

Laws of His Majesty's Province of Upper Canada, passed in the year 1836. Toronto: Robert Stanton, 1836.

6 William IV – Chapter 8 (Session 1)

An Act to Incorporate sundry persons under the style and title of the Gananoque and Wiltsie Navigation Company. (Passed, 20th April, 1836.)

Whereas William Richards De Rinzie, Joseph Wiltzie, John McDonald, Patrick Anderson, Richard Johnson, William Green, Joshua Bates, William Webster, and James B. Howard, have by Petition, prayed to be Incorporated as a Joint Stock Company for the purpose of improving and rendering navigable the Wiltzie and Gananoque Rivers, in the County of Leeds, with such other persons as may feel disposed to undertake the said improvement: 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 William Richards De Rinzie, Joseph Wiltzie, John McDonald, Patrick Anderson, Richard Johnson, William Green, Joshua Bates, William Webster, and James B. Howard, together with all such other persons as shall become Stockholders in such Joint Stock 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 "Gananoque and Wiltsie Navigation Company;" and 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 ay change and alter the same at their will and pleasure; and also that they and their successors, by the same name of the Gananoque and Wiltsie 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 account of the said Company, from time to time, as they shall deem necessary and expedient.

II. And be it further enacted by the authority aforesaid, That the whole capital or stock, exclusive of any real estate which the said Company may have or hold by virtue of this Act shall not exceed in value six thousand pounds of lawful money of this Province; which capital shall be composed of six thousand shares of the value of one pound 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 persons 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.

III. 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 such instalment shall be called for in less than thirty days after public notice shall have been given in hand-bills or in all the newspapers of the District of Johnstown: 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.

IV. 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 Charleston,) 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 Tuesday in February succeeding their election, shall proceed in like manner to elect by ballot 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 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 hand-bills or in the newspapers of the District of Johnstown, at the distance of not less than thirty days from the time of such notifications.

V. 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 Tuesday in February 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 thereof shall be given by the said Directors in hand-bills or in the newspapers printed within the District of Johnstown, 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 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 give shall by a plurality of votes appear to be chosen as Directors, then the said Stockholders hereinbefore authorized 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 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 three 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 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 five shares.

VI. 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.

VII. 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.

VIII. 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 affairs, 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.

IX. 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 shall 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.

X. 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.

XI. And be it further enacted by the authority aforesaid, That the said Company, or any person authorized by them, shall have full power and authority to explore through which the Wiltse and Gananoque Rivers now run, and to enter into and upon the lands and 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, dams, 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 the said 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 of things which may be dug or got int the making of the said navigation, locks, dams, 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 the constructing or repairing the said works or improvements, or which may obstruct the making

or maintaining 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 dams, bridges, tunnels, aqueducts, sluices, locks, weirs, pens for water tanks, reservoirs, drains, wharves, quays, landing-places, and other works, ways, roads, and conveniences 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 conveniences 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 or 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, dams, bridges, works, and erections belonging thereto; and also to make, maintain, repair, and alter any fences or passages over, under, or through the said rivers or the reservoirs and tunnels, aqueducts, 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.

XII. 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 authorized by them, as aforesaid, is hereby empowered to contract, compound, comprise, and agree with all bodies politic, communities, corporations, aggregate or sole guardians, and all other persons 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, ideots, femmes covert, or other 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 improvement or other 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.

XIII. 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 said 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.

XIV. 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 by the proprietor of such lands, or his agent legally authorized, 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 and 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 claimants.

XV. 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 sale expense of the party refusing to abide by such award.

XVI. 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 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 Johnstown, for the purpose of striking a Jury to assess the damages so claimed, as aforesaid.

XVII. 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 of the 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 the Sheriff, each party or his attorney or agent attending for that purpose, shall alternately strike off one, that party beginning at whose instance the 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.

XVIII. 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 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 claimants.

XIX. 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 each individual from the improvement of the said navigation by its enhancing the value of his property, or producing other advantages, or to award any claimant any sum as damages for the overflowing of any lands below the usual high water mark as the same has stood for the last twenty-three years: Provided always, nevertheless, that it shall not be competent to any Arbitrators or Jury to direct any individual claiming as aforesaid, to pay any sum in consideration of such advantages over and above the amount at which the damages of such individual shall be estimated.

XX. And be it further enacted by the authority aforesaid, that party desiring such Jury to be summoned shall pay to the Sheriff for striking and summoning the same, and for attending and giving the verdicts, and to each Jurymen attending in pursuance of such summons the sum of ten shillings.

XXI. And be it further enacted by the authority aforesaid, That whatever sum may be finally awarded to any person or persons for compensation for property required to be occupied, or for damages occasioned by the interference of the said Company with his or their property, rights, or privileges, shall be paid within six months from the time of the same being awarded, and in case the said Company shall fail to pay the same within that period, then their right to assume any such property or commit any act in respect of which such sum of money was awarded shall wholly cease, and it shall be lawful for the proprietor to resume his occupation of such property, and to possess fully his rights and privileges in respect thereof free from any claim or interference of the said Company.

XXII. And be it further enacted by the authority aforesaid, That if any person or persons shall willfully 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 willful act, hurt or mischief, to disturb, hinder or prevent, the carrying into the execution or completing, supporting, or maintaining the said navigation, every such persons 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, shall forfeit an 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, raft or timber, shall be placed in any part of the navigation of the said River so as to obstruct the same, and the person having the care of such boat, vessel, raft or timber, 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 boats, vessel, raft or timber, 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, raft or timber, 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 said 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 expenses 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 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 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 merchandise 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 weirs, 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 and may 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, 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 whatever 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 thereof, or other persons 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 raising 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, 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 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 gauged 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 and 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, merchandise, timber and commodities whatsoever to and from the said navigation; and also to navigate on the improvements of the said river 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 navigation: And provided also, that the value of the land 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: Provided always, that the said Company shall from time to time, and at all times hereafter have power and authority to enter any lands or premises on the border of the said Wiltsie and Gananoque Rivers, for the purpose of removing any fallen timber, or any other matter or thing that may have become, or shall be likely to become an obstruction in the said navigation.

XXXI. and be it further enacted by the authority aforesaid, That in case of refusal or neglect of payment of any such rates and dues as may be imposed by the said Company as aforesaid, for passing along the said navigation or 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 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 offenses against this Act or against any rule, order or by-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 one Justice of the Peace for the District in which such offence was 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 Justice, and the overplus, (if any,) after such penalties and forfeitures, and the charges of such distress and sale are deducted, shall be returned to the owner or owners of such goods and chattels; and in case sufficient distress and sale cannot be found or such penalties and forfeitures shall not be forthwith paid, it shall 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 such District, there to remain without bail or main-prise, for such time as such Justice may direct, not exceeding twelve 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 justice, to be by him 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 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 Rivers intended to be made as aforesaid, shall extend and apply to that of the navigation to be made or improved which shall lie along the said Rivers, as well as to such parts as shall require to be wholly made and excavated through the lands affording 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 damage 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 whenever it shall appear that the tolls received by the said Gananoque and Wiltsie Navigation Company in any 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.

XXXVIII. 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 Rivers if it shall appear expedient, and to erect, maintain, and use such bridge or bridges over the said Rivers; 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 bridges shall be so constructed and made with swings and other openings as to occasion no unnecessary inconvenience to the said navigation by steam-boats or other vessels.

XXXIX. And be it further enacted by the authority aforesaid, That at any time after fifty years after 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 so 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 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 in the said concern.

XL. 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 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, and 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 three years 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.

XLI. And be it further enacted by the authority aforesaid, That notwithstanding the privileges hereby conferred, the Legislature may at any time hereafter make such addition to this Act, or such alteration of any of its provisions as they may think proper for affording just protection to the public, or to any person or persons, body politic or corporate, in respect to their estate, property, or rights, or any interest therein, or any advantage, privilege, or convenience connected therewith, or in respect to any way, public or private, that may be affected by any of the powers given by this Act.