

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1836. Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1836.

6 William IV – Chapter 31

An Act to incorporate The Saint Andrews and Quebec Rail Road Company. Passed 8th March 1836.

Whereas the construction of a rail road from Saint Andrews in the Province of New Brunswick to Quebec in Lower Canada would be of great public utility: And whereas it is deemed advisable to grant encouragement to such enterprising persons as may be desirous and willing at their own cost and charges to make and maintain a rail road in the direction aforesaid by granting to them an act of incorporation

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the Honorable James Allanshaw, Colin Campbell, Beverley Robinson, John M'Master, John Wilson, Harris Hatch, Thomas Wyer, the Honorable William F. Odell, Alexander Rankin, James Rait, the Honorable Ward Chip- man, Charles Simonds, Hugh Johnston, John R. Partelow, the Honorable Thomas Baillie, William Walker, James Douglas, Adam Jack, E. D. W. Ratchford, James W. Chandler, A. L. Street, E. N. Kendall, Samuel Frye, Samuel H. Whitlock, Richard M. Andrews, J. G. Woodward and Jeremiah M. Connell, all of the Province of New Brunswick, and Andrew Patterson, George Auldjo, George Pemberton, William Price, the Honorable George Moffat, William Walker, Henry Le Mesurier, James Leslie, all of the Province of Lower Canada, and such other persons as shall from time to time become proprietors of shares in the corporation hereby established, their 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 Saint Andrews and Quebec 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 shall 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; and also that they the said company or the major part of them shall from time to time and at all times during the continuance of this Act have full power and authority to constitute, make, ordain and establish such laws, regulations and ordinances as may be deemed necessary for the good rule and government of the said corporation; provided that such laws, regulations and ordinances as may be deemed necessary be not contradictory or repugnant to the laws of this Province.

II. Be it enacted, That the capital stock of the corporation hereby established shall not be less than the sum of seven hundred and fifty thousand pounds, to be paid in current money of this Province, the whole amount of the said capital stock to be divided into thirty thousand shares, which shares shall be vested in the several persons hereinbefore named and such other persons as may take shares in the said corporation, their successors and assigns, in proportion to their respective shares and interest, which said shares shall be of the value of twenty five pounds each,

four per cent, of which shall be paid at such time and place as the directors of the said company shall appoint, and the remaining ninety six per cent, in such parts and proportions and at such time and times as t he said directors shall determine, which amount shall not at any one period be more than ten per cent, on the amount of the capital or stock belonging to any individual, and that ninety days previous notice of such payment being required shall be given in one or more of the newspapers to be published in this Province; and every of the said shares shall be personal estate and transferable as such and not of the nature of real property, and every such share shall entitle the holder thereof to a proportional part of the profits and dividends of the said corporation: Provided always, that the money so to be raised as aforesaid is hereby directed and appointed to be laid out for and towards the making and completing and maintaining the said rail road, and other the purposes therewith connected mentioned in this Act, and to no other use or purpose whatsoever.

III. And be it enacted, That so soon as ten thousand shares of 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 authorised and empowered by themselves, their deputies, agents, officers and workmen, to make and complete a single or double line of rail road from Saint Andrews aforesaid to the boundary line of Lower Canada, with such deep cuttings, 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 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 enacted, That for the purposes of this Act the said corporation shall by some suitable engineer or engineers by them to be appointed, cause to be made and taken levels and surveys of the country and lands through which the said rail road is to be carried, together with the 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 shall be made in triplicate, and the three parts thereof shall be compared and certified as being exactly alike by the Surveyor General of the Province or his deputy, who shall deposit one part thereof in the office of the Clerk of the Pleas of the Supreme Court of Judicature of this Province, one other 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 free access to the parts so deposited as aforesaid, and make extracts from or copies thereof as occasion may require, paying to the said Secretary of the Province or to the said Clerk of the Pleas at the rate of sixpence 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 Clerk of the Pleas 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 enacted, That so soon as the said map and plan shall have been, made, it shall 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 owner 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 occupiers, or any of them, then such compensation and satisfaction shall be determined by three arbitrators, one to be chosen by the said corporation and one by the owner or owners, occupier or occupiers of the private property in question, which two arbitrators so chosen shall choose a third, arbitrator, and in case the said two first mentioned arbitrators shall not agree in the choice of the third arbitrator, then and in such case it shall and may be lawful for the Lieutenant Governor or Commander in Chief for the time being, upon application of the said corporation, to appoint the third arbitrator, and the award of said arbitrators or any two of them shall be final and conclusive in the matters referred to them; and in case any of the said owners or occupiers of such private property shall decline making any such agreement or appointing such arbitrator, then and in every such case the said corporation shall make application to the Supreme Court of this Province, stating the grounds of such application, and such Court is hereby empowered and required from time to time, upon such application, to issue a writ or warrant directed to the Sheriff of the County in which such lands lie, or in case of his being a party interested then to the Coroner of the said County, and in case of the said Sheriff and of the said Coroner being both interested then to some person or persons who may be disinterested, commanding such Sheriff, Coroner, person or persons as the case may be, to summon and empanel a Jury of twelve freeholders within the said County who may be altogether disinterested, 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 in the matter, the Sheriff, Coroner, or person or persons summoning such Jury is hereby empowered to administer, shall enquire, ascertain and assess the distinct sum or sums of money, or annual rent to be paid as the amount of compensation and satisfaction for the damages that may and shall be sustained by such owner or owners, occupier or occupiers of such private property as aforesaid, and the inquisition, award or verdict of such Jury shall be returned and filed in the office of the Clerk of the Pleas in the said Supreme Court, and shall be final and conclusive between the parties, which amount so assessed as aforesaid, and the cost and expenses of such proceedings to be taxed and allowed by the said Supreme Court, shall be borne by the said Corporation, and shall be by them paid within thirty days after the said inquisition, award or verdict shall be filed as aforesaid.

VI. And be it enacted, 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 authorised and empowered to enter into and upon the lands and grounds belonging to His Majesty, his heirs or 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, tunnels and other works as may be necessary for completing and maintaining the said railroad, 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, 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. Provided always and be it enacted, 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 or inserted in the said book of reference, and where it shall appear that instead of the name or names of the owner or occupiers 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, hath 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 of carrying the said rail road through the same.

VIII. Provided always and be it enacted, That the ground to be taken for the said rail road where the same shall pass through wilderness or forest lands shall not be less than two hundred feet in breadth, and when the same shall pass through cultivated lands not to exceed one hundred feet in breadth, except 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 or 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 shown on the plan and book of reference herein before mentioned, at which places respectively the extent of land to be taken as aforesaid shall not exceed five hundred feet in length by two hundred and fifty feet in breadth.

IX. And be it enacted, That after any lands 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 and 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, idiots, *femmes couvertes*, persons beyond seas 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.

X. And be it enacted, That not less than five directors shall constitute a board for the transaction of business, of which the president shall always be one except in case of sickness or necessary absence, in which case the directors present may choose one of their number as chairman in his stead; that the president shall vote at the board as a director, and in case of there being an equal number of votes for and against any question before them the president, shall have a casting vote.

XI. And be it enacted, That the number of votes which each stockholder shall be entitled to on every occasion when in conformity to the provisions of this Act the votes of the stockholders 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 shares; and for every eight shares above sixty and not exceeding one hundred, one vote, making twenty votes for one hundred shares; which said number of twenty votes shall be the greatest that any stockholder shall be entitled to have; and all stockholders may vote by proxy if they shall see fit, provided such proxy be a stockholder and do produce from his constituent whom he shall represent or for whom he shall vote, an appointment to that effect in the following form:

I (or We) _____ of _____, do hereby nominate, constitute and appoint _____ of _____, to be my proxy, in my name and in my absence to vote or give my assent to or dissent from any business, matter or thing relative to The Saint Andrews and Quebec Rail Road Company, that shall be mentioned or proposed at any meeting of the said company or any of the members thereof, in such manner as the said _____ shall think proper and for the benefit of the said company. In witness whereof, I (or We) have hereunto set _____ hand and seal the _____ day of _____ in the year of our Lord one thousand eight hundred and _____.

And whatever question, election of proper officers, or other matters or things shall be proposed, discussed or considered in any public meeting of the members of the said corporation under the authority of this Act, shall be determined and decided by the 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.

XII. And be it enacted, That the first general meeting of the said corporation shall be held in Saint Andrews aforesaid as soon as two hundred and fifty thousand pounds of the capital stock of the said corporation shall have been actually subscribed for, provided that thirty days previous notice thereof shall be given in the Royal Gazette or other newspaper printed at Fredericton, also in one of the newspapers published in the City of Saint John, and also in one or more newspapers, if any, published in Saint Andrews; and the same general meeting of the said corporation and every subsequent general meeting shall be held at Saint Andrews aforesaid on the first Tuesday in May in each and every succeeding year; and at such first or at any subsequent general meeting, the members present or appearing by proxy shall choose by a majority of votes thirteen persons to be

directors, (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 members of the said corporation holding together at least two hundred shares therein, that for the more effectually carrying this Act into effects special meeting of the said members is necessary, it shall be lawful for them to cause notice thereof to be given in the Royal Gazette or other newspaper published in Fredericton, also in one of the newspapers published in the City of Saint John and also in one or more newspapers, if any, published in Saint Andrews, 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 town of Saint Andrews, 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 the said corporation are hereby authorised 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 one third 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.

XIII. Provided always and be it enacted, 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 or other meeting, such orders and directions not being contrary to any express directions or 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.

XIV. And be it enacted, That at every such general meeting 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 as 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 under-taking; 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, privileges, casements, chattels 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 the Royal Gazette or other newspaper published in Fredericton, also in one of the newspapers published in the City of Saint John, and also in one or more newspapers, if any, published in Saint Andrews, 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 proportionable part or share of the said money to be called for as aforesaid, at the time and place appointed by such general assembly or 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 or interests in the said corporation, undertaking and premises, and all the profit and benefit thereof, and such share and shares shall be sold by the directors of the said corporation by public auction after six weeks notice of such intended sale in the Royal Gazette or other newspaper published in Fredericton, also in one of the newspapers published in the City of Saint John, and also in one or more newspapers, if any, published in Saint Andrews, and the amount for which the same shall be sold after deducting the expense of the sale shall be paid over to the person or persons whose share or shares shall he 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.

XV. And be it enacted, 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 herein before prescribed and laid down with regard to their proceedings among themselves, 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, bye laws

and orders for the good government of the said corporation, for the good and orderly using the said railroad and of the works and property herein before mentioned, and for the well governing of the engineers, workmen, waggonmen and other persons employed by the said corporation in and about the said rail road, and the works and properly 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 the Royal Gazette or other newspaper published in Fredericton, also in one of the newspapers published in the City of Saint John, and also in one or more newspapers, if any, published in Saint Andrews, 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 some, 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.

XVI. And be it enacted, 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 to, 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 filed and kept for the use of the said corporation, 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 two shillings and six pence currency will 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 filed 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 members.

XVII. And be it enacted, 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, administrators or assigns _____ share (or shares) in the undertaking of The Saint Andrews and Quebec Rail Road Company, to hold to him the said C. D. his heirs, executors, administrators and assigns, subject to the said 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 same rules, orders and conditions. Witness our hands and seals the _____ day of _____ in the year of our Lord one thousand eight hundred and _____.

XVIII. And be it enacted, That it shall be lawful for the said corporation, and they are hereby authorised 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 officers 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 name 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 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 a majority thereof 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.

XIX. And be it enacted, That so soon as the said rail road shall be completed and opened or any part thereof, 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 such rates, toils or dues for any passenger conveyed and carried at the cost and charge of the said corporation upon the said rail road, and for every ton of goods, chattels, wares and merchandize of any kind whatsoever so conveyed and carried upon the said rail road, such sum or sums of money as the said corporation may think just and reasonable: Provided always, that if after the expiration of ten years from the time of completing the said rail road, the rates, tolls or dues that may be established by the said corporation under and by virtue of this Act should be found excessive, it shall and may be lawful for the Legislature to reduce the said rates, tolls or dues, so as that the same shall not produce to the said corporation a greater rate of net profit upon their capital stock than twenty five pounds annually for every hundred pounds of such capital stock; and in order that the true state of the affairs of the said corporation shall be known, it shall be the duty of the president and directors thereof to produce and lay before the several branches of the Legislature of this Province at the expiration of ten years after the said rail road shall have been completed as aforesaid, a just and true statement and account of the monies by them disbursed and laid out in making and completing the said rail road in manner aforesaid, and also of the amount of tolls and revenues of the said rail road, and of the annual expenditure and disbursements in maintaining and keeping up the same during the said ten years; the said several accounts and statements to be signed by the president and treasurer of the said corporation, and by such president and treasurer attested to on oath before any one of His Majesty's Justices of the Peace for any County in this Province; and provided also, that it shall be the duty of the president and directors of the said corporation once in each and every year after the expiration of the said ten years to lay before the several branches of the Legislature a like statement and account verified on oath by the said president and treasurer as aforesaid.

XX. And be it enacted, 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 within the said line or any intermediate space thereof, 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 or 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, chattels, 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; provided that if payment of the said rates or dues shall not be made within three days after such seizure as aforesaid, that the said goods and chattels shall be sold at public auction, and after deducting the said rates or dues, costs and charges, the surplus (if any) to be returned to the owner or owners.

XXI. And be it enacted, 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 afore-said, and shall at their own proper cost and charges from time to time maintain and support the said posts, rails, hedges, ditches, trenches, banks and other fences erected, set up and made as aforesaid, and also shall at their own charges make, erect, set up such and so many convenient gates, 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 such 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 lauds or grounds adjoining to the said rail road; and the said corporation shall not make the said rail way 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 footpath, 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.

XXII. And be it enacted, 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, or by carrying the said rail road on a good and sufficient viaduct over the said highway, 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 done so 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; and the said

corporation is hereby authorised 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.

XXIII. And be it enacted, 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 half a mile of each and every land so divided, and shall make and maintain a good and sufficient road twenty five 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 the said land to the said highway as they had before the said rail road was made, and the said corporation is 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 section of this Act empowered to take for the said purpose, any thing in this Act contained to the contrary notwithstanding.

XXIV. And be it enacted, 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 advance and pay 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 who 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 such case it shall be lawful for the said corporation to sue for and recover the same in any Court of law having competent jurisdiction.

XXV. And be it enacted, 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 make and complete the said rail road from Saint Andrews to the Province True in manner aforesaid, within fifteen 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, chattels, wares and merchandize thereon, then this Act, and every matter and thing therein contained shall cease and be utterly null and void.

XXVI. And be it enacted, 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 value 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, to be 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, and shall also be liable to the punishment prescribed for felony in an Act made and passed in the first year of the reign of His present Majesty, intituled *An Act for the improving of the administration of Justice in Criminal cases*.

XXVII. And be it enacted, That if any suit shall be brought or commenced against any person or persons for any thing alledged to be done under the authority of this Act, or in execution of the powers and authorities, orders and directions herein before given, granted or enacted, every such suit shall be brought or commenced within six calendar months next after the offence was 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 the 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.

XXVIII. And be it enacted, That the directors of the said corporation shall make yearly dividends of the tolls, income and profits arising to the said corporation, first deducting thereout the annual costs, charges and expenses of the said corporation, as well for the repairs of the works belonging to them as for the salaries and allowances to their several officers and servants, and for such other purposes connected with the said corporation as may be deemed proper by the said directors.

XXIX. And be it enacted, That the joint stock or property of the said corporation shall alone be responsible for the debts and engagements of the said corporation, and that no person or persons who shall or may have dealings with the said corporation shall on any pretence whatsoever have recourse against the separate property of any individual member or members of the said

corporation, or against their person or persons, further than is herein specially provided, and that may be necessary for the faithful application of the funds of this corporation.

XXX. And be it enacted, That any joint committee hereafter to be appointed by the Honorable the Legislative Council and the House of Assembly for the purpose of examining into the proceedings of the said corporation, shall either during the Session or prorogation of the General Assembly have free access to all the books and accounts of the same.

XXXI. And be it enacted, That the said corporation shall not directly or indirectly deal or trade in buying or selling gold or silver coins, or bullion, or bills of exchange, or in lending money by way of discount, or engage in any banking operations whatsoever.