

than one month, at the discretion of the said Justice : Provided Proviso. always, that the said fine and imprisonment shall be no bar to the recovery of damages by the injured party before any Court of competent jurisdiction.

XII. And be it enacted, That all fines collected under the provisions of this Act shall be paid to the Treasurer or Chamberlain of the Township, Town or City where the offence was committed, to be expended on the Public Roads or Streets within such Township, Town or City. Application of fines.

XIII. And be it enacted, That the Clerk of each and every Municipality, shall cause a sufficient number of copies of this Act to be printed immediately after the passing thereof, and send to every Inn-keeper within his Municipality two copies of the same ; and the said Inn-keeper shall exhibit one of such copies publicly in his Bar-room, for the space of six months next after the receipt thereof. Copies of this Act to be distributed.

XIV. And be it enacted, That all convictions under this Act shall be subject to appeal in the same manner as other summary convictions before Justices of the Peace. Appeals allowed.

XV. And be it enacted, That this Act shall apply only to Upper Canada. Extent of Act.

C A P . C X C .

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

[Assented to 14th June, 1853.]

WHEREAS it is expedient to encourage the construction of Plank, Macadamized or Gravelled Roads, and also Bridges, Piers and Wharves, 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 ; And whereas several Acts have been passed by the Parliament of this Province for the accomplishment of this purpose, in particular an Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to authorize the formation of Joint Stock Companies for the construction of Roads and other Works in Upper Canada* ; also an Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to amend the Act, intituled, 'An Act to authorize the formation of Joint Stock Companies, for the construction of Roads and other Works in Upper Canada,' and* Preamble. 12 V. c. 84. 14 & 15 V. c. 122.

to

12 V. c. 25.

14 & 15 V.
c. 57.

Acts 12 V. c.
84, 12 V. c.
25, 14 & 15 V.
c. 122, and
certain sects.
of 14 & 15 V.
c. 57, repeal-
ed.

Also 16 V.
c. 4.

Existing
Companies
continued :
how this Act
shall apply to
them.

Proviso.

Companies
may be form-

to extend the provisions thereof, which Acts have been found defective and ambiguous in many of their provisions; And whereas it is expedient that the before mentioned Acts, together with an Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to exempt Naval and Military Officers, and others, on duty in Her Majesty's Service, from the payment of Toll upon any Turnpike Road in this Province*, and also the second, third, fourth, fifth, sixth, seventh and eighth Sections of an Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to remove doubts as to Municipal Corporate Bodies acquiring Public Works without the limits of such Municipalities*, should be repealed, and that a new Act should be passed, placing all Roads, whether constructed by Companies formed under authority of any of the aforesaid Acts, or to be formed under the authority of this Act, or constructed or acquired by Companies or Municipalities by purchase, except as hereinafter provided with regard to Roads having private Acts of incorporation, under one uniform rate of Tolls and set of Rules for their management, so far as practicable: 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, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the three several Acts hereinbefore first mentioned, and the titles of which have been hereinbefore recited, also the second, third, fourth, fifth, sixth, seventh and eighth Sections of the said Act, intituled, *An Act to remove doubts as to Municipal Corporate Bodies acquiring Public Works without the limits of such Municipalities*, and the Act passed during the present Session, intituled, *An Act to confer certain powers on Municipal Corporations and Companies to take materials to repair Roads*, be, and the same are hereby repealed; but all Companies incorporated under the said Acts or either of them shall subsist, continue and be perpetuated, notwithstanding the repeal of the said Acts, and the said Companies shall be subject to, and may avail themselves of the provisions of this Act as fully and effectually to all intents and purposes as if they had been incorporated under this Act, and in all cases of doubt or ambiguity this Act shall be deemed and taken to be declaratory of the meaning of the said Acts: Provided that this clause shall not affect the rights of any party in any action, suit or proceeding now pending in any Court, but the same shall and may be proceeded with and determined as if this Act had not been passed.

II. And be it enacted, That any number of persons, not less than five respectively, may in Upper Canada, in their discretion, form

form themselves into a Company, under the provisions of this Act, for the purpose of constructing and may construct in and along or over any public road or highway, allowance for road, or on, along, or over any land, a 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, in Upper Canada ; Provided always, that no such Company shall construct any such road or other such works as 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 herein-after 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 County Engineer, for the time being, if there be such officer in the County where the Road or other work is situate or to be constructed, and if there be no such officer, then by some competent Engineer to be appointed by such County Council, for that purpose : 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 been heretofore obtained, provided the Company which shall have obtained such Charter shall have its stock subscribed, and be in a course of completing the work for which such Charter shall have been obtained within the time limited in that behalf by the Acts hereby repealed, or either or any of them, 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 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, which shall not be within the limits of any City, incorporated Town or Village, shall be deemed part of such road to all intents and purposes whatever, unless specially excepted in the Instrument of association of such Company.

ed for the construction of plank and other roads, &c.

Proviso as to taking property.

Proviso as to lines for which other companies have been chartered.

Private property not to be taken in certain cases.

Proviso as to Cities and Towns.

Proviso as to bridges on any road.

III. And be it enacted, That no Company to be formed under the provisions of this Act shall commence any work until thirty days after the Directors shall have served a written notice upon the Head of the Municipality in the jurisdiction of which such road or other work shall be intended to pass or to be constructed ; and that if the Municipal Council of such locality as aforesaid shall pass any By-law prohibiting, varying or altering any such intended line of road, or the plan of any such other

Notice to be served on the Head of the Municipality prior to any Company commencing any work.

other

Municipal Council may by By-law prohibit the work.

Proviso limiting By-law of Municipal Council to first sitting after service of notice.

Proviso as to closing up of old roads, and the disposal of the site thereof.

Companies to be incorporated on certain conditions and the observance of certain forms.

Six per cent of Capital to be paid up.

Registration of Instrument of Association and Receipt how made.

Registers Fee, &c.

General Corporate powers of Company so formed.

other work, 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 if such Company proceed in the construction of such road or other work, as if the provisions thereof had been inserted in the body of this Act: Provided always, that if no such By-law shall be passed within thirty days after the service shall have been made upon such Head of the Municipality, then the said intended road or other work may be proceeded with without being liable to any interruption or opposition from any source whatever: Provided also, that when any new road shall have been or be opened, or the line of any old road be changed, it shall be lawful for the Municipality having such jurisdiction as aforesaid, to pass a By-law permitting or directing 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 line of the old road from a convenient access to the new road.

IV. And be it enacted, That before any such road or other work as aforesaid shall be commenced, and in order to afford a sufficient guarantee to the public that such Company is not a fictitious one, and that such road or other work is intended to be proceeded with, such Company shall subscribe 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 execute an Instrument according to the form or to the purport of that contained in the Schedule to this Act marked A; and the said Company, or any one of their number, or the Directors named in the said Instrument, shall pay to the Treasurer of such Company six per cent. upon the amount of the Capital Stock of the Company mentioned in the said Instrument, and shall register such Instrument, together with a Receipt from the Treasurer of such Company for such payment or instalment of six per cent., which registration shall be made by leaving the original Instrument and Receipt with the Register of any one County in which such road or other works shall be wholly or partly situated or intended to be made, who shall register the said Instrument and Receipt in a Registry Book to be provided by each Registers for that purpose, for which registry he shall be entitled to a fee of Two Shillings and Six Pence, and he shall afterwards retain the said original documents in his custody, and shall be bound to produce the same upon all occasions when legally required to do so by the Directors or Treasurer of the said Company, or otherwise.

V. And be it enacted, That when the requirements contained in the preceding Section of this Act shall have been complied with, 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

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 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 land, tenements and hereditaments whatsoever, which may be useful and necessary for the purposes of such Corporation.

VI. 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 or 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 underwood 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, doing no unnecessary damage.

Powers of Company to explore the country, and to take land and materials.

Drainage.

Cuttings.

Entry on lands.

VII. And be it enacted, That if the owner or owners, occupier or occupiers of any land, over, through or upon which any such Company 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

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

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 demanding compensation, by the construction of the said road or other such work, it shall be lawful for the said Company to tender such sum to the said party claiming compensation, who shall thereupon be bound to execute a conveyance of such land to the Company or other such document as may be requisite, and the said Company shall, after such tender, whether such conveyance or other 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 the 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 within the space of twenty days after the appointment of such second Arbitrator agree upon such third Arbitrator, or if any one or more of the said Arbitrators shall refuse or neglect, within the space of ten days after his or their appointment, to take upon him or them the duties thereby imposed, then, upon the application of the said Company, or of the other party, it shall be lawful for the Judge of the County Court of the County within which the land lies to nominate any disinterested competent person or persons, from any Township adjoining the Township in which such land shall be situate, to act as an Arbitrator for the person so neglecting to name an Arbitrator as aforesaid, or to act in the place of such Arbitrator or Arbitrators so refusing or neglecting as aforesaid, and that every Arbitrator so appointed by the Judge of the County Court, as aforesaid, shall and he is hereby required to hear and determine the matter to be submitted to him, with all convenient speed, after he shall have been so nominated 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 so as to encroach upon any building or to pass through or upon any pleasure ground, garden, yard or orchard, nor shall any materials be taken therefrom, nor shall any timber be taken from any inclosed land, without the consent of the owner: Provided also that it shall not be competent for any owner or occupier of land through or along which such road is intended to pass, after a survey of such road is made, to erect any building or to inclose any part of such surveyed land as a yard, or

Mode of computing damages, &c.

Tender of payment of award.

Proviso if the party shall neglect to name an Arbitrator, or Arbitrators cannot agree on a third.

County Judge to appoint.

Award may be made by any two.

Proviso as to gardens, yards, &c.

Proviso: Owner not to inclose, &c., in order to evade this Act.

to plant fruit trees thereon, so as to form an orchard, with a view to prevent such Company taking possession of such land.

VIII. And be it enacted, That whenever any lands or grounds, required by any such Company for the purpose 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 may be 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 unknown or 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 County Court where such lands are situate, on the application of the said Company, to nominate and appoint one other disinterested competent person, from any Township adjoining the Township in which such lands are situate, who, together with one other person to be chosen by the persons so named, before proceeding to arbitrate, 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 arbitrate, 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 a 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 shall be made 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 situated, and such Company shall thereupon be fully authorized to enter upon and take possession of such lands to and for the uses of the said Company, and to proceed with the construction of their road or other work in, along or over the same; and the Arbitrators shall specify in the award by which of the parties the said costs are to be paid: Provided that in any case of arbitration under this Act, if the Company shall, before the appointment of their Arbitrator, have tendered a sum equal to or greater than that awarded by the Arbitrators, the costs of arbitration shall be paid by the opposite party, and may be deducted by the Company from the amount of the award, on payment thereof to the party entitled to receive the same: And provided also, that all lands or grounds which shall hereafter be taken by any such Company, for the purpose of any road or other such work, and which shall have been purchased

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

Award to be paid forthwith.

Award to be registered.

Must state by whom the costs shall be paid.

Proviso: If the Company have offered a sum.

Lands taken to be free of incumbrances.

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.

Cases of lands belonging to Indians provided for.

IX. 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 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.

Meetings and proceedings of the Arbitrators.

X. 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 matter so brought before them, the said Arbitrators or a majority of them shall, within thirty days of their appointment, make their award or arbitrament thereupon in writing, which award or arbitrament shall be final as to the amount so in dispute as aforesaid.

If the Directors think it desirable to widen, &c., their works, they may raise a certain amount by loan or the issue of new Stock.

XI. And be it enacted, That if at any time after the formation of any such Joint Stock Company, the Directors shall be of opinion that it would be desirable to widen, extend or alter the projected line of road, to construct any side-roads to intersect the original main road, to improve or repair any road by substituting stone, gravel, plank or other suitable material, or that the original capital subscribed will not be sufficient to complete the work contemplated by such Company to be executed, or to be extended or altered, it shall and may be lawful for the said Directors, under a Resolution to be passed by them for that purpose, either to issue debentures, for sums not less in amount than Twenty-five Pounds each, signed by the President and countersigned by the Treasurer of the said Company, not exceeding in amount in the whole one half of their paid up Capital Stock, or to borrow upon 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 of such number of additional shares as shall be named in their Resolution, a copy whereof, under the hand of the President and seal of the Company, shall be engrossed

at

at the head of the Subscription List to be opened for subscribers ; and that when such a number of new shares shall have been subscribed as the Directors shall deem it desirable to have registered, the President shall deliver such new list of subscribers to the Register having the custody of the original Instrument, who shall attach such new list of subscribers thereto, which shall thenceforth be held and taken to be part and parcel of the said Instrument ; and all the subscribers thereto, and those who may thereafter enter their names as subscribers thereon, with the consent of such Directors, to be signified by a Resolution of the Board under the hand of the President and seal of the Company, shall be subject to all the liabilities and entitled to all the rights, benefits, privileges and advantages to which the original subscribers shall thenceforth be entitled, and as well to the first line of road as to any widening, extension or alteration thereof as aforesaid, and which the said Companies are hereby authorized to widen, make and construct, and which shall thenceforth be considered as part and parcel of the original line ; and such additional shares or stock shall and may be called in, demanded and recovered, in the same manner and under the same penalties as is or are or may be provided or authorized in respect of the original shares or stock of any such Company.

List of holders of new Stock to be registered: its effect; and obligations and right of such holders of new Stock.

XII. 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.

Shares to be £5 each, how transferable, &c.

XIII. 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, or which shall have been formed under any of the provisions of the Acts mentioned in the preamble thereof, shall for the first year be managed and conducted by five Directors, to be named in the Instrument so to be registered as aforesaid, and thereafter to be annually elected by the Stockholders, on the second Monday of December in each and every year, according to the provisions of a By-law to be passed by the Directors for that purpose ; which By-law shall regulate the manner of voting, the place and hour of meeting for the election, and any other matters, except the day of election, which the Directors may see to be necessary to carry out the provisions of this Section of this Act ; which By-law shall be published 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 Company, for three successive weeks ; and the said Directors shall have full power to alter, change or amend the said By-law, whenever they shall see proper, they being always bound to publish such amended By-law in the manner above provided, and any majority of such Directors shall be a *quorum*

Affairs of the Company to be managed by five Directors.

Provisions of By-law touching their election.

Notice of By-law to be published.

Power to amend.

for

Proviso as to failure to elect Directors at any time.

for the transaction of business ; Provided however, that if the Annual Election of Directors for any such Company shall for any cause not take place at the time appointed, such Company shall not thereby be dissolved, but the Directors thereof for the time being shall in that case continue to serve until another Election of Directors shall be held, and such other Election shall in such case be held at such time within one month thereafter, as shall be provided for by any By-law to be passed by the Directors of such Company for that purpose ; And provided further, that at any Election of Directors, each Stockholder shall be entitled to one vote for every share he may hold or be possessed of in any such Company, and upon which such Stockholder shall not be in arrear for or upon any call in respect thereof, and that any person being a Stockholder, having paid all calls made, shall be eligible as a Director.

Proviso : one vote for each share.

Any Stockholder not in arrear may be a Director.

President to be appointed, officers and servants.

XIV. And be it enacted, That it shall and may be lawful for the Directors of any such Company to elect one of their number to be 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.

Vacancies occurring among Directors how to be filled up.

XV. And be it enacted, That if any vacancy or vacancies shall at any time happen amongst the Directors of any of the said Companies during the current year of their appointment, by death or resignation, or by any other cause, such vacancy or vacancies shall be filled up for the remainder of the year in which they may so happen, by a person or persons to be nominated by a majority of the remaining Directors, unless otherwise provided by some By-law or Regulation of the Company in which such vacancy may occur.

Directors to make calls on Shares.

XVI. 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 time and in such payments or instalments (not exceeding ten per cent. at any one time,) as the said Directors shall deem proper, upon notice requiring such payment published for four successive weeks in the newspaper, or one of the newspapers nearest the place where the Directors of the said Company usually meet for conducting the business of the said Company ; Provided always, that any person, a Shareholder, neglecting or refusing to pay a rateable share of the calls as aforesaid for the space of three calendar months after the time appointed for payment thereof, shall forfeit his share or shares in the undertaking, and all the profit and benefit thereof, all which forfeitures shall go to the Company for the benefit thereof ;

Proviso : Shares forfeited if calls be not paid within a certain time.

Provided

Provided also, that no advantage shall be taken of the forfeiture unless the stock shall be declared to be forfeited at a General Meeting of the Company, assembled at any time after such forfeiture shall be incurred; and that any such forfeiture shall be an indemnification to and for any Shareholder so forfeiting, against all actions, suits or prosecutions whatever to be commenced or prosecuted for any breach of contract or other agreement between such Shareholder and the other Shareholders with regard to carrying on such undertaking; Provided also, that the Directors of such Company may sell, either by public auction or private sale, and in such manner and on such terms as to them shall seem meet, any shares so declared to be forfeited in the Capital Stock of the Company, or pledge such forfeited shares for the payment of loans or advances made or to be made thereon, or of any sums of money borrowed or advanced by or to the Company, and that a Certificate of the Treasurer of the Company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact therein stated and of their purchase by the purchaser, and, with the receipt of the Treasurer for the price of such shares, shall constitute a good title to the shares, and the Certificate shall be by the said Treasurer enregistered in the name and with the place of abode and occupation of the purchaser, and shall be entered in the books kept or required to be kept by the By-laws of the Company, and such purchaser shall thereupon be deemed the holder of such shares, and shall not be bound to see to the application of the purchase money, nor shall his title to such shares be affected by any irregularity in the proceedings in reference to such sale, and that any Shareholder may purchase any shares so sold.

Proviso:
How forfeiture
must be de-
clared.

Proviso.
Sale of for-
feited shares.

Transfer to
purchaser.

XVII. And be it enacted, That any such Company so to be incorporated as aforesaid, or that may have been incorporated previous to the passing of this Act, may in any Court having jurisdiction in matters of simple contract, to the amount demanded, sue for, recover or 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 of such call shall have been given for two weeks in the newspaper, or one of the newspapers published nearest the place where the Directors of the said Company usually meet for conducting the business of the said Company; and 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.

Company
may sue for
calls instead of
forfeiting
stock.

Allegations
in such suit.

Proof in such
suit.

XVIII. 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.

Two or more
companies
may in cer-
tain cases
unite as one
Company,
and how.

XIX. And be it enacted, That it shall and may be lawful for any two or more Companies, formed for the construction or purchase of Roads which may intersect or be contiguous to each other, with the consent of the Stockholders representing or holding at least two thirds of the Capital Stock of such Companies respectively, such consent to be expressed by a resolution to that effect, to be adopted at a General Meeting of the Stockholders of each Company respectively, to be called for that purpose, to unite and form one Consolidated Company, by such name and on such terms as to them may seem meet; and upon the adoption of such resolutions respectively, it shall and may be lawful for the Presidents of such respective Companies to execute under the seal of such Companies respectively, an Instrument in the form of the Schedule to this Act annexed, marked B., and to deliver or cause the same to be delivered to the Register of any one County in which such Roads shall be wholly or partly situated or intended to be made, who shall register the same, in the same manner provided and prescribed by the fourth Section of this Act in respect of the original Instrument of Association of such Companies respectively, or either of them, and that from thenceforth such Companies shall be and form one Consolidated Incorporated Company, by such name, so to be designated in the said Instrument as aforesaid, with all the powers and subject to all the liabilities of other Companies formed under the provisions of this Act, in the same manner as if such Companies had originally been formed and constituted as one Company only under this Act; and all the roads, estate, property and effects with the rights and privileges of such respective Companies shall thenceforth be vested in and be used and enforced by the said united Company, and the said united Company shall be subject to and responsible for all the debts, contracts and liabilities of the said respective Companies, in the same manner and to the same extent as if the said united Company had originally formed or been composed of one Company, and were not constituted by the union of two or more Companies as herein provided.

Registry of
Instrument.

Its effect.

Rights and
liabilities of
Company
formed by
such union.

XX. And be it enacted, That every such road or other work as aforesaid, and all materials which shall from time to time be provided for constructing, building, maintaining, widening, extending or repairing the same, and all toll-houses, gates, and other buildings, constructed and acquired by or at the expense of any 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 or other works and materials for the same vested in companies and their successors.

XXI. And be it enacted, That any Municipal Corporation or Company which has already acquired or made, or may hereafter acquire or make, any such Macadamized, Plank or other Road in Upper Canada, shall have the same power and authority, to search for and take materials for making and keeping any and all of such roads in repair, as is given by this Act to Road Companies for the construction of roads, and the price or damage to be paid to any person or party for such materials, or for any thing done in pursuance of the powers given hereby, shall, if not agreed upon by parties concerned, be settled by arbitration in the manner provided by this Act, for lands or materials taken or required for the original construction of any such road or other work.

Companies may search for and take materials for making or repairing Roads.

XXII. And be it enacted, That any Company now or hereafter to be formed under the provisions of the Acts recited in the preamble hereof, and of this Act, for the construction of any turnpike road, may in their discretion form the same in part or the whole, either of metal, gravel, timber, charcoal or any other suitable material, for constructing a firm, substantial and smooth surface, whether the material be mentioned in the registered Instrument of Incorporation or not.

Of what materials Roads may be made.

XXIII. 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 authority of this Act, or by any Company heretofore chartered by any Act of the Legislature for the like purpose, and from time to time to direct the Mayor, Reeve, 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, Reeve, 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 voting according to his discretion in cases not provided for by such Municipality ; and

Municipalities may acquire stock in such Companies.

Who shall vote on such stock.

Municipalities may raise money to pay for such stock.

and it shall be lawful for such Municipality 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 loan money to companies ;

XXIV. And be it enacted, That it shall always be lawful for the Municipality of any locality, through or along the boundary of which any such road shall pass, or within 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 on 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, and it shall and may be lawful for such Municipality to issue debentures for the payment of any loan they may think proper to negotiate with any such Company, in the same manner and subject to the same conditions as required by law with regard to the issuing of other debentures.

And issue Debentures.

Companies may sell their works and rights to Municipalities.

XXV. And be it enacted, That it shall be lawful for any Company to be constructed under the authority of this Act, or already constructed under the authority of any Act of the Legislature of this Province, whenever they shall see fit, to sell to 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, and for such Municipal authority to purchase the stock of such Company or any part of the road belonging to such Company, at the value that may be agreed on between the said Company and the said Municipality, and to hold the same for the use and benefit of the said locality ; and such Municipal authority shall, after such purchase, 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 in respect to such road or part of road.

Municipalities may sell Roads, &c., to Companies. Application of price.

XXVI. And be it enacted, That it shall and may be lawful for any Municipality to sell any work or Macadamized, Plank or other Toll-road which they may have constructed or purchased, or any stock held in any road or other Company, applying the proceeds of such sale to the payment of existing debts contracted for the construction of the same, or for such stock, or if no debt exists for such work, road or stock, then to the general purposes of the Municipality, or otherwise, as they may determine.

XXVII. And be it enacted, That every Company incorporated or to be incorporated as aforesaid, shall be bound and is hereby required to complete each and every road or extension thereof, 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 have in the meantime acquired, and all their corporate powers shall thenceforth cease and determine, unless further time be granted by a By-law of the County or United Counties in which such road or the greatest portion thereof shall be situate; and if such road or extension thereof shall exceed five miles in length, then such Company shall be bound to complete in each and every year after the expiration of the first two years as aforesaid, not less than five miles of such road until the same be entirely finished under pain of forfeiture of their charter and of the corporate powers and authority thereby acquired, so far as concerns the portion of such road which shall remain unfinished, and not otherwise, unless further time be granted as aforesaid.

Roads, &c., to be completed within a certain period after incorporation of Companies.

Penalty for default.

Periods for completion in different cases.

XXVIII. 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 repassing with horses, carts, carriages and other vehicles, and for cattle, swine, sheep or other animals, driven upon, over and along any such road, or from all persons passing over any bridge with any such carriages or animals as aforesaid, or using any work constructed, made or owned 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 or extension thereof shall have been completed, tolls may be taken therefor, but on no other work shall tolls be taken until the same be completed.

Tolls how to be fixed, paid and levied.

Proviso: When Tolls may be collected.

XXIX. And be it enacted, That tolls may be taken by any such Company at each time of passing each gate upon any road constructed or owned by such Company, for any portion of such road on either side or on both sides of the said gate (not being more than five miles) to the next gate or gates on the same road, if any, and not exceeding five miles in the whole, or for the whole of such road, if the length thereof do not exceed five miles, and there be only one gate thereon, at the following rates, that is to say; for every vehicle, whether loaded or otherwise, and for the horse or other beast, or one of the horses or other beasts drawing the same, one penny per mile; and for every additional horse or other beast drawing any such vehicle, one half penny per mile; for every horse and rider, one half penny per mile; for every one horse, one half penny per mile; for each head of neat cattle, one half penny; for every

Limitation of Tolls.

every score or number less than a score, of sheep or swine, one half penny per mile ; Provided always, that any Company shall have full power and liberty to charge over and above these rates the sum of one half penny for every one hundred pounds, over and above four thousand, each loaded vehicle may weigh ; and also, that every vehicle loaded with masts, spars, hewn or round timber or otherwise, exceeding in weight two tons, shall, when loaded, at each time of passing each gate, pay for each ton over and above two tons, the sum of two shillings and six pence currency, and all vehicles with wheels, used for the above purpose, shall have not less than five inch tires, under penalty of paying double the amount of toll above provided ; Provided also, 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 this Province, shall intersect a road constructed or owned 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 ; Provided it shall be incumbent on such persons to produce a ticket from the last Toll-gate on the intersecting road as evidence of their having travelled only from such intersection.

Width of tires of wheels.

Proviso :
When any such Road intersects another.

Proviso.

Tolls at bridges may, with consent of Municipal Council, exceed the said rates.

XXX. And be it enacted, That it shall be lawful for any Company incorporated under this Act or any of the Acts hereby repealed, with the sanction of the Municipal Council of the County or of the Counties having jurisdiction in the locality, to charge a higher rate of toll than is hereby authorized, at any toll-gate to be erected at any bridge upon or connected with any road constructed or to be constructed by it ; and such Municipal Council, in sanctioning such additional toll, may take into account the cost of such bridge, and may calculate the toll as if for so many additional miles of road as might have been constructed by the like expenditure ; and such tolls shall be collected in the same manner, and persons evading the same shall be liable to the same penalties as is herein provided with respect to other tolls.

Companies authorized to erect toll and check-gates, &c., and to fix the rates of Tolls to be collected thereat.

XXXI. And be it enacted, That every such Company shall have full power and authority to erect such number of toll-gates, check-gates, and side-bars in, along or across the said roads, and upon any other such work respectively, and fix, regulate and collect such tolls not exceeding the rates herein-after provided, to be collected at each gate, check-gate, or side-bar, as they may deem fit and expedient, (which tolls, toll-gates, check-gates and side-bars may be altered from time to time as circumstances may require), and to erect and maintain such toll-houses, toll-gates, check-gates, side-bars and other buildings and erections as may seem necessary and convenient for

for the due management of the business of every such Company respectively: Provided always, that no tolls shall be taken for merely crossing any road, or for travelling thereon in crossing from one transverse road to another, when the distance between such transverse roads shall not exceed one hundred yards.

Proviso: as to vehicles merely crossing a Road.

XXXII. And be it enacted, That where any such Company shall deem it necessary or convenient to erect a check-gate on any part of such road, it shall not be competent for them to demand toll at both the check-gate and the gate to which it acts as a check; but tickets shall be issued at the check-gate, on payment of the toll demanded, clearing the principal gate and *vice versa*; neither shall the distance regulating the rates of toll be calculated between any of the check-gates and the principal gates on such roads, but only between the principal gates themselves.

Tickets to be given at check-gates to pass principal gate, and *vice versa*.

XXXIII. And be it enacted, That the Directors of any Road Company shall and may, from time to time, if they shall see fit, commute with any person whose place of abode shall adjoin or be within half a mile of the gate nearest to his place of abode on such road.

Directors may commute for tolls.

XXXIV. And be it enacted, That after any road or portion of a road, bridge or other such work as aforesaid, constructed or acquired by any Company or Municipality under the authority of this Act, or of any previous Act of the Parliament of this Province, shall have been completed, and tolls established thereon, it shall be the duty of the Company or Municipality to keep the same in good and efficient repair; and whenever any such Company or Municipality shall suffer any portion of their road, on which tolls shall have been taken as aforesaid, to go to decay or get out of repair, it shall and may be lawful for the Judge of the County Court in the County in which such road is situated, upon the requisition of twelve freeholders residing within such County, stating that such road is so much out of repair as to impede or endanger Her Majesty's subjects and others travelling thereon, to direct the engineer for the County, and if there be no such County officer, then any competent engineer, to examine the said road; and it shall be the duty of such engineer, so appointed, upon receiving such directions, immediately to inspect and examine the same, and if upon examination the road shall be found so much out of repair as to impede or endanger Her Majesty's subjects and others travelling thereon, as stated in the requisition, then he shall notify the President of the Company or Head of the Municipality to whom the road may belong, by leaving a written notice with any of the keepers of the toll-gates belonging to such Company or Municipality, stating, that in pursuance of directions from the Judge of the County Court, he has inspected their road and found it to be out of repair, and requiring

Proceedings to be taken when Roads become dangerous from want of repair.

Engineer to examine the Road.

His report.

Notice to Company if the Road be out of repair.

requiring them to take notice thereof, and cause the same to be repaired within a certain limited time to be named in such notice, and which time shall be such as in the opinion of the engineer will be ample and sufficient for making the required repairs.

Tolls not to be collected after a certain period, until repairs are made.

XXXV. And be it enacted, That if the Directors of the Company or Municipal Council, after the service of the notice in the manner set forth in the preceding Section, shall refuse or neglect to repair the road, in a good and efficient manner, within the period limited in the said notice, then, from and after the expiration of such period, until such repairs shall be completed, it shall not be lawful for the Directors of such Company or such Municipal Council, or any person authorized by them, to ask, demand or receive any toll from any person passing through the nearest toll-gates on either side of the portion or portions of road so reported to be out of repair, with or without any beast or vehicle on such road, any thing hereinbefore contained to the contrary notwithstanding.

Penalty for taking toll when the Road is out of repair.

XXXVI. And be it enacted, That if any person acting as a Keeper of a toll-gate, on a road belonging to any such Company or Municipality which shall have neglected or refused to make the necessary repairs within the period limited in the written notice before mentioned, shall, after the expiration of such period, and before the required repairs shall have been completed, ask, demand or receive any toll, from any person travelling with or without any beast or vehicle, along such road, at the nearest toll-gate on either side of the portion or portions of road so reported to be out of repair, or shall refuse to allow them to pass through such toll-gates without payment thereof, such person shall, upon conviction before any Justice of the Peace for the County in which such toll-gate or toll-gates shall be situated, upon the oath of one credible witness, forfeit and pay a sum of not less than Five Shillings, nor more than One Pound, for every such offence; to be collected or enforced in the manner prescribed for the collection or enforcement of other penalties under this Act.

How collected.

Penalty for taking more than the proper Toll.

XXXVII. And be it enacted, That if any person or persons, who shall be either the renter or collector of such tolls at any gate on any such road, shall take a greater toll from any person or persons than is authorized by law, he or they shall for every such offence forfeit and pay the sum of Five Pounds, to be recovered in the same manner as other penalties imposed by this Act.

Gate keepers not bound to give change for more than 5s.

Exemptions from toll.

XXXVIII. And be it enacted, That no Gate Keeper shall be bound to give change for a larger amount than Five Shillings.

XXXIX. And be it enacted, That all Her Majesty's officers and soldiers being in proper staff, or regimental, or military uniform,

uniform, dress or undress, and their horses, (but not when passing in any hired or private vehicle,) and all recruits marching by route, and all prisoners under military escort, and all enrolled pensioners in uniform, when called out for training or in aid of the civil power, and all carriages and horses belonging to Her Majesty or employed in Her service, when conveying such persons or their baggage, or returning therefrom, shall be exempted from payment of any duties and tolls, on embarking or disembarking from or upon any pier, wharf, quay or landing place, or passing turnpike roads or bridges, otherwise demandable by virtue of this Act, and also persons, horses or carriages going to or returning from any funeral, or any person with horse or carriage going to or returning from his or her usual place of religious Worship on the Lord's Day, and any farmer residing on the line of any such road passing any Toll-Gate opposite to and immediately adjoining his farm, when going to or returning from his work on such farm, shall pass the Gates on any road made or improved under the authority of this Act or of any of the before recited Acts, free of toll.

XL. And be it enacted, That it shall be lawful to charge tolls on vehicles carrying the Mails upon any road or bridge constructed under the provisions of this Act, or of any of the before recited Acts, or under any special or private Act of Incorporation, but that as regards all roads and bridges constructed by the Provincial Government or Board of Works, and transferred to any Company on condition that the Mail should pass free over the same, an exemption from toll shall continue in favor of the Mails: Provided always, that in the case of any such last mentioned road or bridge, there shall be no such exemption in favor of any Mail Stage or other Vehicle drawn by two horses and carrying the Mail and containing or having more than four passengers travelling thereby, or in favor of any Mail Stage or other Vehicle drawn by four horses and carrying the Mail and containing or having more than eight passengers travelling thereby; but that every such Mail Stage or Vehicle drawn by two horses and containing more than four passengers, and every such Mail Stage or Vehicle drawn by four horses and containing or having more than eight passengers travelling thereby, shall for every extra passenger beyond four or eight respectively, as above mentioned, be liable at each gate to a toll of One Penny; Provided also, that nothing herein contained shall be held to affect the rate of toll which any party may be entitled to collect under and during the continuance of any lease or contract executed before the passing of this Act.

Tolls may be charged on Mail carriages, &c.

Exception: as to certain Roads.

Proviso: exception limited, on the Roads last mentioned.

Proviso: as to Roads now under lease.

XLI. And be it enacted, That if any person not exempted by law from paying toll, shall wilfully pass or attempt to pass any toll-gate, check-gate or side-bar lawfully established, without first paying the legal toll, he shall forfeit a sum not exceeding Five Pounds and costs, to be recovered in the same manner as other fines and forfeitures may be levied under the provisions

Penalty for passing or attempting to pass Gates, &c, without payment of Toll.

Distress.

provisions of this Act, and in case no sufficient distress can be found to satisfy any Warrant that may be issued against the goods and chattels of the offender, such offender shall then be committed to the Common Gaol of the County or United Counties for any period not exceeding one month: Provided always, that a Warrant of Commitment may issue, and the party convicted may be imprisoned thereon in the first instance upon any conviction under this Section of this Act, without issuing any Warrant of Distress against goods and chattels, where the offender after conviction shall neglect or refuse to pay the amount of the fine and costs, and it shall be made to appear to the satisfaction of the acting Justice or Justices, by affidavit, that the offender has no goods or chattels within the jurisdiction of such Justice or Justices.

Proviso: imprisonment in first instance in certain cases.

Mode of enforcing payment of Tolls in case of refusal to pay: by seizure and sale of horses, &c., in respect of which they are due.

XLII. And be it enacted, That if any person or persons subject or liable to the payment of any of the toll or tolls under and by virtue of this or any other Act of Parliament for making, repairing or maintaining any toll-road, shall, after demand thereof made, neglect or refuse to pay the same or any part or parts thereof, it shall be lawful for the person or persons authorized or appointed to collect such tolls, by himself or themselves, or taking such assistance as he or they shall think necessary, to seize or distrain any horse, beast, cattle, carriage or other thing upon or in respect of which any such toll is imposed, together with their respective bridles, saddles, gears, harness or accoutrements (except the bridle or reins of any horse or other beast separate from the horse or beast) or any carriage in respect of the horses or cattle drawing the carriage on which such toll is imposed, or any of the goods and chattels of the person or persons so required to pay, and if the toll or any part thereof so neglected or refused to be paid, and the reasonable charges of such seizure and distress shall not be paid within the space or four days next after such seizure and distress made, the person or persons so seizing and distraining, after giving four days' public notice thereof, may sell the horse, beast, cattle, carriage and things so seized and distrained, or a sufficient part thereof, returning the overplus of the money to arise by such sale (if any) and what shall remain un-sold, upon demand, to the owner thereof after such tolls and the reasonable charges occasioned by such seizure, distress and sale, shall be deducted.

Penalty on persons using a Road, and turning off the same in order to avoid payment of Toll.

XLIII. And be it enacted, That if any person or persons shall, after proceeding on such road with any waggon, carriage or other vehicle or animal liable to pay toll, turn out of such road into any other road or field or piece of land, for the purpose of avoiding the payment of toll, and shall enter upon the said road beyond any of the said gates or check-gates by crossing the road or otherwise without paying toll, whereby such payment of toll shall be evaded, such person or persons, or the owner or owners of such vehicle, animal or animals, shall for every

every such offence forfeit and pay the sum of Ten Shillings and costs: and any one Justice of the Peace for the County in which such part of the road is situated, shall, on conviction of such offender, fine such offender in the said penalty and costs, and shall cause the same to be levied as aforesaid.

XLIV. And be it enacted, That if any person or persons shall permit or suffer any person or persons to pass through any lands occupied by him or them, or through any gate, passage or way thereon, with any carriage, sleigh, horse, mare, gelding or any other animal liable to the payment of toll, who shall, before or after passing through such lands, travel more than one hundred yards upon such road, whereby such payment shall be avoided, every person or persons so offending, and also the person riding or driving, or the owner of 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 and not less than Five Shillings, to be levied as aforesaid, with costs.

Penalty on persons allowing others to pass through their lands to avoid payment of Toll.

XLV. And be it enacted, That if any person shall leave upon any such road any horse, cattle, beast or carriage whatsoever, by reason whereof the payment of any tolls or duties shall be avoided or lessened; or shall take or cause to be taken off any horse or other beast or cattle from any vehicle, either before or after having passed through any toll-gate, or, after having passed through any toll-gate, shall afterwards add or put any horse or other beast to any such carriage and draw therewith upon any part of any such road, so as to increase the number of horses or other beasts drawing the said vehicle after the same shall have passed through any toll-gate, whereby the payment of all or any of the tolls shall or may be evaded, every such person shall, for every such offence, forfeit and pay a sum not exceeding Twenty Shillings, to be levied as aforesaid, with costs.

Penalty on persons leaving horses, &c., on the road, so as to avoid payment of Toll.

XLVI. And be it enacted, That any person falsely representing him or herself to any toll-gatherer or gate-keeper, as being entitled to any exemption mentioned in this or any other Act, or evading the payment of toll by any false representation or other fraudulent act, shall forfeit to the Company or Municipality owning such road, the sum of One Pound and costs, to be recovered summarily before any Justice of the Peace in the manner provided by this Act for the recovery of other penalties.

Penalty on persons falsely claiming exemption from Toll.

XLVII. And be it enacted, That if any person shall wilfully and maliciously burn, break down, injure, cut, remove or destroy in whole, or in part, any toll-house, turnpike-gate, wall, lock, chain, or other fastening, rail, post, bar or other fence, belonging to any toll-gate or toll-house, set up, erected or used for the purpose of preventing the passing by such gate of persons,

Penalty on persons injuring Roads or other works of any Company.

persons, carriages or other property liable to the payment of toll, at such gate, or any house, building, engine or weighing machine erected or used for the better ascertainment or security of any such toll, every such offender shall be guilty of a misdemeanor, and on conviction thereof, shall be punished either by imprisonment in the Provincial Penitentiary, for a term not exceeding three years, or by fine and imprisonment in the Common Gaol for any term not exceeding two years, at the discretion of the Court before whom the offender shall be convicted.

Penalty on persons obstructing a Road by leaving materials, &c., thereon ;

Or hauling timber, &c., so as to injure the Road : or leaving any carriages, &c. on the Road ;

Or injuring lamp posts, &c ;

Or filling up or impeding ditches, &c ;

XLVIII. And be it enacted, That 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 and 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 other 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 bridges, culverts, posts, rails or fences, or shall haul or draw, or cause to be hauled and drawn upon any part of any road constructed as aforesaid, any timber, stone or other thing which shall be carried principally or in part, upon wheeled carriages or upon sleighs, so as to drag or trail upon such road to the prejudice thereof ; or if any person shall leave any waggon, cart or other carriage whatsoever upon such road without some proper person in the 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 the said road to the prejudice, interruption and danger of any person travelling thereon,) or if any person shall after having blocked or stopped any cart, waggon or other carriage in going up a hill or rising ground, cause or suffer to 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 any toll-house 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 or fixed at any gate, check-gate or bar, on any part of such road, or any sign-board erected by any Company upon any road or bridge constructed by them, or shall wilfully or designedly deface or obliterate any of the letters, figures or marks thereon, or on any finger post or mile post or stone ; or if any person shall throw any earth, rubbish or any 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

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 if any person or persons shall allow any swine to run at large to the injury of the said road, every 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 on hearing of the said complaint; and also to pay a fine of not more than Fifty Shillings nor less than Five Shillings, together with all costs; such damages, fines and costs to be paid within a time to be limited by the said Justice, and in default thereof the same shall be levied as hereinafter provided.

Or allowing swine to run at large, &c. Damages and penalty to be recoverable from such person.

XLIX. Provided always, and be it enacted, That it shall not be lawful for any Company or Municipality, or for any Contractor, Sub-Contractor, or person employed by such Company or Municipality, Contractor or Sub-Contractor, to leave or place upon the graded part of any road constructed or acquired by such Company or Municipality under the authority of this Act or any previous Act, whether such part of the Road be or be not macadamized, gravelled or planked, any stone, gravel, plank, timber, or other materials whatsoever, so as to prevent the public from using or to impede the free use of the whole of such graded portion of the road; and for any offence against this Section, such Company, Municipality, Contractor, Sub-Contractor, or other person as aforesaid, shall be responsible for all damages arising from such offence; and such Contractor, Sub-Contractor, or other person as aforesaid, shall also incur a penalty of not less than Five Shillings, nor more than Five Pounds, to be recovered summarily before any Justice of the Peace in the manner provided by this Act for the recovery of other penalties; and in the case of roads owned by Companies, that the penalty shall be paid to the Municipality within which such road is situate; and in the case of roads owned by Municipalities, one half of such fine shall be paid to the complainant, and the residue to the Receiver-General of this Province, for the public uses thereof.

Company and their servants not to impede the free use of the whole graded portion of the road.

Penalties.

Application of penalties.

L. And be it enacted, That the fines and forfeitures authorized to be summarily imposed by this Act, shall and may be recovered upon information and complaint before any Justice of the Peace of the County within which the same shall have been incurred, and 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 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, such offender or offenders shall and may be committed to the Common Gaol of the County for any period not exceeding one month; Provided that neither this Section nor any thing therein shall be held or construed

Recovery of fines and forfeitures under this Act.

Proviso.

to interfere with the provisions made in the forty-first Section of this Act, (upon conviction for any offence therein mentioned,) for issuing a Warrant of Commitment in the first instance.

Party not appearing on Summons may be arrested, or the case may be heard *ex parte*.

LI. And be it enacted, That in any proceeding or prosecution, before any Justice of the Peace under this Act, the Justice may summon the party complained against to appear at a time and place to be named in the Summons, and if he shall not appear accordingly, then upon proof of the due service of the Summons upon such party either personally or by leaving a copy thereof at his usual place of abode, the Justice may proceed either to hear and determine the case *ex parte* or issue his Warrant for apprehending and bringing such party before himself or some other Justice of the Peace, or the Justice may, if he think fit, without previous Summons, issue such Warrant, and the Justice before whom such party shall appear or be brought, shall proceed to hear and determine the case.

Application of fines, &c, when not otherwise provided.

LII. And be it enacted, That all fines and forfeitures collected under the authority of this Act, except where it is otherwise provided by this Act, shall be paid to the Treasurer of the Company or Companies or Municipalities owning the respective roads, or other work in respect of which such fines and forfeitures shall be imposed, for the use of such Companies or Municipalities respectively.

Suits to be brought within six calendar months.

LIII. 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.

Officers and stockholders may be witnesses.

LIV. 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.

Companies formed *bonâ fide* under former Acts confirmed, notwithstanding any informality in their formation, &c.

LV. And be it enacted, That notwithstanding any irregularity which may have occurred in the formation, registration or management of any Joint Stock Company for the construction or purchase of any road or other work under the provisions of the Acts hereby repealed, and notwithstanding all the requirements of the said Acts or either of them may not have been strictly complied with, all such Companies which shall *bonâ fide* have proceeded in the construction or purchase of any road or other work, shall be held to be duly organized, formed, registered, constituted and managed under the said Acts, any thing in either of the said Acts to the contrary notwithstanding ;
Provided

Provided that nothing in this clause contained shall be construed to confirm the establishment or management of any such Company, when any irregularity has occurred in the formation, registration or management of the same, unless such Company shall have *bonâ fide* proceeded with the construction of or shall have purchased such road or work before the passing of this Act; And provided also, that nothing in this Act contained shall affect the rights of any party in any proceeding, action or suit in any Court of Law or Equity in this Province which may be pending at the time of the passing of this Act.

Proviso: Company must have proceeded with their work.

Proviso: as to pending cases.

LVI. And be it enacted, That it shall be the duty of the Directors of every Company incorporated or to be incorporated under this Act, or by any previous Act of the Legislature, to report annually, at some time during the month of January in each year, to the Municipal Council of the County having jurisdiction within the locality through or along the boundary of which such road shall pass, or wherein such other work may be constructed, 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 from tolls and 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 of such Company, which shall be at all times open to the inspection 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 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.

Directors to report annually to the proper Municipality.

Company to keep regular books open to inspection by the Municipality, and afford the officers of the Municipality all information required.

LVII. 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

After 21 years from the completion of the work, the proper Municipality may purchase the Stock of the Company at its current value.

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.

Legislature may amend this Act.

LVIII. 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 any such additions to this Act, or such alterations in 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 the same.

Provisions of certain sects. of this Act to extend to all Turnpike Roads in U. C. whether constructed under—

LIX. And be it enacted, That the provisions contained in the third, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, fourteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first, forty-second, forty-third, forty-fourth, forty-fifth, forty-sixth, forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first, fifty-second, fifty-third, fifty-fourth, fifty-fifth, fifty-sixth and fifty-seventh Sections of this Act shall extend to and regulate all Turnpike Road Companies in Upper Canada in the collection of Tolls or otherwise, whether constructed under the authority of any of the Acts mentioned in the preamble hereof or under authority of an Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to extend the Acts for the formation of Companies for constructing Roads and other Works to Companies formed for the purpose of acquiring Public Works of like nature*, or under the authority of an Act passed by the Parliament of this Province, in the Session thereof, held in the twelfth year of Her Majesty's Reign, chapter five, and intituled, *An Act for the better management of the Public Debt, Accounts, Revenue and Property*, or constructed by or belonging to the Municipality of any County, Town or Village in Upper Canada, authorized to construct or acquire road under any Act of the Parliament of this Province, in the same manner and as fully as if the said several and respective Sections had been inserted in and were part of any of the said several Acts, respectively, incorporating Road Companies in Upper Canada, or in any of the Acts heretofore passed, authorizing the Municipalities of Counties, Cities, Towns or Villages, to construct or acquire roads; Provided, however, that lower rates of toll upon any road hereafter transferred to any Company by the Acts specially cited in this Section, may be fixed or established in the order of the Governor in Council, transferring the same to any such Company: Provided also, and be it further enacted, That the provisions contained in

13 & 14 V. c. 72, or—

12 V. c. 5, or the Act cited in the preamble to this Act, or by any Municipality.

Proviso.

Proviso: certain sects. to

the

the sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-eighth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, fortieth, forty-first, forty-second, forty-third, forty-fourth, forty-fifth, forty-sixth, forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first, fifty-second, fifty-third, fifty-seventh and fifty-eighth Sections of this Act, together with this proviso, shall also extend to Road Companies having private Acts of Incorporation, but that no other Sections of this Act shall apply to such Companies.

extend to Companies having private Acts of incorporation.

LX. And be it enacted, That it shall be the duty of every Company incorporated under this Act or any of the Acts hereby repealed, wherever it may be necessary, to sow with grass seed all cleared land or ground belonging to such Company and adjoining their road or roads, and to cause the same, so far as may be, to be covered with grass or turf, if not already so covered, and to cause all thistles and other weeds growing on such land or ground, to be cut down and kept constantly cut down, or to be rooted out of the same; and if any such Company shall fail so to do, such Company shall thereby incur a penalty of Ten Shillings for each day on which they shall fail to comply with any of the requirements of this section, within eight days after having been required to comply with the same by a notice to be served on such Company on the part of the Reeve of the Municipality of the Township within which such land or ground shall lie, and it shall also be lawful for the said Reeve, after the expiration of the said Eight Days, and if the Company shall not then have complied with such notice, to cause all such things to be done as the said Company shall have been by the said notice lawfully required to do, and the said Municipality may recover to and for the use and purposes of such Municipality, the expense of so doing, together with the said penalty, and all costs and charges, from the said Company, by action of debt in any Court having jurisdiction in civil cases to the amount sought to be recovered.

Road Companies to lay down in grass all cleared lands belonging to them and adjoining their Roads: Penalty for default.

LXI. And be it enacted, That all Acts and portions of Acts repugnant to or inconsistent with the provisions of this Act, shall be and the same are hereby repealed.

Inconsistent Acts, &c. repealed.

LXII. And be it enacted, That this Act shall be a Public Act.

SCHEDULE A.

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*)

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 road from *(the commencement of the intended road)* to *(the termination thereof)* *(describing the line of intended road, or other such work as aforesaid)* 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 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.	Number of Shares.	Amount.

B.

Be it remembered that on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____ the Stockholders of the "Township of _____ Road Company," *(as the case may be)* and the Stockholders of the "Town or Municipality of _____ Road Company," *(as the case may be)* met at _____, in the County of _____, and then and there by a majority of the Stockholders holding or representing at least two thirds of the Capital Stock of each of the said Companies respectively, resolved to unite the said Companies into one Consolidated Incorporated Company, to be called the _____ Consolidated Road Company, according to the provisions of the nineteenth Section of a certain Act of Parliament

Parliament of this Province, intituled, *An Act, (here insert title of this Act,)* upon the terms following, that is to say:

(*here set out the terms upon which the Companies agree to unite.*) And we do hereby declare that the Capital Stock of the said united Company is (as the case may be) divided into _____ shares of Five Pounds each.

In testimony whereof we have hereunto set our Hands, and affixed the Seals of the said respective Companies, this day of _____ one thousand eight hundred and _____,

A. B. President, &c. [L. s.]
 C. D. President, &c. [L. s.]

C A P . C X C I .

An Act to authorize the formation of Joint Stock Companies to construct works necessary to facilitate the transmission of Timber down the Rivers and Streams in Upper Canada.

[Assented to 14th June, 1853.]

WHEREAS it is expedient to encourage the formation of Preamble.

Joint Stock Companies to improve the Navigation of Rivers and Streams in Upper Canada, so as to facilitate the transmission of Timber: 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, and 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 their discretion, form themselves into a Company or Companies under the Provisions of this Act, for the purpose of acquiring or constructing and maintaining any dam or dams, slide or slides, pier or piers, boom or booms, or other work or works necessary to facilitate the transmission of timber down any river or stream in Upper Canada, and for the purpose of blasting rocks, or dredging or removing shoals or other impediments, or otherwise of improving the navigation of such streams for the said purpose; Provided always, that no such Company shall construct any such works over or upon or otherwise interfere with or injure any private property or the property of the Crown, without first having obtained the consent of the owner or owners, occupier or occupiers thereof, or of the Crown, except as hereinafter provided; Provided also, that no such Company shall be formed under the provisions of this Act to improve any river or stream, for the improvement of which any other Company shall have been formed either under this

Any five or more persons may form a Company for the purposes of this Act.

Proviso: As to private property, &c.

Proviso: not to interfere with other Companies, Government works, &c.