

The Provincial Statutes of Lower-Canada, Being the sixth session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, fifth day of November, 1840, and ending the ninth day of February, 1841. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1841.

4 Victoria – Chapter 10 (Session 6)

An Ordinance for making a Rail-road from Sherbrooke, to a point upon either Bank of the River Richelieu.

Whereas the several persons hereinafter named have, by their Petition, represented the public advantages which would arise from the construction of a Rail-road from the Town of Sherbrooke, by the way of the outlet of Lake Memphramagog [Lac Memphrémagog] 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 merchandise 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 Rail-road; 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 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 Samuel Brooks, Benjamin Pomroy, Alexander Kelborn, Ichabod Smith, Wilder Pierce, Phineas Hubbard, Robert Hoyle, Moses F. Colby, Stephen Foster, John Gilman, William Arms, Joseph Soper 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 Tait, C. B Cleveland, Ira King, Thomas C. Allis, G. K. Foster, William K. Parker, John Mansur, Horace Huntoon, 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 Rail-road 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 Rail-road, shall be and are hereby constituted a Corporation, body politic and corporate, for the making, completing, carrying on and maintaining the said Rail-road, 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 Rail-road," 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, store-houses or other buildings for the convenience of themselves, their successors and assigns, for all useful purposes connected with the said Rail-road, 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 Rail-road 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 Rail-road, 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 Rail-road 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 Rail-road 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 Rail-road, 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 setup in or upon the said intended Rail-road, 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 Rail-road; 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 Rail-road, 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 Rail-road, 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 Rail Road, 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.

II. 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 Rail road is to pass or to be carried, together with a plan or map of such Rail-road, 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 Rail-road, in which shall be set forth a description of the said several lands, or those parts thereof through which the said Rail-road shall pass, with the names of the owners, occupiers, or proprietors thereof, and in which shall be contained every thing 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 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 Kings Bench for the District of St. Francis [Saint-François], 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 six pence 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.

III. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that where the said Rail-road shall cross, any public highway, the ledge or flanch of such Rail-road, 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.

IV. 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 Rail-road 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 fifteen, feet; and the descent under such bridge, shall not exceed one foot in thirteen feet.

V. 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 Rail-road, 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.

VI. Provided always, und be it further Ordained and Enacted by the authority aforesaid, that in all cases where the said intended Rail-way 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 Rail-road 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 Rail-road; 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.

VII. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that the said Company of Proprietors, in making the said intended Rail-road, 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 Rail-road into, through, across, under or over any part or parts of the several estates, lands or grounds, now or later 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 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.

VIII. Provided always, and be it further Ordained and Enacted by the autho aforesaid, that the said Company of Proprietors shall and may make their said intended Rail-road through, across, of 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.

IX. And be it further Ordained and Enacted by the authority aforesaid, that the lands or grounds to be taken or used for such intended Rail-road, 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 Rail-road 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 Rail-road, 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, toll-houses, watch-houses, weigh-beams, cranes, fixed engines, or inclined planes, may be erected, or goods, wares, 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.

X. 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 Rail-road 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 on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether issue unborn, infants, lunatic, idiots, femmes 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 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, and true

copies thereof, certified by any of the said Prothonotaries, shall be allowed to be good evidence in all Courts whatsoever.

XI. 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 Rail-Road 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 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 Rail road 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.

XII. 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 depo-sited 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 Rail-road 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 Rail--road, 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 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 Province, 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 communication made necessary by reason of the said Rail-road, 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 the said Company of Proprietors to and for the use, benefit and advantage of their said Rail-road or undertaking.

XIII. 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.

XIV. 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 Court 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.

XV. And be it further Ordained and Enacted by the authority aforesaid, that upon payment or legal tender of such sum of 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 Rail-road and other work and conveniences thereunto appertaining.

XVI. 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 St. 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 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 exceeding one hundred words, the sum of six pence

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, judgments 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.

XVII. 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.

XVIII. 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 Rail-road, 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 Sheriffs District, within which such offence shall have been committed; and one moiety thereof shall go to the prosecutor or informer, and the other moiety shall belong 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.

XIX. 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 Rail-road 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, weigh-beams, 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 Rail-road, 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.

XX. 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 Rail-road and all such other works, matters and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Rail-road 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 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 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 one hundred and fifty thousand pounds currency of this Province in the whole, except as hereinafter mentioned, and that the same be divided into such number of shares as hereinafter directed, at a price not exceeding twelve pounds ten shillings 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 Rail-road and other the purposes of this Ordinance, and to no other use, intent or purpose whatsoever.

XXI. 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 Rail-road, 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 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 Rail-road, shall be entitled to and receive, after the said Rail-road 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.

XXII. 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 Rail-road 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 sum had been originally raised and a part of the said first sum of one hundred and fifty thousand pounds; any thing herein contained to the contrary notwithstanding.

XXIII. 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 every six shares above thirty and not exceeding sixty, one vote, making fifteen votes for sixty

given during two consecutive 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 at 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 persons each being a proprietor of five or more shares in the said undertaking, (out of whom any eight or more shall be a 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 anytime 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, 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 three thousand shares, shall be as valid to all intents, and purposes as if the same were done at general meetings.

XXVI. 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; any thing, in this Ordinance to the contrary notwithstanding,

XXVII. 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 stock holders 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.

XXVIII. 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.

XXIX. 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.

XXX. 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 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 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 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 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

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 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 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.

XXXI. 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 Rail-road or undertaking.

XXXII. 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 Rail-road and other works connected therewith or belonging thereto, and for the well governing of all persons whomsoever travelling upon or using the said Rail-Road 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, by-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 herein after mentioned; which said rules, by-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 hi 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, by-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.

XXXIII. 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 Rail-road 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 fyled 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 fyled 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.

XXXIV. 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 Eastern Townships’ 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 in _____ (L. S.)
the presence of _____ (L. S.)”

XXXV. 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 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 Rail--road 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.

XXXVI. 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.

XXXVII. 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 Rail-road, ten pence 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, merchandizes and commodities shall be so conveyed, and the sum of three pence currency per mile, for every passenger, and so in proportion for any larger or less weight of goods, wares, merchandizes and commodities so carried and conveyed as aforesaid, which said sum or sums, rate or rates of freight and conveyence, shall be paid to such person or persons, and at such place or places, on or near to the said Rail-road, 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, 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 mean time 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.

XXXVIII. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that in all cases when there shall be a fraction of a mile in the distance on which goods, wares, merchandizes 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 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 of Proprietors to the number of hundred weights contained therein, and in all cases where there shall be a fraction of a hundred weight, such fraction shall be deemed and considered as a whole hundred weight.

XXXIX. 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 Rail-road 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 Rail-road, 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 hours at which their trains and carriages will start from either end of such Rail-road, 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 half penny 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 such mail above the first hundred weight, making no charge for any fraction of a hundred weightless than half a hundred weight, when the whole weight of the mail shall exceed one hundred weight, or one hundred and twelve pounds avoir-du-poise; 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 any thing done or omitted in pursuance thereof; any thing in this section to the contrary notwithstanding.

XL. Provided always, and be it further Ordained and Enacted by the authority afore-said, 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 by-law or by-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 Rail road 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 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 twelve pounds weight as aforesaid, upon the said Rail-road or upon any part thereof.

XLI. 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 Rail-road or undertaking, divide and separate and keep constantly divided and separated the lands 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 insufficient 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.

XLII. 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 Rail-road, the said Company of Proprietors shall erect and place a gate or other moveable barrier on each side of the said Rail-road, 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 Rail-road, 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 by-laws, for the opening and closing, regulating, 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 Rail-road, and to impose for each offence against such rules and by-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.

XLIII. And be it further Ordained and Enacted by the authority aforesaid, that as soon as conveniently may be after the said Rail-road 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 distances from the eastern end of the Rail-road (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.

XLIV. 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 monies 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.

XLV. 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 Rail-road 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.

XLVI. 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 by-law, to be made in pursuance thereof, (of which rule, order or by-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, 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 offenders 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 hereinbefore 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 for the use of the said Rail-road 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 whereof 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.

XLVII. 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 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.

XLVIII. 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 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 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 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.

XLIX. 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 Rail-road 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 Rail-road 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 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 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 Rail-road or undertaking.

L. 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 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 Rail-road, during the period for which the account shall be rendered.

LI. 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 Rail-road, to take and appropriate for the use of the same so much of the land covered with the waters of 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 thereupon 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 Rail-road; but no such bridge over the River Richelieu shall be constructed by the said Company except according 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 of 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 Rail-road, 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 Honorable 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 St. Luke at St. 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 Rail-road 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.

LII. 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 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.

LIII. 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 Rail-road 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 therefor to exact, take and receive toll or fare, but not to divide any profit or dividend until the said Rail-road be completed; the whole under the authority and provisions of this Ordinance.

LIV. 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 Rail-road 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 only as regards such of the aforesaid sections of the aforesaid Route of the said Rail-road 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 Rail-road 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, any thing in this Ordinance contained to the contrary notwithstanding: Provided always, that if the said Rail-road 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 Rail-road 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 Rail-road shall have been completed and in use before the expiration of the term of five years from the passing of this Ordinance.

LV. 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.

LVI. 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.

LVII. 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.

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,
W. B. LINDSAY,
Clerk Special Council.