

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1852.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1852.

15 Victoria – Chapter 76

**An Act to incorporate the Magaguadavic Railway Company. Passed 7th April 1852.**

Whereas the construction of a Rail Road for the transportation of lumber from the Upper Mill Town, on the Magaguadavic River, to the Town of Saint George, and thence to L'Etang Harbour, and also for the conveyance of passengers, would materially benefit the inhabitants of that section of the Province, and would tend in a great degree towards the improvement of the country, 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 Railway in the direction aforesaid, by granting them an Act of Incorporation;

Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

1. That Daniel Gillmor, Benjamin Randall, F. O. J. Smith, the Honorable W. F. W. Owen, the Honorable Harris Hatch, Patrick Clinch, Moore R. Fletcher, Abraham J. Wetmore, Robert Thomson, Isaac Knight, Dillon P. Myers, John G. Myers, William Porter, Stuart Seelye, John French, Z. A. Paine, Robert Mowe, Junior, Daniel J. Odell, John M'Coull, Gideon Knight, Justus Wetmore, John J. Robinson, Thomas Jones, Richard Magee, Philo Seelye, John E. Messenett, Reuben Brockway, Junior, Kilburn G. Robinson, Alfred Gillmor, Arthur Hill Gillmor, Hugh Matheson, Hugh M'Callum, Henry Frye, Edward Seelye, George V. Knight, James Vernon, Barnard Buckman, John Wheaton, and such other persons as shall from time to time become proprietors of shares in the Company hereby established, their successors and assigns, shall be and they are hereby declared, ordained and constituted to be a Corporation, Body Politic and Corporate, by the name of The Magaguadavic Railway 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 Railway, and for settlers on the line of the said Railway, and generally for the purposes of carrying the provisions of this Act into effect; and also that they, the said Company, shall from time to time and at all times have full power and authority to constitute, make, ordain and establish such bye laws, regulations and ordinances as may be deemed necessary for the good rule and government of the said Company, provided that such bye laws, regulations and ordinances as may be deemed necessary, be not contradictory or repugnant to the laws of this Province; and provided also, that no bye laws, regulations and ordinances made under and by virtue of the power and authority of this Act, shall be of any force or effect until one calendar month after a true copy of such bye laws, regulations and ordinances, certified under the hand of the President of the said Company, shall have been laid before the Lieutenant Governor or Administrator of the Government in this

Province for the time being, for his approval or disapproval, unless the Lieutenant Governor or Administrator of the Government shall before such period signify his approbation thereof.

2. The capital stock of the Company hereby established shall be fifty thousand pounds, to be paid in current money of this Province, the whole amount of the said capital stock to be divided into five thousand shares of ten pounds each, which shares shall be vested in the persons hereinbefore named, and such other persons as may take shares in the said Company, their successors or assigns, in proportion to their respective shares and interest, which said shares shall be of the value of ten pounds each, five 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 five per cent, in such part and proportions and at such time and times as the said Directors shall determine, which amount shall not at any one period be more than five per cent, on the amount of capital or stock belonging to any individual, and one month at the least shall be the interval between successive calls, and twenty days previous notice of payment being required for any one call shall be given in one of the weekly papers published in the County of Charlotte; and on demand of the holder of any share the Company shall cause a certificate of the proprietorship of such share to be delivered to such shareholder, and the same may be according to the form in the Schedule A to this Act annexed, or to the like effect; and every of the said shares shall be deemed personal estate and transferable as such, and shall not be deemed or taken to be of the nature of real property, and every such share shall entitle the holder thereof to a proportionable part of the profits and dividends of the said Company; provided also, that the money so to be raised as aforesaid, shall be laid out in the making, completing and maintaining the said Railway and other the purposes therewith connected mentioned in this Act, and in payment of the legal and other expenses incurred in and about the incorporating and establishing the said Company, and to no other use or purpose whatsoever.

3. So soon as ten thousand pounds of the capital stock of the said Company shall have been subscribed, and the deposit of five per cent, shall have been actually paid into some Bank in this Province, to be named by the Directors of the said Company, and not before, it shall be lawful for the said Company, and they are hereby authorized and empowered by themselves, their deputies, agents, officers and workmen, to make, construct and fully complete, alter and keep in repair, a Railway with one or more sets of rails or tracks, with all suitable bridges, archways, turnouts, culverts, drains and all other necessary appendages, and to erect such wharves, moles, jetties, piers, docks, harbours, landings, dikes, buildings, depots and warehouses, either at the termini or on the line of the said Railway, and to purchase and acquire such stationary or locomotive steam engines and carriages, wagons, floats and other machinery and contrivances, and real or personal property, as may be necessary for the making and maintaining the said Railway, and for the transport of passengers and merchandise thereon, and for other purposes of this Act, and may hold and possess the land over which the said Railway is to pass, and such adjoining lands as may be required; which Railway is to rim from the Upper Mill Town, on the Magaguadavic River, to the Town of Saint George, and thence to L'Etang Harbour; the said Railway to be made and constructed on such route as the Directors of the said Company, in the exercise of their best judgment and discretion, shall deem most favourable and best calculated to promote the public

convenience; provided always, that a map or plan of the route determined upon shall be deposited in the office of the Secretary of the Province.

4. The said Company shall and may (if they deem it expedient) make Branch Railways to every or any part of the County of Charlotte, and for that purpose shall exercise and possess all the powers, privileges and authorities necessary for the management of the same, in as full and ample a manner as they are hereby authorized to do with respect to the said Railway.

5. It shall be lawful for the Directors of the said Company, until the said Railway shall be completed and open to the public, to pay interest at any rate not exceeding six pounds per centum per annum, on all sums called up in respect of the shares, from the respective days on which the same shall be paid; such interest to accrue and be paid at such times and places as the said Directors shall appoint for that purpose; provided always, that no interest shall accrue to the proprietor of any share upon which any call shall be in arrear in respect of such shares, or any other shares to be holden by the same proprietor, or during the period while such call shall remain unpaid.

6. The certificate of the proprietorship of any share in the said Company, shall be admitted in all Courts as prima fade evidence of the title of any shareholder, his executors, administrators, successors or assigns, to the share therein specified; nevertheless, the want of such certificate shall not prevent the holder of any share from disposing thereof.

7. No shareholder shall be entitled to transfer any share after any call shall have been made in respect thereof, until he or she shall have paid all calls, for the time being, due on every share held by him or her.

8. The said Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the said shares may be subject; and the receipt of the party in whose name any such share shall stand in the books of the said Company, or if it stands in the name of more parties than one, the receipt of one of the parties named in the register of shareholders, shall from time to time be a sufficient discharge to the said Company for any dividend or other sum of money payable in respect of such share, notwithstanding any trust to which such share may then be subject, and whether or not the said Company have had notice of such trusts; and the said Company shall not be bound to see to the application of the money paid upon such receipt.

9. The several persons who have or shall hereafter subscribe any money towards the said undertaking, or their legal representatives respectively, shall pay the sums respectively so subscribed, or such portions thereof as shall from time to time be called for by the Directors of the said Company, at such times and places as shall be appointed by the said Directors; and with respect to the provisions in this Act contained for enforcing the payment of calls, the word "shareholder" shall extend to and include the personal representatives of such shareholder.

10. It shall be lawful for the Directors of the said Company from time to time to make such calls of money upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by themselves, as they shall deem necessary; provided that twenty days notice at the least be given of each call as aforesaid, and that no call exceed the prescribed amount aforesaid, and that successive calls be not made at less than the prescribed interval aforesaid; and every shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him to the persons and at the times and places from time to time appointed by the said Company or the Directors thereof.

11. If before or on the day appointed for payment any shareholder do not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate allowed by law, from the day appointed for the payment thereof to the time of the actual payment.

12. It shall be lawful for the said Company (if they think fit) to receive from any of the shareholders willing to advance the same, all or any part of the moneys due upon their respective shares beyond the sums actually called for; and upon the principal moneys so paid in advance, or so much thereof as shall from time to time exceed the amount of the calls then made upon the shares in respect of which such advance shall be made, the Company may pay interest at such rate, not exceeding the legal rate of interest for the time being, as the shareholder paying such sum in advance and the said Company may agree upon.

13. If at the time appointed by the said Company or the Directors thereof for the payment of any call, any shareholder fail to pay the amount of such call, it shall be lawful for the said Company to sue such shareholder for the amount thereof in any Court of law or equity having competent jurisdiction, and to recover the same with lawful interest from the day on which such call was payable.

14. In any action or suit to be brought by the said Company against any shareholder, to recover any money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the said Company to declare that the defendant is the holder of one share or more in the said Company, (stating the number of shares,) and is indebted to the said Company in the sum of money to which the calls in arrear shall amount in respect of one call or more upon one share or more, (stating the number and amount of each of such calls,) whereby an action hath accrued to the said Company by virtue of this Act.

15. On the trial or hearing of such action or suit, it shall be sufficient to prove that the defendant, at the time of making such call, was the holder of one share or more in the said undertaking, and that such call was in fact made, and such notice thereof given as is directed by this Act; and it shall not be necessary to prove the appointment of the Directors who made such call, nor any other matter whatsoever, and thereupon the said Company shall be entitled to recover what shall be due upon such call, and interest thereon, unless it shall appear either that any such call exceeds the prescribed amount aforesaid, or that due notice of such call was not given, or that the prescribed interval between two successive calls had not elapsed as aforesaid.

16. The production of the register of shareholders shall be prima facie evidence of such defendant being a shareholder, and of the number and amount of his shares.

17. If any shareholder fail to pay any call payable by him, together with the interest (if any) that shall have accrued thereon, the Directors of the said Company, at any time after the expiration of two months from the day appointed for payment of such call, may declare the share in respect of which such call was payable, forfeited, and that whether the said Company have sued for the amount of such call or not.

18. Before declaring any share forfeited, the Directors of the said Company shall cause notice of such intention to be left or transmitted by post to the usual or last place of abode of the person appearing by the register of shareholders to be the proprietor of such share, and if the holder of any such share be beyond the limits of this Province, or if his usual or last place of abode be not known to the said Directors, by reason of its being imperfectly described in the shareholders' address book, or otherwise, or if the interest in any share shall be known by the said Directors to have become transmitted otherwise than by transfer, and so the address of the parties to whom the said share or shares may for the time being belong, shall not be known to the said Directors, the said Directors shall give public notice of such intention in one or more of the weekly newspapers published in the said County of Charlotte; and the several notices aforesaid shall be given thirty days at least before the said Directors shall make such declaration of forfeiture.

19. The said declaration of forfeiture shall not take effect so as to authorize the sale or other disposition of any share until such declaration shall have been confirmed at the next general meeting of the said Company to be held after such notice of intention to make such declaration of forfeiture shall have been given, and it shall be lawful for the said Company to confirm such forfeiture at any such meeting, or at any subsequent general meeting to direct the share or shares so forfeited to be sold or otherwise disposed of.

20. After such confirmation as aforesaid it shall be lawful for the said Directors to sell the forfeited share by public auction, and if there be more than one forfeited share, then either separately or together, as to them shall seem fit, and any shareholder may purchase any forfeited share so sold as aforesaid.

21. An affidavit by some credible person not interested in the matter, sworn before any Justice or before any Commissioner for taking affidavits in the Supreme Court, that the call in respect of a share was made, and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated; and such affidavit, and the receipt of the Treasurer of the said Company for the price of such share, shall constitute a good title to such share; and a certificate of proprietorship shall be delivered to such purchaser, and thereupon he shall be deemed the holder of such share, discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

22. The said Company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest and the expenses attending such sale and declaration of forfeiture; and if the money produced by the sale of any such forfeited share be more than sufficient to pay all arrears of calls, and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture, and sale thereof, with the proof thereof and certificate of proprietorship to the purchaser, the surplus shall on demand be paid to the defaulter; provided always, that such defaulter shall in all cases be liable to the said Company for any deficiency arising by means of such default, and recoverable in any Court in this Province having competent jurisdiction for this purpose.

23. If payment of such arrears of calls and interest and expenses be made before any share or shares so forfeited and vested in the said Company shall have been sold by public auction as aforesaid, such share or shares shall revert to the party or parties to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

24. The said Company shall be and are hereby invested with all the powers, privileges and immunities which are or may be necessary to carry into effect the intentions and objects of this Act; and for this purpose the said Company, their successors, deputies, agents and assistants, shall have the right to enter and go into and upon the lands and grounds of all and every description lying in the said route and general direction as aforesaid, for the purpose of making surveys, examinations or other necessary arrangements for fixing the site of the said Railway; and it shall and may be lawful for the said Company and their successors to take and hold so much of the land and other real estate as may be necessary for the laying out, making and constructing and convenient operation of the said Railway, and shall also have the right to take, remove and use for the necessary construction and repair of said Railway and appurtenances, any earth, gravel, stone, timber or other material on or from the land so taken, without any previous agreement with the owner or owners, tenant or tenants of the land, and upon which such survey, examinations or other arrangements may be made, or through which the said Railway may be explored, laid out, worked, made and constructed, or on which materials and other things shall be laid for the purposes of the said Railway; provided always, that the said land so taken shall not exceed six rods in width, except where greater width is necessary for the purpose of excavation or embankment; and where the said Railway shall pass through any wood lands or forests, the said Company shall have the right to sell or remove any trees standing thereon to the distance of six rods from either side of the said Railway, which by their liabilities to be blown down or from their natural falling might obstruct or impair said Railway; provided always, that in all cases the said Company shall pay for such lands or estate so taken and used (in case the owner thereof demand it) such price as the said Company and the owner or respective owners thereof may mutually agree on; and in case the said parties should not agree, then it shall be lawful for the said Company to apply to two of Her Majesty's Justices of the Peace in the County wherein the said land maybe situate for a Warrant, which Warrant shall be in the form set forth in the Schedule B to this Act annexed, and shall be directed to the High Sheriff, his deputy, or any constable within the said County, commanding such High Sheriff, deputy or constable to summon a jury of five disinterested

freeholders or occupiers of land in the said County, who shall be sworn to examine the site of the said Railway; and in case the said Railway shall pass through or extend upon any improved lands, or shall occasion the removal of any buildings or fences, then and in all such cases the damages shall be ascertained and assessed by such jury; provided nevertheless, that the said jury in assessing the said damages are authorized and empowered, and shall take into consideration the enhancement in value of the land by the passage of the Railway, in regard to the increased facilities of access to the different stations and termini of the said Railway, in diminution of the damages; and in all cases where the jury shall assess damages to be paid to the owner or owners of any land over which the said Railway may be laid out, the Justices who issued the Warrant shall lay the said assessment before the next annual meeting of the said Company under the authority of this Act, who are hereby required to pay the amount set forth in the said assessment into the hands of the persons for whom such damages may be assessed, within twenty one days next after such annual meeting of the said Company, together with the costs and charges of assessing such damages, which shall be agreeably to a scale in Schedule C of this Act; and in default of such payment it shall and may be lawful for the said Justices, or either of them, (in case of the absence or death of the other), at the instance of the said party or parties to whom such damages are payable, by Warrant under the hands and seals of the said Justices, or one of them, (in case aforesaid,) to levy the same with costs, by distress and sale of the goods and chattels of the said Company; provided also, that nothing in this Act contained shall be construed to affect the rights of the Crown in any ungranted lands within this Province, or to authorize the said Company to enter upon or take possession of any such land without the previous permission of the Executive Government of the Province.

25. When the said Company shall take any land or estate of any Body Corporate, aggregate or sole, guardians, committees, executors or administrators, or other trustees whatsoever, held for or on behalf of those whom they represent, whether corporations, infants, idiots, lunatics, feme covert, persons deceased or beyond seas, or other person or persons whatsoever, who are or shall be possessed of or interested in the said land or estate, the respective contracts, agreements and sales of the said corporations, guardians, committees, executors, administrators or other trustees whatsoever, shall be valid and effectual in law to all intents and purposes whatsoever, and their respective receipts shall be good and valid releases and discharges therefor, and it shall be lawful for them respectively to agree and settle with the said Company for damages (if any) by reason of taking such land or estate aforesaid, and in case of disagreement, such damage to be ascertained and settled as provided by the twenty third section of this Act.

26. The said Company, their superintendents, engineers, agents and workmen, may enter upon the land adjoining the said Railway, and from thence take and carry away any timber, stone, gravel, sand and earth or material necessary for the construction of the said Railway; and in case of any slip happening or being apprehended to any cutting, embankment or other work belonging to the said Railway, the said agents and workmen shall at all times hereafter have full egress and regress into and upon such adjoining lands, for the purpose of repairing and preventing such accident, and to do such works as may be necessary for the purpose; provided always, that such works shall be as little injurious to the said adjoining land as the nature of the operations will admit of, and shall be executed with all possible dispatch; in all which cases the damage incurred, if the

parties cannot agree, shall be ascertained and paid in like manner in all respects as provided for in the twenty third section of this Act.

27. The said Company, at their own proper costs and charges, shall erect and maintain on each side of the said Railway sufficient fences wherever the same may be necessary, in order to protect the public or wherever any cleared or cultivated land occurs on the line of the said Railway, and for neglect or failure to erect and maintain such necessary fences, the said Company shall be liable to be indicted at any Court of *Oyer and Terminer* or General Sessions for the County where such fences shall be insufficient, and to be fined in such sum as shall be then and there adjudged, and such fine shall be expended for the erection or repair of such fences and for compensation of individual damage, as the case may be; and it shall and may be lawful for the Justices of the said Court of *Oyer and Terminer* or General Sessions, to make such order for levying the said fine on the property of the said Company, or otherwise, as to them shall seem most proper to the exigencies of the case, which said fine shall be exclusive of any claim for damages which any party may sustain by any such neglect or failure as aforesaid.

28. Whenever the said Railway or any of its branches cross or shall hereafter cross any highways, turnpike road, statute labour or private road for carriages of any description within this Province, the said Company shall make and maintain good and sufficient gates across each end of such highway, turnpike or other road, which gates shall be constantly closed, except during the time when horses, cattle, carts or carriages passing along such turnpike or other road shall have to cross such Railway, and such gates shall be of such dimensions and so constructed as when closed across the ends of such turnpike or other road to fence in the Railway, and prevent cattle or horses passing along the road from entering upon the Railway; provided always, that it shall be lawful (in case it shall be more conducive for the public safety) for the said Company, at their own expense, to carry such turnpike or other road over or under such Railway, by means of a bridge or archway, in lieu of crossing the same on the level.

29. The immediate government and management of the affairs of the said Company shall be vested in seven Directors, who shall be proprietors of at least ten shares each, and who shall be chosen by the shareholders of the said Company in the manner hereinafter provided, and shall hold their offices until others shall have been duly elected and qualified to take their places; 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; 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 the casting vote.

30. Every shareholder shall be entitled to one vote for each share so held by him, and all shareholders may vote by proxy if they shall see fit, provided such proxy be a shareholder, and do produce from his constituent whom he shall represent, or for whom he shall vote, an appointment in the form set forth in the Schedule D to this Act annexed, or to the like effect, and whatever question of election of public officers, or other matters or things, shall be proposed, discussed or considered in any public meeting of the said Company, 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.

31. Whenever five thousand pounds of the said capital stock shall have been subscribed, the first general meeting of the shareholders shall take place at Saint George, to be called by notice in one of the weekly papers printed in the County of Charlotte twenty eight days previous to such meeting, in order to organize the said Company, and to choose the Directors thereof, who shall continue in office until re-elected or others chosen or appointed in their stead at any meeting to be held under the authority of this Act; the shareholders present or appearing by proxy shall choose the Directors of the said Company by a majority of votes, and the Directors so chosen shall choose out of their number one who shall be President of the said Company; and in case of the death, resignation, removal, disqualification by sale of stock, or incompetency of any Director, the remaining Directors, if they think proper so to do, may elect in his place some other shareholder duly qualified to be a Director, and the shareholder so elected to fill up any such vacancy shall continue in office as a Director so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

32. The said Directors shall have the power of nominating and appointing all and every the officers and engineers and other persons connected with the said Railway, at such salaries or rates of remuneration as to the said Directors shall seem proper, subject to the bye laws, rules and regulations of the said Company; and the shareholders shall have the power from time to time to alter and amend, or to make such new rules, bye laws and regulations for the good government of the said Company, and of the said Railway, and of the works and property hereinbefore mentioned, and for the well governing of the engineers, workmen and other persons employed by the said Company, as to the major part of the said shareholders shall seem meet; which said rules, bye laws and regulations, being put into writing under the common seal of the said Company, shall be published in one of the weekly papers printed in the County of Charlotte, 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.

33. The said shareholders shall meet annually at the Town of Saint George on the first Tuesday in June in each year, at which meeting the shareholders present, personally or by proxy, may either continue in office the Directors before appointed, or any number of them, or may elect a new body of Directors to supply the places of those not continued in office; provided always, that the omission to meet shall work no forfeiture, but the shareholders may be afterwards called together for that purpose by the Directors of the said Company for the time being.

34. It shall be lawful for any number of shareholders holding in the aggregate five hundred shares, by writing under their hands, at any time to require the said Directors to call an extraordinary meeting of the said Company, and such requisition shall fully express the object of the meeting required to be called, and shall be left at the office of the said Company, or given to at least three Directors or left at their last or usual place of abode, and forthwith upon the receipt of such requisition, the said Directors shall convene a meeting of the shareholders; and if for thirty days

after such notice the Directors fail to call such meeting, the shareholders aforesaid, qualified as aforesaid, may call such meeting by giving thirty days public notice thereof in one of the weekly newspapers published in the County of Charlotte hereinbefore in this Act mentioned.

35. Thirty days public notice at the least of all meetings, whether general or extraordinary, shall be given by advertisement in one of the weekly newspapers published in the County of Charlotte hereinbefore in this Act mentioned, which shall specify the place, the day and the hour of meeting, and every notice of an extraordinary meeting shall specify the purpose for which the meeting is called.

36. A toll is hereby granted for the sole benefit of the said Company on all passengers and property of all descriptions which may be conveyed or transported upon such Railway, or any of its branches connected therewith as aforesaid, at such rates per mile as may be established from time to time by the Directors of the said Company; the transportation of persons and property, the construction of cars and carriages, the weight of loads, and all other matters and things in relation to the use of the said Railway and its branches, shall be in conformity to such rules, regulations and provisions as the said Directors shall from time to time prescribe and direct, and such Railway and its branches may be used by any person or persons who may comply with such rules and regulations; provided always, that if after the completing the said Railway, the rates, tolls or dues that may be established by the said Company under and by virtue of this Act shall 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 Company a greater rate of clear annual profits, divisible upon the subscribed and paid up capital stock of the said Company, than fifteen pounds annually for every hundred pounds of such capital; and in order that the true state of the said Company shall be known, it shall be the duty of the President and Directors thereof to file in the office of the Secretary of the Province, for the information of the Legislature, at the expiration of seven years after the said Railway shall have been completed as aforesaid, a just and true statement and account of the moneys by them disbursed and laid out in making and completing the said Railway in manner aforesaid, and also of the amount of tolls and revenues of the said Railway, and of the annual expenditure and disbursements in maintaining and keeping up the same during the said seven years, the said several accounts and statements to be signed by the President and Treasurer of the said Company, and by such President and Treasurer attested to on oath before any one of Her Majesty's Justices of the Peace for any County in this Province; and provided also, that it shall be the duty of the said President and Directors of the said Company once in each and every year after the expiration of the said seven years, to file in the said office of the Secretary of the Province, for the information of the Legislature, a like statement and account verified on oath by the President and Treasurer as aforesaid.

37. Whatever may be the rate of divisible profits on the said Railway, it shall be lawful for Her Majesty's Government, (if it shall think fit,) subject to the provisions hereinafter contained, at any time after the expiration of the term of twenty one years, to purchase the said Railway, with all its hereditaments, stock and appurtenances, in the name and on behalf of Her Majesty, upon giving to the said Company three calendar months notice in writing of such intention, and upon payment of a sum equal to twenty five years purchase of the annual divisible profits, estimated on the

average of the then next preceding years; provided that if the average rate of profits for the said seven years shall be less than the rate of fifteen pounds in the hundred it shall be lawful for the Company, if they should be of opinion that the said rate of twenty five years purchase of the said average profits is an inadequate rate of purchase of such Railway, reference being had to the prospects thereof, to require that it shall be left to arbitration, in case of difference, to determine what (if any) additional amount of purchase money shall be paid to the said Company; provided also, that such option of purchase shall not be exercised except with the consent of the Company while any such revised scale of tolls, fares and charges shall be in force.

38. It shall be lawful for the Postmaster General or his Chief Deputy in this Province, by notice in writing under his hand or under the hand of his Deputy as aforesaid, delivered to the said Company, to require that the Mails or Post Letter Bags shall from and after the day to be named in such notice, (being not less than twenty eight days from the delivery thereof,) be conveyed and forwarded by the said Company on their Railway, either by the ordinary trains of carriages, or by special trains as need may be, at such hours or times in the day or night as the Postmaster General or his said Deputy shall direct, together with the guards appointed and employed by the Postmaster General or his said Deputy in charge thereof, and any other officers of the Post Office; and thereupon the said Company shall from and after the day to be named in such notice, at their own costs, provide sufficient carriages and engines on the said Railway for the conveyance of such Mails and Post Letter Bags to the satisfaction of the Postmaster General or his said Deputy, and receive and take up, carry and convey, by ordinary or special trains of carriages, or otherwise, as need may be, all such Mails or Post Letter Bags as shall for that purpose be tendered to them or any of their officers, servants or agents, by any officer of the Post Office, and also receive, take up, carry and convey in and upon the carriage or carriages carrying such Mail or Post Letter Bags, the guards in charge thereof, and any other officer of the Post Office, and shall receive, take up, deliver and leave such Mails or Post Letter Bags, guards and officers, at such places in the line of such Railway, on such days and such hours or times in the day or night, and subject to all such reasonable regulations and restrictions as to speed of travelling, places, times and duration of stoppages, and times of arrival, as the Postmaster General or his said Deputy shall in that behalf from time to time order or direct; provided always, that the rate of speed required shall in no case exceed the maximum rate of speed prescribed by the Directors of the said Company for the conveyance of passengers by their first class train, nor shall the Company be responsible for the safe custody or delivery of any Mail Bags so sent.

39. The said Company shall be entitled to such reasonable remuneration, to be paid by the Postmaster General or his Deputy for the conveyance of such Mails, Post Letter Bags, Mail guards, and other officers of the Post Office, in manner required by such Postmaster General, his Deputy, or by such other officer of the Post Office as he shall in that behalf nominate as aforesaid, as shall (either prior to or after the commencement of such service) be fixed and agreed on between the Postmaster General or his Deputy and the said Company, or in case of difference of opinion between them, the same shall be referred to the award of two persons, one to be named by the Postmaster General or his Deputy, and the other by the said Company, and if such two persons cannot agree on the amount of such remuneration or compensation, then to the umpirage of some third person, to be appointed by such two first named persons previously to their entering

upon the inquiry, and the said award or umpirage, as the case may be, shall be binding and conclusive on the said parties and their respective successors and assigns.

40. In all references to be made under the authority of this Act, the Postmaster General, his Deputy, or the said Company, as the case may be, shall nominate his or their arbitrators within fourteen days after notice from the other party, or in default, it shall be lawful for the arbitrator appointed by the party giving notice to name the other arbitrator, and such arbitrators shall proceed forthwith in the reference and make their award therein within twenty eight days after their appointment, or otherwise the matter shall be left to be determined by the umpire, and if such umpire shall refuse or neglect to proceed and make his award for the space of twenty eight days after the matter shall have been referred to him, then a new umpire shall be appointed by the two first named arbitrators, who shall in like manner proceed and make his award within twenty eight days, or in default be superseded, and so toties quoties.

41. The Directors of the said Company shall be bound to provide such conveyance for the officers or soldiers of Her Majesty's forces of the line, ordnance corps, marines, militia or police forces, at such time or times (whether the same shall be the usual hours of starting trains or not) as shall be required or appointed by any officer duly authorized for that purpose, and with the whole resources of the Company.

42. The Directors of the said Company shall be and they are hereby authorized from time to time to alter or vary the tolls to be taken upon the said Railway or its branches as they shall think fit, provided that all such tolls be at all times charged equally to all persons, and after the same rate, whether per ton, per mile, or otherwise, in respect of all passengers, and of all goods, chattels or carriages of the same description, and conveyed or propelled by a like carriage or engine passing only over the same proportion of the line of Railway under the same circumstances, and no reduction or advance in any such toll shall be made, either directly or indirectly, in favour of or against any particular company or persons travelling upon or using the Railway.

43. The said Company, on being required so to do by Her Majesty's Government, shall be bound to allow any person or persons duly authorized by Her Majesty's Government, with servants and workmen, at all reasonable times to enter into or upon the lands of the said Company, and to establish and lay down upon such lands adjoining the line of the said Railway, or any of its branches, a line of Electrical Telegraph for Her Majesty Service, and to give to him and them every reasonable facility for laying down the same, for the purpose of receiving and sending messages on Her Majesty's Service, subject to such reasonable remuneration to the Company as may be agreed upon between the Company and Her Majesty's Government; provided always, that subject to a prior right of use thereof for the purposes of Her Majesty, such Telegraph may be used by the Company for the purposes of the Railway, upon such terms as may be agreed upon between the parties, or in the event of differences, as may be settled by arbitration.

44. The Directors of the said Company shall make yearly dividends of tolls, income and profits arising to the said Company, first deducting thereout the annual costs, charges and expenses of the said Company, as well of the repairs of the works belonging to them as for the salaries and

allowances of the several officers and servants, and for such other purposes connected with the said Company as may be deemed proper by the said Directors, consistent with the bye laws, rules and regulations of the said Company.

45. If any money be payable from the said Company to any shareholder or other person being a minor, idiot or lunatic, the receipt of the guardian of such minor, or the receipt of the committee of such lunatic shall be a sufficient discharge to the said Company for the same.

46. Before apportioning the profits to be divided among the shareholders the said Directors may, if they think fit, set aside thereout such sum as they may think proper to meet contingencies, or for enlarging, repairing and improving the works connected with the said Railway or its branches, or any part of the said undertaking, and may divide the balance only among the shareholders.

47. No dividend shall be paid in respect of any share until all calls then due in respect of that and every other share held by the person to whom such dividend may be payable shall have been paid.

48. The joint stock and property of the said Company shall alone be responsible for the debts and engagements of the said Company, and no person or persons who shall or may have dealings with the said Company shall on any pretence whatsoever have recourse against the separate property of any of the individual shareholders of the said Company, or against their person or persons, further than may be necessary for the faithful application of the funds of the said Company; provided also, that no shareholder of the said Company shall be liable for or charged with the payment of any debt or demand due from the said Company beyond the extent of his share in the capital of the said Company not then paid out.

49. The Legislature of this Province shall at all times hereafter have the right to inquire into the doings of the said Corporation, and into the manner in which the privileges and franchises herein and hereby granted may have been used and employed by the said Corporation, and to correct and prevent all abuses of the same, and to pass any laws imposing fines and penalties upon said Corporation which may be necessary more effectually to compel a compliance with the provisions, liabilities and duties herein set forth and enjoined, but not to impose any other or further duties, liabilities or obligations.

50. The said Company shall annually submit to the Legislature within the first fifteen days after the opening of each Session, a detailed and particular account, attested upon oath of the Treasurer and two Directors, of the moneys received and expended by the Company under and by virtue of this Act, with a statement of the amount of tonnage and of passengers that have been conveyed along the said road.

51. The Lieutenant Governor in Council may order and direct the said Company, and thereupon it shall be their duty to make up and deliver to the Provincial Secretary, Returns according to a form to be from time to time prescribed by the Lieutenant Governor in Council, of the aggregate traffic in passengers according to their several classes, and of the aggregate traffic in cattle and goods

respectively on the said Railway, as well as of all accidents which have occurred thereon attended with personal injury, and also a table of all tolls, rates and charges from time to time levied on each class of passengers and on cattle and goods conveyed on the said Railway.

52. No suit or action at law or equity shall be brought or prosecuted by any person or persons for any act, matter or thing done under the authority of this Act, unless such suit or action shall be commenced within six months next after the offence shall have been committed or cause of action accrued, and the defendant or defendants in such suit or action may plead the general issue, and give this Act and the special matter in evidence under the said plea, and that the same was done in pursuance and by the authority of this Act.

53. If any person or persons shall wilfully and maliciously and to the prejudice of the undertaking, break, injure or destroy any of the works to be made by virtue of this Act, every such person or persons shall be judged guilty of felony, and every person so offending and being thereof lawfully convicted, shall be liable to the punishment prescribed for felony in an Act made and passed in the first year of the Reign of His late Majesty King William the Fourth, intituled *An Act for improving the administration of Justice in Criminal Cases*.

54. The said Company, 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 Railway within five 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 merchandise thereon, then this Act and every matter and thing therein contained shall cease and be utterly null and void.

#### SCHEDULE A.

##### *Form of Certificate of Share.*

*The Magaguadavic Railway Company.*

Number \_\_\_\_\_.

This is to certify, that A. B. of \_\_\_\_\_ is the proprietor of the Share (or Shares)

Number \_\_\_\_\_, of the Magaguadavic Railway Company, subject to the Regulations of the said Company. —Given under the Common Seal of the said Company the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_.

#### SCHEDULE B.

##### *Form of Warrant to Summon Jury.*

To the Sheriff, Deputy Sheriff, or my Constable of the County of \_\_\_\_\_.

You are hereby commanded to summon a Jury of five disinterested Freeholders of your County, of no way akin to the party aggrieved, to appear at \_\_\_\_\_ in the said County, on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ of the clock in the \_\_\_\_\_ noon, and then and there to assess the damages (if any) which A. B. alleges he has sustained by reason of the works and operations of the Magaguadavic Railway Company through and upon his land. —Given under

our hands and seals the \_\_\_\_\_ day of \_\_\_\_\_ A. D. one thousand eight hundred and \_\_\_\_\_.

SCHEDULE C.

*Scale of Fees in proceedings before Justices upon assessing damages under the foregoing Act.*

Warrant to summon Jury, ... ..	£ 0	2	6
For every Subpoena, ... ..	0	0	6
Every adjournment made at the instance of either party,	0	0	3
Trial and judgment, ... ..	0	1	0
Swearing each Witness and Constable, ... ..	0	2	6
Swearing Jury, ... ..	0	0	3
Execution or Distress Warrant, ... ..	0	1	0

*To the Sherriff or Constable*

Summoning Jury, ... ..	0	5	0
Attendance on inquiry, ... ..	0	1	0
For all other services same as fixed by law in civil cases before Justices of the Peace.			

*To Witnesses*

Attendance and travel same as in civil cases before  
Justices of the Peace.

*To Jurors*

Each Juror sworn on inquiry, ... ..	0	2	6
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SCHEDULE D.

*Form of Proxy.*

I, A. B. of \_\_\_\_\_, do hereby nominate, constitute and appoint C. D. of to be my proxy, in my name and in my absence to vote or give any assent to or dissent from any business, matter or thing relative to the Magaguadavic Railway Company, in such manner as he the said C. D. shall think proper and for the benefit of the said Company.—In witness whereof, I the said A. B. have hereunto set my hand (or if a Corporation, say the Common Seal of the Corporation) the \_\_\_\_ day of \_\_\_\_\_ A. D. one thousand eight hundred and \_\_\_\_\_.