

revenue of the said Tolls shall be charged against the said Canada Company, as so much by them received in the nature of a sinking fund, by means whereof to purchase from the said Canada Company, the entire estate, use and property, of the said Harbour, with the Wharves, Piers and other appurtenances, to and for the use of the public, in such manner and form as the Legislature of this Province may hereafter provide.

Company, when required by Legislature, to render account of Imports and Exports, and tolls received.

•VII. *And be it further enacted by the authority aforesaid,* That the said Canada Company shall, at any time when so required by either branch of the Legislature, furnish a true and correct copy, verified upon oath, of the imports and exports into and out of the said Harbour, and of the Tolls and Dues levied and collected on the same, and that after the first day of January, in the year of our Lord one thousand eight hundred and forty-seven, the Rate of Tolls to be charged and taken by the said Canada Company at the said Harbour, on all Goods imported into or exported therefrom, shall be subject to the regulation of the Legislature of this Province.

CHAP. LI.

AN ACT to Incorporate sundry persons under the style and title of the Beverly Navigation Company.

[Passed 4th March, 1837.]

Preamble.

WHEREAS Thomas Newsom, George Breakenridge, James McDonell, Cleveland Stafford, Peter Schofield, Nathan F. Soper, Charles Davidson, Thomas Sheffield, George Lewis, Richard Lippincott, Robert Dergarvil and others, have petitioned to be Incorporated for the purposes of this Act: *Be it therefore enacted,* by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That the said Thomas Newsom, George Breakenridge, James McDonell, Cleveland Stafford, Peter Schofield, Nathan F. Soper, Charles Davidson, Thomas Sheffield, George Lewis, Richard Lippincott, Robert Dergarvil, together with all

Company incorporated.

such other persons as shall become Stockholders of the Company herein-
 after mentioned, shall be, and are hereby ordained, constituted and de-
 clared to be, a Body Corporate and Politic, in fact, and by the name of
 “The Beverly Navigation Company”; and that by that name they and
 their Successors shall and may have continued succession; and by that
 name shall be capable of contracting and being contracted with; of suing
 and being sued; pleading and being impleaded; answering and being
 answered unto in all Courts and places whatsoever, in all manner of
 actions, suits, complaints, matters and causes whatsoever; and that they
 and their Successors may and shall have a Common Seal, and may change
 and alter the same at their will and pleasure; and also, that they and
 their Successors, by the same name of “The Beverly Navigation Com-
 pany,” shall be in law capable of purchasing, having and holding, to them
 and their Successors, any Estate, real, personal or mixed, to and for the
 use of the said Company, and of letting, conveying, or otherwise departing
 therewith, for the benefit and on account of the said Company, from time
 to time, as they shall deem necessary or expedient.

II. *And be it further enacted by the authority aforesaid,* That the
 Directors of the Beverly Navigation Company, shall have full power and
 authority to explore the Country lying between the Village of Beverly, in
 the Township of Bastard, and the Rideau Canal, in South Crosby, both
 in the District of Johnstown, and to designate and establish, and for the
 said Company to take, appropriate, have and hold, to and for the use of
 them and their Successors, the line and boundaries of the intended Canal,
 with its necessary Locks, Towing-paths, Basins and Rail-ways, to connect
 the waters of Beverly Lake with those of the Rideau Canal, in South
 Crosby; and also to select such convenient Sites for such and so many
 Mills, Manufactories, Warehouses and other Erections, as may be required
 by the said Company for the purposes thereof, and to purchase the same
 to and for the use of the said Company: *Provided always,* that nothing
 hereinbefore contained shall extend, or be construed to extend, to compel
 the owner or owners of any Mill-seat to sell, convey or otherwise depart
 with the same to the said Company: *Provided also,* that the owner or
 owners of any Mill-seat or Mill-seats, using any additional supply of water
 brought thereto by the said Canal, shall pay a reasonable compensation
 therefor to the said Company, to be determined as hereinafter provided,
 for determining any damages done to property by the said Company.

Power given to ex-
 plore the country;

To select scites for
 Mills, &c.

Owners of Mill seats
 not compelled to
 convey.

Owners of Mills using
 water supplied by
 Canal, to pay for
 same.

III. *And be it further enacted by the authority aforesaid,* That it shall
 and may be lawful for the said Company, and they are hereby authorized
 and empowered, from and after the passing of this Act, to supply the said
 Canal, whilst making and when made, with Water from all such Brooks,
 and streams, &c. within distance of
 1,000 yards, except,
 &c.

Company may supply
 Canal with water
 from brooks, springs
 and streams, &c.
 within distance of
 1,000 yards, except,
 &c.

May make feeders, tunnels and aqueducts, for supplying Canal, except, &c.

May enter into lands and take levels, &c. except, &c.;

Also to bore, dig, trench, &c., and remove and carry away, and lay earth, soil, &c., in the making the Canal.

May erect bridges, tunnels, aqueducts, sluices, &c.

May alter, repair, amend, widen, &c. the Canal.

May lay and manufacture materials, &c. on grounds adjacent.

Springs, Streams, Water Courses, Hollows or other Repositories of Water, as shall be found in making the said Canal, or within the distance of one thousand yards, except as hereinbefore or hereinafter mentioned, from any part of the said Canal, or from any Reservoir or Reservoirs to be made for supplying the said Canal with water; and the said Company are hereby also authorised and empowered, by themselves and their Deputies, Agents, Servants and Workmen, to make one or more Reservoir or Reservoirs, and such and so many Feeders, Tunnels and Acqueducts, for supplying the said Reservoirs and Canal with water, and conveying water from any such Reservoir or Reservoirs to the said Canal, as to them shall seem necessary and proper (except as hereinafter or above mentioned); and for the purposes aforesaid the said Company, and their Agents, Servants and Workmen, are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to the King's most Excellent Majesty, His Heirs and Successors, or to any other person or persons, Bodies Politic or Corporate, (excepting as is hereinbefore provided) and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said Canal, and any such Reservoir or Reservoirs, Feeders, Tunnels and Acqueducts, and all such other matters and conveniencies as they shall think proper and necessary for making, effecting, preserving, improving, completing and using, in the said intended Navigation; and also to bore, dig, cut, trench, remove, take, carry away and lay, earth, soil, clay, stone, rubbish, trees, roots of trees, beds of gravel or sand, or any other matter or things which may be dug or got in the making of the said Canal, or in making of any Reservoir or Reservoirs, Feeder or Feeders, Acqueduct or Acqueducts, or out of any lands or grounds of any person or persons adjoining or lying contiguous thereto, and which may be proper, requisite or convenient, for carrying on, continuing or repairing, the said Canal, or other of the 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 Canal, or upon the lands adjoining or near the same, such and so many Bridges, Tunnels, Acqueducts, Sluices, Locks, Weirs, Pens for water, Tanks, Reservoirs, Drains, Wharves, Quays, Landing-places and other Works, Ways, Roads and conveniencies, as the said Company shall think requisite and convenient for the purposes of the said Navigation; and also from time to time to alter, repair, amend, widen or enlarge the same, or any of the conveniencies above mentioned, as well for carrying or conveying of goods, commodities, timber and other things, to and from the said Canal, as for the carrying or conveying of all manner of materials necessary for making, erecting, furnishing, altering, repairing, amending, widening or enlarging, the Works of and belonging to the said Navigation; and also place, lay,

work and manufacture, the said materials on the grounds near to the place or places where the said Works, or any of them, are or shall be intended to be made, erected, repaired or done, and to build and construct the several Locks, Bridges, Works and erections, belonging thereto; and also to make, maintain, repair and alter, any fences or passages over, under or through, the said Canal, or the Reservoirs and Tunnels, Acqueducts, Passages, Gutters, Water-courses and Sluices respectively, which shall communicate therewith; and also to make, set up and appoint, Drawing-Boats, Barges, Vessels or Rafts, passing in, through, along or upon, the said Canal, as they the said Company shall think convenient; and to construct, erect and keep in repair, any Piers, Arches or other Works, in, upon and across, any rivers or brooks for making, using, maintaining and repairing the said Canal, and the Towing-paths on the sides thereof; and also to construct, make and do, all other matters and things which they shall think necessary and convenient for the making, effecting, preserving, improving, completing and using the said Canal, in pursuance, and within the true meaning of this Act, they the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction, in manner hereinafter mentioned, for all damages to be sustained by the owner or occupier of such lands, tenements or hereditaments: *Provided*, that nothing in this Act contained shall extend, or be construed to extend, to authorise the said Company to divert or take away, for the use of the said Canal, the water of any Stream or River, so as to injure any Mills within the limits of the said intended Canal, without the consent of the owner or owners thereof.

May make drawing boats, barges, &c.

May erect and keep in repair piers, &c.

To make satisfaction to owners or occupiers of land, for damages.

Not authorized to take away water so as to injure any mill, without consent of owner.

IV. *And be it further enacted by the authority aforesaid*, That should the owner or owners, occupier or occupiers, of any Mill-seats on the line of the said Canal, or within five hundred yards thereof, consider the same in any manner injured, or the value thereof in any way depreciated, by the cutting and making the said Canal, and for the compensation of which no provision is made in this Act, it shall and may be lawful for the said Company, and they are hereby required, to purchase the same at a fair valuation, founded on an average of former years, to be ascertained by Arbitrators, as hereinafter provided, to ascertain the value of Lands and Tenements to be purchased, or the amount of damages in any case sustained: *Provided always*, that nothing herein contained shall extend, or be construed to extend, to compel the said owner or owners, occupier or occupiers, of any such Mill-seats to sell, convey or otherwise dispose of the same to the said Company.

Company required to purchase mills on the line of Canal, or within 500 yards, if owner consider the same injured. Value to be ascertained, &c.

Owners of mills not compelled to sell.

V. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the said Company, in constructing and making the

Company may take water from Beverly Lake.

said Canal from Beverly to the Rideau Canal aforesaid, to take and appropriate, for the use of the said Canal, as much Water as they may find necessary, from and out of the said Beverly Lake, and those connected with or entering into the same; and it shall and may be lawful for the said Company to erect, at the mouth of the Canal, a Pier or Piers if necessary, and at the point of departure of the said Canal from the said Beverly Lake, for the use of the said Company, and the purposes of Transport on the said Canal: *Provided, nevertheless*, that the said Company shall not at any time, nor in any way, take from the Beverly Lake any greater quantity of Water than is necessary for the purpose of the said Canal for Navigation only, and shall not lower the depth of Water in the Beverly Lake, the Rideau Canal, or their tributary Streams, so as in any way to affect their Navigation, or the Machinery thereon erected, or that may be hereafter erected on the said Beverly Lake, the said Rideau Canal, or their tributary streams.

May erect a pier at mouth of Canal, at point of departure from Beverly Lake.

Not to take more water than is necessary, and not to lower the depth of the water in Beverly Lake or Rideau Canal, &c. so as to affect the navigation, or the Machinery erected thereon.

Parties interested may sell and convey lands set apart for purposes of Canal.

VI. *And be it further enacted by the authority aforesaid*, That after any Lands or Grounds shall be set out, and ascertained to be necessary for making and completing the said Canal, and other purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all Bodies Politic, Communities, Corporations, Aggregate or Sole Guardians, and all other Trustees whomsoever, not only for and on behalf of themselves, their Heirs and Successors, but also for and on behalf of those whom they represent, whether Infants, Lunatics, Ideots, Femmes Covert 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, unto the said Company, all or any part of such Lands or Grounds which 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, Statute or usage, to the contrary thereof in anywise notwithstanding; and the amount thereof shall be established in the manner hereinafter mentioned, for the determination of the value of Lands or other Tenements to be purchased by the said Company, and of the amount of damages committed thereby.

Company may contract for purchase of lands required for use of Canal, or for settlement of damages claimed.

VII. *And be it further enacted by the authority aforesaid*, That the Directors of the said Company shall be, and the same are hereby empowered to contract, compound, compromise and agree, with the owners and occupiers of any Land, through or upon which they may determine to cut and construct the said intended Canal, with all necessary and convenient Locks, Towing-paths, Rail-ways, and other erections and constructions contemplated by this Act, to be cut, erected, constructed and built, either

for the absolute purchase of so much of the said Land, as they shall require for the purposes of the said Company, or for the damages which he, she or they, shall and may be entitled to recover from the said Company, in consequence of the said intended Canal, Locks, Towing-paths, Rail-ways and other constructions and erections, being cut and constructed in and upon his, her or their respective Lands; and in case of any disagreement between the said Directors and the owner or owners, occupier or occupiers aforesaid, it shall and may be lawful, from time to time, as often as the said Directors, or any of the said owners or occupiers shall think fit, for each owner or occupier so disagreeing with the said Directors, either upon the value of the Lands and Tenements proposed to be purchased, or upon the amount of damages to be paid to them, as aforesaid, to nominate and appoint one indifferent person, and for the said Directors to nominate and appoint another person, who, together with one other person to be elected by the said persons so named, shall be Arbitrators to award, determine, adjudge and order, the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of a majority of whom shall be final; and the said Arbitrators shall, and they are hereby required, to attend at some convenient place in the vicinity of the route of the said intended Canal, to be appointed by the said Directors, within eight days after notice being given them by the said Directors for that purpose, then and there to arbitrate, award, adjudge and determine, such matters and things as shall be submitted to their consideration by the parties interested; and that each Arbitrator shall be sworn before some one of His Majesty's Justices in and for the said District, any of whom may be required to attend the said Meeting for that purpose, well and truly to assess the damages between the parties, according to the best of his judgment: *Provided always*, that no Arbitrator shall be compellable to attend any such Meeting of the Arbitrators aforesaid, who shall usually reside more than fifty miles from the place of Meeting: *And provided always*, that the damages so awarded, shall be paid by the said Company within three months after such award shall have been made, and in default thereof, the owner or owners may re-enter, possess and enjoy the same, as if this Act had not been passed.

In case of disagreement, Arbitrators to be chosen;

Who are required to proceed with arbitration at some convenient place, within a certain time after notice given.

Arbitrators to be sworn.

No person compelled to attend as Arbitrator who resides more than fifty miles from place of meeting.

Damages to be paid in three months, or owner of lands may re-enter, &c.

VIII. *And be it further enacted by the authority aforesaid*, That any award made under this Act, shall be subject to be set aside, on application to the Court of King's Bench, in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case a reference may be again made to Arbitrators, as hereinbefore provided.

Award may be set aside by writ of King's Bench.

Bridges to be erected
by Company, and
kept in repair;

In default, subject
to a penalty.

Persons wilfully and
maliciously injuring
or obstructing Canal,
liable to punishment.

Persons floating tim-
ber, or overloading
Boat or Vessel on
Canal, so as to ob-
struct the navigation,
to remove the same;

Subject to penalty,
for not doing so.

IX: *And be it further enacted by the authority aforesaid,* That when and so often as it shall be necessary to cut into any Highway, in order to conduct the said Canal through the same, the said Company of Proprietors shall, within one month, cause to be constructed a sufficient and commodious Bridge, for the passing of Carriages, in order to re-establish the communication between the several parts of such Highways, and keep the same in repair, under the penalty of Five Pounds Currency, for each and every day after the expiration of the said time, which the said Company shall neglect to construct such secure, sufficient and commodious Bridge, as aforesaid.

X. *And be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully, maliciously, or to the prejudice of the said Company, break, throw down, damage or destroy, any Bank, Lock, Gate, Sluice, or any Works, Machine or Device, to be erected or made, by virtue of this Act, or do any other wilful act, hurt or mischief, to disturb, hinder or prevent the carrying into execution, or completing, supporting or maintaining the said Canal, every such person or persons so offending, shall forfeit and pay to the said Company, the value of the damage proved by the oath of two or more credible witnesses to have been done, such damages, together with the costs of suit in that behalf incurred, to be recovered by action in any Court of Law in this Province, having jurisdiction competent to the same; or in case of default of payment, such offender or offenders may be committed to the Common Gaol, for any time not exceeding three months, at the discretion of the Court before which such offender shall be convicted.

XI. *And be it further enacted by the authority aforesaid,* That if any person shall float any Timber on the said Canal, or shall suffer the overloading of any Boat, or Vessel or Raft, navigating in or upon the said Canal, so as by such overloading to obstruct the passage of any other Boat, Vessel or Raft, and shall not immediately, upon due notice given to the owner or person having the care of such Boat, Vessel or Raft, so obstructing the passage aforesaid, remove the same, so as to make a free passage for the other Boats, Vessels or Rafts, every such owner or person floating such Timber, or having the care of such Boat, Vessel or Raft, so obstructing the passage, as aforesaid, shall forfeit and pay, for every such offence, the sum of Five Pounds Currency; and if any person shall throw any Ballast, Gravel, Stones or Rubbish, into any part of the said Canal, every such person shall, for every such offence, forfeit a sum not exceeding Five Pounds Currency, which said respective forfeitures shall be paid to the Company, to be by them applied for the purposes of the said Navigation.

XII. *And be it further enacted by the authority aforesaid,* That if any Boat, Vessel or Raft, shall be placed in any part of the said Canal, so as to obstruct the Navigation thereof, and the person having the care of such Boat, Vessel or Raft, shall not immediately, upon the request of any of the Servants of the said Company, made for that purpose, remove the same, he shall, for every such offence, forfeit a penalty of Ten Shillings of lawful money of the Province of Upper Canada, for every hour such obstruction shall continue; and it shall be lawful for the Agents or Servants of the said Company, to cause any such Boat, Vessel or Raft, to be unloaded if necessary, and to be removed in such manner as shall be proper, for preventing such obstruction in the said Navigation, and to seize and detain such Boat, Vessel or Raft, and the loading thereof, or any part of such loading, until the charges occasioned by such unloading and removal are paid; and if any Boat or Vessel shall be sunk in the said Canal, and the owner or owners, or person or persons having the care of such Boat or Vessel, shall not, without loss of time, weigh or draw up the same, it shall be lawful for the Agents or Servants of the said Company, to cause such Boat or Vessel to be weighed or drawn up, and to retain and keep the same, until payment be made of all expenses necessarily occasioned thereby.

Boat, Vessel or Raft, so placed as to obstruct navigation, to remove the same.

Penalty for not doing so.

May be unladen or removed by Agents or Servants of Company, and seized and detained until expense of unloading or removal be paid.

Boats or vessels sunk in Canal and not weighed or drawn up by owners, may be weighed or drawn up by Company, and detained until expense paid.

XIII. *Provided always, and be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the owners and occupiers of any lands adjoining to the said Canal, to use any Pleasure Boats, or any Boats upon the said Canal, for the purpose of Husbandry, or for conveying Cattle from one Farm, or part of a Farm or Lands, to any other Farm or Lands of the same owner or occupier, (not passing through any Lock without the consent of the said Company, their Successors or their principal Agent, for the time being,) without interruption from the said Company or their Successors, and without paying any Rate or Duty for the same, so as the same be not made use of for the carriage of any Goods, Wares or Merchandize to Market, or for sale, or for any person or persons for hire, and shall not obstruct or prejudice the Navigation of the said intended Canal, or the Towing-paths thereof.

Owners and occupiers of land adjoining Canal, may use pleasure-boats, or for purpose of husbandry, &c. without any charge being made by Company.

XIV. *And whereas,* it may hereafter happen from Floods, or from some unexpected accident, that Weirs, Flood-gates, Dams, Banks, Reservoirs, Trenches or other Works, of the said Navigation, may be damaged or destroyed, and the adjacent Lands or Property thereon thereby damaged, and that it may be necessary that the same shall be immediately repaired or re-built, to prevent further damages: *Be it therefore further enacted by the authority aforesaid,* That when and so often as any such case may happen, it shall be lawful for the said Company, from time to time, or for their

Company may enter on adjacent lands, to repair damages arising from accident:

or any of their Servants, Agents or Workmen, without any delay or interruption from any person or persons whomsoever, to enter into any Lands, Grounds or Hereditaments adjoining or near to the said intended Canal or Branches, Reservoirs or Trenches, or any of them, (not being an Orchard, Garden or Yard,) and to dig for, work, get and carry away, and use all such Stones, Gravel and other materials, as may be necessary or proper for the purposes aforesaid, without any previous treaty whatsoever with the owner or owners, occupier or occupiers of, or other person or persons interested in, such Lands, Grounds, Hereditaments or any of them, doing as little damage thereby as the nature of the case will admit of, and making recompense for such damages, to the owners and occupiers of, or other persons interested in, such Lands, Grounds, Property or Hereditaments, within the space of Six Calendar Months next after the same shall have been demanded, for all damages which shall or may be done by means of such accident, and by means of the digging for, getting, working, taking, carrying away and using, such Stones, Gravel and materials, or any of them; which damages, and the satisfaction and recompence in respect thereof, shall be settled, adjusted, ascertained and determined, by the ways and means hereinbefore described, with respect to other damages done by the making and completing the said Navigation.

Not being an orchard;

And procure materials.

Making recompense in 6 months after demand made.

Manner of ascertaining damages.

Places to be constructed to admit boats to turn and pass each other.

Vessels, &c meeting each other, to go back to places so prepared.

Tolls to be regulated and established;

And to exhibit accounts to Legislature.

If tolls excessive, Legislature may reduce the same.

XV. *And be it further enacted by the authority aforesaid,* That the said Company shall and may, in such parts of the said Canal as shall not be of sufficient breadth for admitting a Boat, Vessel or Raft, to turn about or lie, or for two Boats, or other Vessels or Rafts to pass each other, to open or cut proper spaces or places, in the lands adjoining to the said Canal, at convenient distances from each other, for the turning, lying and passing, of any such Boat, Vessel or Raft; and that the said Boats, Vessels and Rafts, being hauled or navigated upon the said Canal, shall, upon meeting any other Boat or Vessel, stop at or go back to, and lie in the said places or spaces, in such manner as the said Directors, or the major part of them, under their hands, shall direct and appoint.

XVI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the President and Directors of the said Company to regulate, from time to time, and establish the Rates of Toll payable by persons navigating upon the said Canal; and the said Company shall annually, if required, exhibit an account to either branch of the Legislature of the Tolls collected upon the said Canal, and of the sums expended in keeping the same in repair, and also of the Goods, Wares and Merchandize, transported in and along the same: *Provided always,* that if at any time after the expiration of five years, from the time of the commencement of the navigation upon any part of the said Canal, the Legislature shall

deem the Tolls levied thereon excessive, it shall be lawful for them to reduce the same to such a standard as they may think just, so that the same shall not be reduced to a rate which will produce to the said Company less than Twenty per Cent, on the Capital actually expended in making the said Canal.

XVII. *And be it further enacted by the authority aforesaid,* That the said Company shall, at their first General Meeting, held after any part of the Canal shall be finished, ascertain and fix the Rates and Dues to be taken by virtue of this Act; and that it shall and may be lawful for the Directors of the said Company, to alter the said Rates at any subsequent Meeting, after giving three months public notice of the same, and that a Schedule of Rates shall be affixed on the public places, on the route of the said Canal.

Tolls when and how declared, and notice given of the amount.

XVIII. *And for preventing disputes touching the Tonnage of any Boat, Barge or other Vessel, navigating upon the said Canal: Be it further enacted by the authority aforesaid,* That the Owner or Master of every such Boat, Barge or Vessel, shall permit and suffer every such Boat, Barge or Vessel, to be gauged or measured, and refusing so to permit and suffer, shall forfeit and pay the sum of Five Pounds; and it shall be lawful for the said Company, or their Toll-gatherer, or such person or persons as shall be appointed by them for that purpose, and such Owner or Master, each to choose one person, to measure and ascertain such Tonnage, and to mark the same on such Boat, Barge or other Vessel, which mark shall always be evidence of the Tonnage, in all questions respecting the payment of the aforesaid rates or dues, and if such Owner or Master shall refuse or decline to choose a person in his behalf as aforesaid, then the person appointed by the said Company, or their Toll-gatherer, shall have alone the power of ascertaining such Tonnage.

Mode of ascertaining tonnage of boats, &c. navigating Canal.

XIX. *And be it further enacted by the authority aforesaid,* That all persons whatsoever shall have free liberty to use with Horses, Cattle and Carriages, the private Roads and Ways to be made as aforesaid, (except the Towing-paths) for the purpose of conveying any Goods, Wares, Merchandize, Timber and commodities whatsoever, to and from the said Canal; and also to navigate on the said Canal with any Boats, Barges, Vessels or Rafts; and to use the said Wharves and Quays for loading and unloading any Goods, Wares, Merchandize, Timber and commodities; and also to use the said Towing-paths with Horses, for drawing and hauling such Boats and Vessels, upon payment of such rates or dues as shall be established by the said Company.

All persons to have permission to use private roads and ways of Company, except towing-paths.

And to use wharves &c. and towing-paths, upon payment of tolls to be established.

To whom dues to be paid.

In case of denial, party may be sued, or goods may be seized.

XX. *And be it further enacted by the authority aforesaid,* That the said several dues shall be paid to such person or persons, at such place or places near to the said Canal, in such manner, and under such regulations as the said Directors shall direct or appoint; and in case of denial or neglect of payment of any such rates or dues, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having jurisdiction thereof, or the person or persons to whom the said rates ought to be paid may, and he is, and they are, hereby empowered to seize and detain such Boat, Vessel, Barge or Raft, for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof.

Shares in Company to be one thousand, of £5 each. Books to be opened for subscribing to shares.

XXI. *And be it further enacted by the authority aforesaid,* That each Share of the said Company shall be Five Pounds, and the number of Shares shall not exceed One Thousand; and that books of subscription shall be opened at such places in this Province, within two months after the passing of this Act, by such person or persons, and under such regulations, as the majority of the said Petitioners, assembled at a meeting to be called by three or more of them in the Town of Beverly, for that purpose, shall direct.

Number of Shares that may be subscribed for in the first instance.

Manner of calling in instalments.

Forfeiture of Stock in the event of non-payment of instalments.

XXII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any person or persons, His Majesty's Subjects or others, to subscribe for any number of Shares, (not exceeding in the first instance fifty shares) the amount whereof shall be due and payable to the said Company, in the manner hereinafter mentioned—that is to say, Ten per Cent. on each Share so subscribed, shall be payable to the said Company, immediately after the Stockholders shall have elected the number of Directors hereinafter mentioned, and the remainder by instalments of not more than Ten per Cent, at such periods as the President and Directors, shall from time to time direct and appoint for the payment thereof: *Provided*, that no instalment shall be called for in less than ninety days after public notice shall have been given, in three or more of the Newspapers of this Province: *Provided always*, that if any Stockholder or Stockholders as aforesaid, shall neglect or refuse to pay to the said Company, the instalment due on any Share or Shares held by him, her or them, at the time required by law, such Stockholder or Stockholders shall forfeit such Share as aforesaid, with the amount previously paid thereon, and the Share or Shares shall be sold by the Directors, at public auction, after having given ninety days notice, and the proceeds thereof, together with the amount previously paid thereon, shall be accounted for and applied in like manner, as any other funds of the said Company: *Provided always*, that such purchaser or purchasers shall pay

to the said Company, the amount of the instalment required, over and above the purchase money of the Share or Shares to be purchased as aforesaid, by him, her or them, as aforesaid, immediately after the sale, and before they shall be entitled to a Certificate of such Share or Shares, so to be purchased as aforesaid.

XXIII. *And be it further enacted by the authority aforesaid,* That if the whole number of Shares shall not be subscribed, within two months after the Books of Subscription shall have been opened, as aforesaid, then and in such case it shall and may be lawful for any former subscriber, to increase his, her or their Subscription, and that after the first instalment shall have been paid to the said Company, the said Shares shall become transferrable on the Books of the said Company: *Provided always,* that until the said Canal shall be completed, from Beverly to the Rideau Canal, no part of the funds paid in shall be applied to any other purpose whatsoever, and the said Company shall proceed to the completion of the whole, with as little delay as possible.

If whole number of shares be not subscribed within two months, then Subscribers at liberty to increase their stock.

Until Canal completed from Beverly to Rideau Canal, funds not to be applied to any other purpose.

XXIV. *And be it further enacted by the authority aforesaid,* That soon as One Thousand Pounds shall have been subscribed, it shall be lawful for such Subscribers, or any of them, to call a Meeting at some place to be named in the said Town of Beverly, for the purpose of proceeding to the election of the number of Directors hereinafter mentioned; and such Election shall then and there be made, by a majority of Shares voted for in manner hereinafter prescribed, in respect of the Annual Election of Directors, and the persons then and there chosen shall be the first Directors, and be capable of serving until the first Monday in April succeeding their election; and the Directors so chosen shall, as soon as a Deposit amounting to Two Hundred and Fifty Pounds upon the Shares subscribed, as aforesaid, shall be paid to the said Directors, commence the business and operations of the said Company: *Provided always,* that no such Meeting of the said Subscribers shall take place, until a notice is published in three or more Newspapers in this Province, at the distance of not less than thirty days from the time of such notification.

When £1000 subscribed, a meeting to be called for election of Directors;

Who are to continue in office until the first Monday in April following;

When a deposit of £250 is made, Company may commence operations:

Notice having been first given.

XXV. *And be it further enacted by the authority aforesaid,* That the Stock, Property, Affairs and Concerns, of the said Corporation, shall be managed and conducted by five Directors, one of whom shall be chosen President, who shall hold their Offices for one year; which Directors shall be Stockholders, and shall be inhabitants of this Province, and be elected on the first Monday in July, in every year, at such place in the Town of Beverly, as a majority of the Directors for the time being shall appoint, and Public Notice thereof shall be given by the said Directors, in three

Number of Directors. A President to be chosen.

Time of holding election of Directors.

Manner of conducting
the election.

Succession in office
of Directors.

Directors absenting
themselves from the
Province, to vacate
their office, and others
to be elected.

Directors to hold
ten shares.

Votes of Stockholders
proportioned.

or more Newspapers printed within this Province, of such time and place, not more than sixty, nor less than thirty days previous to the time of holding the said Election; and the said Election shall be held and made by such of the Stockholders of the said Company, as shall attend for that purpose in their own proper persons or by proxy; and all Elections for Directors shall be by Ballot, and the five persons who shall have the greatest number of votes at any Election shall be Directors, except as is hereinafter directed; and if it shall happen at any Election that two or more persons have an equal number of votes, in such manner that a greater number of persons than five shall, by plurality of votes, appear to be chosen as Directors, then the said Stockholders hereinbefore authorised to hold such Election, shall proceed by Ballot a second time, and by plurality of votes determine which of the said persons, so having an equal number of votes, shall be the Director or Directors, so as to complete the whole number of five; and the said Directors, so soon as may be after the said Election, shall proceed in like manner to elect by Ballot, one of their number to be President; and two of the Directors who shall be chosen at the preceding year, excepting the President, shall be ineligible to the Office of Director, for one year after the expiration of the time for which they shall be chosen Directors; and in case a greater number than three of the Directors, exclusive of the President who served for the last year, shall appear to be elected, then the Election of such person or persons above the said number, and who shall have the smallest number of votes, shall be considered void; and such other Stockholders as shall be eligible, and shall have the next greatest number of votes, shall be considered as elected in the room of such last described person or persons, who are hereby declared ineligible, as aforesaid; and the President for the time being, shall always be eligible to the Office of Director, but Stockholders not residing within the Province, shall be ineligible; and if any Director shall absent himself from the Province, and shall cease to be an inhabitant thereof for the space of six months, his Office shall be considered vacant; and if any vacancy or vacancies should at any time happen among the Directors, or in the Office of President, by death, resignation or removal from the Province, such vacancy or vacancies shall be filled, for the remainder of the year in which they may happen, by a person or persons to be nominated by a majority of the Directors: *Provided always*, that no person shall be eligible to be a Director, who shall not be a Stockholder to the amount of at least ten Shares.

XXVI. *And be it further enacted by the authority aforesaid,* That each Stockholder shall be entitled to a number of votes, proportioned to the number of Shares, which he or she shall have held in his or her own name, at least three months prior to the time of voting, (except at the first Elec-

tion,) according to the following rates, that is to say: at the rate of one Vote for each Share not exceeding four; five Votes for six Shares; Six Votes for eight Shares; Seven Votes for ten Shares; and one Vote for every five Shares above ten.

XXVII. *And be it further enacted by the authority aforesaid,* That in case it should at any time happen, that an Election of Directors should not be made, on any day when pursuant to this Act it ought to have been made, the said Corporation shall not, for that cause, be deemed to be dissolved, but that it shall and may be lawful, on any other day, to hold and make an Election of Directors, in such manner as shall have been regulated by the Laws and Ordinances of the said Corporation.

Remedy in case election of Directors not made at time appointed.

XXVIII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Directors, to make Half-yearly Dividends of so much of the profits of the said Company, as to them or a majority of them, shall appear advisable; and that once in every three years, and oftener if thereunto required by a majority of the votes of the Stockholders, to be given agreeably to the ratio as hereinbefore established, at a General Meeting to be called for that purpose, an exact and particular Statement shall be rendered of the debts which shall have remained unpaid, after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus profits, if any, after deducting Losses, Dividends and Expenditures.

Dividends to be declared.

Accounts to be rendered when desired by Stockholders.

XXIX. *And be it further enacted by the authority aforesaid,* That the Directors for the time being, or a major part of them, shall have power to make and subscribe such Rules and Regulations, as to them shall appear needful and proper, touching the management and disposition of the Stock, Property, Estate and Effects, of the said Corporation, and touching the duty and conduct of the Officers, Clerks and Servants, employed by the said Company; and shall also have power to appoint as many Officers, Clerks and Servants, for carrying on the said business, and with such salaries and allowances as to them shall seem meet: *Provided,* that such Rules and Regulations be not repugnant to the Laws of this Province.

Directors to make rules and regulations;

Not repugnant to laws of Province.

XXX. *And be it further enacted by the authority aforesaid,* That every Treasurer, before he enters into the duties of his Office, shall give Bond, with two or more Sureties, in such sum as may be satisfactory to the Directors, with condition for the faithful discharge of his duty.

Treasurer to give bond, with Sureties.

Manner of recovering penalties.

XXXI. *And be it further enacted by the authority aforesaid,* That all penalties and forfeitures, for offences against this Act, or against any Rule, Order or By-Law, of the said Corporation, to be made in pursuance thereof, for the levying and recovering whereof no particular mode is hereinbefore directed, shall, upon proof of the offences respectively, before any one Justice of the Peace for the District of Johnstown, either by confession of the party or parties, or by the Oath of one credible Witness, (which Oath such Justice is hereby empowered and required to administer, without fee or reward,) be levied by distress and sale of the goods and chattels of the parties offending, by Warrant under the Hand and Seal of such Justice, (which Warrant such Justice is hereby empowered to grant,) and the overplus, after such penalties and forfeitures, and the charges of such distress and sale are deducted, shall be returned, upon demand, to the owner or owners of such goods and chattels; and in case such sufficient distress cannot be found, or such penalties and forfeitures shall not forthwith be paid, it shall and may be lawful for such Justice, by Warrant under his Hand and Seal, to cause such offender or offenders to be committed to the Common Gaol of the Johnstown District, there to remain, without bail or mainprize, for such time as such Justice may direct, not exceeding twenty days, unless such penalties and forfeitures, and all reasonable charges attending the same, shall be sooner paid and satisfied; all which said penalties and forfeitures, when levied and satisfied, in manner aforesaid, shall be paid to the said Company, to be by them applied for the purposes of the said Navigation.

In case of non-payment of penalties, offender may be imprisoned.

Penalties recovered, to be applied for the purposes of the navigation.

Extent of land to be taken for Canal and Towing-paths.

XXXII. *And be it further enacted by the authority aforesaid,* That the land and ground to be taken and used for the said Canal, the Towing-paths and the Ditches, Drains and Fences, to separate any such Towing-paths from the adjoining lands, shall not exceed forty yards in breadth, except in such places where the said Canal shall be raised higher, or cut above four feet deeper than the present surface of the land; and in such places where it shall be judged necessary for Boats and other Vessels, and Rafts, to turn, lie or pass each other, not more than sixty-five yards in breadth in any of those places, without the consent of the owner or owners of such land or ground respectively, under his, her or their, hand or seal, in writing, first had and obtained; nor shall any land or ground be let out, ascertained, contracted for or sold, for the purpose of making any navigable Cut, Trench or Sluice, to convey Goods or other things to or from the said Canal, without such consent, as aforesaid, any thing in this Act contained to the contrary notwithstanding.

His Majesty may assume Canal at the end of 50 years, upon certain conditions.

XXXIII. *And be it further enacted by the authority aforesaid,* That after a period of fifty years after the making and completing of the said

Canal, it shall and may be lawful for His Majesty, His Heirs and Successors, to assume the possession and property of the same, and of all and every the works and dependencies thereto belonging, or in anywise appertaining, upon paying to the said Company, their Heirs, Executors, Administrators and Assigns, the full amount of their respective Shares, or of the sums furnished and advanced by each Subscriber towards the making and completing the said Canal, together with such further sum as will amount to Twenty-five per Centum upon the monies so advanced and paid, as a full indemnification to such Company; and the said Canal shall, from the time of such assumption in manner aforesaid, appertain and belong to His Majesty, His Heirs and Successors, who shall from thenceforth be substituted in the place or stead of the said Company, their Heirs and Assigns, for all and every the purposes of this Act, in so far as regards the said Canal.

XXXIV. *And be it further enacted by the authority aforesaid,* That any complaint shall be brought or commenced against any person or persons, for any thing done or to be done in pursuance of this Act, or in execution of the powers and authorities, or the orders and directions hereinbefore given or granted, every such suit shall be brought or commenced within six calendar months next after the fact committed; or in case there shall be a continuation of damages, then within six calendar months next after the doing or committing of such damages shall cease, and not afterwards; and the Defendant or Defendants in such action or suit shall and 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 in pursuance and by the authority of this Act; and if it shall appear so to be done, or if any action or suit shall be brought after the time hereinbefore limited for bringing the same, then a verdict shall be given for the Defendant.

Actions brought against persons for any thing done under this Act, to be brought in 6 months.

Act and special matter to be given in evidence under general issue.

XXXV. *And be it further enacted by the authority aforesaid,* That nothing herein contained shall affect in any manner or way whatsoever, the right of His Majesty, His Heirs and Successors, or of any person or persons, or of any Bodies Politic or Corporate, except as is herein expressly provided.

King's rights not to be affected, or of any individual, or Body Corporate, except, &c.

XXXVI. *And be it further enacted by the authority aforesaid,* That the said Company, to entitle themselves to the benefit and advantage to them granted by this Act, shall, and they are hereby required, to make and complete the said Canal, within seven years from and after the passing of this Act.

Canal to be completed in 7 years.

Persons possessing lands through which Canal may pass, may erect bridges.

XXXVII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any person or persons, possessing lands through which the said Canal shall pass, to erect a bridge or bridges at his or their own expense, to connect the parts of such land which shall be divided by the said Canal: *Provided always,* that such bridge or bridges shall not present greater obstacles to the navigation of the said Canal, than the bridges erected thereon by the said Company.

Legislature may make alterations in Charter.

XXXVIII. *And be it further enacted by the authority aforesaid,* That notwithstanding the privileges hereby conferred on the said Company, the Legislature may at any time hereafter, make such alterations in any of the provisions of this Act as they may think proper, for affording just protection to the public, or to any person or persons, in respect to their estate or property, or any interest therein, or advantage, privilege or convenience, connected therewith.

CHAP. LII.

AN ACT granting a Charter to an Incorporated Company, under the style and title of the President and Directors of the London and Devonport Rail Road and Harbour Company.

[Passed 4th March, 1837.]

Preamble.

Route of Rail Road, from town of London to Village of Devonport, at the mouth of Cat Fish Creek, on Lake Erie.

WHEREAS sundry Inhabitants of the County of Middlesex, in the District of London, have by petition set forth, that they labour under great disadvantages for want of good roads, whereby to export the surplus produce of the Country, and receive in return articles of indispensable necessity, for the transport of which they are now obliged to pay exorbitant prices: *And whereas,* the Petitioners have employed a skilful Engineer to explore the Country, by whose Report, and Map accompanying the same, it is ascertained that an excellent route for a Rail Road exists from the Town of London, in the London District, to the Village of Devonport, at the mouth of Cat Fish Creek, on Lake Erie, and the Petitioners have prayed to be Incorporated as a Joint Stock Company, for the purpose of constructing a Rail Road on the said route, and also a Harbour connected therewith, at the mouth of Cat Fish Creek aforesaid: *Be it therefore enacted,* by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal cer-