

The Provincial Statutes of Lower-Canada, Being the second session of the fifteenth Provincial Parliament of Lower-Canada. Quebec: John Carleton Fisher & William Kemble, Law Printer to the King's Most Excellent Majesty, 1836.

6 William IV – Chapter 59

An Act to provide for making and maintaining a Rail Road, from the River Saint Lawrence to the Province Line. (21st March, 1836).

21st March, 1836.—Presented for His Majesty's Assent, and reserved “for the signification of His Majesty's pleasure thereon.”

19th August, 1836.—Assented to by His Majesty in Council.

29th October, 1836.—The Royal Assent signified by the Proclamation of His Excellency the Governor in Chief

Whereas the construction of a Rail Road from the River Saint Lawrence, as nearly opposite to the City of Quebec as the nature of the ground will permit, to the Boundary Line at or near the Monument Stream, in the State of Maine, would contribute essentially to promote the prosperity of this Province;—and whereas John William Woolsey, George Pemberton, John Fraser, Hammond Gowen, William Patton, Henry LeMesurier, John Malcolm Fraser, David Burnet, John Jones, the younger, William Phillips, Jeremiah Leaycraft, Remi Quirouet, Francois Buteau, Martin Chinic, Pierre Pelletier, Etienne Parent, Thomas Ainslie Young, Noah Freer, Joseph Morrin, James A. Sewell, Benjamin Tremain, Louis Massue, Samuel Neilson, and Julien Chouinard have, by their Petition, represented, that they are desirous at their own costs and charges, to make and maintain a Rail Road in the direction aforesaid, but cannot effect the same without the aid and authority of the Legislature:—Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, “An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, ‘An Act for making more effectual provision for the Government of the Province of Quebec, in North America,’ and to make further provision for the Government of the said Province;” And it is hereby enacted by the authority of the same, that John William Woolsey, George Pemberton, John Fraser, Hammond Gowen, William Patton, Henry Le Mesurier, John Malcolm Fraser, David Burnet, John Jones, the younger, William Phillips, Jeremiah Leaycraft, Remi Quirouet, Francois Buteau, Martin Chinic, Pierre Pelletier, Etienne Parent, Thomas Ainslie Young, Noah Freer, Joseph Morrin, James A. Sewell, Benjamin Tremain, Louis Massue, Samuel Neilson, and Julien Chouinard, their several and respective heirs, executors, curators, administrators, successors and assigns shall be, and they are hereby ordained, constituted and declared to be a Corporation, body politic and corporate, by the name of “The Kennebec Rail Road Company,” and shall by that name

have perpetual succession and a common seal, and shall and may by the said name sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts and places whatsoever; and also have power and authority to purchase, hold and enjoy lands, tenements and hereditaments for them and their successors and assigns, for making the said Rail Road, and generally for the purposes of carrying the provisions of this Act into effect, without His Majesty's Letters of Mortmain, saving nevertheless to the Seignior or Seigniors within whose censive the lands, tenements and hereditaments so purchased may be situate, his and their several and respective droits d'indemnité, and all other seigniorial rights whatever, and also to sell or alienate, any of the lands and tenements so purchased and held; and any person or persons, body politic or corporate, may give, grant, bargain, sell, alienate or convey to the said Corporation, any lands, tenements or hereditaments for the purposes aforesaid, and may repurchase the same of the said Corporation, without Letters of Mortmain, any law, custom or usage, to the contrary in anywise, notwithstanding.

II. And be it further enacted by the authority aforesaid, that the Capital Stock of the Corporation hereby established, shall not exceed the sum of five hundred thousand pounds, currency, divided into forty thousand shares, of twelve pounds ten shillings each, which shares shall be, and the same are hereby vested in the several persons hereinbefore named, their successors and assigns, according to the shares and interests which they may respectively have subscribed for, purchased or acquired, and may have in the same, and that the said capital sum of five hundred thousand pounds, currency, shall be paid by the Stockholders respectively, by whom the same shall be due, by instalments of not exceeding ten per cent, on the capital stock of each Stockholder, at such time and place as the Directors of the said Company shall appoint, after notice of not less than thirty days in this behalf previously given in one or more of the public newspapers published in the said City of Quebec; and all executors, curators and administrators who shall pay up the instalments due by the succession or estate which they may respectively represent, in obedience to any call so made for the same, shall be and they are hereby respectively indemnified.

III. And be it further enacted by the authority aforesaid, that so soon as the said capital stock shall have been actually subscribed for and not before, it shall be lawful for the said Corporation, and they are hereby authorized, empowered and held by themselves, their Deputies, Officers and Workmen to make and complete a single or double line of Rail Road on the south side of the River Saint Lawrence, through the Parishes of Saint Joseph of Pointe Levy, Saint Henryde Lauzon, Sainte Marie de la Beauce, Saint Joseph de la Beauce, Saint Francois de la Beauce and Saint George, or any of them on the east or on the west side of the River Chaudiere, and to the Forks of the said River, and from the said Forks along the eastern or western bank of the River du Loup, to a point nearly opposite the Portage Stream, and thence to the Boundary Line between the Province of Lower Canada and the United States of America, at or near the Monument Stream in the State of Maine, with such deep cuttings, culverts, drains, embankments, bridges, viaducts, inclined planes, stationary steam engines, stopping places and passing places, as may be expedient and necessary, and to erect

such wharves, warehouses and stores on the line of the said Rail Road, and to purchase and acquire such locomotive steam-engines and carriages, waggons, and other machinery and contrivances, and real or moveable property, as may be necessary for the making and maintaining the said Rail Road, and for the transport of passengers and merchandize thereon; and may purchase and build, and may possess and hold one or more steam ferry-boats to ply from a convenient part of the harbour of Quebec to the wharf or pier at the Saint Lawrence end of the said Rail Road; and may hold and possess the land over which the said Rail Road is to pass, in the manner and under the provisions hereinafter set forth.

IV. And be it further enacted by the authority aforesaid, that for the purposes of this Act, the said Corporation shall by some sworn Land Surveyor of this Province, by them to be appointed, cause to be taken and made surveys and levels of the country and lands through which the said Rail Road is to be carried, together with a map or plan of the proposed line thereof, and of the lands through which it is to pass, and also a book of reference for the said Rail Road, in which shall be set forth a description of the said several lands and the names of the owners and proprietors thereof, and in which shall be contained every thing necessary for the right understanding of the said map or plan; which said map or plan shall be made triplicate, and the three parts thereof shall be compared and certified as being exactly alike by the Surveyor General of this Province, or his Deputy, who shall deposit one part thereof in the office of the Prothonotary of the Court of King's Bench for the District of Quebec; one other part in the office of the Secretary of this Province, and the remaining part he shall deliver to the said Corporation: and all persons shall have access to the parts so deposited as aforesaid, and to make extracts from or copies thereof as occasion may require, paying to the said Secretary of the Province, or to the said Prothonotary, at the rate of six pence, currency, for every hundred words, and the said parts of the said map or plan and book of reference so certified, or a true copy or copies thereof, certified by the Prothonotary of the said Court, or by the said Secretary of the Province, shall severally be and are hereby declared to be good evidence in all Courts of Law, or elsewhere.

V. And be it further enacted by the authority aforesaid, that so soon as the said map or plan shall be made and deposited as aforesaid, it shall then be lawful for the said Corporation to apply to the several owners of the estates, lands and grounds through which such Rail Road is to be carried, and to agree with such owners for the purchase thereof, and for the damages they may respectively suffer; and in case of disagreement between the said Corporation and the said owners or any of them, then all questions which shall arise between the said Corporation and any person or persons, body politic or corporate, or community being owners of or interested in any land or immoveable property that shall be taken, affected, or prejudiced by the execution of any of the powers hereby granted, shall and may be settled by agreement of the parties or by arbitration, or if either of the parties shall not be willing to make an agreement or to appoint arbitrators, or by reason of absence or disability, through nonage, coverture or other impediments, cannot treat, or make such agreement or consent to such arbitration, or shall not produce a clear title to the property in which they claim an interest, then and in every such case the said Corporation may apply to

the Court of King's Bench for the District of Quebec, 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 Quebec, commanding him to impanel, summon and return a jury qualified according to Law of this Province, for the trial of issues joined in civil cases in the said Court of King's Bench, to attend the said Court at such time and place as in the said Warrant shall be appointed; and the said Sheriff shall do as he shall be enjoined by the said Warrant; and all parties concerned may have their lawful challenge against any of the said Jury, but shall not challenge the array; and the said Court is hereby empowered to summon and call before the said Jury, all and every such person or persons as it shall be thought necessary to examine as witnesses touching the matters in question, and the said Court may order and authorize the said Jury or any six or more of them, to view the place or places, or matter in controversy, and such Jury on 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 enquire 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 the indemnification to be paid for the damage that shall be sustained as aforesaid, and the said Court shall give judgement for the sum, rent or indemnification assessed by such Jury; and the verdict and judgment so thereupon pronounced, shall be binding and conclusive to all intents and purposes, against all, bodies corporate or politic, or communities, and against all persons whomsoever.

VI. And be it further enacted by the authority aforesaid, that for the purposes aforesaid, and for making and completing the said Rail Road, it shall be lawful for the said Corporation and their agents, servants and workmen, and they are hereby authorized and empowered to enter into and upon the lands and grounds belonging to His Majesty, his heirs and successors, or to any person or persons, bodies politic or corporate, and to survey and take levels of the same or any part thereof, and to mark out and ascertain such parts thereof as they shall think necessary and proper for making the said Rail Road, and for constructing the other works and buildings therewith connected as aforesaid, and also to bore, dig, cut, trench, remove, take, carry away and lay any earth, soil, clay, stone, rubbish, trees, roots of trees, beds of gravel or sand, or any other matter or thing which may be dug or got in making the said Rail Road, or out of any lands or grounds adjoining thereto, or which may be requisite or convenient for carrying on, continuing or repairing the said Rail Road, or other said works, or which may hinder, prevent or obstruct the making, using, completing or maintaining the same; and also to make, build, erect, and set up, in and upon the said Rail Road, or upon the lands adjoining the same, so many bridges, drains, culverts, tunnels, and other works as may be necessary for completing and maintaining the said Rail Road, and to carry and convey over such lands or grounds all such materials, tools, instruments and machinery as may be necessary for the said purpose; and also to contract for, make and do all other matters and things which the said Corporation shall think necessary and convenient for making, effecting, preserving, improving, completing and using the said Rail Road, in pursuance of, and within the true intent and meaning of this Act; they the said Corporation doing as little damage as may be in the execution of the several powers to them herein

granted, and making satisfaction for all damage done, and paying for all ground taken in the manner hereinbefore provided.

VII. And be it further enacted by the authority aforesaid, that it shall be lawful for the said Corporation to take and use, hold and appropriate to their use in maintaining and using the said Rail Road, and in conveying and storing goods, wares and merchandize to be carried thereon, so much of the beach of the said River Saint Lawrence as maybe necessary, and to erect such wharves, quays, and works on the same as they shall think convenient, and also such wharves, quays, and works within the Lower Town of Quebec, as may be necessary to maintain a Ferry, and to convey and store all goods, wares, and merchandize brought across in the boats belonging to the said Corporation.

VIII. Provided always, and be it further enacted by the authority aforesaid, that the said Corporation may make the said intended Rail Road through, across and over the lands or grounds of any person or persons whomsoever, whose name or names shall appear to have been by mistake omitted in the said book of reference, and where it shall appear that instead of the name or names of the owner or occupier of such lands or grounds, the name or names of some other person or persons to whom such last mentioned lands or grounds do not belong, bath, or have been inserted by mistake therein: Provided always, that the said Corporation shall give at least three weeks notice to the person or persons possessing or occupying such lands or grounds of their intention to carry the said Rail Road through the same.

IX. Provided always, and be it further enacted by the authority aforesaid, that the land or ground to be taken or used for the said Rail Road, and the ditches, fences or other means of inclosure by which it shall be separated from the adjoining, lands, shall not exceed fifty feet in breadth, except at the termination thereof near the said River Saint Lawrence, where the extent of land or ground to be so taken, shall be three hundred feet in depth by three hundred feet in breadth, and such additional extent of land shall be taken immediately adjoining the beach of the said River and not elsewhere; and except at such places as may be used as stopping places for taking in fuel or water, or for leaving or receiving goods, or as stations for fixed engines and other machinery, and for other purposes connected with the use of the said Rail Road, on the line of the said Rail Road, to be named and shewn in the plan and book of reference herein before mentioned, at which places the extent of land to be taken as aforesaid, shall be three hundred feet in length by one hundred feet in breadth; nor shall any other land or ground be taken, set out or fenced as part of the property of the said Corporation, without the consent of the owner or owners thereof, with the exception hereinafter mentioned; any thing in this Act to the contrary thereof in any wise notwithstanding.

X. And be it further enacted by the authority aforesaid, that after any lands or grounds shall be set out and ascertained in the manner aforesaid, for making and completing the said Rail Road, and for other purposes and conveniences before mentioned, it shall and may be

lawful for all bodies politic or corporate, communities, corporations aggregate and sole, guardians, curators and all other trustees whatever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, lunatics, idiots, femmes couvertes, or other person or persons who are or shall be possessed of or interested in any lands or grounds which shall be set out and ascertained as aforesaid; to contract for, sell and convey to the said Corporation, all or any part of such lands and grounds as shall from time to time be set out and ascertained as aforesaid; and that all such contracts, agreements and sales shall be valid and effectual in law to all intents and purposes whatsoever; any law, usage or custom to the contrary thereof in any wise notwithstanding.

XI. And be it further enacted by the authority aforesaid, that any body politic or corporate, community, corporation or other person or persons whomsoever, who cannot in the ordinary course of law, sell or alienate any lands or grounds so set out and ascertained, shall agree upon, or shall have fixed in the manner hereinafter directed, a fixed annual rent as an equivalent and not as a principal sum to be paid for the lands or grounds so set out and ascertained as necessary for making the said Rail Road, and the other purposes and conveniences aforesaid; for the payment of which annual rent and of every other annual rent agreed on or ascertained as the equivalent for any such lands or grounds, the said Rail Road, and the dues to be levied and collected thereon, shall be and are hereby made liable and chargeable in preference to all other claims and demands thereon whatsoever, and if the amount of such rent shall not be fixed by voluntary agreement and compromise, it shall be fixed by a Jury summoned and qualified in the manner hereinbefore prescribed, and all proceedings and litigations in Court respecting such rent shall be regulated in the manner prescribed in this Act, with reference to cases where the amount of purchase money for any lands or grounds is to be ascertained.

XII. And be it further enacted by the authority aforesaid, that the said Corporation, in making the said Rail Road, shall not deviate more than three hundred yards from the course or line delineated in the said map or plan, and set forth in the said book of reference, nor carry, nor continue the said Rail Road into, through, across, under or over any other part or parts of the several estates, lands or grounds then or lately belonging to or reputed to belong to the several and respective persons named or described in the said book of reference in that behalf, or belonging to any person not named in the said book of reference (except in case of error as hereinbefore provided,) without the approbation and consent in writing of the person or persons to whom such estates, lands and grounds do or shall respectively belong.

XIII. And be it further enacted by the authority aforesaid, that it shall be lawful for the said Corporation, their successors and assigns, to raise and contribute among themselves in such proportions as to them shall seem meet and convenient, not being less than five per cent at each instalment, a competent sum of money for making and completing the said Rail Road and the other works and conveniences to the same belonging or requisite therefor: Provided

majority of votes and proxies then and there present: Provided always, that the same person shall not vote as proxy for any number of persons who together shall be proprietors of more than one hundred shares.

XVI. Provided always, and be it further enacted by the authority aforesaid, that no proprietor who shall not be a natural born subject of His Majesty, or a subject of His Majesty naturalized by Act of the Parliament of Great Britain, or having become such by the conquest and Cession of this Province, and who shall not have resided in this Province the number of years, and have taken the oaths prescribed by law with respect to persons who may wish to entitle themselves to the benefit of naturalization, or who shall be a subject of any foreign Prince or State, shall be Chairman of the said Corporation.

XVII. And to the end that the business and affairs of the said Corporation may be well and regularly conducted; Be it further enacted by the authority aforesaid, that the first general meeting of the members of the said Corporation shall be held in the City of Quebec, and in the course of the first month after the time at which one fourth of the capital stock of the said Corporation shall have been actually subscribed for: Provided that public notice thereof shall have been given during two weeks, in one or more of the newspapers published in the City of Quebec; and the second general meeting of the said Corporation at such time as shall have been appointed by a majority of votes at the said first general meeting; and at such first, or any subsequent general meeting, the members present or appearing by proxy shall choose by a majority of votes, thirteen persons, (of whom five shall form a quorum, for the transaction of all business which the said directors shall have power and authority to transact,) being proprietors of at least ten. shares each, to be directors of the said Corporation, for the purpose of managing the affairs and business thereof, in the manner hereinafter directed, and as shall from time to time be ordered by the said members in their general meetings; but if at any time it shall appear to any twenty or greater number of the members of the said Corporation, holding together at least two hundred shares therein, that for the more effectually carrying this Act into effect, a special meeting of the said members is necessary, it shall be lawful for them to cause notice thereof to be given in one or more of the newspapers published in the City of Quebec, and in such other manner as the said Corporation shall in any general meeting thereof appoint with respect to such special meetings, declaring in such notice the time when and the place where such special meeting is to be so held, in the said City of Quebec, the same not being less than, thirty days after such notice shall have been first given, and likewise specifying in such notice, the purpose for which such special meeting is called; and the members of such Corporation are hereby authorized to meet pursuant to such notice, and to proceed to the execution of the powers by this Act given them, with respect to the matters in such notice specified only, and all acts done in such matters by the authority of the majority of votes given at such special meeting, (such majority consisting of votes given by the holders of three-fourths of the whole number of shares, then subscribed for, altogether,) shall be valid to all intents and purposes, as if done at any meeting held in the manner hereinbefore appointed for the holding of general meetings; and it shall be lawful for the said Corporation at any such general or special

meeting, in case of the death, absence or removal of any director, to name and appoint others in the room and stead of the director or directors so dying, absent, or removed as aforesaid.

XVIII. Provided always, and be it further enacted by the authority aforesaid, that such Directors shall, from time to time, be subject to the examination and control of the said general meeting, or other meetings of the said members 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 Corporation, at any such general assembly, or other meeting; such orders and directions not being contrary to any express directions and provisions in this Act contained. Provided also, that no one Director, of whatever number of shares he may be the proprietor, shall have more than one vote in the Board of Directors, except the Chairman, who shall be chosen by and from among the said Directors, and who, in case of an equal division of members, shall have the casting vote, although he may have given one vote before.

XIX. And be it further enacted by the authority aforesaid, that every such general meeting, and the said Directors shall have power to call for, audit and settle all accounts of money laid out and disbursed on account of the said Rail Road, with the Treasurer, receiver or receivers, or other officer or officers, to be by them appointed, or any other person or persons whomsoever, employed by or concerned for or under them in and about the aforesaid Rail Road, and for that purpose shall have power to adjourn themselves over from time to time, and from place to place, as shall be determined by a majority of votes given in the manner aforesaid; and every general meeting of such Directors, met together by the authority of this Act, shall have power from time to time, to make such call or calls of money from the members of the said Corporation to defray the expenses of or to carry on the same, as they, from time to time shall find expedient and necessary for those purposes, so that no call do exceed the sum of ten pounds current money of this Province, for every hundred pounds, and so that no calls be made but at intervals of one month at least from each other, which money so called for, shall be paid to such person or persons, and in such manner as the said general meeting or the said Directors shall, from time to time appoint and direct, for the use of the said undertaking; and such Directors by virtue of the orders which they shall receive from the general meeting, shall have full power and authority to direct and manage all and every the affairs of the said Corporation, as well in purchasing and selling lands, liberties and materials for the use of the said Rail Road, as in employing, ordering and directing the work and workmen, and in appointing 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 the majority of the said Directors assembled; and every owner or owners of one or more part or parts, share or shares of the said undertaking, shall pay his, her, or their share or proportion of the monies to be called for as aforesaid, at such time and place as shall be appointed, of which three weeks notice at least shall be given, by inserting the same in some newspapers published in the City of Quebec, and in such other manner as the said

Corporation 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 proportional part or share of the said money to be called for as aforesaid, at the time and place appointed by such general meeting of Directors, he, she, or they, so neglecting or refusing, shall incur a forfeiture in the proportion of five pounds for every hundred pounds of the sum called for, and in case such person or persons, shall neglect to pay his, her or their rateable or proportionable part or share of the said money, to be called for as aforesaid, for the space of three calendar months after the time appointed for the payment thereof as aforesaid, then he, she, or they, so neglecting, shall forfeit his, her, or their respective share or shares, part and interests in the said Corporation, undertaking and premises, and all the profit and benefit thereof; and such share or shares shall be sold by the Directors of the said Corporation by public auction, after six weeks notice of such intended sale, in one or more of the public newspapers published in the City of Quebec, and the amount for which the same shall be sold after deducting the expenses of the sale, shall be paid over to the person or persons whose share or shares shall be so forfeited and sold, and the purchaser shall immediately pay up the instalment for the non payment of which the said share or shares shall have been sold, and if he fail immediately to pay such instalment, the said share or shares shall be again put up and sold.

XX. Provided always, and be it further enacted by the authority aforesaid, that no advantage shall be taken of any 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 Corporation, which shall be held within three calendar months next after such forfeiture shall happen to be made; and every such forfeiture shall be an indemnification by every member so forfeiting, against all action or actions, suits or prosecutions whatsoever to be commenced or prosecuted for any breach of contract, or other agreement between such member so forfeiting, and the said Corporation, with regard to the carrying on of the said intended Rail Road.

XXI. And be it further enacted by the authority aforesaid, that the said Corporation shall always have power and authority at any general meeting held as aforesaid, to remove or displace any person or persons chosen as Directors in the manner aforesaid, or any other officer or officers under them, and to revoke, alter, amend or change any of the rules and directions hereinbefore prescribed and laid down, with regard to their proceedings among themselves, in such manner as to the major part of them shall seem meet, (the method of calling general meetings, and their time and place of meeting and voting, and appointing committees only excepted,) and shall have power to make such new rules, by-laws and orders for the good government of the said Corporation, for the good and orderly using the said Rail Road, and of the works and property herein mentioned, and for the well governing of the engineers, workmen, waggonmen, boatmen, and other persons employed by the said Corporation in and about the said Rail Road, and the works and property therewith connected, as to the major part of such general meeting shall seem meet, which said rules, bye laws, and orders being put into writing under the common seal of the said Corporation,

shall be published at least twice in one or more of the public newspapers in both languages, in the City of Quebec, and affixed in the office of the said Corporation, and in all and every of the places where the dues are to be paid, and in like manner as often as any change or alteration shall be made to the same, and shall be binding upon and observed by all parties, and shall be sufficient in any court of law to justify all persons who shall act under the same;

XXII. And be it further enacted by the authority aforesaid, that it shall be lawful for the several members of the said Corporation to sell and dispose of any share or shares which they may have or hold, or to which he, she or they shall and may be entitled, subject to the rules and conditions herein mentioned, and any purchaser or purchasers shall for his, her or their security as well as that of such proprietor or proprietors, have a duplicate or duplicates of the deed of bargain and sale and conveyance made to him, her or them, and executed by such person or persons of whom he, she, or they shall purchase the same, and also by the purchaser or purchasers, one part whereof duly executed both by the seller and purchaser, shall be delivered to the said Directors or their Clerks for the time being, to be fyled and kept for the use of the said Corporation, and an entry whereof 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, currency, 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 unto the said Committee, and fyled and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said Rail Road, or any interest for his share paid unto him, her, or them, or any vote as a member or as members of the said Corporation.

XXIII. And be it further enacted by the authority aforesaid, that every transfer of the said share shall be in the form or to the purport and effect following, that is to say:—“ I, A. B., in consideration of the sum of _____ paid to me by C. D., do hereby bargain, sell and transfer to the said C. D., his, her, or their executors, curators, administrators and assigns, share or shares in the undertaking of the Kennebec Rail Road Company, to hold to 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 of the said undertaking, subject to the rules, orders, and conditions. Witness our hands and seals, the ____ day of _____ in the year of our Lord _____.”

XXIV. And be it further enacted by the authority aforesaid, that it shall be lawful for the said Corporation, and they are hereby authorized and required from time to time, to nominate and appoint a Treasurer or Treasurers, and a Clerk or Clerks to the said Corporation, and to take such sufficient security for the due execution of their respective offices, as the said Corporation shall think proper, and from time to time to remove any such Treasurer or Clerk, and appoint others in their place and stead, which said Clerk or Clerks shall in a proper book or books to be provided for that purpose, enter and keep a true and perfect account of the names and places of abode of the several members of the said Corporation, that is to say, 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 Corporation and of the said Directors under the authority of this Act, and that each of the said members shall and may at all convenient places and times have recourse to and peruse and inspect the same, and may demand and have copies thereof, or of any part thereof, on paying to the said Clerk, six-pence, currency, for every hundred words in such copy; and if any such Clerk shall refuse to permit any such member to inspect or peruse such book or books, or shall refuse to make any such copy at the rate aforesaid, he shall for every such offence forfeit and pay the sum of twenty-five pounds, currency; and whenever any such Clerk or Treasurer shall die or be removed from or quit the service of the said Corporation, it shall be lawful for the said Directors, or any three or more of them, to appoint some other fit person in the place of the Treasurer or Clerk so dying, removed or quitting such service, until the next general meeting, at which such appointment (if deemed proper) shall be confirmed, or another Treasurer or Clerk appointed by the said Directors.

XXV. And be it further enacted by the authority aforesaid, that so soon as the said Rail Road shall be completed and opened from the said River Saint Lawrence to the said Boundary Line, or when any portion thereof shall be completed and means of transport across the River Saint Lawrence from the City of Quebec to the point at which the said Rail Road terminates at the Saint Lawrence end thereof, shall have been provided, it shall be lawful for the said Corporation at all times thereafter to ask, demand, take and recover, to and for their own proper use and behoof, the following rates, tolls or dues, that is to say:—For every passenger conveyed and carried at the cost and charge of the said Corporation across the said River Saint Lawrence, and from one termination of the said Rail Road to the other, a sum not exceeding twenty-five shillings, currency, and for every ton of goods, wares, or merchandize of any kind whatsoever, so conveyed and carried throughout the said distance, a sum not exceeding forty shillings, currency, and no more. Provided always, that in all cases where there shall be a fraction of a mile in the distance which goods, wares, merchandize or other commodities or passengers, shall be conveyed or transported on the said Rail Road, 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, merchandize, or other commodities, a portion of the said rates shall be demanded and taken by the said Corporation proportionate 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.

XXVI. And be it further enacted by the authority aforesaid, that the said several rates and dues shall be paid to such person or persons, at such place or places near to the said Rail Road, or to the landing place or wharf in the said City of Quebec, used by the ferry-boats belonging to the said Corporation, and in such manner and under such regulations as the said Corporation shall direct and appoint; and in case of refusal or neglect of payment of any such dues or rates, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said Corporation may sue for and recover the same in any

Court having jurisdiction to the amount of the sum to which such rates and dues shall amount; or the person or persons to whom the same ought to be paid, may and he is, and they are hereby empowered to seize and detain such goods, wares, and merchandize, for and in respect whereof such rates or dues ought to be paid, and detain the same until payment shall be made.

XXVII. And be it further enacted by the authority aforesaid, that the said Corporation shall, within six calendar months after any land shall be taken for the use of the said Rail Road, at their own proper costs and charges, divide and separate, and keep constantly divided and separated, the said Rail Road and the ground taken therefor, or occupied by the said Corporation under the authority of this Act, from the adjoining lands or grounds, by posts and rails, hedges, ditches, trenches, banks or other fences sufficient to keep out sheep and other cattle, to be set and made on the lands or grounds which shall be purchased by, conveyed to, or vested in them as aforesaid, and shall at their own proper costs and charges, from time to time, maintain and support the said posts, rails, hedges, ditches, trenches, hanks and other fences, erected, set up and made as aforesaid, and also shall, at their own charges make, erect and set up such and so many convenient gates and stiles, in and over all the hedges and fences to be by them so made on the sides of such Rail Road as aforesaid, and also bridges, arches, and passages over, under or across the said Rail Road and the land so taken and occupied as aforesaid, and of such dimensions as may be necessary and effectual for the owners and occupiers of the lands or grounds adjoining to the said Rail Road; and the said Corporation shall not make the said Railway or any trench, or water course, or any work connected with the said Rail Road, or any part thereof, in or across any common highway, public bridleway or foot path, until they shall at their own proper charges, have made and perfected such bridges, passing places or arches over, across, or under the places where the said Rail Road, trenches or water courses, or other works, respectively shall be intended to be made for such road, way, or path, and of such dimensions, and in such manner as may be found proper and effectual; and all such gates, stiles, bridges, arches, and other works and conveniences so to be made, shall from time to time be supported, maintained, and kept in sufficient repair by the said Corporation.

XXVIII. And be it further enacted by the authority aforesaid, that when and so often as it shall be necessary to cut into any highway in order to conduct the said Rail Road across or through the same, the said Corporation shall in the first place make a temporary road passing round and avoiding that part of the highway which is to be crossed by the said Rail Road, but as nearly in the line of the said highway as shall be possible, and such temporary road shall be made as good and as convenient for carriages in all respects as the highway so to be crossed or passed, and shall be kept in the same state of repair during the whole time the former highway shall remain obstructed, and the said Corporation shall then proceed with all possible dispatch to carry the said Rail Road across the said highway, and after having so done shall restore to the said highway its former direction, by continuing it across the said Rail Road, either on a level with the top of the rail thereof, or by means of a sufficient and commodious bridge, over the said Rail Road, having a rise on the roadway of

not more than one foot in eighteen, to be reported conformable to the provisions of this Act, by Experts, who shall report upon oath to the Justices of the Peace for the District of Quebec, at the then next Quarter Sessions of the Peace, under a penalty of five shillings, currency, for each and every day during which such highway shall be in any way obstructed, and during which there shall be no such crossing place, bridge, or temporary highway, for passing or avoiding the said Rail Road; and the said Corporation are hereby authorized and empowered to enter into and take hold and use, or to occupy for a limited time, any land or grounds necessary for carrying the provisions of this section into effect, under the provisions of this Act, with respect to the taking, holding and using or occupying of other lands or grounds necessary for making and completing the said Rail Road, and in addition to the extent of land which they by the other sections of this Act are empowered to take for the said purpose, any thing in this Act to the contrary notwithstanding.

XXIX. And be it further enacted by the authority aforesaid, that if the said Rail Road shall cross and divide the lands of any person or persons, so as to cut off that free communication which before existed from the said land and any highway, in such case the said Corporation shall make and maintain a crossing place, viaduct, or bridge, (as might be used under the provisions of the preceding section for passing any highway,) within ten arpents of each and every land so divided, and shall make and maintain a good and sufficient road thirty feet wide, (passing close to the fence dividing the said Rail Road from the neighbouring lands, from which such road shall also be divided by a fence made and kept in repair by the said Corporation,) from each end of the said crossing place, viaduct, or bridge to each detached portion of every land so divided, so that the proprietors of such land may have the power of passing from their said land to the said highway, as they had before the said Rail Road was made; and the said Corporation are hereby empowered to take, hold and use, under the provisions made by this Act with respect to the taking, holding and using any other lands or grounds necessary for making and completing the said Rail Road, so much land as may be necessary for carrying the provisions of this section into effect, and in addition to the extent of land which they are by the other sections of this Act empowered to take for the said purpose; any thing in this Act to the contrary notwithstanding.

XXX. And as the division of lands may render the erection of New Bridges over the said Rail Road necessary;—Be it therefore enacted by the authority aforesaid, that every proprietor of land who may choose at his own proper costs and charges to erect a Bridge as a means of communication between the several parts of his property separated by the said Rail Road, may do so, provided such Bridge do not present more obstacles to the passing of vehicles for the conveyance of passengers and goods on the said Rail Road, than the Bridges erected over the same by the said Corporation.

XXXI. And be it further enacted by the authority aforesaid, that the several and respective persons united into a Corporation as aforesaid, for making the said Rail Road and other works as aforesaid, shall, and they are hereby severally required to pay the respective sums which may be by them subscribed to be advanced as aforesaid, towards making and

completing the said Rail Road and other works, or such portion of such sum as shall from time to time be called for by the said Corporation, by virtue of the powers and directions of this Act; and also all persons who may hereafter subscribe and agree to pay and advance any money for the purposes aforesaid, are hereby required to pay the sum or sums of money which shall be by them respectively subscribed to be advanced, or such portion or portions thereof as shall from time to time be called for by the said Corporation, by virtue of the powers and directions of this Act; and in case any of the said several and respective persons who may have subscribed, or shall hereafter subscribe to advance and pay any sum or sums of money as aforesaid, shall neglect or refuse to pay the same, at such time and times as shall be required by the said Corporation as aforesaid, then and in that case, it shall be lawful for the said Corporation to sue for and recover the same in any Court of Law having competent jurisdiction.

XXXII. And be it further enacted by the authority aforesaid, that the said Corporation, to entitle themselves to the privileges, benefits and advantages to them granted by this Act, shall, and they are hereby required to commence the said Rail Road within five years and to complete the same from the River Saint Lawrence to the Province line aforesaid, in manner aforesaid, within ten years from the passing of this Act; and if the same shall not be so made and completed within the period before mentioned, so as to be used for the conveyance and carriage of passengers, goods, wares and merchandize thereon, then, this Act and every matter and thing therein contained shall cease, and be utterly null and void.

XXXIII. And be it further enacted by the authority aforesaid, that if at anytime or times hereafter, any person or persons, body politic or corporate, or community, shall sustain any damage in his, her, or their lands, tenements, hereditaments, or property, by reason of the execution of any of the powers hereby given, or through or by means not herein provided for, but by the acts of the said Corporation, then in case of difference of opinion and dispute about the quantum thereof, upon the application by petition of the party injured to His Majesty's Court of King's Bench for the District of Quebec, of which fifteen days notice at least in writing shall be given to the said Corporation, and served at their office in the City of Quebec, or upon, their Treasurer or Clerk for the time being, (such petition setting forth the ground of such application,) the said 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 Quebec, commanding such Sheriff to impanel, summon and return a Jury of the District, in the same manner as Juries at present are, 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 such 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 order or authorize the said Jury, or any six or more of them to visit the place or places or matters in controversy, and such 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 enquire of, assess and ascertain the distinct sum or sums of money to be paid as indemnification for any damage so sustained as aforesaid, and the said Court shall give judgment for such sum so to be assessed by the said Jury; and the said verdict and the judgment thereupon pronounced shall be binding and conclusive to all intents and purposes, against all bodies politic or corporate, or communities, and all other persons whomsoever.

XXXIV. And be it further enacted by the authority aforesaid, that if any person or persons shall wilfully, maliciously, and to the prejudice of the said Corporation, break, throw down, damage or destroy any wharf, bridge, fence, rail, support, engine, machine, machinery, or other works or device erected, constructed or possessed under the authority of this Act, or do any other wilful act, hurt or mischief, to disturb, hinder or prevent the carrying into execution, making, completing, supporting, maintaining and using the said Rail Road and other works, every such person or persons so offending shall forfeit and pay to the said Corporation the amount of the damage proved by the oath of two or more credible witnesses, to have been done; and such damage and the costs of suit in that behalf incurred, maybe recovered by action in any Court of Law in this Province, having jurisdiction to the amount of the sum demanded as damages; and in case of default of payment, such offender or offenders against whom judgment shall in such behalf have been rendered, shall be committed to the Common Gaol, for any time not exceeding three months, at the discretion of the Court by whom such judgment shall have been given.

XXXV. And be it further enacted by the authority aforesaid, that if any suit shall be brought or commenced against any person or persons for any thing alleged to be done under the authority of this Act, or in the execution, of the powers and authorities, orders and directions hereinbefore given, granted or enacted, every such suit shall be brought or commenced within six calendar months next after the fact committed, or in case there shall be a continuation of damages, then within six calendar months next after the doing or committing of such damages shall cease, and not afterwards, and the defendant or Defendants in such action or suit may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereon, and that the same was done under the authority of this Act; and if it shall appear to have been so done, or if any action or suit shall be brought or commenced after the time hereby limited for bringing or commencing the same, or if the Plaintiff or Plaintiffs shall become non-suit, or discontinue his, her or their action or suit, after the Defendant or Defendants shall have appeared, or if judgment shall be given against such Plaintiff or Plaintiffs, the Defendant or Defendants shall have full costs, and such remedy for the same as any Defendant or Defendants hath or have for costs of suit in other cases, in Law.

XXXVI. And be it further 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 His Majesty, his heirs or successors, or of any person or persons, bodies politic or corporate, such only excepted as are herein mentioned.

XXXVII. And be it further enacted by the authority aforesaid, that in case the said sum of five hundred thousand pounds hereinbefore authorized to be raised, shall be found insufficient for the purposes of this Act, then and in such case, it shall be lawful for the said Company of proprietors to raise and contribute amongst 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, further or other sums of money for completing and perfecting the said intended Rail Road, and other works and conveniences incidental or relative thereto, not exceeding the sum of one hundred 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 or further sum had been originally raised, and a part of the said first sum of five hundred thousand pounds, any thing herein contained to the contrary notwithstanding.

XXXVIII. And be it further enacted by the authority aforesaid, that at any time before or after the making and completing the said Rail Road or undertaking, it shall and may be lawful for His Majesty, his 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 Rail Road and works connected therewith, together with such further sum as will amount to twenty per cent upon the monies so advanced and paid as full indemnification to the said 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 Rail Road 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 His Majesty, his heirs and successors, who shall thence forward 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 Act, in so far as regards the said Rail Road or undertaking.

XXXIX. And be it further enacted by the authority aforesaid, that the said Company shall annually submit to the three branches of the Legislature, within the first fifteen days after the opening of each Session of the Provincial Parliament, a detailed and particular account attested upon oath, of the monies by them received and expended under and by virtue of this Act, with a statement of the amount of tonnage and of passengers that have been conveyed along the said Rail Road.

XL. And be it further enacted by the authority aforesaid, that this Act shall be deemed and taken to be a public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and all other persons, without being specially pleaded.