

and when the same is issued out of any of the said District Courts, then before the Judge of the District Court out of which the same is issued.

V. And be it enacted, that any Sheriff or Coroner who shall not return any writ issued out of the said Court of Queen's Bench or any of the said District Courts, within the period of three Calendar months after a writ of attachment for not returning the same shall be executed against him, shall forfeit his office ; and if any Sheriff or Coroner, who shall not have returned any such writ within such period, shall continue after the expiration of such period to exercise the duties of his office without having been duly re-appointed to the same, he shall forfeit and pay the sum of one hundred pounds of lawful money of this Province, to any person who shall sue for the same in any of Her Majesty's Courts of Record, having competent jurisdiction : Provided always, that such action shall be brought within the period of twelve Calendar months after such forfeiture shall have been incurred.

Sheriff or Coroner not returning the process within a certain time after being so attached to forfeit his office.

Penalty if he shall continue to exercise it without being re-appointed.

Proviso.

VI. And be it enacted, that the cost of any proceedings under the authority of this Act to enforce the return of process, shall be in the discretion of the presiding Judge or of the Court, as the case may be, who may order them to be paid by the Sheriff or Coroner against whom the proceedings are had, or by either of the parties in the cause.

Costs under this Act to be in the discretion of the Judge.

VII. And be it enacted, that this Act shall not be construed to interfere with or take away any remedy which existed before the passing thereof.

Act not to interfere with existing remedies.

#### C A P . XXXIV.

An Act to Repeal a certain Act therein mentioned, and to make further provision for enabling the Provincial Government to purchase the Stock held by private parties in the Welland Canal.

[9th December, 1843.]

**W**HEREAS, in and by a certain Act of the Parliament of this Province, passed in the fourth and fifth years of the Reign of Her present Majesty, intituled, *An Act to authorize the Stock, held by private parties in the Welland Canal, to be purchased on behalf of the Province*, after reciting that it was desirable to place the Welland Canal under the exclusive control of the Government of this Province, and for that purpose to provide for the purchase from the private Stockholders

Preamble.

Act 4 & 5 V. c. 48, cited.

holders in that work of the stock by them held, and which amounted to the sum of one hundred and seventeen thousand, eight hundred pounds, it was, amongst other things, enacted that it should and ought to be lawful for Her Majesty's Receiver General, upon an order to that effect from the Governor, Lieutenant Governor, or person administering the Government of this Province, to issue such number of debentures as might be required, to the Several Stockholders in in the Welland Canal for a sum equal to the amount of stock held by him or them, and that such debentures should be made redeemable in twenty years from their date, and should bear an interest of two per cent. per annum on the amount for which they might be issued, for the first two years, three per cent. for the third year, four per cent. for the fourth year, five per cent. for the fifth year, and six per cent. for the sixth and following years, which interest and principal sum should be chargeable on and payable out of the public revenues of the Province, and that whenever the tolls collected on the said Canal should annually amount to the sum of thirty thousand pounds, it should be lawful for the Governor, Lieutenant Governor, or person administering the Government to authorize and direct the Receiver General of this Province to issue other debentures to the original Stockholders, or their legal representatives, for such sums as would make up six per centum interest upon the amount of stock by them subscribed and paid for, from the time the same should have been actually paid, which debentures were to be made payable in twenty years from the date thereof, and were to bear interest at the rate of six per centum per annum, payable half yearly out of the public revenues of this Province, and that nothing in the said Act contained should be construed to compel any Stockholder to accept debentures for the stock held by him as aforesaid, or, in case of refusal to receive the same, to deprive him from being paid from the tolls and revenues of the Canal, according to the laws then existing having relation to the said Canal: And whereas, by a certain Act of the Parliament of Upper Canada, passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, "*An Act to provide for the permanent completion of the Welland Canal, and for other purposes therein mentioned,*" provision is made for raising, by way of public loan, the sum of two hundred and forty five thousand pounds for the purposes of the said Act, and that the tolls received upon the said Canal, after deducting the amount required for the charges then made thereon by law, or so much thereof as might be necessary, should in the first place be applied to discharge the interest which should accrue upon the said sum of two hundred and forty five thousand pounds, and that the remainder of the income received by the said Company should be divided among the private Stockholders until it should equal six per cent. on the amount of their investments: And whereas, by reason of difficulties arising from the state of the Provincial finances of Upper Canada aforesaid, a small part only of the said sum of two hundred and forty five thousand pounds, was actually raised, and the Canal was

Act of U. C. 7,  
W. IV. c. 92,  
cited.

was therefore not completed by means of the said loan : And whereas, the said Canal is in progress of completion by means of other and larger sums of money received for that purpose than the sum provided to be raised under the said Act : And whereas therefore, the circumstances contemplated by the said Act, under which the said private Stockholders were to have received dividends from the income of the said Canal have not arisen and cannot now arise, and it is therefore expedient to repeal the said provision for the payment of such dividends : And whereas, it is represented to be for the interest of the private Stockholders aforesaid that the said first in part recited Act should be repealed, and other provisions enacted in lieu thereof ; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, "*An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,*" and it is hereby enacted by the authority of the same, that the said first in part recited Act, and the said Act of the Parliament of Upper Canada, in so far as the same relates to the division of the income of the said Canal, or any part thereof, amongst the private Stockholders, shall be and the same are hereby repealed, except in so far as the same repeal any former Act or Acts of the Parliament of Upper Canada or of this Province.

The first mentioned Act and part of the second repealed.

II. And be it enacted, that there shall be charged upon the Consolidated Revenue Fund of this Province, for the benefit of the private Stockholders in the said Welland Canal, the sum of one hundred and seventeen thousand eight hundred pounds, currency, of this Province, with interest thereon, from the first day of January, in the year of our Lord one thousand eight hundred and forty-three.

£117,800 charged on the Revenue Fund for the private Stockholders.

III. And be it enacted, that it shall and may be lawful for the Governor of this Province in Council, to direct the Receiver General of this Province to issue such number of Debentures as may be required, to the private Stockholders in the Welland Canal Company, not exceeding the said sum of one hundred and seventeen thousand eight hundred pounds, currency, at a rate of interest not exceeding five per cent. per annum, if the said Debentures and Interest shall be payable in England, or not exceeding six per centum per annum, if the said Debentures and Interest shall be made payable in Canada ; and that the Debentures or other securities to be issued shall bear date the first day of January, in the year of our Lord one thousand eight hundred and forty-three, and the interest thereon shall be payable from thence on the first day of January next succeeding the issue thereof, and from thence half-yearly on the first day of July and the first day of January, in each year, until the principal sum shall be paid, and such principal sum shall be made payable in twenty years from the date of the said Debentures.

Governor in Council empowered to issue certain debentures.

IV.

To whom such debentures may be issued.

IV. And be it enacted, that it shall and may be lawful for the Governor of this Province in Council, to direct the issue of the said Debentures to the private Stockholders according to their respective claims, and such Debentures shall bear the rates of interest above mentioned, and shall be payable either in London or in this Province, as such private Stockholders shall respectively desire, and at such place therein as the Governor in Council shall direct and appoint: Provided always, that nothing in this Act contained shall be held to invalidate or make void any Debentures heretofore issued under the said first in part recited Act.

Such debentures may be substituted in lieu of certain others.

V. And be it enacted, that it shall and may be lawful for the Governor of this Province in Council to direct the substitution of the Debentures to be issued under this Act, in lieu of the said Debentures already issued, upon application of the party holding the same.

A yearly charge made on the Revenue Fund when the Tolls on the Canal amount to £45,000 yearly.

VI. And be it enacted, that so soon after the completion of the said Canal as the tolls received thereon for any one year shall amount to the sum of forty-five thousand pounds, currency of this Province, there shall be charged upon the Consolidated Revenue Fund thereof an amount equal to six per centum per annum on the private stock subscribed from the time the same has been paid in, for the benefit of the private Stockholders aforesaid, or their legal representatives.

New debentures may be then issued.

VII. And be it enacted, that it shall be lawful for the Governor of this Province in Council, at any time after such receipt of tolls, to direct to be issued to such private Stockholders or their legal representatives, Debentures for the amount of their respective claims, bearing interest and payable in the same length of time after their issue, and at the same places, respectively, as if the same were issued under the foregoing provisions of this Act to the private Stockholders aforesaid for the principal sum invested by them.

Certificates issued under former Acts to have a certain effect.

VIII. And be it enacted, that in case any certificate or certificates, or other documents, have been issued to any of the said private Stockholders, or their legal representatives or assigns, signifying that they or any of them are or shall be entitled to receive the back interest mentioned in the said first in part recited Act, or Debentures therefor, those who shall lawfully hold such certificate or other document, shall be entitled to the same payments or Debentures, and to none other than they would be entitled to under this Act if such certificates or other documents had never issued.