. Every labourer can use his spade and pickaxe; but whatever may have been his previous calling, he has everything to learn if he undertakes to clear land. Hence in the neighbouring states almost all the pioneers of their forests are native-born Americans, while the mass of labourers, servants, soldiers, and sailors, are Europeans.

I have the honour to transmit herewith a memorandum on the subject of locating indigent emigrants on five acre lots. This system has been tried and found to answer a good purpose, and I am of opinion that three or four hundred families might be disposed of in a similar manner, if funds could be obtained. The demand for labour in the old settled parts of the country is very limited, and, as stated, there is a very general objection felt towards hiring labourers who have families.

Previous to the year 1834 a considerable proportion of the emigrants to the Canadas were persons of capital, army and navy officers, who very generally purchased land, or settled on their grants from the Crown, on which, with very few exceptions, they made large improvements, thus creating a demand for labour in the new townships, which was extremely beneficial to indigent settlers and labourers; but since 1834 the character of our emigrants has undergone a rapid change. We have had few settlers of capital, and, generally speaking, the voluntary emigrants have been persons in very narrow circumstances, requiring free passages and food in many instances o enable them to reach their destination.

I have the honour to submit a statement, showing the number of emigrants landed at Quebec, from 1831 to 1839 inclusive, and also the expense incurred by this department in transporting, locating, and employing settlers during the same period.

I have, &c.

(Signed) A. B. Hawke,
Chief Emigrant Agent for Upper Canada.

T. W. C. Murdoch, Esq., Chief Secretary,
&c. &c. &c.

Enclosure 5, in No. 25.

Memorandum.

Encl. 5, in No. 25.

I assume that the object in making free grants of land is, to create a class of agriculturists having an interest in the soil, by being made owners of a portion of it, and whose surplus labour, beyond what may be necessary for the subsistence of themselves and families, may be made advantageous to the community at large. In a new settlement, so far at least as regards agriculture merely, the relation of employer and employed, and capitalists and labourer, cannot exist. Experience has furnished many lamentable examples in Canada of the failure of capitalists to render the clearing of heavy timbered land, and raising grain from it, a profitable speculation in a commercial point of view, whilst on the other hand, the mere labourer has, when industrious, invariably succeeded in reaching the object of his ambition, the procurement of subsistence, and the realization of a competency relatively great for him.

This observation is confined to employment of capital in improvements of an agricultural character, and does not extend to such improvements as benefit the community by the erection of mills, or buildings for manufacturing purposes. The first object of the settler is to acquire the means of subsistence. It is not until he has done that, and his neighbourhood has assumed somewhat the character of an old settlement, that he is solicitous about the disposal of his surplus produce. To bring a settlement to such a state, it appears to be most advantageous to admit settlers who are equal, or nearly so, in point of capital; they assist each other by their mutual exertions, and their efforts are sufficient to advance the settlement to the position of having surplus produce to dispose of. Whilst accomplishing this object, they are satisfied if their subsistence is provided; and when it is attained, they are in a situation to avail themselves of the increased facilities arising from the improvement of the country.

It may be necessary to review the course adopted upon a settlement in the bush. The land generally is thickly covered with trees, its surface matted with living roots, and its substance of an exceedingly light and porous character. The only mode in which a crop can be got into newly cleared forest land, thus thickly covered with stumps and undecayed roots, is by sowing the seed on the surface of the land, after the vegetable matter is destroyed by fire; and then scratching it in the best manner possible with a very strong rough harrow. Even when this is done with the greatest care, it often happens that the seed is barely covered with soil.

With the grain crop, grass seed is sown, upon which the settler relies, after his crop of grain is harvested, for hay and pasture. Until these are obtained he has to contend with great difficulties in supporting the yoke of oxen which he requires to do his work, and the

No. 25.
Lord Sydenham to Lord John Russell.
14th January, 1841.

Encl. 5, in No. 25.

cow to afford milk to his family. In a new settlement hay cannot be obtained, and if it could it would not be worth carriage over such bad roads as necessarily exist; consequently until the settler can raise it for himself, he is driven to other expedients to support his cattle. He usually relies upon the forest herbage in the summer, and upon what is called browsing in the winter; the latter is obtained from the buds and young twigs of hard wood trees, which he successively cuts down in his clearing as may be required. The land newly cleared, having yielded its first crop of grain, must lie in grass for a period of time long enough to allow of the roots of all the stumps, and the smaller stumps themselves to decay, for until that has taken place, it is impossible to work it with any implement of husbandry, either plough or spade. The shortest period that must thus necessarily be allowed to elapse, is six years, and that will be sufficient only under favourable circumstances, and where the land was altogether covered with hard wood. Where the circumstances are unfavourable, or a considerable portion of pine stumps exist, a much longer period of time must elapse before the land can be broken up in tillage for a second crop of grain. No advantage would accrue from a departure from this course, by endeavouring to expedite the preparation of the land for a second crop. In that case the whole work of getting rid of the roots, would have to be performed by the axe and handspike, at an expense altogether inconsistent with profitable expenditure; experience shows that the former system is the best, for it is invariably adopted.

Another material circumstance must be borne in mind. It is essential that on each farm a considerable quantity of woodland should be retained to supply firewood, building and fencing materials, and farm implements. With respect to fuel, the cold winters of Canada, imperfectly provided against by the badly constructed residences of new settlers, obviously requires a great consumption. It is considered that 20 acres of woodland is not more than enough to furnish the supplies here indicated.

Two circumstances of general application seem therefore necessary to be considered in the allotment of any portion of wild land to a settler. First, he must have a sufficient quantity to afford employment in clearing, for a period not less than six years; and secondly, beyond that quantity he must be enabled to reserve a sufficient quantity for fuel and other essential purposes.

With respect to the first point, an industrious settler by his own exertions can by the employment of about half his time, chop, log, burn, fence, and put in crop five acres in one season. The average produce will be 15 bushels per acre. This may appear a small average, but it must be recollected that the stumps will occupy from one-fifth to one-third of the land cleared; and consequently, that the land so occupied will be totally unproductive. The produce of the five acres at this average would be 75 bushels of wheat; but allowing for contingencies, which somehow or other always happen, it cannot be put down at more than 52 bushels. This gives the settler a weekly subsistence of one bushel of wheat to maintain himself and family during the time he is occupied upon his own land, and in working for his neighbours, upon a principle of reciprocity which must always exist in a new settlement. Supposing a settler to go at once into the bush, this quantity of wheat would be all he could reckon upon for his subsistence; whatever other produce he might obtain in the shape of potatoes, Indian corn, or other vegetables, could only be reckoned auxiliary to his wheat crop, and not his main dependence.

The second year the settler would clear five acres more. He would then have the same crop of wheat, and in addition a crop of hay and grass, and would now, for the first time, be in a situation to provide adequately for his oxen and cow. These would be objects of primary solicitude to him, and he would procure them in payment for his work performed for farmers in the more settled parts of the country during harvests.

In the third year he would have the like quantity of wheat, with the produce of 10 acres of grass, and of course with increased facilities for keeping stock.

The fourth, fifth, and sixth years would be proportionably the same.

A settler would accordingly in six years have cleared 30 acres of land; and then, and not before, he would be in a situation to break up the land cleared the first year, and take from it a second crop of grain. The roots would have become rotten, so as to allow of the passage of a plough, and many of the smaller stumps would have come out of the ground. Were a similar rotation over the 30 acres to be observed by again sowing with grass seed, to allow time for further decay, the settler, by the time he had gone through the whole 30 acres a second time, would possess a farm of that extent *tolerably* free from stumps.

From this reasoning, it would appear that 30 acres of tillage land and 20 acres of wood land, making together 50 acres, constitute such an allotment as would subsist an industrious settler and his family by the produce of one-half of his labour, leaving the other portion of his time available to the community, and affording him the means of advancing his position in society.

The object of the Government in the plan now in operation at the Owen's Sound settlement, being to give such a quantity of land, and no more, as will best carry into effect the objects in view: it would seem that in giving 50 acres, under the restrictions imposed, that plan has been adopted which gives the greatest amount of benefit to the settler at the least expenditure of the public land.

The employment upon the proposed road, in connexion with the free grants, will not only enable the settler to bear up against the hardships and difficulties of his first settlement, but will enable his exertions to be beneficially employed for the improvement of the other lands of the Crown.

(Signed) S. B. Harrison.

22d December, 1840.

(No. 224) No. 26.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

Copy of a DESPATCH from Lord Sydenham to Lord John Russell.

My Lord, Government-House, Montreal, January 26, 1841.

I have the honour to transmit to your Lordship herewith, copies of the Annual Report of the Agent for Emigrants at Quebec, and of a Report from the Agent at Toronto, on the subject of the emigration to these provinces during the year 1840. Appended to these Reports are communications from the sub-agents, and other documents, containing the most detailed information which it has been possible to collect in regard to the numbers and description of the emigrants, their conduct, the capital which they brought out, and the places in which they have settled.

The general result of these reports I consider as highly satisfactory. The emigration during the past season, as I had anticipated, has greatly exceeded that of the last few years; the emigrants appear to have been universally well conducted, and several of them are possessed of considerable property. The great bulk have settled in these provinces, and there is every reason to expect that they will do well.

I avail myself also of the present opportunity to put your Lordship in possession of the views which I have been led to form upon the question of emigration to these provinces.

Very erroneous ideas appear to prevail in England on the subject. It seems to be supposed that every individual in the station of a day-labourer, who can succeed in reaching the shores of North America, is at once amply provided for, and that every person, who with a few hundred pounds comes out and purchases land, whether he have any previous knowledge of agriculture or not, becomes at once a wealthy farmer.

These extravagant ideas are of course disappointed, and great distress and misery have followed. It appears to me, therefore, of the first importance that all visionary expectations of this nature should be discouraged.

Emigration to America holds out none of these brilliant prospects of rapid affluence; but at the same time it is secure, under proper management, from the risk of equally rapid failure. It is no lottery, with a few exorbitant prizes, and a large majority of blanks, but a secure and certain investment in which a prudent and reasonable man may safely embark. It may be affirmed, without fear of contradiction, that no industrious well-behaved man ever failed on this continent to make an easy livelihood by his labour,—that no capitalist who, with a fair share of agricultural knowledge, or with the disposition to profit by the experience of others, has chosen to invest his money in the purchase of land has ever had reason to complain of the insufficiency of his return. Almost any labourer with good conduct and perseverance may in a few years become a land-holder. Almost any farmer possessed of moderate capital may, by the same means, become eventually possessed of valuable landed property, and be enabled to place his family in a state of independence. But these results are not to be snatched as the prize of a fortunate speculation, they are to be attained as the reward of a course of perseverance, industry, and steadiness. This picture may appear to some discouraging, to my mind it is quite the reverse. By showing that every man's fortune is in his own hands, that to good conduct success is certain, and that scarcely anything is left to chance, it holds out, I think, the strongest inducements to all the better description of emigrants. I have no fear that its general publication will have any other than a good effect.

I shall now proceed to notice the direct means by which emigration should be encouraged, and in doing so I shall take occasion to advert to the reports made to your Lordship by the Colonial Land and Emigration Commissioners, of the general tenor of which I have already had the satisfaction of expressing my approval.

In the Reports addressed to your Lordship on the 21st April and 5th August last, the Commissioners enter on the question of granting assistance from the imperial treasury, towards the passages of emigrants, and in the latter Report they throw out considerable doubts as to the expediency of applying in that way any sum that might be granted by Parliament for emigration. In these doubts I more than concur. I have no hesitation in pronouncing such a measure inexpedient. The sum that could be obtained from Parliament must, under any circumstances, be inconsiderable, and adequate, therefore to the transport of a very few; its application

For Reports 21st April and 5th Aug. *vide* Papers relative to Emigration. Ordered to be printed by the House of Commons. 1840. No. 613, P P. 55 and 104.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

would be attended with great difficulty, and would become the object of every description of jobbing, and at last it would probably be impossible to secure its appropriation to its legitimate purpose. But if not so appropriated, it would in reality be a boon, not to the emigrant, but to the landlord or parish, which, but for the grant, must have borne the expense. It would, besides, have a most injurious effect, since, by raising extravagant expectations, as to the future intentions of Government, it would paralyze all individual exertion.

For these reasons I am of opinion that no attempt should be made by Parliamentary grant to pay the passages of emigrants. The inducements to parishes and landlords are sufficiently strong to make them undertake the burthen, and they know better how to apply their means than the Government could possibly do. But I am not the less of opinion that Parliament may very fairly be expected to contribute towards the expenses of emigration, and I shall now point out the several objects to which I think such a contribution should be principally directed.

From the weekly reports from time to time transmitted to your Lordship, from Mr. Buchanan's present report, and more than all, from the report of the medical superintendant at Grosse Isle, which accompanied my Despatch of the 26th ultimo, your Lordship will perceive the necessity of taking steps to ensure to emigrants more ample protection and assistance, both before and during their passage. This may, to a certain extent, be accomplished by amending the present Passengers' Act, and making more effectual provision for its future enforcement; but other measures will likewise be necessary, to which I shall presently call your attention.

You will observe, that of the emigrants who proceed to Canada, a large proportion, even when they embark, are insufficiently provided with clothes, with bedding or provisions; that in many cases they have about them the seeds of disease, arising from the destitution and misery in which they have been living previous to embarkation, and that as a necessary consequence great sickness and mortality occur on the voyage, and immediately after their arrival in Canada.

Against destitution and, to a certain extent, disease, on the part of the poorer emigrants, it is impossible altogether to guard; but from the reports to which I have referred, it is evident that a great part of these evils are caused by the fraudulent practices on the part of passenger agents, by the rapacity of the ship-charterers, and by the misconduct of the officers during the voyage. Here, then, is the first object for which Government assistance is required; viz., to increase the efficiency of the Government agents at the outports, and to put down the system of kidnapping which is said to be practised by travelling passenger agents. If this be done, and if the emigrant agents and customs officers do their duty, scenes such as those described by Dr. Douglas cannot recur.

I take it for granted that the existing law would be sufficient to punish the frauds practised by passenger agents; but if not, a provision should be introduced in the Passenger Act to meet that case. Strict care should likewise be taken in every instance where an emigrant vessel is detained beyond the time appointed for her sailing to enforce the 14th clause of the existing Act against the master. The emigrant agents, by making it their practice to visit the places where emigrants are generally lodged when waiting for their passage, and by attentively observing the proceedings of the passenger vessels at their respective stations might, I conceive, easily perform this duty. I would further suggest to your Lordship whether some steps might not be taken, either by the Government or in communication with the municipal authorities at Liverpool, to provide accommodation for emigrants resorting to that port to embark for America.

For the protection of the emigrant during the passage Mr. Buchanan has, in the Appendix to his Report, suggested several alterations of the Passengers' Act; in which, so far as they regard the further limitation of the number of passengers in proportion to tonnage, the prohibition of the sale of ardent spirits, the enforcement of the penalties in a summary way before the local magistrates, and the extension of the Act to all vessels carrying steerage passengers, I entirely concur. Of the importance of the last of these provisions the Report before me affords full proof, it appearing that in the case of the "————" the clearest evidence of misconduct on the part of the captain and unseaworthiness of the ship was of no avail, because the number of passengers was less by four than that allowed by the Passengers' Act. I must presume that it was from this circumstance only that the vessel was allowed by the emigrant agent at Glasgow to proceed to sea in so unseaworthy a state.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

The third and fourth clauses of the Passengers' Act, if faithfully complied with, would appear sufficiently to regulate the provisioning of emigrant vessels.

The fifth clause imposes on the officers of customs the duty of seeing that the preceding clauses are obeyed, but I regret to state that this duty is notoriously neglected; and I am not aware that any censure has ever followed that neglect. In order, however, to ensure greater vigilance in future, I would suggest that at all ports where an emigrant agent is stationed the customs' officers should be directed not to give a clearance to any vessel coming within the purview of the Passengers' Act, without having previously received from the agent a certificate that the provisions of that Act have been complied with.

I would further propose that besides the amount of food specified in the Act, emigrants should be required to bring on board with them clean bedding and sufficient clothes, and that the master of the vessel should be responsible for keeping the decks clean and healthy during the voyage.

But no law will be effectual to protect the emigrant during the voyage, unless some person clothed with sufficient authority to enforce it, be placed by Her Majesty's Government on board the emigrant vessels, or at least on board of those which carry the larger number of emigrants. Once at sea, the emigrants are necessarily in the hands of the captain. Whatever extortion or oppression he may exercise towards them they have no power to resist, and from the difficulty of enforcing the penalties when they arrive at their destination, from the indisposition of the emigrants to be detained to prosecute him, and from their ignorance of their own rights, he may be tolerably confident of escaping with impunity. A Government agent on board, who might very properly combine in his person the duties of medical attendant, would prevent these evils, and he might also be charged with the custody of the emigrants' own provisions, so as to prevent the waste which is said now to prevail; and be armed with authority to enforce personal cleanliness among them. I would earnestly request that whatever sum may be granted by Parliament towards emigration, a portion of it may be devoted to this important object.

The next object to which I would propose to devote a portion of any Parliamentary grant, would be to aid the funds of these provinces in providing relief and medical attendance for those who arrive destitute or in sickness on their shores, and in assisting the able-bodied to proceed to the districts where their labour may be available.

I had expected before this time to have informed your Lordship of the exact amount expended in this service during the year 1840, but difficulties have occurred in the settlement of some of the accounts which have made this impossible. I trust, however, that the sum will not much exceed the amount placed by your Lordship at my disposal.

The number who have been assisted to proceed to the Upper Province will appear to your Lordship very large, and no doubt many persons obtained such assistance, who were well able to pay for their passage. But in the height of the season, when perhaps several thousand emigrants arrive in the course of a few days, it is impossible for the emigrant agent to ascertain accurately the circumstances of each individual; and it is most important that emigrants should not be allowed to remain unemployed in the towns. The public works at Montreal when once commenced, afforded the means of testing the applications for relief of those who reached this city; and I trust that before next spring some similar works may be in progress in the vicinity of Quebec. Still much expense must be incurred to forward the stream of emigrants to those places where their labour may be most useful and productive, and where they may become permanent settlers. Its amount will probably be much reduced in future years by the competition on the St. Lawrence of the new steam-boats, which are now building for the Government, and the conveyance of the mails, and by the formation of new forwarding companies on the Ottawa and Rideau. Heretofore the forwarding on those rivers and their canals has been a monopoly, the lock at St. Anne's Rapids being in the hands of a private company; but before the opening of the navigation in the spring, another lock will be completed at the public expense, and the forwarding business will be thus thrown open to general enterprize. The same cause will also, I trust, put an end to the inconvenience and suffering to which the emigrants are now exposed in their passage from Montreal to Bytown and Kingston, and will in so far diminish the causes of sickness among them.

My Despatch of the 14th inst., No. 214, and the documents which accompany P. 61.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

it, will have fully explained to your Lordship the nature of the arrangements which I propose to make for settling on wild lands, either in connexion with some public works or otherwise, emigrants for whom employment caanot be found. This is another object to which I would propose to apply a portion of any grant from the imperial treasury, more especially in localities where, from political reasons, it may be important to encourage settlement, and to which in ordinary circumstances settlers would not resort. In Lower Canada, from the peculiarity of its original settlement, and from its subsequent political history, there are many such localities, exclusive of those great lines of communication between Quebec and the seaboard provinces, and between the St. Lawrence and the townships, in which the expediency of encouraging settlement requires no argument. But this is an object which must be regarded as pertaining to imperial as much as to local interests, and there would be an evident inconvenience in applying to the local Legislature for assistance towards it.

Lastly, I would propose to apply such a grant towards the promotion of public works, in which must eventually be found the great means of employing those emigrants who are not absorbed by the existing demand for labour. Some of these works, such, for instance, as the establishment of a communication between Lakes Huror and Ontario, the improvement of the road between Quebec and Fredericton, and the opening a water communication between Missiskoui Bay and the Richelieu, thus giving us a better communication with Lake Champlain, are of national importance, as being necessary to the military defence of the country in the event of a war. The establishment of one or more harbours on the shores of Lake Erie is another work of the most pressing necessity, and one which the province cannot be expected of itself to undertake. There are others, such as the Welland Canal, in which the Crown already possesses a large stake, and the completion of which is no less essential in a political than a commercial point of view. I more especially advert to the Welland Canal, because it is at this moment one of the most important works in Canada. During the last season the revenue derived from it was one-third greater than in any preceding year; and there is every prospect of our obtaining the passage through it of all the western trade. But if this canal were allowed to fall into decay, the Americans would renew their favourite project of a canal on their side of the river, and would be encouraged to proceed in the works which they have already commenced for the enlargement of the Erie Canal.

The settlement of emigrants on wild lands, taken in connexion with the exertions which individual landowners are now prepared to make for the same purpose, and the prosecution of the great public works to which I have alluded, will absorb a very considerable number of emigrants. The municipal bodies also which, under the ordinance recently passed by the Special Council, will at an early date be called into existence in Lower Canada, may reasonably be expected, by undertaking public works, to create a considerable demand for labourers in this province; and I trust that those improvements which, in Upper Canada, have been commenced by individual enterprize, or from provincial resources, may to a great extent be resumed in the spring.

There is, moreover, a spirit of renewed activity and enterprize among the whole British population in both provinces, which affords ample security that no difficulty will arise in finding employment for well-conducted emigrants; and it will be my endeavour to turn these fortunate circumstances to the best advantage. With this view I shall take all the means in my power, through the land agents distributed in the different sections of the province, and through other channels, to ascertain the wants and capabilities of each, the inducements which they hold out to the emigrant, and the facilities which they may afford for his permanent settlement. All the information which I can collect on these points will be communicated to the emigrant agents at Quebec and Montreal, so that the emigrant on his arrival may at once be enabled to decide to what point it will be most advantageous to him to proceed.

I have already directed that, to prevent the delay and expense to which purchasers of land have heretofore been exposed, every land agent in the province should for the future be furnished by the Commissioners of Crown Lands with diagrams and specifications of all Crown lands for sale within his district.

To guard against double sales, the land agent must of course communicate with the central office before concluding a sale; but the delay thus caused will be comparatively unimportant.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841

I am convinced that this alteration will be received as a great boon by the inhabitants of these provinces.

With a view, also, to facilitate the settlement of the provinces, I further propose to invite individual proprietors who may desire to sell their lands, to send in descriptions of them, with all necessary particulars, to the offices of the several Crown lands agents. Those officers will not, however, act in any way as private agents, or undertake to sell private lands; they will merely afford the means of informing the public of the extent of lands to be sold in each district, the name of the owner, and the price demanded. Proprietors taking advantage of this arrangement would be required to pay a small fee for the custody of their charts and papers, the amount of which I shall settle with the Commissioners of Crown Lands.

It may be objected that such an arrangement will, for the present at least, tend to diminish the sales of land the property of the Crown, and to some extent this will probably be the case; but the settlement of the country in the most advantageous manner is so much more important for the public interests than the present amount of the land revenue, that I look upon this objection as of no importance.

Your Lordship will allow me to suggest, that every means should be taken to urge on intending emigrants the necessity of arriving in this country as early as possible after the opening of the navigation. The season is so short, that unless a settler is on his land by the beginning of June, there is no chance of his being able to make any provision for his subsistence before the ensuing winter; while during the winter the severity of the weather precludes almost all out of door labour. It is likewise important to the health of the emigrants that they should arrive before the great heat of the summer commences.

I shall take an early opportunity of transmitting to your Lordship the answers to the questions prepared by the Colonial Land and Emigration Commissioners. I have caused them to be distributed very generally throughout all the provinces, and some delay has occurred in my receiving the answers;—several, however, have now reached me, and as delay cannot but be inconvenient, I shall prefer sending the information I have already obtained to waiting till it shall be more perfect.

You will observe that in the preceding pages I have not referred to that part of the report of the Commissioners of the 21st April last which relates to the assistance of emigrants out of funds raised in the colony. As the whole revenues of the United Province, whether arising from the sale of land or any other source, are, after certain deductions, placed by the Union Act at the disposal of the Legislature, and as those revenues will probably for some years be not more than sufficient to defray the burthens now imposed on them and to provide for the public works, which must be continued, it has appeared to me unnecessary to enter on a subject which could lead to no practical result. But I must observe, in respect to the Canada and the British North American Companies, that the bargain which they originally made with the Crown would, under proper management, have been so advantageous that they appear to me to have no claim to any peculiar indulgence in the matter of emigration. In respect to the North American Colonial Association of Ireland, I can only state that their operations have been very much kept out of view in this country; but, as far as they are known, I should be sorry to see the Government in any way connected with or countenancing them. If the shareholders were to be alone the sufferers, it would be of little moment, but I anticipate serious consequences whenever the unfortunate persons who may have made purchases of land of this Company shall arrive to take possession of their property, if it has been acquired on the terms set forth in the prospectus, which has been published.

I have, &c.
(Signed) SYDENHAM.

The Right Hon. Lord John Russell,
&c. &c. &c.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

Encl. 1, in No. 26.

CONTENTS OF REPORT.

	PAGE
Increase of emigrants arrived this year	76
The number of emigrants arrived during the last 12 years	77
Case of shipwreck—one life lost	77
Increase of sickness among the emigrants	77
Average length of voyage of passenger ships	77
Distressed condition of emigrants on their arrival	77
Extent of relief afforded	77
Means suggested for their relief in future	77
Amendments proposed to the present Passenger Act	77
Impositions practised by ship masters and emigrant brokers	77
Difficulty of obtaining the refunding of the emigrant tax illegally collected	78
Instance illustrating a defect in the 20th clause of the Imperial Act	78
Inconvenience and complaints arising from defects in the Act	78
Character and condition of the emigrants arrived this year; also erroneous views as regards to wages, &c.	79
Delusions respecting wages in the United States, and immigration to that country in consequence	79
Rate of wages and demand for labour during the past season in the Canadas	79
Number of emigrants which passed Kingston, and distribution of the emigration of this season	79
Amount of capital brought by a portion of the emigrants	79
Number of persons who have been assisted to emigrate	79
Condition of the emigrants sent out by Colonel Wyndham, and their distribution	79
Defective arrangements respecting pauper emigrants from Ireland	80
Emigration from these colonies to the United States	80
Means to prevent a recurrence of this evil	80
Accounts of emigrants at the port of New York	80
Prospect of increase of the emigration, 1841	80
Remarks on the Report of the Montreal Emigrant Committee	80
Conclusion	80

APPENDIX.

		PAGE
Paper No. 1.	Statement of the weekly arrival of emigrants	81
2.	Names of ports from whence emigrants came—England, Ireland, Scotland, Lower Ports	81
3.	Comparative number of emigrants arrived since 1829	83
4.	Number of admissions and deaths at the Grosse Isle and Marine Hospital, Quebec	84
5.	Assistance granted destitute emigrants	84
6.	Distribution of emigrants	84
7.	Arrivals at New York since 1829	85
8.	Weekly Reports	85
9.	Extract of Letter to the Chief Secretary, enclosing opinion respecting emigrant tax	91
	Letter from A. B. Hawke, Esq., Chief Agent for Upper Canada	93
	Letter from J. Brooks Crow, Esq., Frankfort	94
	Letter from A. B. Hawke, Esq., Agent for Upper Canada	95
	Letter from R. D. Chatterton, Esq., Coburg	95
	Extract of a Letter from J. Roy, Emigrant Agent, Kingston	96
	Letter from George R. Burke, Esq., Bytown	96
10.	Amendments and additions to the present Passengers Act	96

Encl. 1, in No. 26.

Enclosure 1, in No. 26.

REPORT ON EMIGRATION. 1840.

Office of Her Majesty's Chief Agent for the Superintendence of Emigration in Upper and Lower Canada, Quebec, 20th December, 1840.

My Lord,

The navigation of the St. Lawrence being now closed, I have the honour to lay before your Excellency, for the information of Her Majesty's Government, my Report of the Emigration to the Provinces during the past season.

I am happy to be able to inform your Lordship that a very great increase has taken place in the number of emigrants from the United Kingdom, this season, over that of last year. On reference to Paper No. 1, p. 81, of the Appendix, it will be seen that the total number recorded at this office, for the year 1840, is 22,234 souls, being an increase over the year 1839 of 14,795.

Paper No. 2, p. 81, shows a detailed statement of the ports whence the emigrants sailed, with the particular number from each port and country; viz., from England, 4,567, of whom

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.
Encl. 1, in No. 26.

3,308 were from the single port of Liverpool, and over four-fifths of whom were natives of Ireland; from Ireland, 16,291; from Scotland, 1,144; and from the lower ports, 232.

Paper No. 3, p. 83, exhibits a comparative statement of the emigration to these provinces since the year 1829, a period of 12 years, amounting to 293,721 souls.

One case of shipwreck occurred to emigrant vessels this season. The barque "Atlantic," with 27 passengers, from Dundee, was lost on the 5th of May, on Cape St. Francis, Newfoundland. The passengers, with the exception of one boy drowned, succeeded in reaching the shore. They afterwards made their way to St. John's, where they arrived in great distress, with scarcely an article of clothing. A subscription having been opened for their relief, 18 were enabled, by charitable aid, to reach this port; while the others, from choice, remained at St. John's.

I regret to have to report to your Lordship that much sickness has prevailed among the emigrants of the past season. Many of them landed here in great wretchedness and distress, occasioned by unusually long passages, and by the crowded state of the ships; and to these causes, conjoined with the more immediate one of bad and scanty food, may be attributed the prevalence of disease. Paper No. 4, p. 84, of the Appendix, exhibits a copy of the return received from the medical superintendent, of the admissions and deaths at the quarantine station; and also a copy of the return received from the medical officer in charge of the Marine Hospital in this city. It will appear that in the former were 561 admissions, and 41 deaths; and in the latter, 382 admissions, and 34 deaths; making the whole number of cases during the season 943, with 65 deaths. It would have been my duty to have obtained and laid before your Lordship the result of medical investigation into the causes of so great an increase of disease and mortality, but that I am informed by Dr. G. M. Douglas, the medical superintendent at Grosse Isle, the subject has been treated by that gentleman in a detailed report to your Lordship. I have been in constant communication with Dr. Douglas, and I beg leave to state that his opinions are entirely confirmed by my own observations and experience since I have been connected with this office.

The average length of the passage of 237 vessels, which arrived this year with emigrants, has been over 48 days: 101 were at sea over 40 days, 43 over 50 days, 23 over 60 days, 13 over 70 days, 3 over 80 days, and 2 over 90 days. The average passage of ships which arrived during the month of August was 70 days.

Upwards of 30 vessels arrived this year, after tedious passages, during which the emigrants on board had fallen short of provisions. Cases of painful want came under my notice; and, in accordance with instructions received from the chief secretary, relief was extended to a large number of sufferers. The particulars of such cases will be found in Paper No 8, pp. 85—91 of the Appendix, which contains extracts from my weekly reports to your Lordship, and to which I have the honour respectfully to refer. Paper No. 5, p. 84, of the Appendix, is a statement of the number of destitute who received assistance during the season. It will appear that 2,736 persons were relieved at an outlay of 609*l.* 18*s.* 9*d.* The expenditure would have been much greater had not a very considerable reduction of the price of passage, between this port and Montreal, been effected by the competition of opposing steam-boat proprietors. In consequence of such competition, the fare became reduced from 7*s.* 6*d.* to 2*s.* 6*d.* for each adult, and enabled many, who could not otherwise have done so, to proceed at their own expense.

To provide an adequate remedy for the various hardships to which emigrants are exposed by the want of provisions, and the extortions and impositions of ship-masters and brokers, has been to me an object of the utmost solicitude; and I trust that your Lordship will not deem it foreign from my duty, if I take the liberty most respectfully to draw your Lordship's attention to the suggested amendments and additions to the present Passenger Act, which I have the honour to submit to your Lordship's consideration. Paper No. 10, p. 96 of the Appendix, contains my proposed amendments and additions to the clauses of the Act.

In the amendment which I propose to the third clause of the present Act, I assume that, by obliging the ship to furnish five pounds of bread per week for each passenger during the voyage, it would secure poor people from the horrors of starvation, and also protect them from the heavy contributions which ship-masters so frequently exact from them for supplies furnished to their craving wants. In my weekly reports to your Lordship, I have had frequent occasion to mention the extortions practised by ship-masters for supplies of food; and I have sufficient reason for believing that they are deliberately contemplated by the authors as a source of pecuniary profit. An extra charge of 7*s.* 6*d.* for each passenger would fully cover the additional expense to which the ship would be put; and the emigrant would not object to the charge, aware as he would be of how it was to be applied, and that he would receive an equivalent for it.

In connexion with this subject, it becomes my duty to advert to the impositions practised by ship-brokers and agents, in the ports of the United Kingdom. The information I am in possession of, derived partly from verbal communications, and partly from sworn depositions, applies more particularly to the port of Liverpool. Although instances of culpable deception occur elsewhere, they are, compared with Liverpool, much fewer in number, and of a less aggravated character.

The course pursued by the parties alluded to, and which I had the honour of bringing under your Lordship's notice, in my report of last year, may be thus briefly described:—Travelling agents are dispersed over the United Kingdom, who enter into engagements with intending emigrants for their passage across the Atlantic, and the emigrants are directed to assemble at the port of departure on some certain day fixed by contract for the sailing of the ship. The agreement is not observed by the agent or ship-broker, and the emigrant is frequently, by

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.
Encl. 1, in No. 26.

various excuses, detained from three to four weeks. During the delay, he is put to a heavy expense for lodging; and before it expires, his means becoming exhausted, he is obliged from necessity to break in on the provisions laid up for the voyage.

In support of this statement, I beg to refer your Lordship to the affidavits made by two of the passengers in the ship ————, from Liverpool, the originals of which I had the honour to forward to your Lordship, with my weekly report of the 25th of July last, and copies of which are exhibited in Paper No. 9, p. 93 of the Appendix. By the affidavit of Patrick Leary, it appears that the deponent was wrongfully detained at the port of Liverpool, for a period of 25 days after the appointed day of sailing; and by the affidavit of Peter Scott, it appears that the deponent with his family, 13 in number, was detained at the same port for a period of 21 days. I can assure your Lordship that the cases set forth in those affidavits are not of rare occurrence, and that it would be difficult for language to exaggerate the amount of suffering caused by similar practices.

The additional clauses, Nos. 1 and 2, which will be found at p. 98 of the Appendix, are intended to provide against the recurrence of these complaints. My experience and observation will justify me in representing to your Lordship, that the proposed additions are of vital importance to the just interests of the emigrant. On his arrival here he has no redress for infractions of contracts which have been to him the occasion of intense misery, and which from the present defective state of the law, are committed with impunity. My interference is frequently called for, but it is seldom used with any success; the answer on such occasions almost invariably is, that the ship being chartered, she is not responsible, and that reference must be had to the charterer residing in the United Kingdom.

I may mention what occurred here during the past season in relation to the emigrant tax, as illustrative of the evils arising from the want of authority to enforce the observance of contracts entered into by shipbrokers and masters, and from the want of power to inflict punishment for their violation. The law imposing the tax on emigrants expired on the 1st November, 1838, but nevertheless the tax has been this year levied by the passenger agents in the United Kingdom, and the money obtained from it confided to the ship-masters for payment into the hands of the proper authority in this province; of course, as no authority existed here to receive it, the right of the emigrant to its repayment became distinct and undeniable in justice; but I regret to have to report that a great disinclination was manifested by ship-masters and consigners to refund the tax. My efforts on behalf of the emigrants in this matter were only very partially successful; and in almost every instance ship-masters excused themselves from doing an act of simple justice by restoring property to the rightful owner, by alleging their responsibility to their owners and charterers in the United Kingdom. The few instances in which the tax was refunded were confined to vessels from Scotland and England, exclusive of Liverpool. Paper No. 9 p. 91 of the Appendix, contains a copy of a letter addressed by me to the Chief Secretary in June last, enclosing the opinion of counsel taken in two of the cases under consideration, and to which I have the honour to refer. Those opinions being unfavourable to the pursuit of a legal remedy, my efforts were in consequence limited to urgent personal representations, which in no instance were neglected, and, as I have already remarked, in very few instances were successful.

In submitting my proposed amendment to the 20th clause of the Passenger Act, which will be found at p. 97 of the Appendix, I beg leave to bring under your Lordship's consideration a case which fully proves how completely the Act in its present state defeats the intention of the Legislature. I allude to the case of the passengers in the barque —— ——, —— ——, master, from Liverpool, the particulars of which I had the honour of laying before your Excellency in my weekly report of the 18th of July last. At p. 88 of the Appendix will be found an extract from the report, and at pp. 92 and 93 copies of affidavits made and sworn to by the first mate of the ship, and by eight of the passengers, intelligent and respectable farmers. I caused information to be lodged against Captain —— for the infringement of the 6th clause of the Passenger Act. The charge was, in the first instance, brought before the bench of magistrates, but on its having been ascertained that under the Act they had no jurisdiction, it was taken to the Vice-Admiralty Court. The complaint was fully proved by several witnesses, who also testified to the exaction of most exorbitant prices for provisions furnished to them during the voyage; but it having been established for the defence, that the ship had not carried more than one person to every five tons, she became exempt from the operation of the Act by the provisions of the 20th clause, and the suit was dismissed, with the remark, however, from the judge, that were it not for the existence of that clause, he would have been disposed to decree the full amount of the penalty, viz. 20*l.* sterling. The burthen of the ship was 377 tons, while the number of passengers was only 72, being four less than were required to bring her within the Act.

I have added to the several amendments to the other clauses a few brief notes explanatory of the reasons by which I consider they may be supported. To them I beg leave most respectfully to refer your Lordship, and more particularly to the suggestion for the prohibition of the sale of spirituous liquors, which I am sorry to say is very general in that part of our commercial marine employed in the transport of emigrants to these colonies. To the immoderate use of ardent spirits may be attributed the greater number of accidents which occur to emigrant vessels.

It is my duty to inform your Lordship that the various oppressive acts complained of have been, during the past year, the indirect cause of great expense to Her Majesty's Government. Had the means of the emigrant not been subjected to the impositions I have described, on his arrival here he would not have been so likely to require relief; indeed such relief would rarely

have been found necessary, except in cases of sickness, consequent detention in this port, and deprivation of employment.

The majority of the emigrants this year were common labourers, very poor, in the possession of mere physical strength, without much capacity for using it even in their humble vocation. In the early part of the season, no public works were in progress in the province, and it was found extremely difficult to procure employment. Fully one-half were of this class; unacquainted with the ordinary duties of a farm servant, and unfit for any work beyond the use of spade and pick-axe. They came chiefly from the west and south of Ireland, viz. from Sligo, Westport, Killala, and Limerick, and landed generally in good health, but in a state of great destitution, occasioned by long and tedious passages, and the consequent exhaustion of their small pecuniary means, in the manner I have before mentioned. They entertained very exaggerated ideas on the subject of wages in Canada, and many, though in great distress, refused to work for the ordinary wages of the country.

The extravagant expectations of poor emigrants in regard to wages, no doubt, induce numbers of them to proceed to the United States, where wages are nominally higher than in Canada, but where the expense of living is also so much higher that 3*s*. and 3*s*. 6*d*., which have been this year the ordinary day wages in the Lower Province, affords a much better remuneration than the dollar which is offered on the public works in the United States. On trial, the error is speedily discovered, but the emigrant is generally compelled, from want of means, to submit to his lot. Emigrants of moderate pretensions, who are satisfied with the adequate remuneration for labour which they may receive in Canada, are soon placed in a comfortable position, with a fair promise of becoming themselves, at no very distant day, the employers of emigrant labour.

Wages have been unusually high during the past season, and towards the close of it labourers were in great request in almost every section of the provinces, indeed in many places improvements and farming operations have been retarded from the want of them.

Paper No. 9, p. 96, of the Appendix, contains a copy of a letter received from Mr. Roy, emigrant agent at Kingston, from which it appears that up to the 21st November only 10,978 emigrants have reached that port this season; and on reference to the copy of a letter received from A. B. Hawke, Esq., emigrant agent at Toronto, it appears that very few of the emigrants of this year have reached the London and Western districts.

In paper No. 6, p. 84, of the Appendix, I have set forth the distribution of the emigrants of the past season, as nearly as I could ascertain it from the returns which I have received. The proportion of those who have remained in Lower Canada is much greater than in preceding years; this is to be attributed partly to the demand which existed for labourers on the public works in and about the city of Montreal, and in some degree to the poverty of the emigrant, which prevented his proceeding farther up.

Although, as I have represented to your Lordship, the great mass of the emigrants of this year arrived in Canada poor, indigent, and ignorant, there have been numbers whose intelligence and proportionate wealth will render them valuable additions to the colonial population. These latter were chiefly from England and Scotland, and from the Irish ports of Belfast, Londonderry, Waterford, and Cork. Among them were the passengers in the British King, from Cromarty, a fine and healthy body of settlers, who brought with them capital to the amount of 7000*l*. or 8000*l*. sterling. They all proceeded to the Upper Province, and have located themselves in the London and Gore districts. The emigrants from Hull and Padstow were also in good circumstances; those from the former place are scattered over different parts of Upper Canada, those from the latter have nearly all fixed themselves in the townships of Whitby and Darlington. A few wealthy English families proceeded to the states of Ohio and Indiana, where they had relatives residing for a number of years.

I estimate the capital imported by emigrants into the colony during the past season at near 100,000*l*. The emigrant agent at Kingston informs me that, from a memorandum kept by him, the amount brought in money to that port was over 61,000*l*. among 241 individuals.

The number of persons this year, the expense of whose emigration to Canada was defrayed by landed proprietors and parochial appropriation, is 564; of this number 250 were from England, viz., from London, and the Union workhouse, Isle of Wight. These English emigrants were well provided for, and were forwarded to Montreal, where the majority were paid, under the superintendence of this office, their allowance of 20*s*. sterling for each adult. The emigrants by the ship Fives, from Newport, were not so paid, the allowance having been entrusted to the captain, he in the first instance only paid 20*s*. currency, and it was only after repeated applications made by the emigrant agent at Montreal that he was induced to refund the difference; this fact proves the propriety of forwarding the money so appropriated to this office, or at least giving to the agent some control over its distribution.

The remainder of the pauper emigrants, 220, were from Limerick, and 94 from Sligo. Those from Limerick were sent by Colonel Wyndham, and were well provided for during the voyage, but landed here quite destitute of means; many of them, widows with large and helpless families, were incapable of earning a support by their own exertions. In accordance with your Lordship's commands, 194 of these people were forwarded to Kingston, and 139 of them as far as Coburg, where they had friends who had emigrated the preceding year under similar circumstances; others, principally young men, remained here at work for a short time, and afterwards paid their own expenses up. By a report made to Mr. Hawke by Mr. Chatterton, emigrant agent at Coburg, a copy of which will be found at p. 95 of the Appendix, it would appear that 25 of these people have gone to the United States, that 12 families are residing in the vicinity of Coburg, and that the remainder are scattered about the district as

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.
Encl. 1, in No. 26.

farm servants and labourers. Those sent out from Sligo were chiefly ejected tenants, who were assisted to emigrate by their landlords; they received free passage, and many of whom landed were in great distress.

I beg to remark that the practice which prevails in regard to the pauper emigrants from Ireland of merely granting them a free passage out, and allowing them to disembark in Canada literally penniless, is much to be deprecated. Although the assistance thus extended may in some measure be considered a boon, and reflects great credit on the munificence of the landlord who removes the emigrant from a state of beggary and starvation to a country where in a short time, by steadiness of conduct and common industry, he may be placed beyond the reach of want and on the road to independence, still the good effected falls far short of the good intended, in consequence of the fatal omission to provide for his immediate necessities after disembarkation. By the constant influx of emigrants during the summer months, the demand for labour in the cities of Quebec and Montreal, and their vicinities, is soon satisfied, and the destitute emigrant who follows, unable to proceed elsewhere, has recourse to mendicity, and becomes a burthen to society. If the English practice where parochial assistance is granted, viz., that of allowing 20*s.* sterling to each adult, and to children in proportion, were adopted, similar beneficial results might be expected; there would be no want or begging, no detention in our crowded ports.

The number of emigrants who have this year passed from these provinces to the United States has been reported to be very great, I have endeavoured to ascertain how far the report is correct, and I am of opinion that much exaggeration prevails on the subject. At page 94 of the Appendix will be found the copy of a letter received from Mr. Hawke, in answer to my inquiries on this head; this gentleman states that the agents in the Upper Province are assured by the captains of the steamers, that they have brought as many deck passengers to the province as they have taken from it: Mr. Hawke, however, is of opinion that the balance is much against us.

Mr. Roy, emigrant agent at Kingston, writes me that 1,200 emigrants left that port direct for the United States, but that they were more than replaced by the arrival of 1,300, some of them native Americans, but at least seven-eighths of them natives of the British isles, who had been residents of the Republic for many years. These latter, I consider, become the best settlers. The accounts which I received from New York during the summer also stated that the provinces would receive a considerable increase of population by that route. In addition to the above I may mention that my own observation and acquaintance with the intentions of emigrants induce me to believe, that this year fewer in proportion to former years contemplated going to the United States.

Large numbers of the poorer class of emigrants annually come out by this route to join their friends and relations who have settled in the United States; the route by the St. Lawrence is much cheaper than that by New York, and the emigrants are also aware that by disguising the truth as to their ultimate destination, they will receive assistance from public and private charity. I estimate that about 3,000 emigrants landed in Quebec during the past season, with the fixed determination of joining their friends in the Republic. Many who had means proceeded direct on their journey, while others, on being refused relief, worked for a short time until they earned enough to defray their expenses. The most obvious means that suggests itself of preventing the yearly emigration which takes place from the colonies, and of saving to Government and society the expense of supporting and assisting a transit population without the prospect of any return, is to cause correct and faithful information to be widely circulated throughout the emigration districts of the British isles. The glittering and deceptive promises of public companies in the United States too frequently succeed in exciting the eager desires of a poor yet laborious population. I have for example seen it stated in a Limerick paper that 2,000 labourers were wanted on the Pennsylvania canal, where the nominal daily wages promised were 9*s.*, or 4*s.* 6*d.* sterling. It is not stated that the labourers are paid generally in what is called "store pay," that is to say, they are found in provisions, clothing, and indeed any article they may require, for which they are charged prices regulated by the avarice of the contractor.

Paper No. 7, page 85, of the Appendix, is a return of the emigration to the port of New York, for the last 12 years, from which it appears that during the present year about 58,000 emigrants had landed in that city, of whom three-fourths were, as I estimate, from the United Kingdom, but the exact return has not been received.

The emigration of the year 1841 will, in all probability, greatly surpass that of the present year. The animating exertions of the people of Upper Canada and the inducements held out to the industrious poor of the mother country, by the resumption of the public works in both provinces, will, doubtless, produce important results. In Dr. Rolph the friends of emigration to the Canadas have secured the offices of an able and eloquent advocate, who has already successfully drawn the attention of the great landed proprietors of the United Kingdom to the unbounded field which these provinces presents for promoting the prosperity and happiness of the unemployed and destitute population of the mother country.

By a Report recently published of the Montreal Emigrant Committee, it appears that early in June last a large fund was raised in that city for the relief and assistance of emigrants. The principal statements in the Report are borne out by facts which have come under my own observation. I fully concur in the opinion expressed of the propriety of pressing upon the attention of emigrants the importance of early departure, so as to arrive here not later than the month of June, the season for remunerating employment, and also of selecting good and sound vessels for their conveyance across the Atlantic.

I beg to state to your Lordship, that in drawing up this Report I have made it my study

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.
Encl. 1, in No. 26.

to adhere closely to matters of fact, the details of which will be found in the Appendix. I also take the liberty most respectfully to assure your Lordship, that your Lordship may rely on my anxious and unremitting zeal in the cause of emigration, and in the successful issue of the plans devised by Her Majesty's Government, and by benevolent associations for the colonization of these fine provinces.

Submitting the whole to your Lordship's favourable consideration, I have the honour to request that you will be pleased to transmit the same to Her Majesty's Principal Secretary of State for the Colonies for the information of Her Majesty's Government.

I have, &c.,
(Signed) A. C. Buchanan, Chief Agent.

The Right Hon. Lord Sydenham,
&c. &c. &c.

APPENDIX No. 1.

The following Statement shows the weekly arrivals of Emigrants at Quebec and Montreal during the Year 1840; specifying the Number of Males and Females, and Children under 14 Years; also the Number of Voluntary Emigrants, and those that received Parochial Aid.

Weeks ending	Males.	Females.	Children under 14 Years.	Parochial Aid.	Voluntary.	Total each Week.
May 9	332	188	134	..	654	654
,, 16	105	55	84	..	244	244
,, 23	1,373	855	611	..	2,839	2,839
,, 30	1,239	994	856	50	3,039	3,089
June 6	1,398	977	688	311	2,752	3,063
,, 13	924	577	497	..	1,998	1,998
,, 20	804	593	450	..	1,847	1,847
,, 27	420	294	241	30	925	955
July 4	299	204	229	..	732	732
,, 11	420	300	221	..	941	941
,, 18	484	367	379	1	1,229	1,230
,, 25	294	222	172	..	688	688
August 8	390	260	144	60	734	794
,, 15	184	156	93	..	433	433
,, 22	364	302	258	9	915	924
,, 29	59	52	57	8	160	168
September 5	163	129	175	90	377	467
,, 12	60	35	56	..	151	151
,, 19	257	202	238	5	692	697
,, 26	31	30	25	..	86	86
October 3	23	21	21	..	65	65
,, 31	115	35	19	..	169	169
Total	9,738	6,848	5,648	564	21,670	22,234

A. C. Buchanan, Chief Agent.

Emigrant Department,
Quebec, 20th December, 1840.

No. 2.

Names of Ports from which Emigrants came during the Year 1840; with comparative Statement of the Number arrived at Quebec and Montreal during the nine preceding Years.

ENGLAND.

Names of Ports.	1840.	1839.	1838.	1837.	1836.	1835.	1834.	1833.	1832.	1831.
Aberystwith	..	..	..	..	..	2	37	42	27	..
Bideford	26	..	8	..	16	..	..	..	60	51
Bridgewater	15	..	..	6	..	2	37	16	306	280
Bristol	37	23	4	159	283	129	64	107	1,836	764
Berwick and Newcastle	9	19	7	94	16	210	459	208	340	239
Brant	..	..	..	8	..	..	..	..	..	..
Chatham	..	..	..	..	..	..	22	17	..	..
Carried forward	87	42	19	267	315	343	619	390	2,569	1,334

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

Encl. 1, in No. 26.

Names of Ports from which Emigrants came, during the Year 1840, &c.—*continued.*

Names of Ports.	1840.	1839.	1838.	1837.	1836.	1835.	1834.	1833.	1832.	1831.
Brought forward .	87	42	19	267	315	343	619	390	2,569	1,334
Caermarthen . . .	..	..	..	..	..	6	..	22	..	45
Colchester . . .	..	..	..	..	..	..	..	..	145	..
Dartmouth . . .	..	12	..	14	76	30	82	81	196	9
Exeter	..	..	..	9	..	1	..	..	6	..
Falmouth . . .	3	..	17	3	11	..	59	31	107	77
Forquay	..	..	..	..	..	10	..	..	48	..
Gloucester . . .	4	..	..	..	22	3	10	7	..	6
Hull	316	90	86	367	465	462	1,171	655	1,288	2,780
Ipswich	..	..	..	..	555	..	..	..	..	..
Jersey	..	..	..	..	27	2	17	2	..	..
London	293	83	194	987	1,666	762	1,051	1,287	4,150	1,135
Llanelly	..	..	..	..	..	..	..	..	21	..
Liverpool . . .	3,308	1,220	367	2,247	3,748	388	1,060	551	2,217	2,261
Lancaster . . .	..	..	..	..	..	..	..	61	45	43
Lowestoff . . .	..	..	..	..	119	..	..	..	..	..
Lynn	..	..	12	1,546	810	86	..	7	86	..
Milford	..	16	3	3	7	1	5	35	138	15
Mary Port . . .	60	..	..	39	15	182	538	315	884	421
Newport	64	..	..	..	..	4	20	2	156	1
Portsmouth . . .	21	..	123	201	778	247	163	251	932	..
Poole	..	14	52	73	74	6	1	84	150	106
Plymouth . . .	119	58	35	403	88	211	850	440	1,398	474
Penzance . . .	1	..	..	1	..	13	12	..	28	19
Padstow	242	9	1	1	8	13	29	53	335	5
Portaferry . . .	..	..	..	12	..	..	..	..	..	..
Shoreham . . .	..	..	..	..	..	..	62	..	99	..
Southampton . .	..	..	..	..	..	..	1	20	..	4
Swansea	..	..	18	..	..	..	32	..	63	..
Sunderland . . .	10	41	7	36	155	16	57	40	206	86
Scarbro' and Shields .	..	..	..	21	14	1	49	1	12	..
Stockton	..	..	..	..	..	18	192	233	132	..
Stornaway . . .	..	..	1	62	..	..	..	..	..	..
Tynmouth and Wigton	..	..	6	..	21	..	..	..	..	..
Whitehaven . . .	..	..	..	..	110	..	72	413	795	138
Workington . . .	2	1	..	..	..	..	29	..	246	399
Whitby	..	..	..	71	71	59	273	46	236	471
Yarmouth . . .	37	..	49	617	3,025	203	345	171	793	514
Total . .	4,567	1,586	990	6,980	12,180	3,067	6,799	5,198	17,481	10,343

IRELAND.

Names of Ports.	1840	1839.	1838.	1837.	1836.	1835.	1834.	1833.	1832.	1831.
Belfast	3,345	1,072	548	1,999	1,209	1,350	3,024	2,637	6,851	7,943
Bally Shannon . .	..	128	..	122	..	..	154	71	86	200
Balleduhoe . . .	196	..	..	..	..	..	..	..	..	..
Baltimore . . .	..	..	..	360	166	99	..	..	184	..
Cork and Bantry. .	1,860	481	149	2,699	2,588	861	2,261	925	1,987	2,735
Clare	..	..	..	..	..	..	..	19	..	..
Dublin	1,565	523	135	2,535	2,438	912	5,879	3,571	6,595	7,157
Donegal	281	70	73	113	66	..	2	..	113	..
Drogheda . . .	..	..	..	..	..	..	..	60	90	..
Galway	..	18	4	..	83	..	79	190	425	452
Killalo	478	91	..	223	288	..	..	..	..	514
Kinsale	23	..	..	86	118	3	2	..	..	..
Kilrush	..	..	..	..	..	..	4	..	..	..
Limerick	2,055	616	96	1,055	906	641	1,097	602	1,689	2,759
Londonderry . .	610	254	204	1,424	1,427	1,041	1,580	1,852	2,582	2,888
Larne	.	26	..	..	..	..	..	..	137	..
Newry	365	204	17	282	144	537	945	725	1,374	1,591
Newport	..	..	..	378	..	..	..	..	..	..
Ross	229	44	12	180	208	259	278	325	926	1,159
Sligo	3,407	1,378	187	1,813	1,687	893	2,144	657	2,961	4,079
Strangford . . .	.	3	..	..	..	..	117	41	349	169
Tralee	123	100	17	286	250	42	217	67	133	114
Waterford . . .	874	105	14	859	629	205	1,008	197	877	1,216
Wexford	..	..	..	..	18	6	23	21	157	229
Westport	733	..	..	..	..	194	221	..	529	720
Youghall	147	..	..	246	249	65	203	53	159	210
Total . .	16,291	5,113	1,456	14,538	12,596	7,108	19,208	12,013	28,204	34,135

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

Encl. 1, in No. 26.

SCOTLAND.

Names of Ports.	1840.	1839.	1838.	1837.	1836.	1835.	1834.	1833.	1832.	1831.
Alloa	..	15	1	9	..	13	87	..	231	..
Ayr	..	..	..	11	..	..	221	24	..	40
Annan	..	..	..	..	..	30	391	..	175	..
Aberdeen	194	157	147	252	696	545	647	116	478	158
Cromarty	217	..	..	215	545	181	276	298	638	460
Campbelltown	..	..	..	..	..	..	..	192	110	..
Dumfries	64	..	..	..	..	26	..	137	..	..
Dundee	59	10	1	20	11	37	99	194	439	249
Greenock	221	239	145	698	519	597	1,140	1,458	1,716	2,988
Grangemouth	..	..	..	..	6	1	..	..	..	196
Glasgow	148	63	12	45	32	80	462	168	160	176
Irven	..	..	..	..	..	6	..	6	37	..
Isla	..	..	..	..	..	123	358	601	181	..
Inverness	..	..	..	..	..	183	..	138	..	361
Kirkwall and Thurso	89	..	..	..	149	..	..	..	..	..
Kirkaldy	..	..	..	4	..	..	33	47	..	..
Leith	140	..	41	253	45	247	661	622	1,145	664
Lochendoel	..	..	..	..	174	..	..	..	..	..
Lochinbar	..	..	..	..	28	..	..	..	..	..
Leven	..	..	..	..	..	..	..	39	112	..
Peterhead	..	..	..	..	..	42	29	41	18	13
Stranraer and Montrose	12	1	..	2	19	16	87	75	60	..
Stornaway	..	..	200	..	..	..	..	..	..	..
Tobarmoney	..	..	..	..	..	..	99	40	..	..
Troom	..	..	..	..	..	..	1	..	..	..
Total	1,144	485	547	1,509	2,224	2,127	4,591	4,196	5,500	5,305

LOWER PORTS.

Places of Departure.	1840.	1839.	1838.	1837.	1836.	1835.	1834.	1833.	1832.	1831.
Newfoundland, Nova Scotia, Cape Breton, West Indies, &c. &c.	232	258	273	274	235	225	339	359	561	424
CONTINENT.										
Havre de Grace	..	..	..	..	485	..	..	..	..	..

Emigrant Department,
Quebec, 20th December, 1840.

A. C. BUCHANAN, Chief Agent.

No. 3.

COMPARATIVE STATEMENT of the Number of Emigrants arrived at Quebec since the Year 1829, inclusive.

Places of Departure.	1829.	1830.	1831.	1832.	1833.	1834.	1835.	1836.	1837.	1838.	1839.	1840
England and Wales	3,565	6,799	10,343	17,481	5,198	6,799	3,067	12,188	5,580	990	1,586	4,567
Ireland	9,614	18,300	34,133	28,204	12,013	19,206	7,108	12,590	14,538	1,456	5,113	16,291
Scotland	2,443	2,450	5,354	5,500	4,196	4,591	2.127	2,224	1,509	547	485	1,144
Hamburgh and Gibraltar	..	..	..	15	..	..	..	..	..	..	..	..
Nova Scotia, Newfoundland, West Indies, &c.	123	451	424	546	345	339	225	235	274	273	255	232
Havre de Grace	..	..	..	..	..	..	..	485	..	..	..	..
Total	15,945	28,000	50,254	51,746	21,752	30,935	12,527	27,722	21,901	3,266	7,439	22,234

Grand Total 293,721

Emigrant Department,
Quebec, 20th December, 1840.

A. C. BUCHANAN, Chief Agent.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

Encl. 1, in No. 26.

No. 4.

RETURN of the Number of Emigrants admitted at the Quarantine Hospital, from the 4th May to the close of the Navigation, 1st November, 1840.

	Admitted.	Discharged.	Died.
Men	239	222	17
Women . . .	157	149	8
Children . .	165	149	16
Total . .	561	520	41

EMIGRANTS admitted at the Marine Hospital, at Quebec, during the same period.

	Admitted.	Discharged.	Died.	Remaining.
Men, women and children . .	382	343	24	15

A. C. BUCHANAN, Chief Agent.

Emigrant Department,
Quebec, 20th December, 1840.

No. 5.

RETURN of the Number of Adults, Males, Females, and Children, under 14 and 7 years, who have been aided with Provisions and the means of Transport to Port St. Francis, Montreal, and to New Brunswick.

Destination.	Ages.				Relief afforded.	
	Men.	Women.	Under 14 Years.	Under 7 Years.	Provisions.	Transport.
Port St. Francis . .	33	36	14	7	£. s. d.	£. s. d.
Montreal	584	1,078	552	405	56 3 2	553 15 7
New Brunswick . .	3	10	4	. .		
Total .	620	1,124	570	422		
Total relieved, 2,736 . . £609. 18*s*. 9*d*. Currency.						

A. C. BUCHANAN, Chief Agent.

Emigrant Department,
Quebec, 20th December, 1840.

No. 6.

DISTRIBUTION of Emigrants arrived in Quebec in 1840.

LOWER CANADA.

City and district of Quebec	500	
District of Three Rivers and St. Francis, including the Eastern Townships	200	
City and district of Montreal, and employed as labourers, mechanics, and house servants, as by return received from the Emigrant Agent in that city, 5,880; of whom 1,000 to 1,200 have gone to the United States	4,800	
		5,500

Brought forward	5,500	
UPPER CANADA.		
Ottawa and Bathurst Districts, and along the line of the Rideau Canal	1,400	
The Eastern and Johnston Districts, and along the route of the St. Lawrence	1,000	
The Midland, Victoria, and Prince Edward's Island Districts, and up the Bay of Quinte, and in the vicinity of Kingston .	2,500	
Landed at Cobourg and Port Hope, and settled in the Newcastle District	800	
Landed at Toronto, and settled in the Home and Gore District	5,500	
Niagara District, including St. Catherine, Oakoda, and along the Welland Canal	1,000	
The Huron tract, and in the London and Western District. .	700	
Went to New Brunswick and Prince Edward's Island, and to ports in the Gulf of the St. Lawrence	200	
Died in Grosse Isle, and at Quebec and Montreal	80	
Went to the United States	3,500	
		22,180

A. C. BUCHANAN, Chief Agent.

Emigrant Department,
Quebec, 20th December, 1840.

No. 7.

RETURN of the Number of Emigrants arrived at New York from the United Kingdom, for the last Twelve Years.

	Number each Year.
In the year 1829	11,500
1830	21,433
1831	22,607
1832	28,283
1833	16,100
1834	26,540
1835	16,749
1836	59,075
1837	34,000
1838	13,059
1839	24,376
1840	41,500
Total . . .	315,223

A. C. BUCHANAN, Chief Agent.

Emigrant Department,
Quebec, 20th December, 1840.

No. 8.

EXTRACTS from the several WEEKLY REPORTS made to the Governor-General by the Chief Agent for Emigration at Quebec.

Week ending 9th May, 1840.

THE emigrants who have arrived since the opening of the navigation are a fine healthy body of settlers. Those by the Borneo from Limerick, are mostly provided with sufficient means to enable them to reach their destination; they consist of small farmers, labourers, and a few tradesmen, and I am happy to say they are nearly all members of the Temperance Society, and have taken Father Mathews's pledge previous to embarkation. A large number of them were going to the United States, but I have succeeded in directing them to the advantages of these provinces, and they have almost all proceeded upwards.

Those whose destination is the United States, have been sent for by their friends who are residing there, and to whom naturally they are most anxious to proceed.

The passengers who have arrived this day in the Despatch, from Waterford, and in the Energy, from Limerick, are the same class of people as those per Borneo; about one-half will proceed to Montreal, per steamer, to night, and the remainder on Monday. There has not been a single case of distress among these emigrants; and for all who were desirous of employment I obtained it. I can find work for a large number more.

Week ending 16th May.

The emigrants who arrived during the past week appeared all in good circumstances. Some of the families in the ship John Bell, from New Ross, possessed considerable property, and

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.
Encl. 1, in No. 26.

Captain Black paid over to three families upwards of 250*l.* in gold, which they had deposited with him for safe keeping during the passage.

The Scotch emigrants in the Brilliant, from Aberdeen, are all in easy circumstances, and have proceeded to Upper Canada for settlement. The demand for all classes of farm labourers, mechanics, house servants, &c. is very good; wages for common labourers 30*s.* to 35*s.* per month, with board, and by the day, without board, 3*s.* Several hundred able-bodied labourers would find immediate employment in Quebec at the above rates. I have received a letter from Upper Canada, river Trent, stating that a number of farmers in that neighbourhood wish to engage from 15 to 20 good agricultural labourers who would be willing to engage by the year; wages from 80 to 100 dollars per annum, with board. I have also received equally favourable accounts from the eastern townships.

Mr. Bowen, who writes the above account from Upper Canada, also states that there is no doubt, in the opinion of Mr. Crome and himself, that from three to four times that number would find employment in their neighbourhood, and that the demand is always greater than the supply; wages by the month, in summer, will range from 10 to 14 dollars.

Week ending 23rd May.

The emigrants arrived this week are in general in good circumstances, and nearly all from Ireland: they consist chiefly of labourers, small farmers, and mechanics; those who do not possess sufficient means to proceed up the country have obtained employment about the coves and shipping. I am happy in being able to state that among those emigrants there are comparatively few going to the United States. I have seen several passengers who have been out in this country before, and have resided in different parts of New York and Pennsylvania; they are returning now with their friends to settle in Upper Canada. Instances of this kind will have great effect among their countrymen, and I can safely state that four-fifths of the emigrants arrived this week intend remaining in these provinces.

In the Clio, from Padstow, were 146 very respectable people, they are all going to settle in the township of Whitby, and near Port Hope in Upper Canada. Several families in the Sarah, from Aberdeen, have large capital; they are going to the Canada Company's lands. The office has been exceedingly crowded daily by emigrants soliciting aid to recover the capitation tax. I regret to say that owing to the want of a responsible person to represent the parties in the United Kingdom with whom the emigrants engaged their passage, I find it almost impossible to obtain any redress. I have, however, succeeded in getting it refunded in three cases. The passengers per the Andrew Melvill and Llan Rumney, from Hull, and to part of the passengers in the Champlain, from Youghal.

I continue to receive the most favourable accounts of the demand for farm labourers and mechanics in Upper Canada and eastern townships.

Week ending 30th May.

The office has been exceedingly crowded this week by emigrants soliciting aid to enable them to recover the capitation tax. I have succeeded in getting it refunded to over 300 passengers from Hull and Liverpool. The emigrants arrived this week consist of chiefly labourers and small farmers, many of whom are in possession of capital; their destination is principally Upper Canada.

I regret to state there has been much distress among the passengers in the Nelson Village and Helen, from Belfast, and in the Industry, from Sligo; upwards of 60 passengers from the former vessel were left in Grosse Isle sick, and were detained there for several days, in consequence of which their small means became exhausted. Taking, however, the large number of emigrants who have arrived this season, there are much fewer cases of actual distress among them than I have seen in former years.

A very fine body of emigrants arrived yesterday in the Amazon, from Hull; they are all, with the exception of one family, in good circumstances; several of them have resided in the townships of Markham, in the home district, and in the neighbourhood of Prescott, for several years; they are returning with their families, and have imported some very fine sheep, and a young Yorkshire colt. About 20 of them, three families, and the remainder young single men, are going to their relatives who are settled in the state of Ohio and Indiana. They bring out a large sum of money with them, as I understand, from 1,200*l.* to 1,500*l.* sterling. The young men have been engaged in the woollen trade in Yorkshire, and are going to Boston for employment in the factories there.

Week ending 6th June.

The emigrants sent out this week are principally of the labouring classes with a few mechanics; the latter class of people find no difficulty in getting employment: there is a constant demand here for carpenters, masons, and tailors, with good wages; carpenters 3*s.* 6*d.* to 5*s.*, and masons 4*s.* to 6*s.* per day; tailors get job-work at which they can earn from 4*s.* to 5*s.*; shoemakers are also in demand. Among the arrivals are 135 passengers in the Urana, from London and Cowes; these people have been sent out from the House of Industry at Newport, and are amply provided for; they get a free passage out to Montreal, and 20*s.* sterling each adult; children in proportion. I have furnished them with every advice, and also with directions to places where they will obtain employment. In the James Cooke, from Limerick, there were 28 families of 126 souls, assisted to emigrate by Colonel Wyndham, from his estates in the county Clare; these people received a free passage to this port, and were well supplied with provisions for the voyage; many of them, however, are widows with large families, and not likely to obtain employment here which will support them; they are all anxious

to proceed to the Newcastle district, where they state they have friends who were sent out last year, but cannot do so for want of means. Eleven families, numbering 50 passengers, arrived yesterday in the brig Balfour, sent out under similar circumstances; they do not appear altogether so destitute as the others. There are some very respectable and wealthy families in the G. Wilkinson, from Liverpool, and Thomas Gilson and Chieftain, from Belfast; their routes are chiefly to Upper Canada, where many have friends.

On board the brig Hero, from Newfoundland, were four families who were wrecked in the Atlantic, from Dundee, they are respectable farmers and mechanics, and were in good circumstances on leaving home; when they were wrecked they lost every thing, and with difficulty escaped with life. The inhabitants of St. John's subscribed sufficient to clothe and forward them here. A small subscription has also been made for them to enable them to proceed to their destination in Upper Canada.

Week ending 13th June.

The emigrants arrived during the past week are chiefly labourers and farmers; their destination is, with few exceptions, Upper Canada. From the Nicholson, from Sligo, a few families of about 30 persons have gone to their friends in the township of Rawdon. The passengers in the Quinton Leitch, from Newry, were respectable farmers and labourers; several families were in great distress on their arrival here, owing to being short of provisions; they were 54 days at sea, and had to purchase from the captain at exorbitant prices. It appears that masters of vessels in many instances lay in a stock of provisions, which they dispose of at a large profit to those who may run short during the voyage.

The ship George, with 377 passengers, arrived this morning from Liverpool; she has been a week at Grosse Isle; the passengers are in great distress, having suffered from want of provisions; they have been 57 days on the voyage, and purchased from the captain and their fellow passengers so long as their funds lasted; the captain has been obliged to support some families during the last fortnight.

When I visited the ship this morning, I found several families in such distress that I have felt obliged to order an issue of provisions, to a limited extent to them. About 30 passengers sailed yesterday to Halifax and St. Johns, New Brunswick; they are from Sligo and Westport, and are going to join their friends; they came this route owing to their not being able to get a vessel direct.

Week ending 20th June.

Among the arrivals this week are many families possessing capital, and who are anxious to purchase lands in Upper Canada. I have furnished them with the necessary instructions how to proceed, and to whom they should apply for direction and advice.

The emigrants per Eliza, from Sligo, are going to their relations settled in the township of Cavan, Newcastle district. There has been several families in the Emerald, from Sligo; the Mary Coxon, from Cork; and Leander, from Liverpool, in great distress, for want of provisions during the voyage; they spent all the little stock of money they had left (after paying their passage) in purchasing provisions at exorbitant prices from the captain, and I was under the necessity of furnishing them with immediate assistance, by an allowance of bread and oatmeal; those by the Emerald were equally destitute as those in the George, from Liverpool, which arrived last week. Constant applications are made for assistance to enable families to proceed to their friends in different parts of the provinces, and I have felt myself obliged to extend relief to near 30 families during this week; they are chiefly from the George, Emerald, Mary Coxon, Ceres, and Leander, from Liverpool, Cork, and Sligo. Among them are a number who have been detained at Grosse Isle by sickness. There are now about 250 emigrants in port, most of whom go up in the steamer this evening.

Week ending 27th June.

The emigrants arrived this week are chiefly labourers and a few tradesmen. Those in the Lively, from Cork, Edwin, from Killalo, Doris and Thetis, from Limerick, were in great distress; many of the poor families ran short of provisions, and were obliged to purchase from the captain. Some of them landed here in great distress, were assisted with provisions, and forwarded to Port St. Francis and Montreal. About 20 families are gone to settle in Kildare, and about as many more to the eastern townships. Ten families, numbering 30 persons, were sent out by Colonel Wyndham in the Thetis, who assisted them with provisions and a free passage to Quebec. Mr. Bydon writes me that these people, he considers, have no further claim on Colonel Wyndham after their arrival here.

About 600 emigrants, who have been detained at the quarantine station, are on their way up, and may be expected to-morrow.

Week ending 11th July.

The emigrants arrived during the past week are chiefly labourers, and a few farmers with small capital; a large majority of them are desirous of going to Upper Canada, or where they will meet with employment.

A very respectable body of passengers came out in the Hercules, from Aberdeen, and Corinthian, from Hull; they are all in good circumstances, and are amply provided with means to proceed to their destination, which is Upper Canada, with the intention of purchasing lands in the London and Western districts. Two families are returning to Illinois, where they have resided for some years. There was, I regret to state, a good deal of distress among the passengers by the Edward and Mary and Carrick, from Westport, which was

No. 26.
Lord Sydenham to Lord John Russell.
26th Januar ,1841.
Encl. 1, in No. 26.

chiefly owing to their long voyage, being upwards of seven weeks at sea; their supply of provisions ran short, and many were supported by the charity of their fellow passengers, after they had spent all their money in purchasing food from the master.

The passengers in the Aisthorp, from Sligo, and Elizabeth, from Cork, were also similarly situated. I have been obliged to give assistance during the past week to about 40 families; many among these received assistance owing to their long detention in the hospital at quarantine.

I consider the city unusually free from emigrants at this season, owing to the opposition of the Hart steam-boat, as on the night she sails the fare is reduced from 7*s.* 6*d.* to 2*s.* 6*d.*, whereby many are able to proceed up, who otherwise could not have done so unless assisted. A few families from Westport are proceeding to join their friends in Kildare and Rawdon.

Week ending 18th July.

The emigrants arrived during the past week are, with the exception of a few families, all in good circumstances, and in possession of ample means, particularly the Scotch and English, many of whom brought out a considerable amount of capital; they are, with a few exceptions, all proceeding to the Upper Province to join their friends. A large portion of the Scotch are going to settle in the Bathurst district; others to the Johnston, Newcastle, and London districts; and a few to the Huron tract.

I regret to have to report a case of gross misconduct and ill-treatment on the part of Captain ——————, of the ship ——————, from Glasgow, with 72 passengers. This vessel arrived here on the 13th inst., after a passage of 77 days, nearly the whole of which time the passengers were obliged to work at the pumps night and day, the ship making, in heavy weather, 17 inches of water per hour. A few days after sailing the ship lost her fore and main top-masts in a gale of wind, which they were unable to replace, having no spare spars on board; and she continued to make so much water, that the crew was unable to keep her clear: 30 of the passengers then formed themselves into watches to pump, for which the captain promised to pay them 20*s.* each on arrival at the nearest port, and for which he promised to steer. He, however, kept on his course, notwithstanding the leaky state of the vessel, and her being otherwise unfit to continue the voyage for want of means to refit the spars she had lost. Their stock of provisions running short, the passengers were obliged to purchase from the captain at exorbitant prices, paying him for bread at the rate of 37*s.* 4*d.* per cwt., for what the captain acknowledged to me only cost him 17*s.* 6*d.* per cwt; barley 3*d.*, cost 1½*d.*; and other things in proportion. They had also to purchase provisions from vessels they spoke at sea; and some of them expended upwards of 7*l.* and 8*l.* extra for provisions over and above the stock they had originally laid in for the voyage.

On arrival of the vessel here, the passengers made their complaint to this office, and stated that the captain refused to allow those who worked at the pumps the remuneration he promised them, viz., 20*s.* each; and it was not until repeated applications had been made to Captain ———, both by letter and in person, that I could obtain a settlement from him, and also the refunding of 5*s.* a-head which he had charged them for tax. It is to be regretted that the law does not compel him to refund the over-charge on the provisions which he sold them.

I have caused information to be lodged against him for the infringement of the 6th clause of the Imperial Passengers' Act, for not having a list of the prices of his provisions open for the inspection of his passengers. A statement of the decision, with an affidavit sworn by eight of the passengers, as also one by the first mate of the vessel, I shall forward for the information of his Excellency the Governor-General in a few days.

I regret to report that, on board the Anne Leffy, from Liverpool, with 294 passengers, there has been a great deal of sickness, small-pox and typhus; they had 13 deaths at sea, and two on arrival at Grosse Isle; she has left 43 cases in hospital at quarantine.

I have been obliged to extend relief to upwards of 20 families during the past week, chiefly from this vessel and from the Independence from Belfast, and to a number of young men and women who have been discharged from the hospital here and at quarantine, numbering in all above 113 persons.

Week ending 25th July, 1840.

The emigrants arrived during this week are chiefly Irish, and consist of farm labourers and mechanics.

In the ship ——————, from Liverpool, with 356 passengers, all Irish, there has been a number of families landed here in great distress, caused by long detention in Liverpool, some of them having been kept there waiting for a vessel upwards of a month after they had engaged and paid their passage. I beg to enclose you two affidavits, sworn to before a magistrate, in corroboration of this charge. Many more of the passengers made complaints of a similar nature. This vessel also brought out upwards of 30 passengers more than she is entitled to carry by law, for which she was fined by the collector in the sum of 20*l.* sterling. The master of the ——————— stated that his passengers were shamefully treated by the passenger brokers in Liverpool, ——————————— and ———————. These parties nearly forward all the emigrants from that port; and I regret to say that not a single vessel has arrived from there this season without bearing complaints of a similar nature. The ——————— made her passage in 46 days, which is so far fortunate, as, on her arrival here, many of her passengers were out of provisions. The Captain acted in the kindest manner, and assisted those in distress from his own stock.

Some very respectable emigrants arrived this week from Hull, Plymouth, and Greenock,

all in good circumstances; they have all proceeded to Upper Canada, with the exception of two families, who are going to Fredericton, New Brunswick. In the Pomona, from Dublin, there were 226 passengers, generally in good circumstances; the greater part are going to the Upper Province. A number of them, young men, I have sent to the township of Leeds and Inverness, where there is abundance of employment to be had. In fact, there is no scarcity of employment anywhere at present, if the emigrants would only be content with the ordinary standard wages of the country. Several hundred labourers would meet with immediate employment in the Home and Western districts; wages during harvest 3*s*. 9*d*. to 5*s*. currency per day. The emigrant agent at Montreal writes me that there is abundance of employment in and about that city. A large number of additional hands will be required for to work on the roads.

Week ending 8th August, 1840.

The emigrants arrived during the past week are chiefly of the labouring classes, and nearly all from Ireland. In the bark ——, from Derry, were 267 passengers; they landed here in good health, after a passage of 59 days. A few families were in poor circumstances, owing to their long passage, and previous detention at Derry after the day fixed for sailing; they had to purchase provisions from the master at double prices. Extended assistance to six families of 28 persons, by giving them a free passage to Montreal. Nearly all her passengers are going to Upper Canada, where they have friends. About 10 of them are going to Bathurst, in New Brunswick, where their relations have been settled for some years. The passengers in the Greenhow, from Newry, 21 in number, are in easy circumstances; they went to Upper Canada, intending to settle near Kingston.

In the Windscales, from Maryport, in Cumberland, were 45 passengers, very respectable people; they all proceed to settle in Upper Canada, about Toronto and Hamilton.

The passengers in the —— from Cork, 93 in number, are chiefly labourers, and a few tradesmen; they had a long passage of 69 days. The passengers ran short of provisions, and had to purchase at exorbitant prices from the master. The water furnished to the passengers was frequently so bad as to be almost unfit for use, which was owing to its being put into bad casks. On inquiry, I found that the crew were using the same water, and they stated that neither water nor provisions were inspected before sailing. I extended assistance to 10 families of about 30 persons, who were in the most distress, in provisions and a passage to Montreal, where they will meet with employment.

There were a few cabin passengers, who bring out a good deal of capital, and are proceeding to settle in Upper Canada, where they intend to purchase lands.

Thirty-three passengers in the Mary Ann, from Miramachi, are very respectable; two families named Barkley, numbering 14 persons, have resided in Prince Edwards' Island since 1819, they have sold their property there, and are going to settle in the Home District, for the benefit of a milder climate; the remainder are emigrants of this season, who are going to their friends in Upper Canada.

In the brig St. James, from Killala, were 136 passengers, and in the Marquis of Normanby, from Sligo, were 174 passengers; the former was 96 days on her voyage, and the latter 63; the passengers suffered great privations, on account of their long and tedious passage, and many of them arrived here in great distress, quite destitute of money and provisions. About 60 of the passengers by the Marquis of Normanby, were sent by Sir Robert Gore from his estates near Sligo; they were supplied with a free passage and provisions to this port, but owing to their tedious passage they landed here totally destitute. I have had to give relief to upwards of 150 persons from these vessels. Their destination is chiefly Upper Canada, a few of the young men and women are going to the United States.

Week ending 15th August, 1840.

The emigrants arrived during the past week consist of farmers and labourers, and are all Irish; those by the brig Brown, 98 in number, had a long and tedious passage of 78 days, from Sligo; they landed here destitute of money or provisions, some families in her having spent from 3*l*. 10*s*. to 4*l*., for extra provisions. They are all going to the Upper Province for employment, and owing to the opposition between the steam-boats, many are able to proceed, who otherwise would become a burthen on the funds placed at the disposal of this office. The passage to Montreal on the nights the Charlevoix and Hart leave, is 2*s*. 6*d*., on other nights 5*s*.

The passengers per the Iraby, from same port, were 79 days out; she had 165 passengers; all arrived in good health. I was under the necessity of assisting 10 families, consisting of 38 persons from these vessels, with provisions and a passage to Montreal.

The bark Cumberland, from Liverpool, had 41 passengers, all Irish, who landed in good health, and have nearly all proceeded to Upper Canada; one family are going to their friends in Prince Edwards' Island. In the brig David Waters, from Waterford, were 50 passengers, and in the Henry Volant from Sligo, 56 passengers; all landed in good health, and were able to pay their own way; a few are going to their relations in the United States, the remainder to where they will meet with employment. I continue to receive most favourable accounts from different parts of the Upper Province of the increased demand for labourers, &c., from a letter received from Berlin, in the township of Waterloo, Wellington District, the following rates of wages are quoted, and prices of provisions:—labourers by the year, 25*l*. to 30*l*., and found; ditto by the day, 3*s*. 9*d*. to 5*s*; board and lodging, 7*s*. 6*d*. to 10*s*. per week; flour per barrel, 20*s*.; beef, &c., 2½*d*. to 3*d*. per pound; ham, bacon, &c., 3*d*. to 6*d*.

About 600 emigrants are at Grosse Isle, and may be expected up by to-morrow or Monday.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

The brig Austrea, with 150 passengers from Dublin, was out 70 days, and was short of provisions for a month; these poor people have suffered great hardship, and on arrival at quarantine were in a state of starvation. There are also the brig Trial from Dublin and British King, from Cromarty, sailed the 9th June.

Encl. 1, in No. 26.

Week ending 22d August, 1840.

The emigrants arrived during the past week are Irish and Scotch, and consist of farmers, labourers, and tradesmen; the majority of them are in good circumstances, more particularly the Scotch emigrants in the British King, from Cromarty, 157 in number; these people, notwithstanding the long passage of 71 days, landed in good health, and with the exception of about 20 of their number, have all proceeded to Upper Canada to settle in the London district; they bring out capital to the amount of from 7000*l.* to 8000*l.*; one family are going to their friends at Shubrook, Eastern Townships, and a few more are returning to Prince Edwards' Island. The brig ———, ——— master, with 142 passengers, from Dublin, arrived here after a passage of 73 days; they suffered great distress from the want of provisions. These poor people state that the agents, ——— ——— in Dublin, told them that from three to four weeks supply would be ample; during the last month of the voyage they were depending entirely on the scanty supplies obtained from the vessels they spoke at sea, and on arrival at Grosse Isle, were in a state of starvation; the master states that the quantity of provisions laid in by the passengers was not inspected by any officer previous to sailing. The master appears to be intemperate, and on his arrival here he and several of his crew were taken up by the police, and his conduct was so bad that the magistrates sent him to the common gaol to hard labour for 10 days.

The passengers by the Hibernia, Jane, and Viola, from Sligo, 428 in number, landed here in good health, but owing to their long passage, the average of which was 74 days, they suffered much for want of provisions, and were obliged to purchase from the captain at high rates. The passengers per the Hibernia complain of exorbitant prices, and I am happy to say that on representing it to the master, he refunded part of his charge, which proved of great service to many of them.

In the ———, ——— master, were 76 very respectable Scotch and North of England passengers, all in good circumstances, and going to Upper Canada to settle; they had a very long and tedious passage of 84 days, owing to their having the misfortune of losing their first mate, after having been out about three weeks, (he fell over board and was drowned;) the charge of the vessel then devolved on the second mate; owing to the master having lost his mind from the effects of intemperance he was not able to appear on deck four times for three weeks, at a time. This officer, on whom the duty devolved of navigating the vessel, was not qualified for the task, being unable to keep a correct reckoning; and it appears most providential that the vessel ever arrived here. The passengers also report that the water furnished them was frequently so bad as to be sometimes unfit for use. The number of families assisted during this week were 14, numbering 80 persons; several of whom were convalescents from the hospital at quarantine.

Week ending 29th August, 1840.

The emigrants arrived during the past week are chiefly labourers and farmers; those by the Jamaica from Greenock, 58 in number, are in good circumstances; a few of the young men are going to settle in Montreal, the remainder to Upper Canada.

The passengers by the Manico, from Limerick, 90 in number, landed here in good health, after a passage of 79 days: they were obliged to put into St. John's, Newfoundland, for a supply of provisions.

Three families landed in a very destitute state, numbering 14 persons; they had no means of purchasing provisions, and were supported by the captain after their own supply was expended; a few of them obtained work here, and the rest proceeded to Montreal, on their route to Upper Canada. One family, eight in number, had their passage paid out by Mr. Bydone, Colonel Windham's agent. I have been under the necessity of extending relief to 10 families, in all 47 persons, who were destitute of food, and were proceeding to their friends in the Upper Province.

Week ending the 5th September, 1840.

The passengers arrived during this week consist of labourers and farmers. In the brig Mariners' Hope, from Londonderry, were 73, all in good circumstances, and a few families possesssing small capital, from 60 to 150 sovereigns each; they proceeded immediately on their route to Toronto, furnished with every information necessary for their guidance, two families intend purchasing from the Canada Company in the Huron tract; and others in the Home and Gore districts. Among the emigrants this week were 90 persons, assisted to emigrate by their respective parishes, 30 of whom were from the Union House of Industry at Newport, they all landed here in good health, and proceeded immediately to Montreal.

In the barque Sir George Prevost, were 271 passengers from Liverpool; they had a long and tedious passage of 70 days, and many of them suffered from want of provisions. Captain Mackay supplied several families with provisions gratis, who had not the means of purchasing, and he was obliged to put into St. John's Newfoundland, for a fresh supply, where they were detained nine days. Owing to their long passage, 11 families landed here in great distress, numbering 59 persons; they were forwarded to Montreal, and furnished with two days' provisions; the young men, and those incumbered with families, obtained employment about the coves and shipping, wages 3*s.* per day.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

Encl. 1, in No. 26.

Both this city and Montreal are unusually free of distressed or unemployed emigrants; all those who are anxious or willing to work, and who will accept the regular wages of the country, will meet with abundance of employment, viz. from 2*s*. 6*d*. to 3*s*. per day, without food.

Week ending 12th September, 1840.

The emigrants arrived this week are all in good circumstances, and have landed in excellent health; their destination is chiefly Upper Canada. In the brig Quebec packet, from Cromarthy, were sixty passengers, who bring out from 800*l*. to 1,000*l*. sterling in gold among them; they are all proceeding to settle in the Gore district, with the exception of one family who are returning to their friends in the state of New York.

The only pecuniary assistance I have been obliged to grant this week among the passengers, was to one poor women with three children, who is going to her husband at Bytown.

The arrival of a large number of vessels, during these last few days, has furnished us with labourers and tradesmen, who will find abundance of employment during this and the ensuing month, with good wages,

Week ending 19th September, 1840.

The emigrants arrived this week are generally in good circumstances: their destination, with few exceptions, is Upper Canada. The passengers in the Clio, from Padstow, 58 in number, are chiefly mechanics and farmers; a few of the former remain in Montreal for employment, the remainder are going to the townships of Aspadel and Darlington, in the Newcastle district, and to Whitby in the home district; they all possess sufficient means to enable them to settle on their own lands, and have friends and relations already settled in that part of the country.

The passengers per the Josepha, from Belfast, 154 in number, landed in good health, and proceeded immediately on their route to Kingston, Port Hope, Toronto, and Hamilton; a number of the young men intend remaining in Montreal for employment. Among the arrivals this week were about 80 Scotch emigrants, from Grenock, Aberdeen, and Dundee, all in good circumstances; they intend settling in Upper Canada.

I regret to report several families arrived in distress on board the Cherub, from Londonderry; they were 91 days on the passage, and suffered much for want of provisions; they put into St. John's, Newfoundland, and obtained a supply, which was, however, all expended previous to reaching this port. I found on arrival here a large number of her passengers in great distress, and was under the necessity of sending a supply of oatmeal and bread immediately on board, and extended assistance to 11 families of 57 persons; they were, with the exception of two, all poor women with large families, coming out to their husbands who were settled in the Upper Province; the truth of their statement was fully substantiated by letters they had with them. There are a few families in the Spay, from Killala, which also had a long passage of 82 days, who were the only persons I found deserving or requiring assistance.

I continue to receive most favourable accounts from all quarters of the increasing demand for labourers. A letter received from the Hon. S. Hat, Chambly, states that a large number of labourers would find immediate employment on the canal, wages 3*s*. per day.

Week ending 31st October, 1840.

The arrival of emigrants from the United Kingdom may be considered closed for this season. I am happy to say there are few, if any, unemployed emigrants remaining about Quebec.

No. 9.

Office of Her Majesty's Chief Agent for Emigrants in the Canadas,
Quebec, June 8, 1840.

SIR,

REFERRING to the instructions contained in your letter of 11th ultimo, to the effect that I should take such legal steps as might be within my competence to recover the tax paid by emigrants, wherever I could ascertain that a charge had been made upon them upon that account, —I have the honour to report, for the information of his Excellency the Governor-General, that, having ascertained that the emigrants who came out in the ship Robert Kerr, from Belfast, had paid sums equal to the tax, in addition to their passage-money, I caused one of them to make an affidavit to that effect, a copy of which I inclose, and having laid it before Messrs. G. H. Parke and Co., of this city, the consignees of the vessel, I made a demand upon them for restitution, which was refused. An application to the master of the vessel having been equally unsuccessful, I drew up and submitted to Mr. Black, Queen's Counsel, a statement of the case, a copy of which, with the opinion of that learned gentleman, I also enclose.

The emigrants by the ship Sarah Stuart, from Belfast, also consigned to Messrs. G. H. Parke, and Co., were similarly situated; as were also those by the Thomas Worthington, from Liverpool, consigned to Thomas Frost, and Co., and my exertions and applications on their behalf were, I regret to say, equally unsuccessful.

The case of the emigrants by the ship George Wilkinson, Brown, from Liverpool, which arrived here on the 4th instant, having appeared to me to present features distinguishing it favourably from that already submitted to counsel, I thought it my duty to take advice upon it, and in the absence of any Crown lawyer, (Mr. Black having in the mean time gone up to Montreal,) I consulted my own professional adviser, Mr. Montizambert, copy of whose opinion, with the case submitted to him, I also enclose.

The unfavourable nature of this opinion also is the more to be regretted, as Captain Brown seemed perfectly willing and even desirous to pay over the money to the poor emigrants, pro-

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.
Encl. 1, in No. 26.

vided he should be justified in doing so by the result of an amicable suit against him in the name of one of the passengers for that purpose, or any other expedient which could be devised to release him from the responsibility to the parties in England under which he was placed. The ship-masters and consignees, in every instance, now refuse to refund the tax, and the law gives me no power to compel them.

I am, Sir,
Your obedient servant,
(Signed) A. C. Buchanan, Chief Agent.

T. W. S. Murdoch, Esq., Chief Secretary,
&c. &c. &c.

Case.

The ship Robert Kerr is chartered in Belfast for freight and passengers to Quebec, and a sum equal to the tax imposed by the late provincial Statute is exacted from each head of a family among the passengers, over and above the passage-money, and expressly to cover such tax.

The above Act having expired, the consignee of the vessel at this port refuses to refund to the passengers the money so collected from them.

Question.

Can any legal steps be taken by the passengers, or on behalf of the Crown, against any and what party here for the recovery of this money?

Opinion.

I am of opinion that in the case stated the passenger or emigrant would be entitled to recover back from the charterer a portion of the passage-money equivalent to the amount of the tax received in Belfast, the tax appearing to have been paid by the passenger or emigrant. The recovery would be against the charterer alone, by whom the money was received, and no action could be maintained either against the master, owner or consignee of the vessel here.

Quebec, 26th May, 1840. (Signed) H. Black.

Case.

A ship is chartered in Liverpool to carry passengers to Quebec. A sum equivalent to the tax imposed by the provincial statute, 2 Wm. IV., c. 17, in addition to the passenger money, is exacted from each passenger by the charterer, who then hands a bag of money to the master of the vessel (taking his receipt), with instructions to pay the tax on his arrival here.

The above Act having expired, your opinion is requested as to whether any and what steps can be taken to compel the restriction by the master to the passengers of the amount exacted from them under colour of the tax, and handed to him as above stated?

Opinion.

I am of opinion that, in the case stated, no action would lie against the master, inasmuch as the expired Act, in contemplation of which the sums were exacted and paid, imposed a tax, not on the emigrants personally, but on the master or person in command of every vessel arriving in the port of Quebec with passengers or emigrants from the United Kingdom.

The money was, therefore, received by him to his own use, and not to that of the passengers; and the contingency for which it was given to him not having occurred, he is liable in the amount to the party from whom he received it, and to him only.

In like manner the remedy of the emigrants is against the party to whom, under an erroneous idea of legal liability, they paid sums of money which they were not otherwise, *ex eyus et boni*, bound to pay, and against him only.

Quebec, 5th June, 1840. (Signed) E. L. Montizambert.

Province of Lower Canada, District of Quebec.

Daniel Bailie, George Black, Alexander Menzers, John Cleghorn, James Whinstech, Duncan M'Kinlay, John M'Kay, and Samuel Donaldson, all passengers on board the ship ————, being duly sworn upon the Holy Evangelists of Almighty God, do respectively and severally swear, depose, and say, that they, the deponents, were steerage passengers in the emigrant ship ————, commanded by Captain ————, and that they set sail from Glasgow, in Scotland, on or about the 27th day of April last, and arrived in Quebec on the 13th day of July instant, having had a passage of 11 weeks; that the vessel, at the period of her setting sail, was not sea-worthy, having a leak in her larboard bow, which was known to the captain before setting sail from Greenock, and in not having any spare spars on board; that the second evening after putting to sea the ship lost her fore-top-gallant mast, and on the 10th of May she lost her fore-top and jury-top-gallant mast and main-top-gallant mast, also her flying jibboom, and that, from the want of spars, it was not possible to remedy the loss; that although Captain ———— saw that it was not possible for his crew to work the pumps and keep the ship afloat, the ship making at times 17 inches of water an hour; that he disregarded the safety of the passengers, and risked the lives of all on board by keeping his course instead of putting into a port in Scotland or Ireland; that the passengers were obliged to work night and day at the pumps to keep the vessel afloat, and that many of them have seriously suffered in their health from the hardships and anxiety of this voyage; that, in addition

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.
Encl. 1, in No. 26.

to the foregoing charges, the deponents have to complain of the general treatment of the passengers by Captain ———; that Captain ———, besides great cruelty of conduct towards many of the passengers, exhibited by striking some of them, sold the provisions of the ship to the passengers at an exorbitant rate, the rates of the provisions being double the usual retail rates in Scotland; that no list of the prices of such articles as he sold to the passengers was ever exhibited in any part of the ship to which the passengers had access; that Captain ———, in other respects, behaved with violence and cruelty to his passengers.

(Signed) Daniel Bailie. George Black.
Alexander Menzers. John Cleghorn.
James Whinstech. Duncan M'Kinlay.
John M'Kay. Samuel Donaldson.

Province of Lower Canada, District of Quebec.

Henry Fotheringham, now at the city of Quebec, mariner, mate of the ship ——— ———, being duly sworn, doth depose and say that ———, captain of the ship ———, on his voyage from Glasgow to Quebec, had 70 steerage passengers on board; that his conduct to the passengers during the said voyage was arbitrary, mercenary, and cruel; that the ship, at the period of sailing from Glasgow, was making seven inches of water from a leak in the bow, and that she sailed without any spare spars on board; that before the ship had been two days out, she lost her fore-top-gallant mast, and afterwards her fore-top-mast, flying jibboom, and main-top-gallant mast; that there were no means on board of remedying the loss; that the ship was making so much water that the crew were not able to keep the pumps going without the aid of the passengers; that many of the passengers suffered in their health from the hardships imposed upon them; that the stock of provisions laid in was not sufficient, and that the passengers had to pay at an exorbitant rate for them; that there was no list of prices at which the provisions were to be sold for, put up in any part of the ship to which the passengers had access; and further, that the general conduct of the captain to the passengers was arbitrary in the extreme.

(Signed) Henry Fotheringham.

Sworn before me, this 15th day of July, 1840.
(Signed) Ebenezer Baird, J.P.

Two Affidavits of Peter Scott and Patrick Leary, vide page 18.

Sir, Emigrant Office, Toronto, 25th June, 1840.

I have the honour to state, in reply to your letter of the 9th instant, that I have written to Mr. Rubridge respecting Colonel Wyndham's emigrants; should Mr. Rubridge experience any difficulty in obtaining employment for them in the Newcastle district, I can furnish them with work in this vicinity.

The number of emigrants landed at this place since the opening of the navigation, exceeds 800; with very few exceptions these people become actual settlers in the Home, Gore, and London districts; a few families remain in town seeking employment, and, I am happy to add, that there is every prospect of their obtaining it; up to this date little or no difficulty has been experienced in getting employment, for all who are willing to work for the current wages of the country; and as the harvest is close at hand, no apprehension need be entertained of a scarcity of labour for some time to come. Before the harvest is over, I hope we shall be able to obtain work on the Macadamised roads for all who may find difficulty in obtaining it elsewhere.

The last communication I received from Mr. Burke, emigrant agent at Bytown, was dated on the 9th instant; he computed the number of emigrants who have passed up the canal, and who landed at that port, at between 1,400 and 1,500.

About 200 remained at Bytown, and Mr. Burke says, "I have much pleasure in adding that the condition of the emigrants, with very few exceptions, appear to me to be rather comfortable than otherwise; only two cases of indigence came under my notice so far."

Sheds to shelter the destitute have been erected at Bytown and Toronto.

At Kingston a committee consisting of Dr. Sampson, Mr. Kirkpatrick, and Mr. Manahan, have been appointed by the Lieutenant-Governor, to superintend the preparation of one or two wards of the hospital for the reception of the sick indigent emigrants, and Dr. Robinson has been appointed to take charge of the patients.

Mr. Manahan informs me that the total number of emigrants landed at that port to the 18th instant is 1,940, of whom 37 were under medical treatment. None of their complaints were of a very serious character, and only one death has occurred. A considerable number of these emigrants found employment at Kingston and the Bay of Quinte. Mr. Manahan says, "very few remain unemployed, for there has been a laudable anxiety manifested to secure them employment in every part of the country."

The number of settlers landing at Hamilton has been so considerable as to render the appointment of an assistant to this officer necessary, and Dr. A. C. Thomas has been appointed to act in the double capacity of physician and agent. Dr. Thomas filled the same situation in 1837, and is therefore well acquainted with its duties.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

Encl. 1, in No. 26.

Government have decided upon opening a road from Goderich to the township of Ashfield, a distance of nine miles. This road will open a fine district of country for settlement.

It is also in contemplation to continue the road from Oakville to Owen's Sound; the road from Oakville to Garafraxa is already passable, but from that township to Owen's Sound, 60 miles, a new road is to be chopped 66 feet wide.

This communication will also throw open one of the finest and most extensive districts in the province, to the settler. It is impossible to speak in too high terms of the beauty of the country, the richness of its soil, or the salubrity of the climate. These undertakings do not promise much immediate advantage to the emigrant, but prospectively they promise to be of vast importance to the settler.

The Indians who occupied the land on the Cold Water Road have been removed to Rama, Government having purchased their lands, and they are now open for the settler at a very reasonable rate. There are considerable clearances on the road, and the huts, which were occupied by the Indians, are still standing. These lands are offered at the low rate of 10*s.* per acre to the actual settler, and hold out the greatest inducement, as he gets a small quantity of cleared land to cultivate at once, and a hut to shelter his family.

I have, &c.
(Signed) A. B. Hawke,
Chief Agent for Upper Canada.

Sir, Frankford, River Trent, 16th May, 1840.

I have the honour to acknowledge the receipt of your letter, dated the 25th April, to which I should have replied sooner, but that Mr. Bowen, a neighbour of mine, had at my suggestion written to you on the subject of your inquiries a day or two previously. Since Mr. Bowen wrote to you, I have made it my business to make inquiries of several persons who I thought might be interested in procuring labourers, and on whose judgment as to the wants of the country I thought I could rely. The result of my inquiries is, that 500 or 600 agricultural labourers would have little difficulty in finding employment in the country on the Bay of Quinté, viz., in the Midland district above Bath, Prince Edwards and Victoria, and the Newcastle districts, from the mouth of the Trent. That class of buildings called cottages for labourers is not very numerous in this section of the country; yet I feel confident, if the men themselves are not too difficult to be pleased, accommodations of the kind could be found for a fair sprinkling of married men and their families. You mention that you directed a considerable number of emigrants to this section of the country last spring; I did not hear of a single individual reaching the Trent. If they came into the bay at all, it is a proof of the great demand there is for that class of people. For my own part, I cannot doubt but that double the number I have mentioned would find employment, if they would but seek it and endeavour to accommodate themselves to the labour of the country, but so far as my own observation extends, as there is no person in the different villages and landing-places along the bay who has either instructions or leisure to attend to the wants of his neighbour in the country, far less to those of strangers, the emigrant after making two or three fruitless inquiries, proceeds along the main road, on a line with the shore, where his services are the least likely to be in request, and avoids altogether the settlements in the rear, where employment and remuneration awaits him, and where, if he is steady, a fair prospect of a permanent settlement would be the result of his labour.

There seems to be a great demand for good servant girls in the village, and some few are required in the country; three and four dollars per month is the average of wages. Blacksmiths are wanted; wages 14, 15, and 16 dollars per month; a few carpenters and masons would find employment; in short, almost any mechanic, if he is industrious and be not over fastidious, may meet with employment, provided he seeks it; and, as Mr. Bowen observed to you, when he becomes acquainted with the work of the country, with a fair chance of successfully establishing himself in the end.

The wages for agricultural labourers would be, as Mr. Brown stated, from 80 to 100 dollars with board, by the year; a good number of farmers are now willing to hire by the year; at present, by the month, about 10 dollars.

I am, &c.
(Signed) J. Brooks Crow.

My Dear Sir, Emigrant Office, Toronto, 4th November, 1840.

I have the honour to acknowledge the receipt of your letter of the 8th ultimo, and to state in reply thereto, that I immediately addressed letters to the agents of this department, on the subject you referred to, the substance of which I beg to submit for your information.

The number of emigrants landed at Kingston is stated, in Mr. Roy's report to the 31st ultimo, at 10,602, of whom he is of opinion that 1,200 have gone to the United States. A large proportion of the remainder, 9,402, Mr. Roy says, were very poor, but, generally speaking, sober and well behaved. Not a complaint, he assures me, has been made to him during the season of any breach of the law by any emigrant. He has found it necessary, however, to grant free passages and provisions to 4,377 persons.

My steam-boat returns show that 5,172 landed at Toronto; and, from the best information

which I have been able to collect, the remainder of the 9,402 above mentioned were distributed as follows:—

Went to the Midland district, and districts bordering on the Bay of Quinté	2,500
To the Newcastle district, landed at the ports of Cobourg, Port Hope, and Whitby	7,500
To Niagara and Hamilton	800
And the remainder to St. Catherine's and Oakville; say . .	380
Landed at Toronto	5,172
Total . . .	9,602

It is impossible to say how many of these emigrants have become permanent settlers at the ports and places above mentioned. Even emigrants of the better class generally move from place to place the first season, allured by expectations which are rarely realised; and the labouring part of the population, on both sides of the lines, are a very unsettled class, the mass of whom can scarcely be said ever to have a permanent home.

As the Quebec returns to the last of September show that 22,000 emigrants have landed this season at that port, it follows that 11,398 remain unaccounted for. Of this number, upwards of 1,000, I am assured by Mr. Burke, emigrant agent at Bytown, have settled along the Ottawa and Rideau. I have no means of ascertaining how many have settled in Lower Canada, or what number are still on their way to this province; but, under the impression that we may expect a considerable number of emigrants from Lower Canada, before the season closes, I have obtained the authority of the Lieutenant-Governor to continue the services of the emigrant agents at Kingston, Bytown, and Hamilton, to the 21st instant, being 21 days later than usual, and to keep open the Kingston hospital, for the reception of sick indigent emigrants, until the 1st of December.

Two-thirds of the emigrants who have reached Toronto this season have been mere labourers, unaccustomed to farming. As I stated in my last report, their knowledge appears to be confined to the use of the spade and the pickaxe; and I have found it impossible to furnish so large a number with suitable employment. The agents at Kingston and Bytown have experienced the same difficulty, and I have been obliged to afford relief to an unusually large number. In my next report, I trust I shall be able to state the total expenditure for the season, as I have instructed the agents to send in their accounts as soon after the 21st instant as possible.

In reply to my inquiries as to the number of emigrants who have entered this province by the United States, the agents state that they have no means of ascertaining, but that they have been assured, by the captains of the steamers, that they have brought as many deck passengers to this province as they have taken from it. I am, however, of opinion that the balance is greatly against us; but I hope I shall be able to obtain some information upon this subject, which may be depended upon, in time for my final report for the season.

Upwards of 170 tickets have been already issued to settlers, for 50 acres free grants, on the Owen's Sound line of road. If this system is persevered in for a few years, and if we obtain from home a class of settlers who have sufficient means, say 25*l.* or 30*l.*, to sustain themselves and families until their first crop is harvested, it will, in my opinion, do more to enhance the value of property in the colony, and to improve it politically, than any other system which has been heretofore adopted.

I annex a copy of Mr. Chatterton's letter respecting the emigrants sent out by Colonel Wyndham.

I have, &c.
(Signed) A. B. Hawke,
Chief Emigrant Agent for Upper Canada.

Dear Sir, Cobourg, 24th October, 1840.

I send you as desired all the information in my power concerning the emigrants landed here during the past summer.

There are remaining in Cobourg and mostly employed:—Timothy McMahon and family, Patrick White and family, John Wallis and family (one son dead), Francis Curtin and family, Daniel McNamara and family, John Kean and family, Widow McMahon and family, T. Cunningham and sister, Widow Savery and family (her husband died on the voyage), Widow Joan McMahon and family, M. Kelly and brother, Catherine Molloy and family (her husband was left in Ireland), Widow Kelly and son, Widow Bridget, McNamara and family, Patrick Purcell and sister.

Gone to the States:—Patrick Maroney and sister, Patrick McDonald (single man), John Cory and mother, Stephen Kenly (single man), Patrick O'Callagher and family, and two other females' names not remembered.

All the others are scattered about the district in farm and other service.

Yours very faithfully,
(Signed) Richard D. Chatterton.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.
Encl. 1, in No. 26.

Extract of a Letter received from J. Roy, Emigrant Agent at Kingston.

I beg to send you the following particulars, respecting the emigrants to this port, for your information:—

Total number of emigrants arrived by the St. Lawrence and Rideau Canal this season	10,978
From the State of New York, some of them are native Americans, but far the greatest proportion, at least seven-eighths, old countrymen, but who have been long settled in the Republic .	1,300
Total	12,278

Of this number 10,000 were from Ireland, 1,200 of them went direct to the United States, by the invitation of relatives, and in many instances they had promises of being provided for, which, if true, was far better than anything they could expect on this side.

Of the emigrants who have scattered over the province from this to the Gore district, not more than 300 have gone to Lake Erie, where they are much wanted and are doing well, especially those who went into the country either to settle on their own lands or work as farm-servants, while those who stop about the towns as day-labourers and went upon the public works have not done so well, notwithstanding they have from 3*s.* to 3*s.* 6*d.* per day. The expense of living in towns and the inducements to extravagance and idleness have left them but little for the winter. They are now nearly all discharged, and they have learnt nothing to make them any more useful than they were on their first landing. Yet no persuasion of mine could induce them to believe that cold weather and increased expenses would come, and that employment in the way they were getting it would cease.

I have kept a memorandum from the beginning of the season of the capital brought in cash by the emigrants, as far as I could get the information from them, and it amounts to 61,340*l.* sterling by 241 individuals, all agriculturists, and many of whom I have the satisfaction of knowing have settled upon land much to their advantage.

I am happy to inform you that emigration has attracted the attention of the people of all sections of this province, and emigrant societies are springing up in almost every district, from which great advantage to the emigrant may be anticipated.

I have, &c.,
(Signed) John Roy, Emigrant Agent.

Bytown, 1st December, 1840.

Dear Sir,

I have to acknowledge the receipt of your letter of the 20th ultimo, and in reply beg to inform you, that I estimate the number of emigrants who arrived at this place during the present year to amount to about 12,000 souls, out of which number about 1,000 have remained in this place and neighbourhood; out of the number who went upwards from this, I think it probable that 500 have settled in the different districts on the route of the Rideau Canal.

From all that I could observe, 500 of those who passed here intended going to the United States.

I have, &c.
(Signed) George R. Burke.

A. C. Buchanan, Esq., Quebec,
&. &c. &c.

Paper, No. 10.

Suggested Amendments to the present Passenger Act, with explanatory Notes, submitted for the consideration of his Excellency the Governor-General by Mr. Buchanan, Chief Agent for Emigration, &c. &c.

Second Clause.

Two passengers to every four tons; in no case should there be allowed more than one passenger to every twelve superficial feet of the 'twixt decks or platform, which may be appropriated exclusively to their accommodation; or say a number equal to two-thirds tonnage, and all children to count.

The space of 5½ feet should be counted from beam to beam, and not from the deck to the platform, as the two beams frequently occupy from 2½ to 3 feet of the space, in small vessels.

If the number of passengers in proportion to tonnage were so fixed, that instead of computing them by different ages every soul were counted as one passenger, much difficulty would be avoided, and, if a penalty of five pounds per head was imposed for every one beyond the number allowed, the practice of carrying an excess would soon be checked. The manner of computing children, prescribed by the 13th clause of the present Act, is one which has always caused difficulty, and is the occasion of fraud by the falsification of ages.

The law in the United States allows only two passengers to every five tons actual measurement.

Third Clause.

Ships carrying passengers, to provide five lbs. of biscuit per week for each passenger.

NOTE.—This amendment, I conceive, will obviate and remove one of the great causes of the distress which is found so frequently to exist on board of emigrant ships, viz., a deficiency of provisions. It is next to impossible for the agents at home to ascertain whether the provisions of the law, as it now stands, have been complied with. An extra charge of 7*s.* 6*d.* for each passenger would cover this expense, and the emigrant would not object to pay it on being made aware that he would receive an equivalent in return.

Sixth Clause.

The master to be restricted as to the prices which he may charge his passengers for any provision, which they may be under the necessity of purchasing from him; say, limit him to 10 per cent. advance on the first cost. The sale of spirituous liquors should be prohibited under a heavy penalty, unless ordered as medicine.

NOTE.—This or some other restriction should be adopted, in order to prevent a recurrence of the numerous complaints which have been made of late years against the exorbitant charges which masters exact from their passengers for any provisions they are obliged to purchase. If the Third Clause was altered, as proposed, this would not be of so much importance.

The present disgraceful practice of selling spirituous liquors to emigrant passengers is the frightful source of disease and want.

Ninth Clause.

Vessels with over 100 passengers to be obliged to carry a medical practitioner on the voyage to North America.

NOTE.—It appears to be the opinion of medical men that this number should be even smaller. The Medical Inspector-General, Dr. Skey, in his evidence before the Commission appointed by the late Earl of Durham, recommended that a medical practitioner should be provided for a smaller number. The adoption of this clause must of course be regulated by considerations of economy, but it is hoped that it can be carried into execution without seriously affecting ship's charges, and thereby increasing the price of passage. Emigrant ships from Liverpool appear more particularly to require the presence of a medical man.

Eleventh Clause.

The Government agent for emigrants at the ports of embarkation to certify on each passenger list as to its correctness, and that the conditions of this Act have been duly fulfilled. This should be done in duplicate, and one of the lists delivered to the Government emigrant agent at the port of landing, the other to the collector or chief officer of Her Majesty's Customs, as is at present provided for in the Act. The certificate of the Government agent at the port of landing, of the due fulfilment of contract on the part of the master to be required, to enable masters or owners of vessels to cancel bonds in the United Kingdom.

NOTE.—The certificate as to the correctness of the passenger lists is very necessary, as the lists furnished now are in many instances wholly incorrect as to names and ages. A duplicate list should be deposited with the Government agent, to enable him to make his return with accuracy: it should remain in his office as a public record for free inspection.

Thirteenth Clause.

If section 2d were altered as above, this clause might be struck out, as it is one which has always caused difficulty.

Eighteenth Clause.

Jurisdiction to be given to justices of the peace in the colonies, and the course of proceedings to be defined.

The object of the Eighteenth Clause is defeated in Canada by the want of jurisdiction of the local magistrates under any Acts of the Parliament now in force relating to smuggling, to the customs, to trade, or navigation. The court of Vice-Admiralty is the only tribunal before which the proceedings contemplated by this Act can be taken. If jurisdiction should be given to colonial magistrates, a general reference to a course of proceedings, of which they have no knowledge would not be sufficient.

Twentieth Clause.

All ships carrying steerage passengers to be subject to the general provisions of this Act, but if the number do not exceed 50 souls, the master not to be required to enter into any bond.

NOTE.—The necessity of amending this clause is evident from the result of the proceedings which were entered against the master of the ship alluded to in page 75 of this report.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

Additional new Clauses.

Encl. 1, in No. 26.

1st. Passenger broker not to be permitted to exercise their calling without a license from the land and emigration commissioners.

2nd. The master or person in command of vessels carrying passengers to be held liable to them for all contracts and bargains made by the charterer, broker, or ostensible agent.

Enclosure 2, in No. 26.

SIR, Emigrant Office, Toronto, 28th December, 1840.

Encl. 2, in No. 26.

THE navigation of the River St. Lawrence and the Rideau Canal having closed for the season, it becomes my duty to lay before you, for the information of the Lieutenant-Governor, the usual Report of the Emigration to Upper Canada during the year 1840.

In order to ascertain as fully as possible the number, condition, destination, and general character of the emigrants of the current season, I addressed a circular to the agents of this department stationed at Bytown, Kingston, and Hamilton, a copy of which, No. I, is hereunto annexed.

The documents numbered 2, 3, and 4, are copies of the answers, transmitted to this office by the agents in reply to the questions put in my circular. It is my intention to give the substance of these communications, and to make such remarks on them as will, I trust, furnish his Excellency with a condensed view of the emigration of the past season.

Mr. G. R. Burke, emigrant agent, Bytown, states that the number of emigrants who passed through the Bytown Locks at 12,000, of whom 1,400 settled up the Ottawa and at Bytown and its neighbourhood. He states that more than one-half of the 12,000 were considered objects of charity by the emigrant agent at Montreal, and the Committee appointed by Government to investigate the applications of emigrants for assistance. Mr. Burke says that the emigrants were generally healthy, and their appearance indicated a greater degree of comfort than could reasonably be expected after such long passages and their exposure to so many hardships. The number of deaths at his agency was fourteen: four adults and ten children. From the circumstance of only eleven or twelve emigrants being cabin passengers, as well as from their general appearance, he is of opinion that very few could be considered as persons of property.

The number of mechanics was so limited, that Mr. Burke says he could not find enough to supply the demand in his neighbourhood. Mr. Burke granted assistance to 6,010 indigent emigrants, to enable them to reach Kingston. The only complaints which reached him were confined to the over-crowded state of the barges; an evil which I trust will not again occur, as extensive preparations are said to be making by the forwarding merchants to add to the number of tow-boats and barges next year. Employment was readily obtained for all the emigrants who landed at Bytown; and Mr. Burke speaks in high terms of the good conduct and sobriety of all the settlers who came under his notice.

All emigrants who pass Bytown proceed to Kingston, where the navigation of the Rideau ceases. The emigrants land at this port, and the agent has consequently a better opportunity of ascertaining their condition than is afforded to the agent at Bytown. Mr. John Roy's report, No. 3, states that 10,978 emigrants landed at Kingston, of whom 1,200 proceeded to the United States, "influenced by the desire to join friends already settled in that country, or by a discontented spirit that would not be satisfied anywhere." He agrees with the agent at Bytown, in stating that most of the emigrants were poor people; but from a list which he kept from the commencement of July he ascertained that emigrants landed at Kingston having capital, without including sums less than fifty sovereigns, to the amount of 61,340*l.* sterling; and, from the aversion felt by the emigrants generally, and Scotch settlers in particular, to tell the amount of their capital, he thinks that the sum mentioned is less than the actual amount. A copy of the list is annexed to Mr. Roy's report. I was anxious to ascertain where these capitalists had settled; but, in answer to my letter making the inquiry, Mr. Roy informed me that he could give me no information on that subject, and expressed his regret "that he did not take notes of their destination."

Their conduct was decidedly good. Mr. Roy says that 167 patients were admitted into the hospital; and he thinks that the number of out-door patients exceeded that number; and he estimates the number of deaths at 90. Mr. Roy granted assistance to 4,919 indigent emigrants. Complaints similar to those mentioned by Mr. Burke reached Mr. Roy.

The parties mentioned in his report who sustained losses by the mismanagement on board the bark ——— applied to me for redress; and I am happy to say that the owners have paid the parties the amount of their claims.

Mr. Roy states that 3,140 emigrants have settled in the Bay of Quinte and in the Colborne, Newcastle, and Johnston districts; and that about 800 had been employed at Kingston and its vicinity, the greater part of whom had been recently discharged and sent to Toronto. The conditions of those who had families, he says, did not appear to have been improved. Mr. Roy speaks in high terms of the moral conduct of the emigrants generally, and their obedience to the laws, and concludes his report by observing that, "from present appearances, a greater interest appears to be taking in emigration than has been for some time; and the

societies now forming in every district, I have no doubt, will be productive of much good, and will put the different agencies in possession of much correct information, not only as to where labour may be found for emigrants, but where land may be purchased with less trouble and expense than at present. The captains of the American steamers think they have brought more settlers from the United States to this place, by about 100, than they have taken from this to the United States."

During the current year 5,508 emigrants landed at Toronto. I succeeded in obtaining work for all farm servants and mechanics who applied at my office, but I experienced much difficulty in obtaining suitable employment for labourers and their families. The expenditure of the amount authorized by the Governor-General on the Macadamized roads enabled the Commissioners to give employment to a great many persons of this description; but as soon as the expenditure, or the state of the weather, obliged the road-commissioners to dismiss them, they, in common with a great many others, who got temporary employment in the harvest, again became applicants to this office for assistance. Considerable parties belonging to the same class continued to find their way to Toronto from the Midland and Newcastle districts; and I was compelled to send such as had large families to Hamilton, Oakville, Niagara, and Queenston. Since the middle of November applicants for work have been few in number, and I trust that most of the emigrants have settled for the winter. Great difficulty has always been experienced when public works are at a stand in providing work for labourers having families. The only way in which considerable numbers of such persons can be absorbed is by giving them free grants of land, and affording them public employment until they can manage to sustain themselves and families from the produce of their farms; and I beg to repeat my conviction that if this system is followed up in the different districts by the Government and large landholders, the happiest effects will result from it.

The number of indigent emigrants sent to this province by the Montreal Emigrant Society, is stated in their Report at 7,390, and as the total number of emigrants who entered Upper Canada during the current year is given at 12,350, it follows that 4,960 paid their own passages.

Sent by the Montreal Emigrant Society—

To Bytown	6010
Kingston	1116
Prescott	30
Cornwall	131
Glengary	12
Total	7386

The number of emigrants who received relief in Upper Canada is as follows:—at Bytown, 4,919; Toronto and Hamilton, 1460; and the number of deaths at these stations is stated to be 114.

Deaths at Bytown. 14
Kingston 90
Toronto, 7
Hamilton 3
Total 114

It is to be borne in mind that the emigrants who applied for help at Bytown, were merely assisted to reach Kingston, and that many of those who were relieved at Kingston, received further assistance at Toronto.

The expenditure on account of emigration up to the present period, amounts to 2,658*l.* 0*s.* 9½*d.* currency, but as there are other claims in the course of examination, the total expenditure for the year may be stated at 2,800*l.* currency. This sum does not include, however, the passages of indigent emigrants from Bytown to Kingston. No demand has been made upon this office, for that service, and as it was not in the power of the agent at Bytown to investigate the correctness of claims for free passages, established at Montreal, and acted upon by the Emigrant Society at that place, I take it for granted that this expense will be paid in Lower Canada.

With reference to the distribution of the emigrants of the current year, it appears that 23,190 landed at Quebec, of whom only 12,350 reached Upper Canada, viz. 12,000 by the Rideau, and about 350 by the St. Lawrence. The difference between the number who landed at Quebec, and the number who entered this province, 10,840, will, I have no doubt, be accounted for by Mr. Buchanan.

The emigrants who reached this province were, as nearly as I can ascertain, disposed of as follows:—

Settled at Bytown and neighbourhood, as stated by Mr. Burke	1,400
Settled along the Bay of Quinte, and the Colbourne, Johnstown, and Newcastle districts, as stated by Mr. Roy	3,140
Gone to the United States, according to Mr. Roy's return	1,200
Landed at Toronto, the majority of whom have settled in the Home, Gore, London, and Niagara districts	5,508
	11,248

The emigrants sent to Hamilton were chiefly labourers. Much of the difficulty complained of by Dr. Thomas in his Report, in obtaining suitable employment for them, may be attributed to the neglect of the Road Commissioners, to avail themselves of the appropriation by his Excellency the Governor-General, to be expended on the Waterloo and Dundas Road, at the proper period. Dr. Thomas says he could only get work for a small number, and that he recommended the others to disperse through the country, and he has reason to believe that many who had sufficient "money to do so, proceeded to the United States."

Although many applied to him for medical relief, he considers that the past season has been more healthy than some preceding ones, only three deaths came within his knowledge at his agency. As most of the emigrants sent to Hamilton were forwarded at the Government expense, I felt it my duty, except in two or three instances, to refuse all assistance at that port, beyond a limited supply of food, and medical help, and comforts in cases of sickness. No complaints were made to Dr. Thomas of ill treatment on the route within the

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

Encl. 2, in No. 26.

province, and as Mr. Buchanan mentions that repeated complaints had reached him early in the season, of the nature adverted to by Dr. Thomas, ill treatment during the passage to Quebec, he will, I have no doubt, do all in his power to prevent a recurrence of the evils complained of. In reply to my request that he would suggest any improvements that might occur to him connected with emigration, he says: "The chief improvement may be comprised in the discouragement of pauper emigration until adequate means have been taken by the Government, or the public, for the immediate employment and complete superintendence of such persons. I anticipate no improvement in the present system of emigration by the transportation of emigrants by the Irish landholders, highland chieftains, or parish committees. Canada requires not only the increase of population, but increased means of employment, and without the latter the poor emigrant must remain a burthen upon the public, until they gradually find their way into the United States, where capital has been hitherto more abundant. It is not sufficient that Canadian farms might be improved by an increase of labour expended thereon; the required capital for such increased labour is wanting, and before immigration can become really useful to the community, means must be found by the Government for the employment of paupers upon the waste lands, or upon public works, or by the attendant immigration of agricultural capitalists."

These opinions are in the main just. The most valuable class of settlers to this country are persons accustomed to work, who have industrious families, and who have money enough to stock a farm, or purchase one that is partially improved. Settlers of this class invariably prosper.

From various causes an unusual number of farms have been thrown into the market since 1837. Many of them are situated in the oldest and best settled parts of the province, in the neighbourhood of churches, mills, post offices, and markets. The prices demanded are so moderate, as to place them within the reach of small capitalists. They principally consist of 200 acres each, with from 50 to 75 cleared, and a tolerably good dwelling house and out-offices. A few years ago, farms of this description would have sold at from 600*l.* to 800*l.* sterling; now, owing to the number offered for sale, they may be purchased, and an unimpeachable title obtained, at prices varying from 300*l.* to 400*l.* sterling.

The amount of taxation in Upper Canada is incredibly small, and scarcely deserves the name. The annual assessment in a farm of 200 acres, say 75 under cultivation, with dwelling-house and out-buildings, is less than 10*s.* sterling per annum. In fact, no civilized community in the world are better protected in person and property, or enjoy a greater degree of liberty than the inhabitants of the Canadas, and I know of no people who are called upon to make fewer sacrifices, to secure those blessings.

Our social condition cannot of course boast of the refinement and luxury of an older country. But the man who is satisfied with a plentiful supply of the comforts and necessaries of life, and the means of bringing up a family without anxiety, and of afterwards establishing them as farmers or tradesmen, in which, with common industry, they cannot fail of success, is sure to become a useful and happy member of society. The opportunities of education have been hitherto of a limited character, and the system has not been suited to the wants of the people generally; but as this subject is now occupying the attention of the executive, we may, with confidence, expect that such measures will be adapted, as will remedy the defects which have hitherto existed.

These are the prospects which may be fairly held out as within the reach of every settler of moderate means. I do not say that those who emigrate to this country will be likely to acquire fortunes, or even a competency, without a concomitant share of perseverance and industry, or that they will meet with nothing to regret in their new position. But with a well contented mind and industrious habits, they will find their condition substantially ameliorated, and all uneasiness, as to a provision for their families dispelled.

I have, &c.,

(Signed) A. B. Hawke,
Chief Emigration Agent for Upper Canada.

S. B. Harrison, Esq.,
&c. &c. &c.

No. 1.

Sir, Emigrant Office, Toronto, 13th November, 1840.

The Lieutenant-Governor, being desirous of obtaining the fullest information respecting the emigration of this year, I am directed by his Excellency to call upon you to report to me on the subject.

I beg to direct your attention to the following heads, and as I am called upon to send in my general report, I hope you will answer my questions with as little delay as possible.

1st. The number of emigrants arrived at your Agency this year, and their destination stating, as nearly as possible, the number who have gone to the United States.

2nd. The general condition of the emigrants as to property, appearance, health, &c.

3rd. Number of deaths at your Agency.

4th. What proportion appeared to be persons of capital, stating whether agriculturists or mechanics.

5th. Number of applicants for free passages, or other charitable assistance.

6th. Complaints from emigrants as to treatment on the route, sufferings from exposure, &c.

7th. Number of emigrants settled in your neighbourhood; state the progress they are making in their agricultural or mechanical pursuits.

8th. Number of destitute emigrants in your vicinity who cannot obtain work; state also the number, if any, receiving assistance from public or private charity.

9th. General remarks as to their moral deportment; suggestions for the removal of any abuses which they may be subject to on the route, and also any improvement in the present mode of conducting the business with the emigration at your Agency.

10th. State the total amount of the expenditure at your Agency this season, including your own salary, free passages, food, &c.

I have, &c.

(Signed) A. B. Hawke,
Chief Emigrant Agent for Upper Canada.

Addressed to Mr. John Roy, Emigrant Agent, Kingston,
Mr. G. R. Burke, Emigrant Agent, Bytown, and
Mr. E. C. Thomas, Hamilton.

No. 2.

Sir, Bytown, 1st December, 1840.

For your information in reply to your letter of the 13th ultimo, I beg to make the following statement:—

1st. The total number of emigrants arrived at this Agency, during the past season, I estimate at 9,870, counting, generally, two children under 12 years of age as one adult, thus making the number of souls, as nearly as possible, 12,000. Of this number I consider that about 1,400 souls have stopped in this town and neighbourhood, including such as have gone up the Ottawa river. As regards the destination of those who passed this place (excepting such free passengers as stopped on the line of the Rideau canal), I cannot speak with any degree of certainty, the shortness of the time they remained here having limited my inquiries and observations nearly altogether to the passengers who were sent up free from Montreal, the provisioning and forwarding of whom took up my time most busily, while they were passing through the locks. Of the whole number passed through here, I suppose that about 500 intended going to the United States.

2d. For the reason stated above, the information I can give as regards the property possessed by the emigrants is very limited. Of the number arrived here, more than half of them were considered as objects of charity by the Government agent at Montreal, and a committee, composed of gentlemen of the first respectability in that city, by whom they were strictly examined as to their means before they received the assistance they applied for. I must, therefore, conclude that a large portion of that number were destitute persons. With respect to their appearance and health, generally, from the length of time they had been at sea, and the sufferings they endured from scarceness of food, &c., previous to their landing in Canada, together with their crowded state and long passage in the boats between Montreal and this place (six days being about the average time), it is only to be wondered that they looked so well and were in such good health. A good deal of sickness, no doubt, occurred, and I believe that it increased as they went on to Kingston; but there were fewer cases in this quarter than might have been expected.

3rd. Four adults (two of them aged persons) and 10 young children, were all I could perceive had died here.

4th. From the circumstance of there being not more than about a dozen persons (emigrants) passing through by this route as cabin passengers on board the steamers, I am of opinion that very few of the emigrants arrived here this season could properly be persons of capital. Of the passengers by the barges, a few, having the appearance of being the wealthiest, could not have been better than small farmers in the country they left. I had good opportunities for knowing that the number of mechanics among them was small indeed, having occasion constantly to be on the look out for different descriptions of this class of emigrants.

5th. The following is the number of passengers sent on free by my orders, viz.:—

To Kingston	4,452
To parts on Rideau Canal	224
To Fitzroy Harbour	99½
To Montreal	4
To Longeuil	1
	4,780½

By returns which I have lately received from Mr. Allison, it appears that he sent up 995½ full passengers (making 1,230 souls), who arrived at and passed this place previous to the 10th June last, none of whom are included in the above statement. Nearly the whole of these passengers called for and received a small supply of bread or biscuit from me, having previously received a supply of oatmeal in Montreal to carry them as far as this place.

6th. Complaints were made to me, occasionally, by the passengers of their being too much crowded in the boats, and from the obvious effect it had on their health, and also it is to be supposed on their morals, I must say that their complaints were not without foundation.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.

Encl. 2, in No. 26.

7th. About 100 families have settled themselves on lands in this section of the country, but being chiefly at a distance from me, and their location very much scattered, I have no opportunity of knowing what progress they are making.

8th. I have great pleasure in stating that there are no emigrants out of employment here: neither are there any under the necessity of applying for charitable assistance.

9th. It gives me great satisfaction to bear testimony to the general good conduct of the emigrants who arrived here this year. Cases of intoxication were very rare indeed, as was also any tendency to quarrelling or rioting. I consider the crowding into small boats, of so many persons of both sexes to have a very bad effect on their morals, particularly, as it sometimes, though seldom happened that persons of loose character would unavoidably introduce themselves; upwards of 200 souls have frequently been huddled together along with their baggage, and at times, a quantity of merchandize.

If the agency is to be continued at this place, I would suggest that on the arrival of barges having emigrants on board, the forwarders ought to be obliged at once to pass them through the locks, and allow them to remain at some convenient place above the locks to enable such passengers as intend landing here to get themselves and their baggage easily ashore, and to facilitate the transaction of any other business with them that may be found necessary. It frequently happened that boats loaded with passengers have been for hours at the foot of the locks without a possibility of communicating with them, except at the risk of personal injury.

An arrangement ought to be entered into with the proprietors of the "Lady Colborne" steamer, for the transport of emigrants from Aylmer, up the Ottawa to Fitzroy Harbour, a distance of about 25 miles, the present charge of 3*s*. 9*d*. per head, being, in my opinion, too high.

10th. The expenditure at this Agency, exclusive of the charge for transport of emigrants is as follows:—

	£.	*s*.	*d*.	
Emigrant agent	89	10	0	Currency.
Ditto physician	50	0	0	„
Building shed	30	3	4	„
Provisions, including necessaries for sick .	98	16	9	„
Board, lodging, nursing, and attendance for sick, including some small items for necessaries	26	9	9	„
Making coffins	1	10	0	„
Ferrying	1	3	9	„
Postage	2	4	8	„
	£299	18	3	„

The account for transport of emigrants to Fitzroy Harbour (not yet received) will amount to about 16*l*. 10*s*.

I transmit herewith the account with which I have been furnished by the agent of the Ottawa and Rideau Forwarding Company at this place. I have examined it carefully, and find it to agree perfectly with my book. The moment I receive the account from Aylmer, I will transmit it to you.

Any other information that you may require I shall at all times feel much pleasure in giving.

I have, &c.

A. B. Hawke, Esq., &c. &c. &c.

(Signed) G. R. Burke.

No. 3.

Sir, Emigrant Office, Kingston, November 19, 1840.

I have the honour to acknowledge the receipt of your letter of the 13th instant, which came to hand yesterday. I now proceed to reply to the queries therein contained.

1st. "The number of emigrants arrived at your Agency this year, and their destination, stating as nearly as possible the number that have gone to the United States."

The number of emigrants arrived at this Agency this year are 10,978, the greater part of them no doubt left their home expressly to settle in this country. The number gone to the United States from this part is 1,200. A large proportion of them went upon the invitation of relations, and friends, living in that country; some from a love of change, and others from a discontented spirit, that would not be satisfied anywhere.

2d. "The general condition of the emigrants as to property, appearance, health, &c."

The general part of the emigrants were poor; I kept a memorandum from the commencement of July, of the sums brought by them, taking no notice of any amount less than 50 sovereigns in the possession of one individual, and it amounts to 61,340*l*. sterling. I am inclined to think this is less than the actual amount, as emigrants (especially the Scotch) do not like to tell how much money they have; they were, with few exceptions, sober and orderly, and it is not within my knowledge, that a complaint has been made against any of them for a violation of the law of the land. At the commencement of the season, measles, small-pox, and whooping-cough, were very prevalent, and there were a good many cases of fever: 167 patients have been admitted into the hospital, and I think that more than that number were

sick about town, that would not go to the hospital. Amongst this class, who were lodged in miserable hovels amongst the poor, most of the deaths occurred.

3d. "The number of deaths at your Agency."

I cannot answer this question accurately, as there were a great many children, and also several adults that died without being reported to me. I know of 61 deaths, and should suppose there were at least 30 more.

4th. "What proportion appeared to be persons of capital, stating whether agriculturalists or mechanics."

The amount of capital stated in answer to Query 2, was possessed by 241 persons, who were all agriculturalists. Some few of them had added to that occupation the trade of corn merchant on a small scale. The mechanics were journeymen, and not possessed of any capital.

5th. "Number of applicants for free passages or charitable assistance."

There have been 2,499 free passages granted from this office, and the number of those who have received assistance in provisions amounts to 2,420 to this day, making together 4,919.

6th. "Complaints from emigrants as to treatment on the route, sufferings from exposure."

Complaints have been very general against the delay upon the Rideau Canal, and Dr. Robinson, the surgeon of the Emigrant Hospital, is of opinion, that much of the sickness of the season is attributable to the exposure and privations of that route. In the month of October some shameful instances of neglect on the part of the forwarders took place, by crowding the emigrants into the barges. The barge Derwent is one remarkable instance, the particulars of which I have forwarded to you, sworn to by the passengers, and there were afterwards some glaring instances of the same kind, and I am afraid that more than one unfortunate emigrant has for ever lost his health by exposure on this route. The crews of the barges are generally French Canadians, and they have no sympathy for the emigrants; but, on the contrary, a rooted dislike to them, and rather rejoice at their sufferings than attempt to alleviate them.

7th. "Number of emigrants settled in your neighbourhood; state the progress they are making in their agricultural or mechanical pursuits."

Including the bay of Quinte and Colborne, in the Newcastle district, to Prescott, in the Johnstown district, 3140 have been sent, most of whom I am informed have remained; a few have purchased land, and others have taken farms in shares. All who have gone into the country, either as settlers or farm-servants, are doing well, and with their families comfortably situated for the winter. About 800 remained as labourers in this town, and upon the Macadamized road, and other public works. The season is now nearly over, and the greater part of them have been discharged: those who have families are no better off than they were at the commencement of the season, nor have they learnt anything to make them more useful as settlers in this country. There was amongst this number about 150 mechanics, principally carpenters and masons, who had had constant employment at good wages.

8th. "Number of destitute emigrants in your vicinity who cannot obtain work; state also the number, if any, receiving assistance from public or private charity."

I think there are about 80 destitute in this vicinity; not so much from want of work as by the death or sickness of the head of the family. The St. George's and St. Patrick's Societies, and the Ladies' Benevolent Society, afford some relief to these people. I do not think they get much from private charity.

9th. "General remarks as to their moral deportment; suggestions as to the removal of any abuses which they may be subject to on the route; and also any improvement in the present mode of conducting the business connected with the Agency."

Their moral conduct has been very good under all the circumstances; they have been, in many instances, grossly deceived by unlicensed tavern-keepers, steamboat runners, intelligence office-keepers, &c. They have never attempted to redress their own wrongs, but have come to this office with their complaint; and when it was not possible to punish the offender, or get them redress, they were not discontented, but appeared perfectly satisfied if their complaint was attended to, and an attempt made to have their rights respected. Drunkenness was of rare occurrence this year, and that circumstance, I am of opinion, may be attributed to the improved appearance and conduct of the emigrant. I have already stated to you in my letter of the 3rd instant that I considered the deception practised on the emigrants by agents and captains of the vessels they take their passage in to this country, in the first place, in giving them erroneous information as to the length of the passage, and afterwards selling them provisions on the voyage at high prices, as well as holding out to them a rate of wages at least double what has been given in this country; and the delay and expense on the Rideau canal, as the two great causes of the emigrant's difficulties. The abuses on the canal might be remedied by entering into a contract with some one of the forwarding companies, binding them, as to time and the number, to be carried by a barge, of the first class. I would also suggest to contract for all the supplies wanted at this Agency; it would, I think, save money to the Government, and time to the agent.

10th. "State the total amount of expenditure at your Agency, including your own salary, free passages, food, &c."

From the present appearances, a greater interest appears to be taken on emigration, than has been for some time; and the societies now forming in every district, I have no doubt will be productive of much good, and will put the different agencies in possession of much correct information, not only as to where labour may be found for emigrants, but where land for sale may be purchased with less trouble and expense than at present. Settlers still continue to arrive from the United States; latterly, a number of slaves have come from Oswego. A few days ago 13 arrived in one steamer. About 50 of these people have arrived during the season.

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.
Encl. 2, in No. 26.

The captains of the American steamers think they have brought more settlers from the United States to this place by about 100 than they have taken from this to the United States. I have not been able to obtain and examine all the accounts of this Agency, and, consequently, cannot answer query No. 10 until next mail.

I have, &c.

(Signed) John Roy, Emigrant Agent.

List of Emigrants arrived at this Agency who had capital.

Emigrant Office, Kingston, 28th December, 1840.

Two hundred and thirty-nine Emigrant families—Capital £59,320.

(Signed) John Roy, Emigrant Agent.

Kingston, December 28th, 1840.

No. 4

Sir, Hamilton Gore District, Upper Canada, 23rd November, 1840.

In answer to the queries which you have done me the honour to forward to me, by direction of his Excellency the Lieutenant-Governor, I submit the following, viz.,—

1st. I have had no means of forming an estimate of the number of persons arrived at this place during the past season, or of their destination, not having been charged with the expense of the transport of the emigrants to this place, by the steam-boats, captains, or by any other party not authorized to forward them, except in one or two instances, to any given place. Some of the emigrants have come with cards of introduction from Mr. Hawke. Many others have applied for assistance, with no other recommendation than their evident claim upon the Government bounty as emigrants of the present year. I have not been able to procure employment for them, except in a few instances, and have been compelled, therefore, to recommend their dispersion through the country, without having any means of knowing their ultimate destination. I have reason to believe, however, that many who have had sufficient money to enable them to do so, have proceeded into the United States.

2nd. Emigrants have rarely applied to me, except when requiring pecuniary or gratuitous medical relief; I am unable, therefore, to speak of the number of persons arriving at this Agency with property. From such observation, however, as my position would naturally induce me to make, I should say that the emigrants have generally consisted of Irish paupers, with little or no property, whose appearance has betrayed that squalid destitution incidental to their station. On the subject of health, my experience enables me to state that few emigrants, of whatever class, arrive in this country during the summer months, without suffering from the effects of climate; and this liability is greatly aggravated in the lower classes by their exposure in the Durham boats, on the wharves, or in open sheds, in their progress westward from Quebec or New York, as well as by their subsequent privations,—privations which it is out of the power of the agents to overcome by the present system of relief. Under these circumstances, it follows, as a matter of course, that medical relief, to a greater or lesser extent, has been sought by almost every family requiring pecuniary relief, though the sickness has not been uniformly severe, and perhaps, upon the whole, the season past has been more healthy than some preceding ones.

3rd. There have been three emigrant deaths at this Agency, coming within my knowledge, during the past season.

4th. I have already stated that the emigrants of the past season have, with few exceptions, consisted of Irish labourers of the lowest class.

5th. Many of the emigrants have applied for a free passage to their relatives residing further westward, and most of them have desired to be conveyed hence in consequence of their inability to procure work in the immediate neighbourhood; I am not authorized, however, to afford such assistance, except upon specific authority from Mr. Hawke;—the only instances of which have been a team to Goderich at an expense of 6*l.* 5*s.*, and a part conveyance to Lobo for the sum of 15*s.*

6th. I have heard occasional complaints, on the part of emigrants, of the conduct of the captains and mates of the ships in which they were conveyed across the Atlantic. It has been stated by the emigrants that they were not permitted to lay in more than a certain quantity of provisions, under the plea that too much room in the vessel would otherwise be occupied. Such quantity has been found insufficient, and the emigrants have been compelled to buy oatmeal, potatoes, flour, &c., of the captains, at an exorbitant price. Several instances of unfeeling conduct, on the part of the officers of the ship, in the event of deaths on board, have also been enumerated to me; thus, no prayers have been read, or permitted to be read, over the deceased; and, in one instance, it was stated, that a mate of a ship snatched up the body of a child and threw it overboard, without warning to the parents, and without preparation of any kind. This statement was made to me by a very respectable emigrant, but I have no opportunity, of course, of substantiating it.

7th. I am quite unable to afford a satisfactory reply to this query.

8th. There are perhaps twelve families in this neighbourhood, emigrants of the present year, who are in great poverty, from inability to procure sufficient employment. They obtain occasional assistance from private charity. This number would have been greatly increased

No. 26.
Lord Sydenham to Lord John Russell.
26th January, 1841.
Encl. 2. in No. 26.

but for my increasing exertions to induce the emigrants to proceed westward; firstly, because I conceived that they would there find a greater demand for their labour; and secondly, with a view of lessening the burthen of their maintenance by the Government or the public.

9th. The moral deportment of the emigrants is such as may be naturally expected from persons of the lower class of society. They have generally exhibited great civility, particularly while in expectation of relief. The latter portion of the present query embraces a wide field of inquiry, for which I have not had such means at my disposal as would qualify me to enter upon. The whole subject of emigration is involved therein, and I should fear to suggest "any improvement in the present mode of conducting the business of emigration" without having had an opportunity of adding to my practical knowledge the information to be gained from the report of Parliamentary Committees, and the suggestions of eminent writers on this interesting and important subject. The chief improvement, however, may be comprised in the discouragement of pauper emigration until adequate means have been taken by the Government or the public for the *immediate* employment and complete surveillance of such persons. I anticipate no improvement in the present system of emigration by the transportation of emigrants by the Irish land-holders, Highland chieftains, or parish committees. Canada requires not only the increase of population, but increased means of employment; and without the latter, poor emigrants must remain a burthen upon the public until they gradually find their way into the United States, where capital has been hitherto more abundant. It is not sufficient that Canadian farms might be improved by an increase of labour expended thereon—the required capital for such increased labour is wanting; and before emigration can really become useful to the community, means must be found by the Government for the employment of paupers on waste lands, or upon public works, or by the attendant emigration of agricultural capitalists.

10th. The total amount of expenditure at my agency has been 85*l.* 6*s.* 8*d.* currency, the items of which consist of—

	£.	*s.*	*d.*
Food and lodging	16	17	5
Free passages	7	0	0
Funeral expenses, pecuniary relief, and sundries . . .	3	6	9
	27	4	2
Salary as agent and medical attendant from June 20th to November 21st inclusive, at 7*s.* 6*d.* per day . .	58	2	6
	£85	6	8

I have, &c.

(Signed) E. Cartwright Thomas.

London: Printed by William Clowes and Sons, Stamford-Street,
For Her Majesty's Stationery Office.

Date Due

FOR LIBRARY USE ONLY


IRISH UNIVERSITY PRESS

University of Alberta Library
0 1620 0089 0796