



ANNO DECIMO ET UNDECIMO
VICTORIÆ REGINÆ.

CAP. CXVIII.

An Act to incorporate *The Bytown and Britannia Rail-way Company.*

Reserved for the signification of Her Majesty's pleasure, 28th July, 1847.

The Royal Assent given by Her Majesty in Council on the 15th April, 1848; and Proclamation made thereof by His Excellency JAMES, EARL OF ELGIN AND KINCARDINE, in the Canada Gazette of the 24th June, 1848.

WHEREAS the construction of a Rail-way from Bytown to Britannia in the District of Dalhousie, would greatly contribute to the facility of intercourse between many parts of this Province lying upon the River Ottawa and the City of Montreal, and to the advancement and prosperity of the country lying upon the said river and of this Province generally; And whereas the several persons hereinafter named are desirous to make and maintain the said Rail-way: 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 John Scott, Nelson George Robinson, George Byron Lyon, George William Baker, Charles Sparrow, Hammett Hill, James Skead, John Robertson, John Sumner and Andrew Main, together with such person or persons as shall, under the provisions of this Act, become subscribers to and proprietors of any share or shares in the Rail-way hereby authorized to be made and other works and property hereinafter mentioned; and their several and respective heirs, executors, administrators, curators and assigns, being proprietors of any such share or shares, are and shall be, and be united into a Company for carrying on, making, completing and maintaining the said intended Rail-way and other works, according to the rules, orders and directions hereinafter expressed, and shall for that purpose be one body politic and corporate by the name of *The Bytown and Britannia Rail-way Company*, and by that name shall have perpetual succession and shall have a common seal, and other the usual powers and rights of bodies corporate not inconsistent with this Act, and by that name shall and may sue and be sued, and also shall and may have power and authority to purchase and hold lands, (which word shall throughout this Act be understood to include the land and all that is upon or below the surface thereof, and all the real rights and appurtenances thereunto belonging,) for them and their successors and assigns, for the use of the said Rail-way and works, and also to alienate and convey any of the said lands, purchased for the purposes aforesaid, and any person or persons, bodies politic or corporate, or communities may give, grant, bargain, sell or convey to the said Company any lands for the purposes aforesaid, and the same

Preamble.

Certain persons incorporated for the purposes of this Act; and certain corporate powers conferred on them.

Corporate name and powers.

Word 'Lands' how understood in this Act.

may

Rail-way may be made on any plan.

Direction of the said Rail-way.

Power to hold Steamboats, &c.

Governor in Council to fix the gauge of the Rail way.

Power to the Company to set out and survey lands necessary for their works, &c.

To get and place materials.

To erect buildings, machinery, &c.

Bridges and other works for passing streams, &c.

may re-purchase of the said Company without *Lettres d'Amortissement*: And the said Company shall be and are hereby authorized and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Rail-way or Rail-ways to be called *The Bytown and Britannia Rail-way*, with one or more sets of Rails or Tracks, and to be worked by locomotive engines, or on the atmospheric principle, or in such other mode as the said Company may deem expedient, from some place or places in Bytown aforesaid to some place or places in the Township of Nepean, at or near the Britannia Mills, and in as direct a line as may be found convenient, and to erect wharves, warehouses, stores and other buildings at either termination, and at such other places on the line of the said Rail-way or Rail-ways as they may deem expedient; and to build, or purchase, hold and use one or more steamboats or other vessels to ply on the waters of the River Ottawa, from the upper termination of the said Rail-way, or any place above such termination, to Fitzroy Harbour, and thence to the Portage du Fort, in the Township of Ross.

II. And be it enacted, That it shall and may be lawful for the Governor in Council to determine the gauge which shall be used in the Rail-way in this Act mentioned, and such determination shall be declared by Proclamation in the Official Gazette, and shall thereupon be binding upon the said Company.

III. And be it enacted, That for the purposes aforesaid, the said Company, their deputies, servants, agents and workmen, are hereby authorized and empowered to enter into and upon any lands and grounds of the Queen's Most Excellent Majesty, not hereinafter excepted, without leave or license first had and obtained from Her Majesty, or of any person or persons, bodies politic or corporate, or collegiate, or communities or parties whatsoever, and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said intended Rail-way and other works hereby authorized, and all such works, matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining and using the said intended Rail-way and other works, and also to bore, dig, cut, trench, get, remove, take, carry away, and lay earth, clay, stone, soil, rubbish, trees, roots of trees, beds of gravel or sand, or any other matters or things which may be dug or got in making the said intended Rail-way or other works, on or out of the lands or grounds of any person or persons adjoining or lying convenient thereto, and which may be proper, requisite or necessary for making or repairing the said intended Rail-way, or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using or completing, extending or maintaining the same respectively, according to the intent and purpose of this Act; and to make, build, erect and set up, in or upon the said intended Rail-way, or upon their lands adjoining or near the same respectively, such and so many houses, warehouses, toll-houses, watch-houses, telegraphs or other signals, weighing beams, cranes, fire-engines, steam-engines, or other engines, either stationary or locomotive, inclined planes, machines, and other works, ways, roads and conveniences, as and when the said Company shall think requisite and convenient for the purposes of the said Rail-way and works; and also from time to time to alter, repair, divert, widen, enlarge and extend the same, and also to make, maintain, repair and alter any fences or passages over, under or through the said intended Rail-way, and to construct, erect and keep in repair any bridges, arches and other works upon

upon and across any rivers or brooks for the making, using, maintaining and repairing the said intended Rail-way; and to turn any such brook, river or water-course, and to change its course; and to construct, erect, make and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing, and easy using of the said intended Rail-way and other works, in pursuance of, and according to the true intent and meaning of this Act, they, the said Company, doing as little damage as may be, in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned to the owners or proprietors of, or the persons interested in the lands, tenements or hereditaments, water, water-courses, brooks or rivers respectively, which shall be taken, used, removed, prejudiced, or of which the course shall be altered, or for all damages to be by them sustained in or by the execution of all or any of the powers given by this Act; and this Act shall be sufficient to indemnify the said Company and their servants, agents or workmen, and all other persons whatsoever for what they, or any of them, shall do by virtue of the powers hereby granted, subject nevertheless to such provisions and restrictions as are hereinafter mentioned.

Other works necessary for the Rail-way.

As little damage as possible to be done, and compensation to be made.

IV. Provided always, and be it enacted, That whenever the said Company shall have occasion to carry their said Rail-way along or across any street or highway in Bytown or the Town of Fitzroy, they shall at all times leave at least one-half of the width of the road-way clear of all obstructions arising from their work, (unless they shall obtain leave to do otherwise under a By-law of the Municipal Council of the District of Dalhousie, or the Corporation of Bytown, as the case may be,) and under a penalty of five pounds for any contravention, over and above all damages sustained by any party; and the said Company shall not carry the said Rail-way along any street or existing highway out of the said towns, but merely cross the same in the line of the said road; and before they shall in any way obstruct such street or highway with their works, they shall turn the said highway or street at their own charges so as to leave an open and good passage for carriages free from obstructions, and when their works are completed, they shall replace the said highway or street, under a penalty of five pounds for any contravention, but in either case the rail itself, provided it does not rise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction.

How the Rail-way shall be carried across public roads, &c.

Rail itself not to be deemed an obstruction.

V. Provided also, and be it enacted, That the said Company shall and may, if they think fit, carry the said Rail-way, through the Concession Line between the First Concession and Concession A, or the broken front in the Township of Nepean, Ottawa front, which is otherwise useless to the public.

Rail-way may be carried along a certain concession Line.

VI. And be it enacted, That for the purposes of this Act, the said Company shall and may by some sworn Land Surveyor for Upper Canada, and by an Engineer or Engineers by them to be appointed, cause to be taken and made, surveys and levels of the lands through which the said intended Rail-way is to be carried, together with a map or plan of such Rail-way, and of the course and direction thereof, and of the said lands through which the same is to pass, and the lands intended to be taken for the several purposes authorized by this Act, so far as then ascertained, and also a book of reference for the said Rail-way, in which shall be set forth a general description of the said several lands, and the names of the owners, occupiers, and proprietors thereof, so far as they can be ascertained by the said Company, and in which shall be contained

Company to take surveys and levels of the lands through which the Rail-way is to be carried, and make a map or plan. Book of reference to be made and deposited with the plan.

every

every thing necessary for the right understanding of such map or plan, one copy whereof shall be deposited in the office of the Clerk of the Municipal Council for the District of Dalhousie and another in the office of the said Company ; and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts or copies thereof as occasion shall require.

When the Rail-way passes any highway, the rail, &c to be within one inch of the surface.

VII. Provided always, and be it enacted, That where the said Rail-way shall cross any highway, (which word shall in this Act include all public roads, streets, lanes or other public ways or communications,) neither the rail nor any other part of the Rail-way or works connected therewith, shall rise above the level of such street or highway, or sink below the level of such street or highway, more than one inch ; and the said Rail-way may be carried across any highway or above any highway within the limits aforesaid.

Height and breadth of bridges over any highway.

VIII. Provided always, and be it enacted, That where any bridge shall be erected or made by the said Company, for the purposes of carrying the said Rail-way over or across any highway, the space of the arch of any such bridge shall be formed and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than twenty feet, and a height from the surface of such highway to the centre of such arch, of not less than sixteen feet, and the descent under any such bridge shall not exceed one foot in twenty feet.

Descent under bridges.

And of bridges for carrying a public road over the Rail-way.

IX. Provided always, and be it enacted, That in all places where it may be necessary to erect, build or make any bridge or bridges for carrying any highway over the Rail-way, the ascent of every such bridge for the purpose of every such highway shall not be more than one foot in twenty feet; and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the surface of such bridge.

Fence to bridge.

Precautions to be observed when the Rail-way crosses a highway on a level.

X. Provided always, and be it enacted, That the said Company shall, at each and every place where the said Rail-way shall cross any highway on a level, erect and keep up a sign-board stretching across the highway at such height as to leave sixteen feet from the highway to the lower edge of the sign-board, and having the words "RAILWAY-CROSSING" painted on each side of such sign-board, and in letters not less than six inches in length ; and for each and every neglect to comply with the requirements of this section, the said Company shall incur a penalty not exceeding five pounds currency.

Penalty for neglect.

Company not to deviate more than one mile from the line shewn in the map aforesaid.

XI. And be it enacted, That the said Company, in making the said intended Rail-way, shall not deviate more than a mile from the line of the Rail-way or from the places assigned to the several works of the Company, in the map or plan and book of reference deposited aforesaid, nor cut, carry, place, lay down or convey the said Rail-way into, through, across, under or over any part of any lands or grounds not shown and mentioned in such map or plan and book of reference, as being required for such purpose, or as being within one mile of the said line and of the places assigned therein to the said works respectively, (save in such instances as are herein specially provided for,) without the consent of the party or parties who could, under the provisions of this Act, convey such lands.

Except by consent of parties.

XII. And be it enacted, That the said Company may make, carry or place their said intended Rail-way and works, into, across or upon the lands of any person or party whomsoever on the line aforesaid, or within the distance aforesaid from such line, although the name of such party be not entered in the said book of reference, through error, want of sufficient information, or any other cause, or although some other person or party be erroneously mentioned as the owner of or party entitled to convey, or interested in such lands.

Effect of errors as to the book of reference.

XIII. And be it enacted, That the lands or grounds to be taken or used for such intended Rail-way, and the ditches, drains and fences to separate the same from the adjoining lands, shall not exceed thirty yards in breadth, except in such places where the said intended Rail-way shall be raised more than five feet higher, or cut more than five feet deeper than the present surface of the land, or in such places where it shall be judged necessary to have off-sets for the locomotives or other engines and carriages using the said intended Rail-way to be or pass each other (and not above one hundred yards in breadth in any such place,) or where any houses, ware-houses, wharves, toll-houses, watch-houses, weighing-beams, cranes, fixed engines or inclined planes, may be intended to be erected, or goods, wares or merchandize to be delivered, (and then not more than one hundred and fifty yards in length, by one hundred yards in breadth,) without the consent of some party who can, under the provisions of this Act, convey such lands to the said Company, and the places at which such extra breadth is to be taken, shall be shewn on the said map or plan, so far as the same may be then ascertained, but their not being so shewn shall not prevent the Company from taking such extra breadth, provided it be taken upon the line shewn or within the distance aforesaid from any public highway, (except only as provided in the fourth Section) but their right shall be limited to the laying down across the same, that is in the line of the said Rail-way at whatever angle it may intersect such highway, the rails and other contrivances, forming part of the said Rail-way, subject to the limitations mentioned in the sixth Section, or any other part of this Act; nor shall any land or property vested in Her Majesty, or in any party in trust for Her Majesty, except under the next following section, be taken by the said Company without the consent of Her Majesty, or of the party in whom the same shall be so vested in trust.

Lands taken for Rail-way not to exceed thirty yards in breadth.

Exceptions for deep cutting, passing places, &c.

And for stations for machinery, &c.

Proviso as to lands forming part of public roads, &c.

Or vested in the Crown.

XIV. And be it enacted, That it shall be lawful for the said Company to take, use, occupy and hold, but not to alienate, so much of the Public Beach or of the land covered with the waters of the River Ottawa or on the Rideau Canal at Bytown, the consent of the Principal Officers of Her Majesty's Ordnance being first obtained, not used or occupied for any public work or vested in any party, (not exceeding the quantity limited in the next preceding section,) as may be required for the Rail-way, and other works which they are hereby authorized to construct, doing no damage to nor causing any obstruction in the navigation of the said river or canal.

Company may use the Public Beaches, &c., doing no damage to the navigation.

XV. And be it enacted, That after any lands or grounds shall be set out and ascertained in manner aforesaid, for making and completing the said Rail-way and other works, and other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all bodies politic, corporate, or collegiate, corporations aggregate or sole, communities, tenants in tail, or for life, guardians, curators, executors, administrators, and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent,

After any lands have so been set out, all bodies corporate, &c. may sell their property therein to the Company.

represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons or parties, who are or shall be seized, possessed of or interested in any lands or grounds which shall be so set out and ascertained as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, all or any part of such lands or grounds which shall under this Act be set out and ascertained as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; and that all bodies politic, corporate or collegiate, or communities, and all persons whatsoever, so conveying as aforesaid, are hereby indemnified for what he, she, or they, or any of them shall respectively do by virtue of or in pursuance of this Act: Provided always, that before the map or plan and book of reference shall be deposited as aforesaid, and before the lands required for the said Rail-way and works shall be set out and ascertained, it shall be lawful for any party who might under this Act convey any lands to the said Company, if the same were so set out and ascertained, to agree with the Company for the price to be paid for such lands if they shall be thereafter so set out and ascertained; and such agreement shall be binding, and the price agreed upon shall be the price to be paid by the Company for the same lands, if they shall be afterwards so set out and ascertained, within one year from the date of such agreement, and although such land may in the mean time have become the property of a third party; and possession of the same may be taken and the agreement and price may be dealt with, as if such price had been fixed by an award of Arbitrators as hereinafter mentioned.

Proviso.
Parties may, before any lands are set out, agree with the Company for the price if they be afterwards required.

Where no power is vested in any party to sell, a fixed annual rent to be established.

Privilege for such rent or any purchase money not paid.

XVI. Provided always, and be it enacted, That any body politic, community, corporation, or other party, who cannot in common course of law sell or alienate any lands or grounds so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said Rail-way, and other the purposes and conveniences relative thereto and connected therewith; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed, and all proceedings shall in that case be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid by the said Company for the purchase of any lands, or for any part of the purchase money of any land, which the vendor shall agree to leave in the hands of the said Company, the said Rail-way and the Tolls to be levied and collected thereon shall be, and are hereby made liable and chargeable, in preference to all other claims or demands thereon whatsoever, the deed creating such charge and liability being duly registered.

Agreement with joint proprietors to a certain extent, to bind the rest.

XVII. Provided always, and be it enacted, That whenever there shall be more than one party proprietor of any land or property as joint-tenants or tenants in common, any agreement made in good faith between the said Company and any party or parties proprietor, or being together proprietors, of one third or more of such land or property, as to the amount of compensation for the same or for any damages thereto, shall be binding as between the remaining proprietor or proprietors as joint-tenants or tenants in common and the Company; and the proprietor or proprietors who have so agreed, may deliver possession of such land or property to the Company, or empower them to enter upon the same, as the case may be.

XVIII. And be it enacted, That so soon as the said map or plan and book of reference shall have been deposited as aforesaid, and notice of their being so deposited shall have been given during at least one calendar month, in at least one newspaper published in Bytown, it shall be lawful for the said Company to apply to the several owners of or parties hereby empowered to convey the lands through which such Rail-way is intended to be carried, or which may suffer damage from the taking of materials, or the exercise of any of the powers granted to the said Company by this Act, and to agree with such owners or parties respectively, touching the compensation to be paid to them by the said Company for the purchase thereof, and for their respective damages, and to make such agreements and contracts with the said parties touching the said lands, or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained, as to such parties and the said Company shall seem expedient; And in case of disagreement between the said Company and the said owners or parties, or any of them, then all questions which shall arise between them and the said Company shall be settled as follows, that is to say:

The Company may agree with parties touching the compensation to be paid for lands or for any right exercised upon them.

Or as to mode of establishing such compensation.

How the same shall be settled when the parties cannot agree.

The deposit of the map or plan and book of reference, and the notice of such deposit, given as aforesaid, shall be deemed a general notice to all such parties as aforesaid, of the lands which will be required for the said Rail-way and works.

Legal effect of map and book of reference.

The Company shall serve a notice upon the opposite party, containing a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands (describing them,) a declaration that the Company are ready to pay some certain sum (or rent, as the case may be) as compensation for such lands or for the damages arising from the exercise of such power, and the name of a person whom they appoint as their Arbitrator if their offer be not accepted, and such notice shall be accompanied by the certificate of some sworn Surveyor of Upper Canada, disinterested in the matter, and not being the Arbitrator named in the notice, that the land (if the notice relate to the taking of land) is shewn on the map or plan deposited as aforesaid, as being required for the said Rail-way and works, or as being within the limits of deviation hereby allowed from the line of the said Rail-way, that he knows such land, or the amount of damages likely to arise from the exercise of such powers, and that the sum so offered is in his opinion a fair compensation for such land and for such damages as aforesaid.

Notice to opposite party

Offer.

Name of Arbitrator.

Certificate of a Surveyor that the offer is a fair one, &c.

If the opposite party be absent from the District of Dalhousie or be unknown to the said Company, then upon application to the District Judge for the District of Dalhousie, accompanied by such certificate as aforesaid, and by an affidavit of some Officer of the Company, that such opposite party is so absent, or that after diligent inquiry the party on whom the notice ought to be served cannot be ascertained, such Judge shall order a notice as aforesaid (but without the certificate) to be inserted three times in the course of one calendar month in some newspaper published in Bytown.

If the party be absent or unknown.

If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the Company that he accepts the sum offered by the said Company, or notify to them the name of a person whom he appoints as Arbitrator, then the District Judge for the District of Dalhousie, may on the application of the said Company, appoint some sworn Surveyor for Upper Canada to be sole Arbitrator for determining the compensation to be paid by the Company.

Party not accepting the Company's offer, and not appointing an Arbitrator.

Opposite party appointing an Arbitrator.

Third Arbitrator.

If the opposite party shall, within the time aforesaid, notify to the said Company the name of the person such party shall appoint as Arbitrator, then the said two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then the District Judge of the District of Dalhousie shall, on the application of the said party or of the Company, (previous notice of at least one clear day having been given to the other party,) appoint a third Arbitrator.

Duties of Arbitrators after being sworn.

The said Arbitrators or any two of them, or the sole Arbitrator, being sworn before some Justice of the Peace for the District of Dalhousie aforesaid, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company, in such way as they or he, or a majority of them, shall deem best, and the award of such Arbitrators, or of any two of them, or of the sole Arbitrator, shall be final and conclusive: Provided, that no such award shall be made or any official act done by such majority, except at a meeting held at a time and place of which the other Arbitrator shall have had at least one clear day's notice, or to which some meeting at which the third Arbitrator was present shall have been adjourned; but no notice to the Company or opposite party shall be necessary, but they shall be held sufficiently notified through the Arbitrator they shall have appointed, or whose appointment they shall have required.

Proviso. Award not to be made except at proper meetings or times.

Costs how paid.

Provided always, that the award given by any sole Arbitrator shall never be for a less sum than that offered by the Company as aforesaid; and if in any case where three Arbitrators shall have been appointed, the sum awarded be not greater than that offered by the Company, the costs of the arbitration shall be borne by the opposite party, and deducted from the compensation, otherwise they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the District Judge aforesaid.

How taxed.

Arbitrators may examine witnesses on oath. False statement to be perjury.

The Arbitrators, or a majority of them, or the sole Arbitrator, may examine on oath, or solemn affirmation, the parties or such witnesses as shall voluntarily appear before him or them, and may administer such oath or affirmation; and any wilful false statement made by any witness, under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly.

Time within which award must be made.

The District Judge by whom any third Arbitrator or sole Arbitrator shall be appointed, shall, at the same time, fix a day on or before which the award shall be made, and if the same be not made on or before such day, or some other day to which the time for making it shall have been prolonged, either by consent of the parties, or by the order of the said District Judge, (as it may be for reasonable cause shown, on the application of such sole Arbitrator, or of one of the Arbitrators, after one clear day's notice to the others,) then the sum offered by the Company as aforesaid shall be the compensation to be paid by them.

May be prolonged in certain cases.

Arbitrator dying, &c.

If the party appointed by such Judge as third Arbitrator or sole Arbitrator shall die before the award be made, or shall be disqualified, or refuse or fail to act within a reasonable time, then upon the application of either party, the District Judge being satisfied by affidavit or otherwise of such disqualification, refusal or failure, may, in his discretion, appoint another in his stead; and, if the Arbitrator appointed by the said Company or by the opposite party shall die before the award shall be made, or shall leave

leave the Province, or become unable to act within a reasonable time, (such fact being ascertained to the satisfaction of the Judge as attested by his Certificate to that effect,) the said Company or the opposite party (as the case may be) may appoint another in his stead, notifying the other Arbitrators of such appointment; but no recommencement or repetition of prior proceedings shall be required in any case.

The Company may desist from any such Notice as aforesaid, and afterwards give new Notice with regard to the same or other lands, to the same or any other party, but they shall in any such case be liable to the party first notified for all damages or costs by him incurred in consequence of such first Notice and desistment.

Company may desist, paying costs.

It shall be no disqualification to the Surveyor or other person offered or appointed as Valuator, or as Arbitrator, that he be professionally employed by the Company or by the opposite party, or that he have previously expressed an opinion as to the amount of compensation, or that he be related or of kin to any member of the Company, provided he be not himself personally interested in the amount of such compensation; and no cause of disqualification shall be urged against any Arbitrator appointed by the District Judge after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Judge; and no cause of disqualification shall be urged against any Arbitrator appointed by the Company, or by the opposite party, after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, and shall be summarily determined by the District Judge, on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified shall be held to have appointed no Arbitrator.

Arbitrators not disqualified by certain circumstances.

Cause of disqualification when to be urged.

How tried and determined.

No award made as aforesaid shall be invalidated by any want of form or other technical objection, if the requirements of this Act shall have been complied with, and if the award shall state clearly the sum awarded, and the lands and other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the party or parties to whom the sum is to be paid be named in the award.

Awards not to be avoided by mere want of form.

Parties need not be named.

XIX. And be it enacted, That upon payment or legal tender of the compensation or annual rent so awarded, agreed upon or determined as aforesaid to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the said Company the power forthwith to take possession of the lands, or to exercise the right, or to do the thing for which such compensation or annual rent shall have been awarded or agreed upon; and if any resistance or forcible opposition shall be made by any person or party to their so doing, the District Judge may, on proof to his satisfaction of such award or agreement, issue his Warrant to the Sheriff of the District, or to any Bailiff (as in his discretion may be most suitable), to put the said Company in possession, and to put down such resistance or opposition, which such Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do; Provided also, that such warrant may also be granted by such Judge without such award or agreement, on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice is necessary to carry on some part of the said Rail-way or works with which the said Company are ready forthwith to proceed, and upon the said Company giving

Possession may be taken on payment, tender or deposit of the sum awarded.

Warrant of possession in case of resistance.

Proviso: Warrant before award in certain cases.

giving security to his satisfaction, and in a sum which shall not be less than double the amount mentioned in the notice, to pay or deposit the compensation to be awarded within one month after the making of the award, with interest from the time possession shall be given, and with such costs as may be lawfully payable by the Company.

As to incumbrances, &c. upon the lands purchased or taken.

Compensation to stand in the place of the land.

Proviso. Proceedings if the Company have reason to fear incumbrances, or claims by other parties than the vendor.

Court to distribute the money.

Costs how taxed and paid. Interest.

Proviso as to cases where this Act shall not have been complied with.

XX. And be it enacted, That the compensation awarded as aforesaid or agreed upon by the said Company, and any party who might under this Act validly convey the lands, or then in lawful possession thereof as proprietor, for any lands which might be lawfully taken under this Act without the consent of the proprietor, shall stand in the stead of such land; and any claim to, or incumbrance upon the said land, or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party: Provided always, that if the said Company shall have reason to fear any such claims, or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof, shall be payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the Office of the Court of Queen's Bench for Upper Canada, with the interest thereon for six months, and to deliver to the Clerk of the said Court an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and notice in such form and for such time as the said Court shall appoint shall be inserted in some newspaper published at Bytown, and such notice shall state that the title of the Company, (that is the conveyance, agreement or award,) is under this Act, and shall call upon all persons entitled to, or to any part of the land, or representing, or being the husbands of any parties so entitled, to file their claims to the compensation, or any part thereof, within a time to be named in such notice, and all such claims shall be received and adjudged upon by the Court, and the said proceedings shall for ever bar all claims to the lands, or any part thereof, (including dower,) as well as all mortgages or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as to right and justice, according to the provisions of this Act and to law, shall appertain; and the costs of the said proceedings, or any part thereof, shall be paid by the said Company, or by any other party, as the Court shall deem it equitable to order; and if such order of distribution as aforesaid be obtained in less than six months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company it shall not be obtained until after the six months are expired, the Court shall order the Company to pay to the proper claimants the interest for such further period as may be right.

XXI. Provided always, and be it enacted, That with regard to any lands which could not be taken without the consent of some party entitled under this Act to convey the same, or in any case in which the requirements of this Act shall not have been complied with, and in all cases where land shall have been taken, or damage shall have been done by the Company, without previously complying with the requirements of this Act, the rights

rights of the Company and of other parties shall be governed by the ordinary rules of law.

XXII. And be it enacted, That all suits for indemnity for any damage or injury sustained by reason of the powers and authority given by this Act shall be brought within six calendar months next after the time of such supposed damage sustained, or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards, and the Defendant or Defendants shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and may aver that the same was done in pursuance and by the authority of this Act.

Applications for indemnity for damage to be made within a certain time.

General Issue.

XXIII. And be it enacted, That if any person shall by any means or in any manner or way whatsoever, obstruct or interrupt the free use of the said Rail-way, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, or shall bring or conduct any raft to or within two hundred feet of any part of the wharf to be erected by the said Company, such person shall for every such offence incur a forfeiture or penalty of not less than five pounds nor exceeding ten pounds currency; one half of which penalty and forfeiture, to be recovered before one or more Justices of the Peace for the District shall go to the prosecutor or informer, and the other half to Her Majesty, Her Heirs and Successors, and shall be paid into the hands of the Receiver General, and be applied for the public uses of this Province and the support of the Government thereof.

Penalty on persons obstructing the free use of the Rail-way, &c.

How recoverable and applicable.

XXIV. And be it enacted, That if any person or persons shall wilfully and maliciously, and to the prejudice of the said Rail-way authorized to be made by this Act, break, throw down, damage or destroy the same, or any part thereof, or any of the houses, warehouses, toll-houses, watch-houses, weigh-beams, cranes, carriages, vessels, engines, inclined planes, machines or other works or devices, incidental and relative thereto or connected therewith, or do any other wilful hurt or mischief thereto, or wilfully or maliciously obstruct or interrupt the free use of the said Rail-way, vessels or works, or shall obstruct, hinder or prevent the carrying on, completing, supporting and maintaining the said intended Rail-way, vessels or works, such person or persons shall be adjudged guilty of felony, and the Court by and before whom such person or persons shall be tried and convicted shall have power and authority to cause such person or persons to be punished in like manner as felons are directed to be punished by the laws in force in this Province, or in mitigation thereof to award such sentence as the law directs in cases of simple larceny, as to such Court shall seem fitting.

Punishment of persons breaking down or obstructing or damaging the Rail-way or any works of the Company.

XXV. And to the end that the said Company may be enabled to carry on so useful an undertaking: Be it enacted, That it shall and may be lawful for the said Company of Proprietors and their successors, to raise and contribute among themselves, in such proportions as to them shall seem meet and convenient, a competent sum of money for the making and completing the said Rail-way and all such other works, matters and conveniencies as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Rail-way, and other works: Provided always, that the before mentioned John Scott, Nelson George Robinson, George Byron Lyon, George William Baker, Charles Sparrow, Hammett Hill, James Skead, John

Company to contribute among themselves the necessary sums for carrying on their undertaking.

Proviso Books of subscription to be opened.

Robertson,

Proviso.
Capital,
£10,000 divid-
ed into shares
of £5 each.
Order of
charges on the
Capital.

Robertson, John Sumner and Andrew Main, (being the provisional Committee hereby appointed for that purpose) or a majority of them, shall cause books of subscription to be opened at Bytown, Fitzroy, and in the City of Montreal, at such place therein as they shall from time to time appoint, until the first meeting of Proprietors hereinafter provided for, for receiving the signatures of persons willing to become subscribers to the said undertaking, and for this purpose they shall give public notice in some newspaper published in Bytown and some newspaper published in Montreal, of the time and place at which such books will be opened and ready for receiving signatures as aforesaid, and of the persons by them authorized to receive such subscriptions; and every person who or whose Attorney shall write his or her signature in such book as a subscriber to the said undertaking, shall thereby become a Member of the said Corporation, and shall have the same rights and privileges, as such, as are hereby conferred on the several persons who are herein mentioned by name as Members of the said Corporation: Provided always, that the sums so raised shall not exceed the sum of ten thousand pounds currency, of this Province, in the whole, except as hereinafter mentioned, and that the same be divided into such number of shares as hereinafter directed, at a price of five pounds, currency, aforesaid, per share; and the money so to be raised is hereby directed and appointed to be laid out and applied in the first place for and towards the payment, discharge and satisfaction of all fees and disbursements for obtaining and passing this Act, and for making the surveys, plans and estimates incident thereto, and all other expenses relating thereunto, and all the rest, residue and remainder of such money for and towards making, completing and maintaining the said Rail-way and other the purposes of this Act, and to no other use, intent or purpose whatever.

The sum that
may be raised
to be divided
into shares.

Shares to be
personal prop-
erty and
transferable.

Rights of
Shareholders
to profits, &c.

Their liabili-
ties.

XXVI. And be it enacted, That the said sum of Ten thousand pounds, currency, or such part thereof as shall be raised by the several persons hereinbefore named, and by such other person or persons who shall or may at any time become a subscriber or subscribers to the said Rail-way, shall be divided and distinguished into two thousand equal parts or shares, at a price not exceeding five pounds, currency aforesaid, per share; and that the said two thousand shares be deemed personal estate, and shall be transferable as such; and that the said shares shall be and are hereby vested in the said several subscribers and their several respective heirs, executors, curators, administrators and assigns, to their and every of their proper use and behoof, proportionally to the sum they and each of them shall severally subscribe and pay thereunto; and all and every the bodies politic, corporate or collegiate, or communities, and all and every person or persons, their several and respective successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of five pounds, or such sum or sums as shall be demanded in lieu thereof, towards carrying on and completing the said Rail-way, shall be entitled to and receive, after the said Rail-way shall be completed, the entire and net distribution of the profits and advantages that shall and may arise and accrue by virtue of the sum and sums of money to be raised, recovered or received by the authority of this Act, in proportion to the number of shares so held; and every body politic, corporate or collegiate, or community, person or persons, having such property of one two thousandth part or share in the said undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional sum of money towards carrying on the said undertaking in manner by this Act directed and appointed.

XXVII. And be it enacted, That in case the said sum of Ten thousand pounds, hereinbefore authorized to be raised, shall be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the said Company to raise and contribute amongst themselves, in manner and form aforesaid, and in such shares and proportions as to them shall seem meet, or by the admission of new subscribers, a further or other sum of money for completing and perfecting the said intended Rail-way and other works or conveniences incidental or relative thereto, or hereby authorized, not exceeding the sum of Ten thousand pounds, currency, aforesaid; and every subscriber, towards raising such further or other sum of money, shall be proprietor in the said undertaking, and have a like right of voting in respect of his, her or their shares in the said additional sum so to be raised, and shall also be liable to such obligations, and stand interested in all the profits and powers of the said undertaking, in proportion to the sum he, she or they shall or may subscribe thereto, as generally and extensively as if such other or further sum had been originally raised as a part of the said first sum of Ten thousand pounds; any thing herein contained to the contrary notwithstanding.

If this sum should not be sufficient, the Company may raise a further sum by subscription.

XXVIII. And be it enacted, That the said Company may from time to time lawfully borrow either in this Province or elsewhere such sum or sums of money, not exceeding at any time the sum of Ten thousand pounds, currency, as they may find expedient, and at such rate of interest not exceeding six per cent. per annum, as they may think proper; and may make the bonds, debentures or other securities, they shall grant for the sums so borrowed payable either in currency or in sterling, and at such place or places within or without this Province as they may deem advisable, and may mortgage or pledge the lands, tolls, revenues, and other property of the said Company for the due payment of the said sums and the interest thereon.

Company may borrow a sum not exceeding at one time £10,000 currency.

And mortgage their property.

XXIX. And be it enacted, That the number of votes to which each Proprietor of shares in the said undertaking shall be entitled on every occasion when, in conformity to the provisions of this Act, the votes of the Members of the said Company of Proprietors are to be given, shall be in the proportion to the number of shares held by him, that is to say: one vote for each share less than twenty; Provided always, that no one Proprietor as aforesaid shall have more than twenty votes; and all Proprietors of shares whether resident in this Province, or elsewhere, may vote by proxy, if he, she or they shall see fit, provided that such proxy do produce from his constituent or constituents, an appointment in writing, in the words or to the effect following, that is to say:

Votes of Proprietors according to the number of their shares.

Proviso. Proprietors may vote by proxy.

" I, _____ of _____
 " one of the Proprietors of *The Bytown and Britannia Rail-way*, do hereby nominate, constitute, and appoint _____ of _____
 " to be my proxy, in my name, and in my absence to vote or give my assent or dissent to any business, matter or thing relating to the said undertaking, that shall be mentioned or proposed at any meeting of the Proprietors of the said undertaking, or any of them, in such manner as he the said _____ shall think proper, according to his opinion and judgment, for the benefit of the said undertaking, or any thing appertaining thereto. In witness whereof, I have hereunto set my hand and seal, the _____ day of _____
 " in the year _____."

Form of appointment of proxy.

Questions to be decided by majority of votes.

And such vote or votes by proxy shall be as valid as if such principal or principals had voted in person; and whatever question, election of proper Officers, or matters or things shall be proposed, discussed, or considered in any public meeting of the Proprietors to be held by virtue of this Act, shall be determined by the majority of votes and proxies then present and so given as aforesaid, and all decisions and acts of any such majority shall bind the said Company and be deemed the decision and acts of the Company.

None but a British subject to be President or Treasurer.

XXX. Provided always, and be it enacted, That no Proprietor who shall not be a natural born subject of Her Majesty, or a subject of Her Majesty naturalized under an Act of the British Parliament, or an Act of the Parliament of this Province, shall be elected President or Treasurer of the said Company.

Liability of Shareholders limited.

XXXI. And be it enacted, That no Shareholder in the said Company of Proprietors shall be in any manner whatsoever liable for or charged with any debt or demand due by the said Company beyond the payment of the extent of his, her or their share in the Capital of the said Company not paid up.

The first General Meeting to be held in Bytown, and when.

XXXII. And be it enacted, That the First General Meeting of the Proprietors for putting this Act in execution, may be held at Bytown whenever five hundred shares in the said undertaking shall have been subscribed for, provided that public notice thereof be given during one week in some newspaper published in Bytown and signed by subscribers to the said undertaking holding among them at least two hundred shares; and at such said General Meeting, the Proprietors assembled, with such proxies as shall be present, shall choose nine persons, being each a Proprietor of not less than twenty shares in the said undertaking, to be Directors of the said Company, in such manner as is hereinafter directed, and shall also proceed to pass such Rules and Regulations and By-Laws as shall seem to them fit, provided they be not inconsistent with this Act.

Board of thirteen Directors to be elected.

In the month of January, 1849, and of each year thereafter, a Board of Directors to be elected.

XXXIII. And be it enacted, That the Directors first appointed (or those appointed in their stead in case of vacancy) shall remain in office until the election of Directors in the month of January, one thousand eight hundred and forty-nine, and that in the month of January in the said year and each year thereafter, and on such day of the month as shall be appointed by any By-Law, an Annual General Meeting of the said Proprietors shall be held at the Office of the Company for the time being to choose Directors in the room of those whose office may at that time become vacant, and generally to transact the business of the Company; but if at any time it shall appear to any ten or more of such Proprietors holding together two hundred shares at least, that for more effectually putting this Act in execution, a Special General Meeting of Proprietors is necessary to be held, it shall be lawful for such ten or more of them to cause fifteen days' notice at least to be given thereof in one public newspaper as aforesaid, or in such manner as the Company shall by any By-Law direct or appoint, specifying in such notice the time and place, and the reason and intention of such Special Meetings, respectively; and the Proprietors are hereby authorized to meet pursuant to such notices, and proceed to the execution of the powers by this Act given them, with respect to the matters so specified only; and all such acts of the Proprietors or the majority of them, at such Special Meetings assembled, such majority not having either as principals or proxies less than two hundred shares, shall be as valid to all intents and purposes as if the same were done at Annual Meeting: Provided always, that it shall

Special Meetings of Proprietors may be called.

Quorum at Special Meetings.

and

and may be lawful for the said Directors in case of the death, absence, resignation or removal of any person elected a Director to manage the affairs of the said Company in manner aforesaid, to appoint another or others in the room or stead of those of the Directors who may die, or be absent, resign, or be removed as aforesaid, any thing in this Act to the contrary notwithstanding; but if such appointment be not made, such death, absence, or resignation shall not invalidate the acts of the remaining Directors.

Proviso:
Vacancies among the Directors how to be filled.

Proviso.

XXXIV. And be it enacted, That at each of the said Annual Meetings of Proprietors, three of the said nine Directors shall retire in rotation, the order of retirement of the said first elected nine Directors being decided by lot, but the Directors then or at any subsequent time retiring shall be eligible for re-election: Provided always, that no such retirement shall have effect unless the Proprietors shall at such Annual Meeting proceed to fill up the vacancies thus occurring in the Direction.

Three Directors shall annually retire, but may be re-elected.
Proviso.

XXXV. And be it enacted, That the Directors shall, at their first (or at some other) Meeting after the day appointed for the Annual General Meeting in each year, elect one of their members to be the President of the said Company, who shall always (when present) be the Chairman of, and preside at all Meetings of the Directors, and shall hold his office until he shall cease to be a Director, or until another President shall be elected in his stead; and the said Directors may, in like manner, elect a Vice-President, who shall act as Chairman in the absence of the President.

Directors to elect a President.

And Vice-President.

XXXVI. And be it enacted, That any Meeting of the said Directors, at which not less than five Directors shall be present, shall be a Quorum, and shall be competent to use and exercise all and any of the powers hereby vested in the said Directors: Provided always, that no one Director, though he may be a Proprietor of many shares, shall have more than one vote at any meeting of the Directors, except the President or Vice-President, when acting as Chairman, or any temporary Chairman, who, in case of the absence of the President and Vice-President, may be chosen by the Directors present, either of whom when presiding at a meeting of the Directors shall, in case of a division of equal numbers, have the casting vote, although he may have given one vote before: And provided also, that such Directors shall from time to time be subject to the examination and control of the said Annual and Special Meetings of the said Proprietors as aforesaid, and shall pay due obedience to all By-Laws of the Company and to such orders and directions, in and about the premises, as they shall from time to time receive from the said Proprietors at such Annual or Special Meetings; such orders and directions not being contrary to any express directions or provisions in this Act contained: And provided also, that the Act of any majority of a Quorum of the Directors present at any meeting regularly held shall be deemed the act of the Directors.

Five Directors to be a Quorum for business.

Proviso as to votes.

Casting vote of Chairman.

Proviso: Directors subject to the control of Meetings.

Proviso: Acts of a majority to be valid.

XXXVII. Provided always, and be it enacted, That no person holding any office, place or employment, or being concerned or interested in any contract or contracts under the said Company, shall be capable of being chosen a Director or of holding the office of Director.

No officer or contractor to be a Director.

XXXVIII. And be it enacted, That every such Annual Meeting shall have power to appoint not exceeding three Auditors to audit all accounts of money laid out and disbursed on account of the said undertaking, by the Treasurer, Receiver or Receivers, and other Officer and Officers to be by the said Directors appointed, or by any other person

Annual Meeting may appoint three Auditors to audit accounts.

Power of the Directors to make calls.

Proviso.

Calls how to be made.

Other powers of the Directors.

Further powers may be given by By-law.

Shareholders bound to pay calls.

Penalty for neglect.

Forfeiture for not paying calls.

Interest on calls.

Forfeitures to be declared at some General Meeting.

person or persons whatsoever, employed by, or concerned for or under them, in and about the said undertaking; and to that end, the said Auditors shall have power to adjourn themselves over from time to time, and from place to place, as shall be thought convenient by them: And the said Directors chosen under the authority of this Act, shall have power from time to time to make such call or calls of money from the Proprietors of the said Rail-way and other works, to defray the expense of, or to carry on the same, as they from time to time shall find wanting and necessary for these purposes: Provided, however, that no call do exceed the sum of ten shillings, current money of this Province, for every share of five pounds: And provided also, that no calls be made but at the distance of at least one calendar month from each other: And such Directors shall have full power and authority to direct and manage all and every the affairs of the said Company as well in contracting for and purchasing lands, rights, and materials for the use of the said Company, as in employing, ordering and directing the work and workmen, and in placing and removing under-officers, clerks, servants, and agents, and in making all contracts and bargains touching the said undertaking; and to affix or authorize any person to affix the Common Seal of the Company to any Act, Deed, By-Laws, Notice or other Document whatsoever; and any such Act, Deed, By-Laws, Notice or other Document bearing the Common Seal of the Company, and signed by the President, Vice-President, or any Director, or by order of the Directors, shall be deemed the act of the Directors and of the Company, nor shall the authority of the signer of any Document purporting to be so signed and sealed, to sign the same and affix the said Seal thereto, be liable to be called in question by any party except the Company: and the Directors shall have such other and further powers as, being vested in the Company by this Act, shall be conferred upon the said Directors by the By-Laws of the Company.

XXXIX. And be it enacted, That the owner or owners of one or more shares in the said undertaking shall pay his, her or their shares and proportion of the monies to be called for as aforesaid, to such person or persons, and at such time and place as the said Directors shall from time to time appoint and direct, of which three weeks' notice at least shall be given in one newspaper as aforesaid, or in such other manner as the said Proprietors or their successors shall by any By-Law direct or appoint; and if any person or persons shall neglect or refuse to pay his, her or their rateable or proportionable part or share of the said money, to be called for as aforesaid, at the time and place so appointed, he, she or they, neglecting or refusing shall forfeit a sum not exceeding the rate of five pounds for every hundred pounds of his, her or their respective share or shares in the said undertaking: and in case such person or persons shall neglect to pay his, her or their rateable calls as aforesaid, for the space of two calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her and their respective share and shares in the said undertaking, and all the profit and benefit thereof; all which forfeiture shall go to the rest of the Proprietors of the said undertaking, their successors and assigns, for the benefit of the said Proprietors, in proportion to their respective interests; and in every case such calls shall be payable with interest from the time the same shall be so appointed to be paid until the payment thereof.

XL. Provided always, and be it enacted, That no advantage shall be taken of the forfeiture of any share or shares of the said undertaking, unless the same shall be declared to be forfeited at some Annual or Special Meeting of the said Company, assembled

assembled after such forfeiture shall be incurred ; and every such forfeiture shall be an indemnification to and for every Proprietor so forfeiting against all action and actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such Proprietor and the other Proprietors with regard to carrying on the said Rail-way or undertaking.

XLI. And be it enacted, That the said Company shall always have power and authority at any General Meeting assembled as aforesaid, to remove any person or persons chosen upon such Board of Directors as aforesaid, and to elect others to be Directors in the room of those who shall die, resign or be removed, and to remove any other Officer or Officers under them, and to revoke, alter, amend or change any of the By-laws or Orders prescribed with regard to their proceedings amongst themselves (the method of calling General Meetings, and their time and place of assembling, and manner of voting, and of appointing Directors, only, excepted,) and shall have power to make such new Rules, By-laws and Orders, for the good government of the said Company and their servants, agents and workmen, for the good and orderly making, maintaining and using the said Rail-way and all other works connected therewith, or belonging thereto, or hereby authorized, and for the well governing of all persons whatsoever travelling upon or using the said Rail-way and other works, or transporting any goods, wares, merchandize or other commodities thereon ; and by such By-Laws to impose and inflict such fines or forfeitures upon the persons guilty of a breach of such By-laws, or Orders as to such General Meeting shall seem meet, not exceeding the sum of twenty-five pounds, current money of this Province, for every offence ; such fines or forfeitures to be levied and recovered by such ways and means as are hereinafter mentioned ; which said By-laws and Orders shall be put into writing under the common seal of the said Company, and shall be kept in the office of the Company, and a printed or written copy of so much of them as may relate to or affect any party other than members or servants of the Company, shall be affixed openly in all and every of the places where Tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same ; and the said By-laws and Orders so made and published as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same, and any copy of the said By-Laws, or any of them certified as correct by the President or some person authorized by the Directors to give such certificate, and bearing the Common Seal of the Company, shall be deemed authentic, and shall be received as evidence of such By-laws in any Court without further proof.

Company may remove any Director ; and may elect others in case of death, removal, &c.

And so of Officers.

May make By-laws.

Penalties under By-laws limited.

By-laws to be in writing and published.

Certified copies to be evidence.

Proprietors may dispose of their shares, and how.

Transfer to be notified to the Company.

XLII. And be it enacted, That it shall and may be lawful to and for the several Proprietors of the said Rail-way or undertaking to sell or dispose of his, her or their share or shares therein, subject to the rules and conditions herein mentioned ; and every purchaser shall have a duplicate of the deed of bargain and sale and conveyance made unto him or her, and one part of such deed, duly executed by seller and purchaser, shall be delivered to the said Directors or their Clerk for the time being, to be filed and kept for the use of the said Company, and an entry thereof shall be made in a book or books to be kept by the said Clerk for that purpose, for which no more than one shilling and three pence, shall be paid, and the said Clerk is hereby required to make such entry accordingly ; and until such duplicate of such deed shall be so delivered to the said Directors or their Clerk, and filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said undertaking,

Proviso as to
the registration
of any vessel.

undertaking, nor any interest for the said share or shares, paid unto him, her or them, nor any vote as a Proprietor or Proprietors. Provided always, that an affidavit of the President or any Officer of the said Company cognizant of the fact that the said Company is the sole owner of any vessel shall be sufficient to warrant the registry of such vessel under any Provincial Act, without any further allegation as to the Members of the Company; any thing in any Act or law to the contrary notwithstanding.

Form of the
transfer of
shares.

XLIII. And be it enacted, That the sale of the said shares shall be in the form following, varying the names and descriptions of the contracting parties, as the case may require:

The form.

“ I, A. B. in consideration of the sum of _____ paid
“ to me by C. D. of _____ do hereby bargain, sell and transfer to
“ the said C. D. _____ share (or shares) of the Stock
“ of the *Bytown and Britannia Rail-way Company*, to hold to him the said C. D.,
“ his heirs, executors, curators, administrators and assigns, subject to the same rules
“ and orders, and on the same conditions that I held the same immediately before the
“ execution hereof. And I, the said C. D., do hereby agree to accept of the said
“ _____ (share or shares) subject to the same rules, orders
“ and conditions. Witness our hands and seals, this _____ day of
“ _____ in the year _____ ”

Proviso.

Provided always, that no such transfer of any share shall be valid until all calls or instalments then due thereon shall have been paid up.

Directors may
appoint a
Treasurer and
Clerks, &c.

XLIV. And be it enacted, That it shall and may be lawful to and for the said Directors, and they are hereby authorized from time to time to nominate and appoint a Treasurer or Treasurers, and a Clerk or Clerks to the said Company, taking such security for the due execution of their respective offices as the said Directors shall think proper; and such Clerk shall in a proper book or books enter and keep a true and perfect account of the names and places of abode of the several Proprietors of the said Rail-way and other works, and of the several persons who shall from time to time become owners and Proprietors of, or entitled to any share or shares therein, and of all the other acts, proceedings and transactions of the said Company and of the Directors for the time being, by virtue of and under the authority of this Act.

Duty of the
Clerk.

Company
may establish
Tolls for all
goods, &c.,
passing on the
Rail-way.

XLV. And be it enacted, That it shall and may be lawful to and for the said Company from time to time, and at all times hereafter, to ask, demand take and recover, to and for their own proper use and behoof, for all goods, wares, merchandize and commodities, of whatever description, transported upon the said Rail-way or in the said steamboats or vessels, such Tolls as they may deem expedient; which said Tolls shall be from time to time fixed and regulated by By-laws of the Company, or by the Directors if thereunto authorized by the said By-laws, and shall be paid to such person or persons, and at such place or places near to the said Rail-way, in such manner and under such regulations as the said Company or the said Directors shall direct and appoint; and in case of denial or neglect of payment of any such rates or dues, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having competent jurisdiction, or the person or persons to whom the said rates or dues ought to be paid, may and he is, and they are hereby empowered to seize and detain such goods,

How Tolls
may be recover-
ed if not
duly paid.

goods, wares, merchandize or other commodities, for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof; and in the meantime the said goods, wares, merchandize or other commodities shall be at the risk of the owner or owners thereof; and the said Company or the said Directors shall have full power, from time to time, at any General Meeting, to lower or reduce all or any of the said Tolls, and again to raise the same, as often as it shall be deemed necessary for the interests of the said undertaking: Provided always, that the same Tolls shall be payable at the same time and under the same circumstances upon all goods and upon all persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any By-law relating to the said Tolls.

Seizure of goods, &c.

Tolls may be lowered and again raised.

Proviso against monopoly.

XLVI. And in order to ascertain the amount of the clear profits of the said undertaking Be it enacted, That the said Company, or the Directors of the said Company, shall and they are hereby required to cause a true, exact and particular account to be kept and annually made up and balanced on the thirty-first day of December in each year, of the money collected and received by the said Company, or by the Directors or Treasurer of the said Company, or otherwise, for the use of the said Company, by virtue of this Act, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on their works, and of all other receipts and expenditure of the said Company or the said Directors; and at the General Meetings of the Proprietors of the said undertaking, to be from time to time holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such Meetings shall declare otherwise; and such dividend shall be at and after the rate of so much per share upon the several shares held by the Proprietors, in the joint stock of the said Company, as such meeting or meetings shall think fit to appoint or determine: Provided always, that no dividend shall be made whereby the capital of the said Company shall be in any degree reduced or impaired, nor shall any dividend be paid in respect of any share, after a day appointed for payment of any call for money in respect thereof, until such call shall have been paid.

Account of the profits of the Company to be annually made up at certain periods.

Dividends to be made from time to time at General Meetings.

Proviso. Capital not to be impaired, &c.

XLVII. Provided always, and be it enacted, That in all cases where there shall be a fraction of a mile in the distance which goods, wares, merchandize or other commodities or passengers shall be conveyed or transported on the said Rail-way, such fraction shall, in ascertaining the said rates, be deemed and considered as a whole mile, and that in all cases where there shall be the fraction of a ton in the weight of any such goods, wares, merchandize or other commodities, a proportion of the said rates shall be demanded and taken by the said Company of Proprietors, to the number of quarters of a ton contained therein; and in all cases where there shall be a fraction of a quarter of a ton, such fraction shall be deemed and considered as a whole quarter of a ton.

Fractions in miles and fractions in weight of goods in ascertained rates, &c., how regulated.

XLVIII. Provided always, and be it enacted, That it shall and may be lawful to and for the Directors of the said Company, from time to time, to make such regulations for ascertaining and fixing the price or sum or sums of money to be charged or taken for the carriage of any parcel not exceeding one hundred and twenty pounds weight as aforesaid, upon the said Rail-way, or any part thereof, as to them shall seem fit and reasonable; and that the said Company shall from time to time print and stick up, or cause to be printed and stuck up in their office, and in all and every of the places where the Tolls are to be collected, in some conspicuous place there, a printed board

Directors may fix the price for the carriage of parcels.

Tables of Toll to be publicly affixed.

or paper ascertaining all the Tolls payable under this Act, and particularising the price or sum or sums of money to be charged or taken for the carriage of such parcels not exceeding one hundred and twenty pounds weight as aforesaid.

Provision as to the carriage of H. M.'s Mail, Soldiers, Police Force, &c.

XLIX. Provided always, and be it enacted, That the said Company shall at all times when thereunto required by Her Majesty's Deputy Post Master General, the Commander of the Forces, or any person having the superintendence or command of any Police Force, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all Policemen, Constables, and others, travelling on Her Majesty's Service, on their said Railway, on such terms and conditions and under such regulations as the said Company and the said Deputy Post Master General, the Commander of the Forces, or person in command of any Police Force, respectively, shall agree upon, or if they cannot agree, then on such terms and conditions and under such regulations as the Governor or Person administering the Government shall in Council make; Provided that by such regulations the Company shall not be required to start any train or steamboat at any other time than their ordinary time of starting the same, but that they may be required to provide a separate carriage for the Mail and the person or persons in charge thereof: And provided also, that any further enactments which the Legislature of this Province may hereafter deem it expedient to make, with regard to the carriage of the said Mail or Her Majesty's Forces and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph, or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

Proviso as to starting of Trains, &c.

Proviso: The Legislature may make further provision as to certain matters.

Company to divide the lands, taken from those adjoining, if required.

L. And be it enacted, That the said Company shall, within six calendar months after any lands shall be taken for the use of the said Railway or undertaking, and if thereunto required by the proprietors of the adjoining lands respectively, but not otherwise, divide and separate, and keep constantly divided and separated, the lands so taken from the lands or grounds adjoining thereto, with a sufficient post and rail, hedge, ditch, bank, or fence sufficient to keep off hogs, sheep and cattle, to be set and made on the lands or grounds which shall be purchased by, conveyed to or vested in the said Company as aforesaid, and shall at their own costs and charges, from time to time, maintain, support and keep in sufficient repair the said posts, rails, hedges, ditches, trenches, banks, and other fences so set up and made as aforesaid.

Rail-way to be measured and miles marked.

LI. And be it enacted, That as soon as conveniently may be after the said Railway shall be completed, the said Company shall cause the same to be measured, and stones or posts, with proper inscriptions on the sides thereof denoting the distance, to be erected and for ever after maintained, at the distance of every mile from each other.

Treasurer, Receiver and Collectors to give security.

LII. And be it enacted, That the said Company shall and are hereby required and directed to take sufficient security, by one or more bond or bonds, in a sufficient penalty or penalties, from their Treasurer, Receiver and Collectors for the time being of the monies to be raised by virtue of this Act, for the faithful execution by such Treasurer, Receiver and Collectors of his and their office and offices respectively.

Company may compel the persons sub-

LIII. And be it enacted, That the several persons who shall subscribe to advance any money for and towards making and maintaining the said Railway and other works connected

connected therewith or hereby authorized, and those who shall accept of any transfer of any share or shares in the Stock of the said Company, and their several heirs, executors, administrators, curators, and assigns, or others legally representing them, and having lawful possession or control of such share or shares, (all of whom shall be deemed proprietors of such share or shares for the purposes of this Section,) shall and they are hereby required to pay the sum or sums of money by them respectively subscribed, or such parts or portions thereof as shall from time to time be called for by the said Company, under and by virtue of the powers and directions of this Act, to such person or persons, and at such times and places as shall be directed by the said Company or the said Directors, in manner before mentioned; and in case any person or persons shall neglect or refuse to pay the same at the time and in the manner required for that purpose, it shall be lawful for the said Company to sue for and recover the same with interest and costs in any Court of Law having competent jurisdiction; and in any such action it shall be sufficient to allege that the defendant is the proprietor of a share (or of any number of shares, stating such number) in the stock of the said Company; that certain sums of money were duly called for upon such share or shares by the said Company, under the authority of and in the manner provided by this Act, and were due and payable at a certain time or times, wherefore an action hath accrued to the said Company to recover such sum or sums with interest and costs; and the production of the newspapers containing such calls shall be evidence that the same were made as therein stated; and neither in such action, nor in any other action, suit or legal proceeding by the Company, shall the election of the Directors, or the authority of them, or of any Attorney acting in the name of the Company, be called in question except by the Company, nor shall it in any such case be necessary to name the Directors, or any of them.

scribing to pay the amount of their shares.

Enforcement of payment if refused.
Form of action, evidence, &c.

LIV. And be it enacted, That all fines and forfeitures imposed by this Act, or which shall be lawfully imposed by any By-law to be made in pursuance thereof, (of which By-law, when produced, all Justices are hereby required to take notice,) the levying and recovering of which fines and forfeitures are not particularly herein directed, shall, upon proof of the offence before any one or more Justice or Justices of the Peace for the District, either by the confession of the party or parties, or by the oath or affirmation of any one credible witness (which oath or affirmation such Justice or Justices are hereby empowered and required to administer without fee or reward,) be levied by distress and sale of the offender's goods and chattels, by Warrant under the hand and seal or hands and seals of such Justice or Justices; and all such fines, forfeitures or penalties by this Act imposed or authorized to be imposed, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer or Receiver of the monies to be raised by virtue of this Act, and shall be applied and disposed of for the use of the said Rail-way or undertaking, and the overplus of the money raised by such distress and sale, after deducting the penalty and the expenses of the levying and recovering thereof, shall be rendered to the owner of the goods so distrained and sold; and for want of sufficient goods and chattels whereof to levy the said penalty and expenses, the offender shall be sent to the Common Gaol for the District of Dalhousie, there to remain without bail or mainprize for such term not exceeding one month as such Justice or Justices shall think proper, unless such penalty or forfeiture and all expenses attending the same shall be sooner paid and satisfied.

Forfeitures how recovered and applied, when not otherwise provided for.

How levied.

Imprisonment for want of sufficient chattels.

Appeal to the
General Ses-
sions.

LV. And be it enacted, That if any person or persons shall think himself, herself or themselves aggrieved by any thing done by any Justice or Justices of the Peace in pursuance of this Act, every such person or persons may, within four calendar months after the doing thereof, appeal to the Justices of the Peace at the General Quarter or General Sessions to be holden in and for the District.

Limitation of
actions for
things done
under this
Act.

LVI. And be it enacted, That if any action or suit 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 the execution of the powers and authorities, or of the orders and directions hereinbefore given or granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed; or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing 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 held thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the Plaintiff or Plaintiffs shall be nonsuit, or discontinue his, her or their action or suit after the Defendant or Defendants shall have appeared, or if judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have full costs, and shall have such remedy for the same as any Defendant or Defendants hath or have for costs of suit in other cases by law.

General issue.

Costs to de-
fendant if the
Plaintiff fail.

LVII. And be it enacted, That any contravention of this Act by the said Company or by any other party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punishable accordingly; but such punishment shall not exempt the said Company (if they be the offending party) from the forfeiture of this Act and the privileges hereby conferred on them, if by the provisions thereof or by law the same be forfeited by such contravention.

Any contra-
vention of this
Act not other-
wise punish-
able, to be a
misdemeanor.

Conditional
privileges of
the Company.

LVIII. And be it enacted, That during four years from and after the passing of this Act, the said Company shall, if they comply with all the requirements of this Act, but not otherwise, have the exclusive privilege of constructing a Rail-way or Rail-ways from Bytown to Britannia and at Fitzroy aforesaid, so that no other Rail-way shall be constructed between the said two places, which shall at any point approach within three miles of the Rail-way constructed by the said Company: Provided always, that Her Majesty, Her Heirs and Successors may at any time before or after the said Rail-way is completed assume the possession and property thereof, and of all the property which the said Company is hereby empowered to hold and shall then have, and of all the rights, privileges and advantages vested by this Act in the said Company, (all which shall after such assumption be vested in Her Majesty, Her Heirs and Successors,) on giving to the said Company three months' notice of the intention to assume the same, and on paying to the said Company, within three months after the expiration of such notice, the whole amount of their Capital Stock then paid up and expended, with interest on the paid up Capital, from the time of the paying up of the same until the time of the opening of the said Rail-way.

Proviso:
Her Majesty
may assume
the Rail-way,
on certain con-
ditions.

LIX. And be it enacted, That the said Company, to entitle themselves to the benefits and advantages to them granted by this Act, shall and they are hereby required to make and deposit the map or plan and book of reference mentioned in the fifth Section of this Act within twelve months after the passing thereof, and to make and complete the said Rail-way from Bytown to Britannia in manner aforesaid, within three years from the passing of this Act; and if the said map or plan and book of reference be not so made and deposited within the said twelve months, or if the said Rail-way shall not be so made and completed within the said period so as to be used by the public as aforesaid, then and in either case this Act and every matter and thing therein contained, shall cease and be utterly null and void.

Map, &c. to be deposited and Rail-way completed within certain periods, or this Act to be void.

LX. And be it enacted, That the said Company shall annually submit to the three Branches of the Legislature, within the first fifteen days after the opening of each Session of the Provincial Parliament, after the opening of the said Rail-way or any part thereof to the public, a detailed and particular account, attested upon oath, of the monies by them received and expended under and by virtue of this Act, with a classified statement of the amount of tonnage and of passengers that have been conveyed along the said Rail-way; And no further provisions which the Legislature may hereafter make with regard to the form or details of such account, or the mode of attesting or rendering the same, shall be deemed an infringement of the privileges hereby granted to the Company.

Company annually to submit to the Legislature detailed accounts.

Further provision may be made touching such accounts.

LXI. And be it enacted, That nothing herein contained shall be construed to except the Rail-way by this Act authorized to be made, from the provisions of any general Act relating to Rail-ways which may be passed during the present or any future Session of Parliament.

Effect of any general Rail-way law.

LXII. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Saving of Her Majesty's rights, &c.

LXIII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace and others, without being specially pleaded, and that a copy thereof, printed by the Queen's Printer, shall be received as evidence in all Courts of Justice.

Public Act.

Copy to be evidence.