

Laws of His Majesty's Province of Upper Canada, passed in the year 1831. York: Robert Stanton, 1831.

1 William IV – Chapter 11

An Act to Incorporate certain persons therein mentioned under the style and title of the Tay Navigation Company. Passed 16th March, 1831.

Whereas Henry Graham, Alexander Fraser, Roderick Matheson, John McKay, George Hume Read, Josias Taylor, Henry Glass and others, of the Town and neighbourhood of Perth, in the District of Bathurst, have by Petition prayed to be Incorporated a Joint Stock Company for the purpose of Improving and rendering Navigable the River Tay, with such other persons as may feel disposed to undertake the said Improvement: And whereas by an Act passed in the eighth year of His late Majesty's Reign entitled, "*An Act to confer upon His Majesty certain powers and authorities necessary to the making, maintaining and using, the Canal intended to be completed under His Majesty's direction for connecting the waters of Lake Ontario with the River Ottawa and for other purposes therein mentioned,*" power and authority were given to any Officers or persons employed by His Majesty in case His Majesty should desire to improve the Navigation of the Rivers Tay and Goodwood which empty their Waters in the River Rideau, to enter into or upon the lands or grounds of or belonging to any person or persons on the borders of the said Rivers Tay and Goodwood, in the same manner, and for the like purposes, and subject to the same conditions as His Majesty is by the said Act authorised to do with respect to the Lands bordering on the River Rideau: And whereas it is expedient to repeal so much of the said Act as authorises His Majesty to cause the Navigation of the River Tay to be improved according to the provisions of the said Act, and to Incorporate the Petitioners for the purposes therein mentioned: 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 so much of the said in part recited Act as relates to the improvement of the Navigation of the River Tay be, and the same is hereby, repealed.

II. And be it further enacted by the authority aforesaid, That the said Henry Graham, Alexander Fraser, Roderick Matheson, John McKay, George Hume Read, Josias Taylor, Henry Glass, together with all such other persons as shall become Stockholders in such Joint Stock or Capital as is hereinafter mentioned, shall be, and are hereby ordained, constituted, and declared to be a Body Corporate and Politic, in fact, by and under the name and style of the Tay Navigation Company, and that by such name they and their Successors shall and may have continued Succession, and by such 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 or places whatsoever, in all manner of suits, actions, complaints, matters and causes whatsoever, and that

they and their Successors 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 Tay Navigation Company 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 demising, conveying, or otherwise departing therewith for the benefit and on the account of the said Company from time to time, as they shall deem necessary and expedient.

III. And be it further enacted by the authority aforesaid, That the whole Capital or Stock, inclusive of any Real Estate which the said Company may have or hold by virtue of this Act shall not exceed in value Four Thousand Pounds of lawful Currency of this Province, which Capital shall be composed of Six Hundred and Forty Shares of the value of Six Pounds Five Shillings each, and that the said Shares of the said Capital Stock shall be transferable and may be from time to time transferred by the respective persons so subscribing or holding the same to other person or persons : Provided always, that such transfer be entered or Registered in a Book or Books to be kept for that purpose by the said Company, and that no such transfer shall be made by any Stockholder of the said Company until after the expiration of one year from the period when the said work is completed.

IV. 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,) 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 Twenty 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 Thirty days after public notice shall have been given in all the Newspapers of the District of Bathurst: Provided always, that if any Stockholder or Stockholders as aforesaid shall neglect or refuse to pay to the said Company the Instalments 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 Ten 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 proceeds 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 by him, her, or them as aforesaid, immediately after the sale and before they shall be entitled to a Certificate of the transfer of such Share or Shares so to be purchased as aforesaid.

V. And be it further enacted by the authority aforesaid, That so soon as Two Hundred Shares shall have been Subscribed it shall and may be lawful for such Subscribers or any of them, to call a Meeting at some place to be named, (in the Town of Perth) 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 the 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 January succeeding their Election; and the said Directors so soon as may be after the said Election shall proceed in like manner to Elect by Ballott one of their number to be President for the like period, and the President and Directors so chosen shall, as soon as a deposit amounting to Ten Pounds per Centum 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 the Newspapers of the District of Bathurst at the distance of not less than Thirty days from the time of such notification.

VI. 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 Seven 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 January in every year at such time of the day and at such place near the line of the said intended Navigation as the majority of the Directors for the time being shall appoint, and public notice shall be given by the said Directors in the Newspapers printed within the District of Bathurst of such time and place, not more than Thirty nor less than Fifteen 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 Ballott, and the seven persons who shall have the greatest number of votes at any Election shall be Directors, except as is hereinafter directed; and if it should 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 seven shall by plurality of votes appear to be chosen as Directors, then the said Stockholders hereinbefore authorised to hold such Election shall proceed by Ballott 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 seven, and the said Directors so soon as may be after the said Election, shall proceed in like manner to Elect by Ballott one of their number to be President, and two of the Directors which 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 five 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 fewest number of votes shall be considered void, and such other of the 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 this Province and cease to be an Inhabitant thereof for the space of six months, his Office shall be considered as 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 said 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

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Stockholder to the amount of at least Five Shares.

VII. 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 Election,) 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.

VIII. 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.

IX. 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 to the majority of them shall appear advisable, and that once in every year, and oftener if thereunto required by a majority of the votes of the Stockholders to be given agreeable to the ratios hereinbefore established, at a General Meeting to be called for that purpose, an exact and particular Statement shall be rendered of the state of their affais, debts, credits, profits and losses, such statement to appear on the Books, and to be open to the perusal of any Stockholder at his or her reasonable request.

X. 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 amount of Tolls to be collected on the said Navigation, the duty and conduct of the Officers, Clerks, and Servants employed by the said Company, and all such other matters as appertain to the business of 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.

XI. 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.

XII. And be it further enacted by the authority aforesaid, That the said Company, or any person or persons authorised by them, shall have full power and authority to explore the Country through which the River Tay runs, and to enter into and upon the Lands or grounds of or belonging to any person or persons, bodies politic or corporate, and to survey and take levels of the same or any part thereof, and set out and ascertain such parts thereof as he or they shall think proper and necessary for making Locks, Aqueducts, Tunnels, Culverts, Bridges, and all such other improvements, matters, and conveniences as he shall think proper and necessary for making, effecting, preserving, improving, completing, and using in the said Navigation; and also to bore,

1 William IV – Chapter 11

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 Navigation, Locks, Tunnels, Aqueducts, Culverts or other improvements, or out of any Lands or grounds of any person or persons adjoining or lying contiguous thereto, and which may be necessary for constructing or repairing the said Works or Improvements, or which may obstruct the making or maintaing the said Navigation; and also to make, build, erect, and set up, in and upon the said River, or upon the Lands adjoining or near to the same, such and so many Bridges, Tunnels, Acqueducts, Sluices, Locks, Wears, Pens for water Tanks, Reservoirs, Drains, Wharves, Quays, Landing-places, and other Works, Ways, Roads and conveniencies, as the said Company or any person or persons authorised by them as aforesaid shall think requisite and convenient for the purposes of the said Navigation, and also from time to time to alter, amend, repair, widen or enlarge the same, or any other of the conveniencies above mentioned, as well for carrying or conveying goods, commodities, timber and other things to and from the said Navigation, as for the carrying or conveying of all manner of materials necessary for making, erecting, finishing, 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 ground 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 construct the several Locks, Bridges, Works, and Erections belonging thereto; and also to make, maintaing, repair and alter, any fences or passings over, under, or through the said River, 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 River, as the Company, or person or persons authorised by them as aforesaid 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 Navigation and the Towing-Paths on the sides thereof; and also to construct, make and do all other matters or things which he or they shall think necessary and convenient for the making, effecting, preserving, improving, completing and using the said Navigation in pursuance and within the true meaning of this Act, doing as little damage as may be in the execution of the several powers to them hereby granted.

XIII. 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 Navigation and other purposes and conveniences hereinbefore mentioned, the said Company or person or persons authorised by them as aforesaid, is hereby empowered to contract, compound, compromise and agree with all Bodies Politic, Communities, Corporations, aggregate or sole Guardians, and all other person or persons, for themselves or as Trustees, not only for and on behalf of themselves their Heirs and Successors, but also for and on behalf of those whom they represent, whether Infants, Lunatics, Idiots, Femmes Covert, or other person or persons who shall occupy, be possessed of, or interested in any Lands or Grounds which shall be set out or ascertained as aforesaid, for the absolute surrender to the said Company of so much of the said Land as shall be required, or for the damages which he, she, or they, may reasonably claim in consequence of the said intended Improvement, or other the Works of and belonging to the said Navigation, and other Constructions and Erections, being cut and constructed in and upon his, her, or their

respective Lands, and that all such Contracts, Agreements and Surrenders, shall be valid and effectual in Law to all intents and purposes whatsoever, any Law, Statute, or Usage to the contrary notwithstanding.

XIV. And be it further enacted by the authority aforesaid, That such parts and portions of Land or Lands covered with water as may be so ascertained and set out by the Company, or person or persons appointed as aforesaid as necessary to be occupied for the purposes of the Improvement of the said Navigation, and also such parts and portions as may upon alteration or deviation be ascertained and set out as necessary for the purposes thereof, shall be for ever thereafter vested in the said Company.

XV. And be it further enacted by the authority aforesaid, That if before the completion of the said Navigation through the Lands or Grounds of any person or persons, no voluntary agreement shall have been made as to the amount of compensation to be paid for damages according to this Act, the person or persons superintending the said Work shall at any time after the completion of such portion of the Improvement of the said Navigation, upon the notice or request in writing of the proprietor of such Lands, or his Agent legally authorised, to appoint an Arbitrator, who at a day to be named in such notice shall attend upon the premises in question, to meet an Arbitrator to be appointed by such claimant, and such two Arbitrators shall and may, before proceeding to consider the claim, appoint a third Arbitrator, which three Arbitrators being first sworn by some one of His Majesty's Justices of the Peace then there present to give a just and true award upon the claim submitted to them, shall, upon the statements of the parties and view of the premises, and upon the testimony of Witnesses to be examined upon Oath or Affirmation, if either party shall require it, (which Oath or Affirmation any one of the said Arbitrators is hereby authorised to administer) make their award in writing under their hands of the amount of damages to be paid to such claimant.

XVI. And be it further enacted by the authority aforesaid, That if either the person or persons superintending the said Work or the party claiming damages as aforesaid, shall decline to abide by any such award, such refusal shall be declared in writing within ten days after such award, and damages upon such claim shall be thereafter assessed in manner following, but at the sole expense of the party refusing to abide by such award.

XVII. And be it further enacted by the authority aforesaid, That in all cases in which awards shall be made, to which either party shall refuse to conform as aforesaid, it shall and may be lawful for the party dissenting from such award to serve on the other party a notice in writing, appointing a day, not less than thirty days from the time of serving such notice, for having the damages for which he is entitled to claim compensation according to this Act assessed, in the manner hereinafter provided, and that the party giving such notice shall also specify some day therein, which shall be at least ten days before the day appointed for such assessment, and not less than ten days from the time of serving such notice, at which he will attend at the Office of the Sheriff of the District of Bathurst for the purpose of striking a Jury to assess the damages so claimed as aforesaid.

XVIII. And be it further enacted by the authority aforesaid, That on the day so appointed as last aforesaid, the parties, their Attornies or Agents, shall attend at the Sheriff's Office, and that the Sheriff shall at the hour of one o'clock in the afternoon proceed in the presence of the parties, or such of them, their Attorney or Agent, as may be present, to select the names of twenty-one persons from among those qualified to serve on Special Juries, and in the manner directed by Law for selecting Special Juries, and that the names of such twenty-one persons so drawn being fairly written out by such Sheriff, each party, or his Attorney or Agent attending for that purpose, shall alternately strike off one, that party beginning at whose instance such Jury is struck, until the whole number shall be reduced to seven, and that such seven persons shall be a Jury for assessing the damages to be paid to such claimant as aforesaid: Provided always, that in case either party shall omit to attend personally or by Agent at the time appointed, the Sheriff or his Deputy shall strike in behalf of such person not attending.

XIX. And be it further enacted by the authority aforesaid, That the seven persons so struck to serve as aforesaid, shall be Summoned by the Sheriff to attend upon the premises in respect to which the damages are claimed as aforesaid, giving not less than ten days notice of such attendance, and that the Sheriff or his Deputy shall also attend at the time so appointed, and shall administer to the five persons who shall first answer upon being called in the order in which they shall stand upon the Original List, the Oath following, that is to say,—“I A. B. do swear that I will well and truly assess the damages upon the claim of C. D., according to the Act in that behalf”; and thereupon the said Jury having viewed the Premises, and received the testimony, upon Oath or Affirmation of such Witnesses as shall be brought before them, (which Oath or Affirmation the said Sheriff or his Deputy is hereby authorised to administer) shall deliver their verdict by the opinion of the majority of such Jury of the amount of damages to be paid to such claimant.

XX. And be it further enacted by the authority aforesaid, That in estimating the claim of any individual to compensation for property taken, or for damage done under the authority of this Act, the Arbitrators or Juries assessing such damages shall take into their consideration the benefit likely to accrue to such individual from the improvement of the said Navigation, by its enhancing the value of his Property or producing other advantages: Provided always, nevertheless, that it shall not be competent to any Arbitrators or Jury to direct any individual claiming as aforesaid, to pay a sum in consideration of such advantages over and above the amount at which the damages of such individual shall be estimated.

XXI. And be it further enacted by the authority aforesaid, That the party desiring such Jury to be Summoned shall pay to the Sheriff for striking and Summoning the same and for attending and taking the Verdicts, the sum of Two Pounds, and to each Juryman attending in pursuance of such Summons, the sum of Ten Shillings.

XXII. And be it further enacted by the authority aforesaid, That if any person or persons shall wilfully or maliciously break 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 Navigation, every such person or persons so offending shall be deemed guilty of a misdemeanor.

XXIII. And be it further enacted by the authority aforesaid, That if any person shall float any Timber upon the said Navigation, or shall suffer the overloading of any Boat, or Vessel, or Raft, navigating in or upon the Navigation of the said River, so as by such overloading the same, 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 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; and if any person shall throw any ballast, gravel, stones, or rubbish into any part of the said navigation, every such person shall for every such offence forfeit a sum not exceeding Five Pounds.

XXIV. And be it further enacted by the authority aforesaid, That if any Boat, Vessel or Raft, shall be placed in any part of the Navigation of said River so as to obstruct the same, and the person having the care of such Boat, Vessel or Raft, shall not immediately upon the request of any of the persons employed by the said Company, remove the same, he shall for every such offence forfeit a penalty of Ten Shillings for every hour such obstruction shall continue, and it shall be lawful for the Agents, Toll-gatherers or others employed by the said Company, or Person or Persons by them appointed to the charge of said Works, 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 navigation, and to seize and detain such Boat, Vessel or Raft, and the Cargo thereof, or any part of such Cargo, until the Charges occasioned by such unloading and removal are paid, and if any Boat or Vessel shall be sunk in any part of the said navigation, and the owner or owners, or the 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, Toll-gatherers or other persons employed by the said Company, to cause such Boat or Vessel to be weighed or drawn up, and to detain and keep the same until payment be made of all expences necessarily occasioned thereby.

XXV. 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 Land adjoining to the said River or Navigation, to use any Boats thereon for the purpose of husbandry, or for conveying Cattle from one Farm, 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 person or persons in charge for the time being, without interruption, 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 said Navigation or the Towing Paths thereof.

XXVI. And whereas, it may hereafter happen from Floods, or from unexpected accidents, that Wears, Gates, Dams, Banks, Reservoirs, Trenches or other Works of the said navigation may be damaged or destroyed, and the adjacent Lands or the property thereon thereby damaged, and

that it may be necessary that the same should be immediately repaired or rebuilt, to prevent further damages; Be it further enacted by the authority aforesaid, That when and so often as any such case may happen, it shall be lawful for any person or persons employed by the said Company from time to time 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 Navigation 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 or 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 owner or owners 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 means of the digging for, getting, working, taking, carrying away and rising such Stones, Gravel and materials, or any of them, which damages, and the satisfaction and recompense in respect thereof, shall be settled, adjusted, ascertained and determined, by the ways and means hereinbefore described with respect to the other damages done by the making and completing the said Navigation.

XXVII. And be it further enacted by the authority aforesaid, That the person or persons employed by the said Company shall and may, in such parts of the said Navigation 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 places or spaces in the Lands adjoining to the said Navigation 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 River 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 shall be notified by the person or persons in charge of such Navigation.

XXVIII. And for preventing disputes touching the Tonnage of any Boat, Barge, or other Vessel Navigating upon the said River—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 Guaged or Measured, and refusing so to permit and suffer, shall forfeit and pay the sum of Forty Shillings; and it shall be lawful for the Toll-gatherer or such other person or persons as shall be appointed 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 on his behalf as aforesaid, then the person appointed on behalf of the Company shall have alone the power of ascertaining such Tonnage.

XXIX. 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 Roads and Ways to be made as aforesaid (except the Towing Paths) for the purpose of carrying any goods, wares, merchandize,

timber and commodities whatsoever, to and from the said Navigation; and also to Navigate on the said River Improvement 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 and Dues as shall be established by the said Company.

XXX. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said Company to take, occupy, use and enjoy, such Lands along the said Navigation for the purposes of a Towing Path, and for the security and convenience of the several Locks and Dams, as to the Directors shall seem necessary: Provided always, that the said Towing Path does not exceed forty feet in width, and the ground so taken at each Dam and Lock shall not embrace a greater quantity than one Acre on each side of the said Navigation: And provided also, that the value of the Lands so taken shall be ascertained and compensated for in the manner hereinbefore prescribed for the payment of Lands taken for the other purposes of this Act.

XXXI. And be it further enacted by the authority aforesaid, That in case of refusal or neglect of payment of any such Rates or Dues as may be imposed by the said Company as aforesaid for passing along the said Navigation, or of any part thereof, on demand, to the person or persons appointed to receive the same, such person may in his own name sue for and recover the same in any Court having Jurisdiction thereof, or the person or persons to whom the said Rates or Dues ought to be paid may, and he is, and they are hereby authorised and 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.

XXXII. 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 Bye-Law of the said Company, or person or persons appointed by the said Company, to be made in pursuance thereof, shall, upon proof of the offences respectively before any two Justices of the Peace for the District in which such offence has been committed, either by the confession of the party or parties, or by the Oath of one credible Witness, be levied by distress and Sale of the Goods and Chattels of the parties offending, by Warrant under the Hand and Seal of such Justices, and the overplus, (if any) 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 sufficient distress cannot be found, or such Penalties and Forfeitures shall not be forthwith paid, it shall be lawful for such Justices, by Warrant under their Hands and Seals, to cause such offender or offenders to be committed to the Common Gaol of such District, there to remain without bail or mainprise, for such time as such Justices may direct not exceeding twenty days, unless such Penalties and Forfeitures, and all reasonable charges attending the same, shall be sooner paid and satisfied.

XXXIII. And be it further enacted by the authority aforesaid, That all Penalties imposed by this Act, when levied and satisfied in manner aforesaid, shall be paid to the said Justices, to be by them transmitted to His Majesty's Receiver General of this Province, to be accounted for to His Majesty through the Lords Commissioners of His Majesty's Treasury for the time being.

XXXIV. And be it further enacted by the authority aforesaid, That all and singular the powers and authorities given by this Act to the said Company, or to the person or persons to be employed by them in superintending the construction of the said Navigation, or to the person at any time hereafter in charge thereof, shall extend, so far as may be required for the purposes of this Act, to all and every the persons employed or to be employed in the execution of any matter authorised to be done by this Act.

XXXV. And be it further enacted by the authority aforesaid, That all and every the powers, authorities and privileges by this Act given, relating in any manner to the improvement of the said River intended to be made as aforesaid, shall extend and apply to that part of the Navigation to be made or improved which shall lie along the said River, as well as to such parts as shall require to be wholly made and excavated through Lands affording now no natural channel.

XXXVI. And be it further enacted by the authority aforesaid, That if any plaint 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 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 to be done so, 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.

XXXVII. And be it further enacted by the authority aforesaid, That this Act shall be deemed a Public Act, and shall be judicially noticed as such in the several Courts in this Province.

XXXVIII. And be it further enacted by the authority aforesaid, That whenever it shall appear that the Tolls received by the said Tay Navigation Company in any one year shall exceed Twenty per Cent on the Capital invested, it shall and may be lawful for the Legislature of this Province to regulate the Tolls to be received by the said Company in such manner as to them may appear just, by any Act to be passed for that purpose.

XXXIX. And be it further enacted by the authority aforesaid, That notwithstanding any thing in this Act contained, it shall and may be lawful to authorise one or more public Ferry or Ferries across the said River, if the same shall appear expedient, and to erect, maintain, and use such Bridge or Bridges over the said River, and to make and use such Highways leading to and from the same as shall be found necessary for public convenience, in the same manner as Highways and Bridges are constructed and made in other parts of this Province, and as if this Act had not been passed: Provided always, that such Highways and Bridges shall be so constructed and made as to occasion no unnecessary inconvenience to the said Navigation.

XL. And be it further enacted by the authority aforesaid, That at any time after fifty years after the making and completing the said Navigation, His Majesty, His Heirs and Successors, may assume

the possession and property of the same, and of all and every the Works and Dependencies thereto belonging, upon paying to the said Company, for the use of the Stockholders thereof, the full amount of their respective Shares, or of the sums furnished and advanced by each Subscriber towards the making and completing the said Navigation, together with such further sum as will amount to Twenty-five per Cent upon the monies so advanced and paid, as a full indemnification to such Company, and the said navigation 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 and stead of the said Company, upon the conditions and subject to the Provisions of any Act of the Legislature of this Province, that may be passed of or respecting the same: Provided always, that it shall not be lawful for His Majesty, His Heirs or Successors, at any time after the expiration of the said Fifty Years, to assume the possession and property of the said Navigation, with its appurtenances as aforesaid, unless it shall appear from the accounts of the said Company, to be for that intent laid before the Legislature, that the Stockholders of the said Company have received every year upon an average the sum of Twelve Pounds Ten Shillings for every Hundred Pounds they shall be possessed of the in the said concern.

XLI. And be it further enacted by the authority aforesaid, That from and after the period when the possession of the right, interest and property, in and to the said Navigation shall have been assumed by His Majesty, His Heirs or Successors, as hereinbefore authorised, all Tolls and profits arising therefrom shall be paid into the hands of His Majesty's Receiver General, to and for the Public uses of this Province at the disposition of the Legislature thereof, and shall be accounted for to His Majesty, His Heirs and Successors, through the Lords Commissioners of His Majesty's Treasury in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct: Provided always, that the said Navigation shall be commenced within one year and completed within seven years after the passing of this Act, otherwise this Act, and every matter and thing herein contained shall cease and be utterly null and void.

XLII. And be it further enacted by the authority aforesaid, That if within two months after the passing of this Act it shall be ascertained by the Governor, Lieutenant Governor, or person Administering the Government of this Province, that the Officer Superintending the construction of the Rideau Canal is instructed to undertake the improvement of the Navigation of the River Tay, or deems it expedient that the same should be undertaken by His Majesty's Government, under authority given by the Twenty-fifth Section of the Act passed in the eighth year of His late Majesty's Reign, then it shall and may be lawful for the Governor, Lieutenant Governor, or person Administering the Government of this Province, by Proclamation to be issued by and with the advice of the Executive Council thereof, to suspend the operation of this Act, and from thenceforth it shall cease to have any force or effect, any thing therein contained to the contrary notwithstanding.