



ANNO DECIMO ET UNDECIMO
VICTORIÆ REGINÆ.

CAP. XCIV.

An Act to incorporate *The Cobourg and Port Hope Road Company.*

[28th July, 1847.]

WHEREAS the construction of a substantial Road from the town of Cobourg to the town of Port Hope, along the base line commencing at the limit of the town of Cobourg, thence along the base line and partly on the present travelled road to King-street, in Port Hope, would be highly beneficial to the inhabitants of the Townships of Hamilton and Hope, who reside in the vicinity of the said road, and would likewise be a great benefit to the public at large, by so far improving the direct line of communication between the eastern and western parts of the Province; and whereas certain inhabitants of the said Towns and Townships and others, have formed themselves into a Joint Stock Company for the purpose of constructing a good and substantial road as aforesaid, and have subscribed for stock to a large amount in the said undertaking; and whereas a Petition has been presented by the inhabitants of the said Townships, praying for an Act to incorporate a Joint Stock Company for the aforesaid purpose, as well as to extend the said road by degrees to the western boundary line of the Newcastle District; and whereas it is expedient that an Act should be passed to incorporate the said Company: 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 William Weller, James Smith, Zaccheus Burnham, Nesbitt Kirchoffer, Marcus F. Whitehead, Thomas Eyre, D'Arcy E. Boulton, Asa A. Burnham, with all such other persons as have subscribed for Stock in the prospectus or undertaking of the Company, and all such persons as shall become Stockholders in the Capital Stock of the said Company shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact, by and under the name and style of *The Cobourg and Port Hope Road Company*, and by that name they and their successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto in all Courts and places whatsoever, in all manner of actions and complaints, matters and concerns whatsoever, and they and their successors may and shall have a common seal, and may change and alter the same at their will and pleasure, and also that they and their successors

Preamble.

Certain persons incorporated.

Corporate name and powers.

successors

successors by the same name of *The Cobourg and Port Hope Road Company*, shall be by law capable of purchasing, having and holding to them and their successors, any estate, real or personal or mixed, to and for the use of the said Company, and of letting, conveying or otherwise departing therewith for the benefit and on account of the said Company from time to time as they shall deem necessary and convenient; Provided always nevertheless, that the real estate to be held by the said Company shall be only such as shall be required to be held by them for the purpose of making and using the said road and for objects immediately connected therewith.

Proviso as to real estate.

Company may make a Plank or other road from Cobourg to King Street in Port Hope.

II. And be it enacted, That the said Company and their servants and agents, shall have full power under this Act to lay out, construct and finish a plank, stone or gravel road at their own proper costs and charges on and over the present travelled Kingston road from the limits of the town of Cobourg to the centre of King-street in the Village of Port Hope, and upon and over such portions of the line of country lying between those two places as shall be deemed necessary by the said Company to straighten the said road, and also to overcome and avoid the hills upon the said line of road.

Company may make contracts for the purchase of land, &c.

III. And be it enacted, That the said Company are hereby empowered to contract, compound and agree with the owners and occupiers of any lands upon which they may determine to construct the said road, either by purchase of so much of the said land and privileges as they shall require for the purposes of the said Company, or for the damages which he, she or they shall and may be entitled to receive of the said Company, in consequence of the said intended road being made and constructed in and upon his, her or their respective lands; and in case of any disagreement between the said Company and the owner or owners, occupier or occupiers as aforesaid, it shall and may be lawful from time to time, for each owner and occupier so disagreeing with the said Company, either upon the value of the lands and tenements or privileges proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one or more indifferent person or persons, and for the said Company to nominate an equal number of indifferent persons who, together with one other person to be chosen by the persons so named, shall be Arbitrators to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of the majority of whom shall be final; and the said Arbitrators shall be, and * hereby required to attend at some convenient place in the vicinity of the said road, to be appointed by the said Company, after eight days' notice given for that purpose by the said Company, then and there to arbitrate and award, adjudge and determine such matters and things as shall be submitted to their consideration by the parties interested; and that each Arbitrator shall be sworn before some one of Her Majesty's Justices of the Peace in and for the District of Newcastle, any one of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties according to the best of his judgment; Provided always, that any award under this Act shall be subject to be set aside on application to the Court of Queen's Bench in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case a reference may be again made to arbitration as hereinbefore provided.

Arbitration to be had in case of disagreement.

Meetings of Arbitrators. * Sic—are omitted.

Arbitrators to be sworn.

Proviso: Award may be set aside for cause

District Judge may appoint Arbitrator in certain cases.

IV. And be it enacted, That if after eight days' notice in writing given to the party so disagreeing as to the value aforesaid, such party shall not nominate or appoint an Arbitrator

Arbitrator or Arbitrators as aforesaid on his part, or if the land required by the said Company be the property of a minor, or lunatic, or person absent from this Province, then and in any such case the Judge of the District Court of the said District of Newcastle shall and may nominate and appoint one or more Arbitrator or Arbitrators on their behalf; with the same powers and authority as if appointed by the party or parties so refusing or neglecting to appoint an Arbitrator or Arbitrators in his or their behalf, or so being a minor, or lunatic, or absent from this Province, including the power to meet and make a choice of the additional Arbitrator; and if either of the parties or their Arbitrator or Arbitrators shall fail to attend for the purpose of arbitrating as aforesaid, after due notice of the time and place of holding such arbitration, then it shall be lawful for the party attending with his or their Arbitrator or Arbitrators to proceed with the arbitration, and the Arbitrator or Arbitrators so attending may appoint an equal number of Arbitrators for the party failing to appear, and the Arbitrators so appointed on both sides shall then choose an additional Arbitrator in the manner pointed out in the third section of this Act, and in such case the award shall be binding on the party neglecting to appear.

Default of Arbitrators or parties to attend provided for.

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

Sum of money awarded for compensation to be paid within three months after award is made, on pain of nullity.

VI. And be it enacted, That the said Company and their agents, servants and workmen are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to any other person or persons, bodies politic or corporate, between the Town of Cobourg aforesaid and Port Hope aforesaid, 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 deem necessary and proper for making the said road, and all such matters and conveniences as they shall think proper and necessary for making, effecting, preserving, completing and using the said intended road; and also to make, build, erect and set up in and upon the said route of the road aforesaid, or upon the land adjoining or near the same, all such works, ways, roads and conveniences as the said Company shall think convenient and necessary for the purposes of the said road; and also from time to time to alter, repair, amend, widen or enlarge the same or any other of the conveniences above mentioned, as well for carrying or conveying of goods, commodities, timber and other things to and from the said road, as for the carrying and conveying all manner of materials necessary for making, erecting, furnishing, altering, repairing, amending, widening or enlarging the works of or belonging to the said road, and also to place, lay, work and manufacture the said materials on the ground near to the place or places where the said works, or any of them, are or shall be intended to be made, erected, repaired or done, and to build and construct the several works and erections belonging thereto; and also to make, maintain, repair or alter any fences or passages through the said road or which shall communicate therewith, and to construct,

Company may enter into lands belonging to Corporations and other parties for the purposes of survey.

And may build works, &c., necessary for their Road.

May alter the same.

And make fences, passages, &c.

Doing as little damage as possible and making satisfaction.

construct, erect, and keep in repair any piers, arches or other works in and upon any creeks or brooks, for making, using, maintaining and repairing the said road: and also to construct, make and do all other matters and things which they shall think necessary and convenient for making, effecting, preserving, improving, completing and using the said road, in pursuance and within the true meaning of this Act; they the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner herein mentioned for all damages to be sustained by the owners or occupiers of such lands, tenements or hereditaments.

Governor and Directors may fix Tolls.

VII. And be it enacted, That it shall and may be lawful for the Governor and Directors of the said Company, from time to time to fix, regulate and receive the tolls and charges to be received from all persons passing and re-passing over the said road hereby authorized to be constructed, erected, built, made and used, which rates or tolls may be altered from time to time as circumstances may require; Provided, the rate of tolls do not exceed the rate of tolls established by the Government from time to time upon that part of the said Kingston Road which leads into Toronto.

Proviso as to rate of Tolls.

Road, &c. vested in the Company.

VIII. And be it enacted, That the said road from Cobourg to Port Hope, and all materials which shall be from time to time got or provided for constructing, building, maintaining or repairing the same, and the said tolls as hereinbefore mentioned, shall be and the same are hereby vested in the said Company and their successors for ever.

Governor and Directors may erect Toll-gates across the Road.

IX. And be it enacted, That the Governor and Directors of the said Company shall have full power to erect such number of Gates in or across the said road, and to erect and maintain such toll-houses and other erections as to them may seem necessary and convenient for the due performance of their business.

Penalty on persons destroying gates, &c.

Or injuring or forcibly passing without paying Toll.

Penalty.

X. And be it enacted, That if any person shall cut, break down or destroy in any other way any of the gates or toll-houses to be erected by virtue of this Act, every such person so offending and being lawfully convicted, shall be deemed guilty of a misdemeanour, and be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone or timber on the said road, to the damage of the same, or shall forcibly pass or attempt to pass by force any of the gates without having first paid the legal toll at such gate, and such person or persons shall pay all damage by them committed, and shall forfeit and pay a fine not exceeding five pounds nor less than one pound currency, to be recovered before any Justice of the Peace for the District of Newcastle.

Fines, &c. how to be levied.

XI. And be it enacted, That the fines and forfeitures authorized to be imposed by this Act shall and may be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any warrant or warrants for that purpose to be issued by any one of Her Majesty's Justices of the Peace for the District of Newcastle, who are hereby authorized and empowered to grant the same.

Governor and Directors may commute Tolls.
Table of Tolls to be posted up.

XII. And be it enacted, That the said Governor and Directors, if they think proper, may commute the tolls with any person or persons, by taking of him, her or them a certain sum, either monthly or annually, in lieu of such tolls, and that the said Governor and Directors shall affix in a conspicuous place at all such toll-gates, a Table of the Rates of Tolls to be exacted and taken, to be plainly and legibly printed.

XIII.

XIII. And be it enacted, That if any person or persons shall, after proceeding on the said road with any of the carriages or animals liable to pay toll, turn out of the said road into any other road, and shall enter into the said road beyond any of the said Gate or Gates, without paying toll, whereby such payment shall be evaded, such person or persons shall for every such offence, forfeit and pay the sum of five shillings, which said sum shall be expended on the said road, or towards the discharging of any debts or other incumbrances thereon, and any one Justice of the Peace for the District of Newcastle shall, on conviction of such offender, fine such person in the said penalty, and from his judgment there shall be no appeal.

Penalty on persons turning out of Road and again entering so as to evade Tolls.

Application and recovery of Penalty.

XIV. And be it enacted. That if any person or persons occupying or possessing any enclosed lands near any Toll-houses or Toll-gates which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands, or through any gate, passage or way thereon, with any carriage, horse, mare, gelding, or other animal liable to the payment of the toll, whereby such payment shall be avoided, every person or persons so offending, and also the persons riding or driving the animal or animals or carriage, whereon such payment is avoided, being thereof convicted, shall for every such offence severally forfeit and pay any sum not exceeding five shillings, which shall be laid out in improving such road.

Penalty on persons permitting any one to pass through their lands to evade Toll.

XV. And be it enacted, That Her Majesty's Mail, and persons, animals and carriages employed in the conveyance thereof, Her Majesty's officers and soldiers being in proper Staff or Regimental or Military uniform dress or undress, and their horses, (but not when passing in hired or private vehicles,) and all carriages or horses belonging to Her Majesty, or employed in Her service, when conveying persons in such service or returning therefrom, and all recruits marching by route, and all persons, animals and carriages attending funerals on any day of the week, or going to or returning from Divine Service on the Lord's Day, shall pass Toll-free through any Turnpike or Toll-gate to be erected under the authority of this Act.

Exemptions from Toll.

XVI. And be it enacted, That the property, affairs and concerns of the said Company shall be managed and conducted by five Directors, one of whom shall be chosen Governor, who shall hold their offices for one year after the second election; which said Directors shall be Stockholders to the amount of at least eight shares, and may be elected on the second Monday in January in each and every year after the present year; any three of such Directors shall be a quorum and may exercise all the powers and authorities conferred by this Act on the Governor and Directors, and the said election of Directors shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper persons or by proxy; and all elections for such Directors shall be by ballot, and the five persons who shall have the greatest number of votes at any election shall be Directors, and if it shall happen at any such election that two or more have an equal number of votes in such a manner that a greater number of persons than five shall by a plurality of votes appear to be chosen Directors, then the said Stockholders hereinbefore authorized to hold such election shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of five; and the said Directors so chosen, as soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be Governor; and if any vacancy or vacancies at any time happen among the Directors,

Property, &c. of Company to be managed by five Directors to be elected yearly by the Stockholders.

Quorum.

Elections to be by ballot.

Case of equality of votes provided for.

Directors to elect a Governor.

by

Vacancies between the elections how filled.

by death, resignation, or removal from the Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen, by a person or persons to be nominated by a majority of the Directors.

Ratio of votes, to shares.

XVII. And be it enacted, That each Stockholder shall be entitled to the number of votes in proportion to the number of shares which he or she shall have in his or her own name previous to the time of voting, according to the following rules, that is to say: one vote for one share; two votes for three shares; three votes for five shares; four votes for seven shares; five votes for nine shares; six votes for twelve shares; seven votes for sixteen shares; eight votes for twenty shares; nine votes for twenty-five shares; ten votes for thirty shares; and that no Stockholder shall be entitled to more than ten votes.

Votes by Joint Stockholders, how given.

XVIII. And be it enacted, That if several persons be jointly entitled to a share, the person whose name stands first in the register of Shareholders as one of the holders of such share, shall, for the purpose of voting at any meeting, be deemed the sole proprietor thereof; and on all occasions the vote of such named Shareholder either in person or by proxy shall be allowed as the vote in respect of such share without proof of the concurrence of the other holders thereof.

Corporation not to be dissolved if election do not take place on any day fixed by this Act.

XIX. And be it enacted, That in case it should at any time happen that an election of Directors shall not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but that the Governor, Directors and Officers of the Company for the last previous year shall continue in their offices with all the powers and privileges under this Act until the election of others in their place; and it shall and may be lawful for the Stockholders, on any day to be appointed by the Directors for the time being, of which one week's notice shall be given in any newspaper of the District, to hold and make an election, and for the Directors to elect a Governor, in such manner as is required at the annual elections.

Directors to make By-laws, &c., appoint Officers, &c.

XX. And be it enacted, That the Governor and Directors for the time being, or a majority of them, shall have power to make and subscribe such rules and regulations as to them shall appear useful and proper, touching the management and disposition of the stock, property, estate and effects of the said Company, touching the duties of the officers, clerks and servants, and all such other matters and things as appertain to the business of the said Company, and also shall have power to appoint as many officers, clerks and servants, for the carrying on the said business, with such salaries, and allowances as to them shall seem fit.

First meeting for election of Directors, &c.

XXI. And be it enacted, That on the second Monday in the month of September next, a meeting of the Stockholders shall be held in the town of Cobourg, who in the same manner as hereinbefore provided, shall proceed to elect five persons to be Directors, who shall elect by ballot one of their number to be Governor, and shall continue in office until the second Monday in January after their election, and who during such continuance shall discharge the duties of Directors, in the same manner as if they had been elected at the annual election, and that public notice shall be given of the hour and place of holding such first election in any newspaper published in the Newcastle District; such notice to be given by the Secretary for the time being, acting for the said Company.

XXII. And be it enacted, That the whole Capital Stock which the said Company may have or hold by virtue of this Act (unless in case of extension of the said road as hereinafter provided,) shall be five thousand pounds, with power to increase the same in proportion to the extension of the road, if found necessary and expedient at any time for the construction and continuation of the said road as is hereinafter provided; and that the shares of the Capital Stock shall be composed of shares of the value of ten pounds currency each, and may, after the first instalment on the amount subscribed shall have been paid, be transferable by the respective persons subscribing and holding the same, to any person or persons, and such transfer shall be entered or registered in a book to be kept for that purpose by the said Company: Provided always, that nothing in this Act contained shall extend to authorize the said Company to carry on the business of banking.

Amount of
Capital Stock,

Shares to be
ten pounds
each.

Proviso.

XXIII. And be it enacted, That the said Company and their agents and servants shall have full power under this Act at any time after the completion of the said road to Port Hope, to lay out, construct, make and finish a continuous line of road at their own costs and charges, on and over any part of the country lying between Port Hope aforesaid and the limits of the said Newcastle District on the west, and following the direction of the present travelled Mail road, commonly called the Kingston Road, and using such portions of the same as to them may appear practicable and suited to the purposes of the said Company, anything herein contained to the contrary in anywise notwithstanding: Provided always, and it is hereby declared, that the said Company shall not commence and complete the construction of the whole of the said additional line of road at one time, but shall only commence and complete the construction of five miles of road at a time, and they shall not proceed with an additional five miles until the next foregoing five miles shall have been completed, and the said Company shall not commence any additional five miles of road until Stock to the amount of three thousand pounds is subscribed for the said additional five miles of road, and a sum equal to ten per cent. is paid thereon.

Company may
continue the
Road to the
Western
limits of the
Newcastle
District.

Proviso: in
what measure
the additional
road shall be
made, and
when.

XXIV. And be it enacted, That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company, by giving thirty days' notice thereof in any newspaper published in the said Newcastle District, for an instalment of ten per centum upon each share which they or any of them may respectively have subscribed for, and that the residue of the sums or shares of the Stockholders shall be payable by instalments in such time and in such proportions as a majority of the Stockholders, at a meeting expressly convened for that purpose, shall agree upon, so that such instalments shall not exceed ten per cent. nor become payable in less than thirty days after public notice in the newspaper or newspapers as aforesaid; Provided always, that the said Governor and Directors shall not commence the construction of the said road from Cobourg to Port Hope until at least two-thirds of the Capital Stock of five thousand pounds shall have been subscribed, and a sum equal to ten per cent. thereon paid in; And also provided, the said Governor and Directors shall not commence the construction of the said road from Port Hope to the boundary line between the Newcastle District and the Home District until additional Stock shall have been subscribed to the amount of three thousand pounds for the first five miles of the said road, and until a sum equal to ten per centum thereon shall have been paid in; And it is also further provided, that the said Governor and Directors shall not commence the construction of the second five miles of road

Stockholders
may be called
upon to pay an
instalment as
soon as Direc-
tors are ap-
pointed.
Remainder
how payable.

Proviso: Road
not to be com-
menced until
first instalment
is paid, and
two thirds of
the stock sub-
scribed.

Proviso as to
additional
Road.

Proviso as to
mode of con-
struction.

until

until the first is completed, and until three thousand pounds stock is subscribed towards the said second five miles, and a sum equal to ten per cent. thereon paid in; the same rule to apply to every five miles of the said road.

Forfeiture of Shares of Stockholders refusing to pay instalments.

XXV. And be it enacted, That if any Stockholder or Stockholders as aforesaid, shall refuse or neglect to pay at the time required, any instalment or instalments which shall be lawfully required by the Directors as due upon any share or shares, such Stockholder or Stockholders so refusing or neglecting shall forfeit such share or shares as aforesaid, with any amount which shall have been previously paid thereon, and the said share or shares may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and applied in like manner as other monies of the said Company. Provided always, that the purchaser or purchasers shall pay to the said Company, the amount of the instalment required over and above the purchase money of the share or shares so purchased by him, her or them as aforesaid, immediately after the sale and before they shall be entitled to the Certificate of the transfer of such shares purchased as aforesaid; Provided always, that twenty days' notice of the sale of such forfeited shares shall be given in any newspaper or newspapers published in the Newcastle District, and that the instalments due may be received in redemption of any such forfeited share at any time before the day appointed for the sale thereof; Provided always, that the Stockholders at their General Meeting, after any forfeiture, may remit such forfeiture or such portion thereof as they, by resolution then to be made, may direct.

Proviso : Notice to be given.

Proviso : Forfeiture may be remitted.

Subscriptions to be paid when called for.

Meaning of the word "Stockholders."

XXVI. And be it enacted, That the several persons who have subscribed or who shall subscribe any money towards the undertaking, or their personal representatives respectively, shall pay the sums respectively so subscribed, or such portions thereof as shall be from time to time called for by the Directors; and with respect to the provisions in this Act for enforcing the payment of calls or instalments, the word "Stockholder" shall extend to and include any person who holds stock in the said Company, or who may have subscribed the original Prospectus of the Company or Stock Book or Agreement to take stock therein, and shall also extend to and include the legal, personal representatives of such Stockholder or person aforesaid.

Interest to be payable on calls remaining unpaid.

XXVII. And be it enacted, That if any Stockholder do not pay the amount of any call or instalment to which he is liable, before or on the day appointed for payment, then such Stockholder shall be liable to pay interest for the same at the rate allowed by law from the day appointed for the payment thereof to the time of the actual payment.

Calls may be enforced by action.

XXVIII. And be it enacted, That if default shall be made by any Stockholder in the payment of any call at the time appointed by the Directors for the payment thereof, then it shall be lawful for the Company to sue such Stockholder for the amount of such call, in any Court of Law in this Province, (having competent jurisdiction in regard to the amount to be recovered,) and to recover the same with lawful interest, and if the Company shall elect to sue any Stockholder under the authority of this Act, such suit shall not in any way interfere with the forfeiture of the share or shares of such Stockholders, as provided by the twenty-fifth clause of this Act.

XXIX. And be it enacted, That in any action or suit to be brought by the Company against any Stockholder to recover any money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to aver that the defendant is the holder of one share or more (stating the number of shares) in the Capital Stock of the Company, and that he is indebted to the Company in the sum of money to which the calls in arrear shall amount in respect of one call or more upon one share or more (stating the number and amount of each of such calls) whereby an action hath accrued to the Company by virtue of this Act.

What averment shall be requisite in actions for calls.

XXX. And be it enacted, That on the trial or hearing of such action it shall be sufficient for the Company to prove that the defendant at the time of making such call was a holder of one share or more in the undertaking, (and when there has been no transfer of the shares, then the proof of subscription to the original agreement to take stock shall be sufficient evidence of holding stock to the amount subscribed) and that such call was in fact made, and such notice thereof given as is required; and it shall not be necessary for the Company to prove the appointment of the Directors who made such call, or any other matter whatever, and thereupon the Company shall be entitled to recover what shall be due upon such call with interest thereon, unless it shall appear either that any such call exceeds the prescribed amount, or that due notice of such call was not given, or that a meeting of the Stockholders was not expressly convened for the purpose of deciding on the time of payment, and the amount of such call in cases where such meeting is required.

Matter to be proved in action for calls.

XXXI. And be it enacted, That when calls shall be made by the Directors, it shall not be essential that the notice of such call should specify on what day or at what place or to what person the calls are to be paid, but that all calls shall be taken and meant to be payable to the Treasurer of the Company for the time being, at the expiration of thirty days from the first day of publishing the notice.

In notices of certain calls, particulars need not be inserted.

XXXII. And be it enacted, That in any action or suit brought by or against the Company upon any contract, or for any matter or thing whatsoever, any Stockholder shall be competent as a witness, and his testimony shall not be deemed inadmissible on the ground of interest.

Stockholders to be competent witnesses.

XXXIII. And be it enacted, That it shall be lawful for the Company to borrow on mortgage or bond, such sums of money as shall from time to time by an order of a general meeting of the Company be authorized to be borrowed for the purpose of carrying into effect the undertaking and for securing the re-payment of the money so borrowed with interest, to mortgage the tolls and future calls upon the Shareholders, or to give bonds in such manner and with such conditions as may be ordered by the Company at a general meeting.

Company may borrow on mortgage or bond.

XXXIV. And be it enacted, That every mortgage and bond for securing money borrowed by the Company shall be by deed under the common seal of the Company, wherein the consideration shall be truly stated, and a register of such mortgages and bonds shall be kept by the Secretary, and within fourteen days after the date of any such mortgage or bond an entry or memorial, specifying the date of such mortgage or bond, and the sums secured thereby and the names of the parties thereto, shall be made in such Register, and such Register may be perused at all reasonable times by any of the

Form of mortgages and bonds and registration thereof.

the Stockholders or by any mortgagee or bond creditor of the Company, or any person interested in any such mortgage or bond.

Contracts may be made by parol in certain cases.

XXXV. And be it enacted, That with respect to any contracts, which if made between private persons would be valid, although made by parol only, the Governor and the Directors may make such contracts on behalf of the Company by parol only, and in the same manner may vary or discharge the same; and all such contracts so made and entered into shall be binding upon the Company and all other parties thereto.

Directors not to be personally liable.

XXXVI. And be it enacted, That no Director, by being a party to or executing in his capacity as Director, any contract or other instrument on behalf of the Company, or otherwise lawfully executing any of the powers given to the Directors, shall be subject to be sued or prosecuted either individually or collectively by any person whomsoever.

Directors to make annual dividends of profits and submit statements of affairs.

XXXVII. And be it enacted, That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company as to them or a majority of them shall seem advisable, and that once in each year an exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses; such statement to appear in the books and to be open to the perusal of any Stockholder at his or their reasonable request.

Directors may set aside part of the profits for contingencies.

XXXVIII. And be it enacted, That before the apportioning the profits to be divided among the Stockholders, the Directors may, if they think fit, set aside thereout, such sum as they may think proper to meet contingencies, or for enlarging, repairing, or improving the works connected with the undertaking, or any part thereof, and may divide the balance only among the Shareholders.

Additional Road, &c., to be vested in Company.

And so for each additional five miles.

XXXIX. And be it enacted, That as soon as the road from Cobourg to Port Hope shall be completed, and the said additional Stock of three thousand pounds shall have been subscribed for the purpose of continuing the road for the distance of five miles towards the boundary line of the District as aforesaid, then, from thenceforth, the said five miles of road to be continued, and all materials that shall be from time to time got or provided for constructing, building, maintaining or repairing the same, and the tolls to be taken therefrom, shall be and the same are hereby declared to be vested in the said Company and their successors for ever; and from and after the completion of every five miles of the said Road, and after the additional three thousand pounds Stock shall have been subscribed for an additional five miles of road, so to be continued, and all materials that shall, from time to time, be got or provided for constructing, building, maintaining or repairing the same, and the Tolls to be taken thereon, shall be and the same are hereby declared to be vested in the said Company and their successors for ever.

All the powers of the Company to extend to the additional line of Road.

XL. And be it enacted, That so soon as every five miles of the said continued line of road from Port Hope towards the boundary line between the said Districts shall be commenced, all the powers, authorities and privileges of the said Company shall extend to and apply to the said additional five miles of the said road, and that all the clauses and provisions of this Act shall be deemed and taken to extend and apply to the said Company in the same manner as if the said Company had been originally empowered to construct the said additional five miles of road.

XLI. And be it enacted, That whatever may be the rate of divisible profits to the Stockholders in such road, it shall be lawful for the Government at any time hereafter to purchase such road, with all its hereditaments, stock, and appurtenances, in the name of Her Majesty, upon giving to the said Company three calendar months' notice, in writing, of their intention, and upon payment of a sum equal to twenty-five years purchase of the annual divisible profits, estimated on the average of the three then next preceding years, and if the said annual divisible profits shall be less than six per cent., then upon payment of the amount of Capital Stock paid in, and twenty per cent. thereon, and upon such sale and purchase, the Government shall assume all the contracts, debts and liabilities of the Company.

Government may purchase the Road from the Company at any time upon certain conditions.

XLII. And be it enacted, That if any action or suit shall be brought against any person or persons, for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards, and the defendant or defendants in such action or suit, may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Limitation of actions.

XLIII. And be it enacted, That the following words and expressions, used in this Act, shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such construction; words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number; words importing the masculine gender only shall include females; the expression "The Company" shall mean the said *Cobourg and Port Hope Road Company*; the word "Stockholder," shall mean Shareholder, Proprietor, or Member of the Company.

Interpretation clause.

Number.

Gender.
"The Company."
"Stockholder."

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