

that this Act shall have force and effect, upon, from and after the said day, and not before; Excepting always, that it may and shall be lawful for the Governor, immediately after the passing of this Act, to issue any Commission, or make any appointments, or for the Governor in Council to adopt such preparatory measures for the carrying out the provisions of this Act as he may deem expedient; such Commission, appointments and measures to come into force upon, from and after the said first day of January, one thousand eight hundred and fifty, and not before.

Proviso as to preparatory measures.

CAP. LXXXIV.

An Act to authorize the formation of Joint Stock Companies for the construction of Roads, and other Works in Upper Canada.

[30th May, 1849.]

WHEREAS it is expedient to encourage the construction of sawed, hewed or split Plank, Macadamized or Gravelled Roads, and also Bridges, Piers, Wharves Slides and Dams connected therewith, in Upper Canada, by Companies who may be disposed to subscribe the necessary capital for the completion thereof; And whereas the delay and expense incident to obtaining a special Act of Incorporation from the Legislature for each separate Company, operate as a great discouragement to persons desirous of embarking capital for the formation of such Companies: 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 any number of persons not less than five, respectively, may in Upper Canada, in their discretion, form themselves into a Company or Companies, under the provisions of this Act, for the purpose of constructing in and along any public Road or Highway, allowance for Road or otherwise, any Road or Roads of the kind mentioned in the Preamble to this Act, not less than two miles in length, and also any Bridge or Bridges, Pier or Piers, Wharf or Wharves, Slide or Slides, and Dam or Dams connected therewith in Upper Canada: Provided always, that no such Company shall construct any such road or other such works aforesaid, through, over, along or upon any private property or property of the Crown, without having first obtained the permission of the owner or owners, occupier or occupiers thereof, or of the Crown, so to do, except as hereinafter provided; nor shall any such road be made of a higher grade than one foot elevation to twenty feet along the road, without the sanction of the Chief Engineer superintending Public Works in the neighbourhood thereof; And provided also, that no such Company shall be formed under the provisions of this Act to construct any line of road for which a Charter shall have heretofore been granted, provided such Chartered Company shall have its stock subscribed and be in a course of completing the work for which such Charter shall have been granted, within one year from the passing of this Act, nor shall any private property be taken for any other such work as aforesaid without the consent of the owner, if such owner shall himself commence such work within one year and shall complete the same within two years from the time he shall be notified that a

Company

Preamble.

Companies may be formed for the construction of Plank and other Roads, Bridges, Slides and other works.

Proviso as to taking property.

Grade of Road.

Proviso as to Lines for which other Companies have been Chartered.

Proviso as to
Towns, &c.

Company has been formed for constructing the same, nor shall any property of the Crown be so taken without the approval of the Governor in Council ; And provided also, that no such road shall be constructed or pass within the limits of any City or the liberties thereof, or within the limits of any Incorporated Town or Village, except by special permission under a By-law of such City, Town or Village, to be passed for that purpose ; Provided also, that all bridges in the line of road between the termini of any such road, shall be deemed part of such road to all intents and purposes whatever, unless specially excepted in the Instrument of Association of such Company.

Proviso as to
Bridges on
any Road.

Any Twelve
Freeholders
may oppose the
construction,
&c. of any
Road.

II. Provided always, and be it enacted, That if twelve freeholders resident within half a mile of any line of road proposed to be made, planked, gravelled or macadamized by any Company to be formed under the provisions of this Act, shall give notice in writing to the President, Chairman or other presiding Officer of any Company, or meeting convened to form any such Company, that they intend to oppose the formation or improvement of any such projected line of road, no further action shall be had towards the prosecution of such work until after the then next sitting of the Municipal Council having jurisdiction throughout the line of such intended road, provided such notice shall have been given before any such work shall have been commenced ; Provided always, that when any new road shall have been or be opened, or the line of any old road changed, it shall be lawful for the Municipality having such jurisdiction as aforesaid to pass a By-law directing and permitting the old road or part of a road to be closed up, and embraced within the enclosure of the person or persons from whom ground shall have been taken to form such new road, provided it shall not exclude any person residing on or near the old road from a convenient access to the new road.

Proviso as to
old Roads
ceasing to be
required.

Municipal
Council may
hear and de-
cide upon such
opposition.

III. And be it enacted, That if the Municipal Council of such locality as aforesaid shall, upon such opposition made, pass any By-law prohibiting, varying or altering any such intended line of road, such By-law shall have the same force and effect, and be as binding, effectual and obligatory upon all persons whomsoever and upon any such Company as if the provisions thereof had been inserted in the body of this Act.

Companies to
become incor-
porated on
certain con-
ditions.

Six per cent
of capital to
be paid up.

Their Cor-
porate powers.

IV. And be it enacted, That when any number of persons, not less than five, shall have subscribed a sufficient quantity of stock to amount to a sum adequate in their judgment to the construction of any such road or other work, and shall have executed an Instrument according to the form in the Schedule to this Act contained, and shall have paid to the Treasurer of such intended Company six per cent. upon the capital stock intended by such Company to be raised for the construction of the road or other work contemplated by such Company to be formed as aforesaid, and shall have registered such Instrument, together with a receipt from the Treasurer of such Company for such first Instalment of six per cent, as aforesaid, with the Register of any County through or along the boundary of which such road shall be intended to pass, or where such other work shall be situate, such Company shall thenceforth become and be a Chartered and Incorporated Company, by such name as shall be designated in the Instrument so to be registered as aforesaid, and by such name they and their successors shall and may have perpetual succession, and shall be capable both at law and in equity of suing and being sued, of impleading and being impleaded, answering and being answered unto, defending and being defended in all Courts of Law and Equity and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever ; and they and their successors may have a Common Seal, and the same may

Common Seal.

make,

make, alter and change at their will and pleasure, and that they and their successors by their corporate name shall be capable of purchasing, taking, having, holding and conveying, selling and departing with, any lands, tenements and hereditaments whatsoever which may be or have been thought to be useful and necessary for the purposes of such Corporation.

Holding lands,
&c.

V. And be it enacted, That any such Company, or any other Company heretofore chartered by Act of the Legislature for a like purpose, shall have full power and authority to explore the ground or the country lying between the termini of any road, or supposed to be adapted for the site of any other such work as aforesaid intended to be constructed by any such Company, and to designate and establish, take, appropriate, have and hold to and for the use of them and their successors, the requisite lands upon the line and within the limits of any such road or for any such other work as aforesaid, according to the provisions hereinafter contained for acquiring the same; and to dig, take and carry away stone, gravel, sand, earth and other like materials from any adjoining or neighbouring lands, and also to cut, make and keep in repair upon such adjoining or neighbouring lands, such ditches, drains and water-courses as may be necessary for effectually draining and carrying off the water from any such road or other work; and whenever any such road passes through or by any wood or standing timber, to cut down the trees and under-wood for one hundred feet on each side of the said road, making compensation therefor as hereinafter provided; and for the purpose aforesaid, the said Company and their agents, servants and workmen are hereby authorized and empowered to enter into and upon the lands and grounds of any person or persons, body or bodies corporate or politic.

Powers of
Company to
explore the
country and to
take lands and
materials.

Drainage:

Cutting.

Entering upon
lands.

VI. And be it enacted, That the affairs, stock property and concerns of every such Company which shall or may be formed under the provisions of this Act, shall, for the first year, be managed and conducted by five Directors to be named in the said Instrument so to be registered as aforesaid, and thereafter to be annually elected by the Stockholders according to the provisions of any By-law which the first named Directors or their successors shall from time to time pass for that purpose; and that upon every such election of Directors, each Stockholder shall be entitled to one vote for every share he may hold or be possessed of in the said Company; and any majority of such Directors shall be a *quorum* for the transaction of business.

Affairs of
Companies to
be managed by
five Directors.
How appoint-
ed.

Votes of
Shareholders.

Quorum.

VII. And be it enacted, That if at any time after the formation of any such Company in manner aforesaid, the Directors shall be of opinion that the original capital subscribed will not be sufficient to complete the work contemplated by such Company to be executed, it shall and may be lawful for the said Directors, under a Resolution to be passed by them for that purpose, either to borrow upon the security of the said Company, by bond, or mortgage of the road and tolls to be collected thereon, a sufficient sum of money to complete the same, or to authorize the subscription upon the said original Instrument so to be registered as aforesaid, of such number of additional shares as shall be named in the said Resolution, a copy whereof under the hand of the President and seal of the Company, shall, by the said Register, be annexed to the said original Instrument, upon the same being delivered to him by the said President, at the office of the said Register, who shall thereupon permit such additional subscriptions upon a receipt from the Treasurer of six per cent upon the amount of such subscriptions respectively.

Directors may
authorize an
increase in the
number of
shares when
necessary, or
may borrow
money on
mortgage.

Shares to be of £5 each, and how transferable.

VIII. And be it enacted, That each share in every such Company shall be five pounds, and shall be regarded as personal property, and shall be transferable upon the books of such Company, in such manner as shall be provided by any By-law to be made by the Directors in that behalf.

Companies may sue for amount of calls unpaid.

IX. And be it enacted, That any such Company so to be incorporated as aforesaid, may, in any Court having jurisdiction in matters of simple contract to the amount demanded, sue for, recover and receive of or from any Stockholder in such Company, the amount of any call or calls of stock which such Stockholder may neglect to pay, after public notice thereof in any newspaper published in the District where the Directors shall usually meet for conducting the business of such Company, or if there be no newspaper published in such District, then in some adjoining District.

Notice.

Arbitrators to be appointed in case of owners of property through which the road may pass, &c., disagreeing with the Company.

X. And be it enacted, That if the owner or owners, occupier or occupiers of any land, over, or through, or upon which any such Company as aforesaid may be desirous of constructing any such road or other work, or from which materials are to be taken, or upon which any power given by this Act to the Company is intended to be exercised, shall upon demand made by the Directors of any such Company, neglect or refuse to agree upon the price or amount of damages to be paid for, or for passing through or over such land, and appropriating the same to and for the uses of any such Company, or for the exercise of any such power as aforesaid, it shall and may be lawful for the said Company to name one Arbitrator, and for the owner or occupier of such land so required, or with regard to which such power is intended to be exercised as aforesaid, to name another Arbitrator, and for the said two Arbitrators to name a third, to arbitrate upon, adjudge and determine the amount which the said Company shall pay before taking possession of such land, or exercising such power as aforesaid; and upon such sum being ascertained, due attention being had by the Arbitrators in ascertaining the same, to the benefits to accrue to the party requiring compensation, by the construction of the said road or other work, it shall be lawful for the said Company to tender such sum to the said party claiming compensation, who shall thereupon execute a conveyance to the said Company, or such other document as may be requisite, and the said Company shall, after such tender, whether such conveyance or document be executed or not, be fully authorized to enter upon and take possession of such land to and for the uses of the said Company, and to hold the same, or to exercise such power as aforesaid, in such and the like manner as if such conveyance thereof or other document had been executed as aforesaid: Provided always, that if any such owner or occupier shall neglect to name an Arbitrator for the space of twenty days after having been notified so to do by the Company, or if the said two Arbitrators do not agree upon such third Arbitrator, within twenty days after the appointment of the second Arbitrator, then upon the application of the said Company or of the other party, the Judge of the District Court holden within the District, shall nominate one of the Councillors of one of the Townships next adjacent to that in or along which the land shall be situate, which it is proposed to take, or with regard to which such power is intended to be exercised as aforesaid, to be either the second or the third Arbitrator, in lieu of the one so to be appointed and named, but not appointed or agreed upon by the party or by the two first named Arbitrators as aforesaid, and any award made by a majority of the said Arbitrators shall be as binding as if the three Arbitrators had concurred in and made the same: Provided, that no road or other such work as aforesaid shall be made through or upon any pleasure ground, garden, yard or orchard, or materials taken therefrom, nor shall any timber be taken from any enclosed lands, without the consent of the owner.

Mode of computing damages, &c.

Tender or payment.

Proviso: if the party shall neglect to name an arbitrator, or the arbitrators cannot agree on a third.

Award may be made by any two.

Proviso as to gardens, yards, &c.

XI. And be it enacted, That whenever any lands or grounds required by any such Company, for the purposes of any road or other such work, or with regard to which any such power is to be exercised as aforesaid, are held or owned by any person or persons, bodies politic, corporate or collegiate, whose residence may not be within this Province, or unknown to the said Company, or where the titles to any such lands or grounds may be in dispute, or where such lands may be mortgaged, or when the owner or owners of such lands or grounds are unable to treat with the said Company for the sale thereof, or the exercise of any such power as aforesaid by the Company, or to appoint Arbitrators as aforesaid, it shall and may be lawful for the said Company to nominate one indifferent person, and for the Judge of the District Court for the District in which the lands are situate, on the application of the said Company, to nominate and appoint one other indifferent person, who, together with one other person to be chosen by the persons so named, before proceeding to business, or, in the event of their disagreeing as to the choice of such other person, to be appointed by any such Judge as aforesaid, before the others proceed to business, shall be Arbitrators, to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective parties entitled to receive the same, for the said lands or grounds, or damages as aforesaid, and the decision of the majority of such Arbitrators shall be binding: which said amount so awarded the said Company shall pay or cause to be paid to the several parties entitled to the same when demanded; and also that a record of such award or arbitration shall be made up and signed by the said Arbitrators, or a majority of them, specifying the amount awarded and the costs of such arbitration which may be settled by the said Arbitrators, or a majority of them, which record shall be deposited in the Registry Office of the County in or along which such lands or grounds are situate: and that the expenses of any Arbitration under this Act, shall be paid by the said Company, and by them deducted from the amount of such award, on payment thereof to the parties entitled to receive the same, if the Company shall before the appointment of their Arbitrator, have tendered an equal or greater sum than that awarded by the Arbitrators, and otherwise by the opposite party, and the Arbitrators shall specify in their award by which of the parties the said costs are to be paid: And provided also, that all lands or grounds which shall hereafter be taken by any such Company for the purposes of any road or other such work, and which shall have been purchased and paid for by any such Company in the manner hereinbefore provided, shall become and thenceforward shall continue to be the property of such Company free from all mortgages, incumbrances and other charges.

How Arbitrators shall be appointed when the owners of the lands are absent, or unable to sell, or the lands are mortgaged, &c.

Amount of award to be paid forthwith. Award to be registered.

By whom the costs shall be paid.

Proviso: Lands taken to be free of incumbrances.

XII. And be it enacted, That if any such road shall pass through any tract of land or property belonging to or in possession of any tribe of Indians in this Province, or if any property belonging to them be taken or any act occasioning damage to their properties or their possessions shall be done under the authority of this Act, compensation shall be made to them therefor, in the same manner as is provided with respect to the property, possession or rights of other individuals; and that whenever it shall be necessary that Arbitrators be chosen by the parties for settling the amount of such compensation, the Chief Officer of the Indian Department, within this Province, is hereby authorized and required to name an Arbitrator on behalf of the said Indians, and the amount which shall be awarded in any case shall be paid where the said lands belong to any tribe or body of Indians, to the said Chief Officer, for the use of such tribe or body.

Case of lands belonging to Indians provided for.

Meetings and proceedings of the arbitrators.

XIII. And be it enacted, That the Arbitrators so appointed shall fix a convenient day for hearing the respective parties, and shall give eight days' notice at least of the day and place, and having heard the parties or otherwise examined into the merits of the matters so brought before them, the said Arbitrators, or a majority of them, shall make their award or arbitrament thereupon in writing, which award or arbitrament shall be final as to the amount so in dispute as aforesaid.

Election of President and appointment of Officers.

XIV. And be it enacted, That it shall be lawful for the Directors of any such Company to elect one of their number to be the President, and to nominate and appoint such and so many officers and servants as they shall deem necessary for performing the duties required of them by the said Company, and in their discretion to take security from them or any of them for the due performance of his or their duty, and that he or they shall duly account for all moneys coming into his or their hands to the use of any such Company.

Tolls, how to be fixed paid and levied.

XV. And be it enacted, That it shall and may be lawful for the President and Directors of any such Company from time to time to fix, regulate and receive the tolls and charges to be received from all persons passing and re-passing with horses, carts, carriages and other vehicles and for cattle driven upon, over and along any road, or from all persons passing over any bridge with or without any such carriages or animals as aforesaid, or using any work constructed, made and used by such Company under and by virtue of the provisions of this Act: Provided always, that so soon as two or more miles of any such road shall have been completed tolls may be taken therefor, but on no other work shall tolls be taken until the same shall be completed.

Proviso: when tolls may be taken.

Rate of tolls limited on Roads.

XVI. And be it enacted, That the amount of tolls hereby authorized to be levied at any gate by any such Company, to be formed and incorporated under the provisions of this Act, upon any road constructed by such Company, shall not for each time of passing, whether loaded or otherwise, exceed an aggregate sum calculated at the rate of one penny half-penny per mile, from the gate required to be passed to the last gate in the direction whence any person may have come, for any vehicle drawn by two horses or other cattle; and for any vehicle drawn by more than two cattle, one half-penny per mile for every additional one; for every vehicle drawn by one horse, one penny per mile; for every score of sheep or swine and for every score of neat cattle, one half-penny per mile; for every horse and rider or every led horse, one half-penny per mile.

Directors to report annually to the Municipality the amount received and expended, &c.

XVII. And be it enacted, That it shall be the duty of the Directors of every Company incorporated under this Act, to report annually, at some time during the month of January in each year, to the Municipality having jurisdiction within the locality through or along the boundary of which such road shall pass, or wherein such other work may be constructed, under the oath of the Treasurer of such Company, the cost of their work, the amount of all money expended, the amount of their capital stock, and how much paid in; the whole amount of tolls expended on such work; the amount received during the year for tolls, and from all other sources, stating each separately; the amount of dividends paid, and the amount expended for repairs, and the amount of debts due by such Company, specifying the object for which such debts respectively, were incurred; and every such Company, shall keep regular books of account, in which shall be entered a correct statement of the assets, receipts and disbursements.

Company to keep regular books open to

disbursements of such Company, which shall be at all times open to the inspection and examination of any person or persons, who may for that purpose be appointed by the Municipality, having jurisdiction as aforesaid; and every such Inspector shall have the right of taking copies or extracts from the same, and of requiring and receiving from the keeper or keepers of such books, and also from the President and each of the Directors of such Company, and all the other officers and servants thereof, all such information as to such books and the affairs of such Company generally, as such Inspector or Inspectors may deem necessary for the full and satisfactory investigation into and report upon the state of the affairs of such Company, so as to enable such Inspector or Inspectors to ascertain whether the tolls levied upon such work are greater than this Act allows to be levied as aforesaid.

persons appointed by Municipality, &c.

XVIII. And be it enacted, That it shall and may be lawful for the Directors of any such Company to call in and demand from the Stockholders of the said Company, respectively, all such sum or sums of money by them subscribed, at such times and in such payments or instalments as the said Directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the Stockholders within ninety days after a personal demand, or alter notice requiring such payment shall have been published for six successive weeks in the newspaper or one of the newspapers nearest the place where the Directors of the said Company shall usually meet for conducting the business of the said Company.

Directors may call in sums subscribed under penalty of forfeiture of shares subscribed for.

XIX. And be it enacted, That every such road or other such work as aforesaid, and all the materials which shall from time to time, be got or provided for constructing, building, maintaining or repairing the same, and all toll-houses, gates and other buildings constructed or acquired by and at the expense of any such Company acting under the provisions of this Act, and used for their benefit and convenience, shall be vested in such Company and their successors.

Roads, works and materials vested in Companies, and their successors.

XX. And be it enacted, That every such Company shall have full power and authority to erect such number of toll-gates or side-bars in, along or across the said roads, and upon or at any work constructed under this Act, respectively, and fix such tolls, not exceeding the rate aforesaid, to be collected at each gate or bar, as they may deem fit and expedient (which tolls may be altered from time to time as circumstances may require,) and to erect and maintain such toll-houses, toll-gates and other buildings and erections which may seem necessary and convenient for the due management of the business of every such Company respectively; Provided always, that no toll shall be exacted for merely crossing any road.

Toll-gates may be erected.

Proviso.

XXI. And be it enacted, That every such Company so to be incorporated as aforesaid, shall be bound and is hereby required to complete each and every road not more than five miles in length, and any other work undertaken by them, and for the completion whereof they shall have become incorporated as aforesaid, within two years from the day of their becoming incorporated under this Act, in default whereof they shall forfeit all the corporate and other powers and authority which they shall in the mean time have acquired, and all their corporate powers shall thenceforth cease and determine, unless further time be granted by a By-law of the Municipality having jurisdiction as aforesaid.

Roads, &c., to be completed by Companies within a certain time after becoming incorporated. Penalty for default.

Penalty on persons injuring roads, or other works of any Company.

XXII. And be it enacted, That if any person or persons shall in any way injure, cut, break down or destroy any part of any such road, bridge or other such work as aforesaid, or any toll-gate or toll-house, building or other erection in, upon or near any such road or work, and belonging to or used for the convenience of any such Company under the provisions of this Act, every such person so offending, and being lawfully convicted thereof, shall be deemed guilty of a misdemeanor, and shall be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone, plank, timber or other materials used or intended to be used in or upon the said road, for the construction, maintenance or repair thereof, or shall drive any loaded wheel carriage or other loaded vehicle upon that part of any of the roads constructed under the authority of this Act, or by any Incorporated Company under the authority of any other Act of the Legislature of this Province, between the stones, plank or hard road and the ditch, further than may be necessary in passing any other vehicle or in turning off or upon such road, or shall cause any injury or damage to be done to the posts, rails or fences, or shall haul or draw, or cause to be hauled or drawn upon any part of the roads constructed as aforesaid, any timber, stone, or other thing which shall be carried principally or in part upon wheeled carriages or sleighs, so as to drag or trail upon such road to the prejudice thereof, or if any person shall leave any wagon, cart, or other carriage whatever, upon such road without some proper person in the sole custody or care thereof, longer than may be necessary to load and unload the same, except in case of accident, and in cases of accident for any longer time than may be necessary to remove the same, or shall lay any timber, stones, rubbish or other thing whatever upon such road, to the prejudice, interruption and danger of any person travelling thereon, or if any person shall, after having blocked or stopped any cart, wagon, or other carriage in going up a hill or rising ground, cause or suffer to lie and remain on such road, any stone or other thing with which such cart or carriage shall have been blocked or stopped, or if any person shall pull down, damage, injure or destroy any lamp or lamp posts put up, erected or placed in or near the side of such road or toll-houses, erected thereon, or shall wilfully extinguish the light of any such lamp, or if any person shall wilfully pull down, break, injure or damage any table of tolls, put up or fixed at any toll-gate or bar on any part of such road, or shall wilfully or designedly deface or obliterate any of the letters, figures or marks thereon, or on any finger post, or any mile post or stone; or if any person shall throw any earth, rubbish or other matter or thing into any drain, ditch, culvert or other water-course made for draining any such road, or if any person shall without permission, carry away any stones, gravel, sand or other materials, dirt or soil from any part of any such road, or dig any holes or ditches on the allowance for the same, or shall forcibly pass or attempt to pass by force any of the toll-gates set up by any such Company, or to use the work constructed by the Company without having first paid the toll fixed by the Directors of such Company to be received at any such gate, such person shall, upon conviction thereof in a summary way before any Justice of the Peace in or near the place where the injury shall have been done, be sentenced to pay all damages sustained by such Company, to be ascertained by the said Justice upon the hearing of the said complaint, and also to pay a fine of not more than fifty shillings nor less than five shillings; such damages and fine to be paid within a time to be limited by the said Justice, and in default thereof the same shall be levied as next hereinafter is provided.

Penalty on persons injuring roads, &c.

How enforced. Offender to pay all damages as well as the penalty.

Fine to be payable either in money or labor.

Fines, how levied.

XXIII. And be it enacted, That the fines and forfeitures authorized to be summarily imposed by this Act shall and may be levied and collected by distress and sale of the offender's

offender's goods and chattels, under the authority of any Warrant or Warrants of Distress for that purpose to be issued by the Justice before whom the conviction shall have been had ; and in case there shall be no goods or chattels to satisfy such Warrant or Warrants, such offender or offenders shall and may be committed to the Common Gaol of the District for any period not exceeding one month.

Imprisonment for want of distress.

XXIV. And be it enacted, That if any person or persons shall, after proceeding on any such road with any wagon, carriage or other vehicle, or animal liable to pay toll, turn out of the said road into any other road, and shall enter 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 ten shillings, which said sum shall be expended on the said road or towards the discharge of any debts due by the Company; and any one Justice of the Peace for the District in which such part of the said road is situate, shall, on conviction of such offender, fine such offender in the said penalty, and shall cause the same to be levied as aforesaid.

Penalty on persons turning out of road to evade toll.

How enforced.

XXV. And be it enacted, That if any person or persons occupying or possessing any enclosed lands near any toll-house 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 toll, whereby such payment shall be avoided, every person or persons so offending, and also the person riding or driving the animal or animals or carriage whereon such payment is avoided, being thereof convicted, before any one Justice as aforesaid, shall for every such offence, severally incur a penalty not exceeding twenty shillings, which shall be laid out in improving such road.

Penalty on persons assisting others to evade tolls.

XXVI. And be it enacted, That it shall be lawful for any Municipal Body Corporate, having jurisdiction within the locality through or along the boundary of which any such road shall pass, or in which any such work as aforesaid is to be constructed, to subscribe for, acquire, accept and hold, and to depart with and transfer Stock in any Company to be formed under the authority of this Act, or by any Company heretofore chartered by Act of the Legislature for a like purpose, and from time to time to direct the Mayor, Warden or other Chief Officer thereof, on behalf of such Municipality, to subscribe for such Stock in the name of such Municipality, and to act for and on behalf of such Municipality in all matters relative to such Stock and the exercise of the rights of such Municipality as a Stockholder, and the Mayor, Warden or other Chief Officer shall, whether otherwise qualified or not, be deemed a Stockholder in the Company, and may vote and act as such, subject always to such rules and orders in relation to his authority as shall be made in that behalf by such Municipality by their By-laws or otherwise, but acting according to his discretion in cases not provided for by such Municipality; and it shall be lawful for such Municipality to pay for, or to pay all instalments upon the Stock they shall subscribe for and acquire, out of any moneys belonging to such Municipality and not specially appropriated to any other purpose, and to apply the moneys arising from the dividends or profits on the said Stock or from the sale thereof, to any purpose to which unappropriated moneys belonging to such Municipality may lawfully be applied.

Municipalities may acquire stock in Companies formed under this Act.

Who shall vote, &c., on such stock.

As to payment of such subscription, &c.

XXVII. And be it enacted, That it shall also be lawful for the Municipality of any locality through or along the boundary of which any such road shall pass, or within which

Municipal bodies may lend money to

such Companies.

which any such work as aforesaid shall be constructed, to loan money to the Company authorized to make such road or construct such work, or to any Company heretofore chartered by Act of the Legislature for a like purpose, and out of any moneys belonging to the Municipality and not appropriated to any other purpose, and to effect such loan upon such terms and conditions as may be agreed upon between such Company and the Municipality making such loan, and to recover the money so loaned, and to appropriate the money so recovered to the purposes of such Municipality.

Recovery thereof.

Twenty-one years after the roads, &c., are completed, all the Stock may be purchased by the Municipality.

Value how ascertained.

XXVIII. And be it enacted, That after twenty-one years from the time of completing any such road or other work as aforesaid, it shall and may be lawful for any Municipal authority representing the interests of the locality through or along the boundary of which any such road shall pass, or in which the work shall be situate, to purchase the stock of such Company at the current value thereof at the time of purchase, (to be ascertained by Arbitrators to be appointed and to act in the manner hereinbefore provided in other cases, if the Company and the Municipality cannot agree upon such value,) and to hold the same for the use and benefit of the said locality, and such Municipal authority shall thenceforth stand in the place and stead of the said Company, and shall possess all such powers and authority as the said Company shall have theretofore possessed and exercised.

What it shall be necessary to aver in actions for sums subscribed for.

XXIX. And be it enacted, That in any action or suit to be brought by any such 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 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 it shall be necessary to prove in such actions.

XXX. And be it enacted, That on the trial or hearing of any 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 that due notice of such call was not given.

Stockholders may be witnesses.

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

Limitation of suits for things done under this Act.

XXXII. 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

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.

XXXIII. And be it enacted, That all persons, horses or carriages going to or attending or returning from any funeral, or any person with horse or carriage going to or returning from Divine Service on the Lord's Day, shall pass the gates on any road made or improved under the authority of this Act, free of toll.

Exemptions from toll.

XXXIV. And be it enacted, That whenever any road to be constructed under the authority of this Act, or a road already constructed under the authority of any Act of the Legislature of the Province, shall intersect a road constructed by another Chartered Company, no higher rate of toll shall be demanded from the persons travelling along the said last mentioned road, for the distance travelled between such intersection and either of its termini than the rate per mile charged by the said Company for travelling along the entire length of their road so intersected.

What rate of toll may be demanded on roads intersected by roads made under this Act.

XXXV. And be it enacted, That after any road, bridge or other such work as aforesaid, constructed by any Company under the authority of this Act, shall have been completed, and tolls been taken thereon, it shall be the duty of the said Company to keep the same in good and sufficient repair, and in case any such road, bridge or work shall, by any such Company, be allowed to fall into decay and get out of repair, such Company may be indicted at any Court of General Sessions of the Peace or other Court of Superior Jurisdiction within or along the boundary of any District where such road, bridge or work shall be so out of repair as aforesaid, and upon being convicted, the Court before whom such prosecution shall be had, shall direct such Company to make the necessary repairs, for the want whereof such prosecution shall have been commenced, within such time as to such Court shall seem reasonable, and that in default thereof, such Company shall be declared to be dissolved, and such road, bridge or work shall thenceforth be vested in Her Majesty, Her Heirs and Successors, to and for the use of the public, in like manner as any public and common highway or public work, and shall thenceforth be subject to all the laws affecting public highways and public works, and the powers of such Corporation shall thenceforth vest in the Municipality having jurisdiction as aforesaid, which shall thereupon take on itself the order and management of the said road as the said Company had theretofore done.

Companies to keep roads in sufficient repair.

Indictment for default.

Dissolution for default to repair, &c.

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

Reservation of the right of the Legislature to amend or alter this Act.

SCHEDULE.

Be it remembered, that on this _____ day of _____ in the year of Our Lord, one thousand eight hundred and _____, We, the undersigned Stockholders, met at _____, in the _____ County of _____, in the Province of Canada, and resolved to form ourselves into a Company, to be called (*here insert the Corporate name intended to be taken by the Company,*) according to the provisions of a certain Act of the Parliament of this Province, intituled, *An Act, &c. (insert the title of this Act,)* for the purpose of constructing a Plank Road (*or Macadamized or Gravelled Road, or both, as the case may be,*) from (*the commencement of the intended Road*) to (*the termination thereof,*) or a Bridge, Slide, Wharf, Pier or other such work as aforesaid, describing the nature, extent and situation thereof,) and we do hereby declare that the Capital Stock of the said Company shall be _____ pounds, to be divided into _____ shares, at the price or sum of five pounds each; and we, the undersigned Stockholders, do hereby agree to take and accept the number of shares set by us opposite to our respective signatures, and we do hereby agree to pay the calls thereon, according to the provisions of the said in part recited Act, and of the Rules, Regulations, Resolutions and By-laws of the said Company, to be made or passed in that behalf; and we do hereby nominate (*the names to be here inserted*) to be the first Directors of the said Company.

NAME.	No. OF SHARES.	AMOUNT.

CAP. LXXXV.

An Act to amend the several Laws therein mentioned, relative to the appointment and duties of Inspectors of Weights and Measures, in Upper Canada.

[25th April, 1849.]

Preamble.

WHEREAS the Laws now in force in Upper Canada, with respect to the appointment and duties of Inspectors of Weights and Measures, are found to require amendment: 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