

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 shares of  
*(as the case may be)* divided into 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.]

**W**HEREAS 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.

Act

Act or any other Act of the Legislature, or upon which there is now or may hereafter be constructed any Provincial work, without the consent of such other Company or of the Governor in Council respectively, which consent shall be formally expressed in writing, and shall be registered together with the Instrument by which any such Company is incorporated as hereinafter provided.

Requisite amount to be subscribed: Instrument to be executed.

Six per cent. of capital to be paid up and received by Treasurer.

Registration of Instrument and Receipt how made.

Proviso as to recovery of the said six per cent. paid for any Stockholder, by another party.

Company to cause a Report containing certain particulars to be laid before the Chief Commissioner of Public Works.

II. And be it enacted, That whenever any five or more persons who shall have formed themselves into a Company under this Act shall have subscribed a sufficient quantity of stock to amount to a sum adequate in their judgment to the construction of the intended work, they shall execute an Instrument in duplicate according to the form in the Schedule to this Act contained; 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 one of such Originals and such Receipt with the Register of any one County in which the intended works shall be wholly or partly situated, or intended to be made, who shall copy the said Instrument and Receipt into a Book to be provided by each Register for that purpose, and afterwards retain and file the said Original Documents in his office, and for such registration the Register shall be entitled to charge the same fees as for the registration of the Memorial of a Deed: Provided always, that in all cases where each Individual Stockholder does not pay six per cent. on the share or shares held by him, but any other party shall pay the same on his behalf, the party so paying on his behalf shall be entitled to recover the amount as a debt, in any competent Court, and the Stockholders so sued shall not be entitled to object to the action or suit on the ground of not having authorized the Plaintiff in the action to pay the money on his behalf.

III. And be it enacted, That before any Company formed under this Act shall commence any of the works contemplated to be undertaken, such Company shall cause a Report to be laid before the Chief Commissioner of Public Works, and another copy of such Report before the Municipal Council of the County in which such proposed works are situate; or if the works are situate in more than one County, then before the Municipal Councils of the Counties, in or on the boundaries of which such proposed works are situated; or if such proposed works are in unsurveyed lands not contained within the bounds of any County, then before the Chief Commissioner of Public Works alone; which Report shall contain a copy of the Instrument by which such Company is incorporated, a detailed description of the works to be undertaken, and an estimate of their cost, an estimate

estimate from the best available sources, of the quantity of different kinds of timber which is expected to come down the river yearly after the works are completed, and a Schedule of the tolls proposed to be collected; And such Company shall not commence any such works until the approval of the said Chief Commissioner of Public Works shall have been signified in writing, which said approval shall be registered in addition to the other Documents required to be registered by the second Section of this Act, nor until a By-law approving of the construction of the works has been passed by the Municipal Council of the County, or by each of the Municipal Councils of the Counties in or on the boundary of which the projected works are situated.

Company not to commence works until such Report is approved, &c.

IV. And be it enacted, That when the requirements contained in the preceding Sections of this Act shall have been complied with, such Company shall henceforth become and be a Chartered and Incorporated Company, by such name as shall be designated in the Instrument so to be registered as aforesaid; and by such name they and their successors shall and may have perpetual succession, and shall be capable both at law and in equity of suing and being sued, of impleading and being impleaded, answering and being answered unto, defending and being defended, in all Courts of Law and Equity and places whatsoever, in all manner of actions, suits, complaints, matter 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 lands, tenements and hereditaments whatsoever, which may be useful and necessary for the purposes of such Corporation; and every such work as aforesaid, and all the materials which shall from time to time to be provided for constructing, building, maintaining or repairing the same, shall be vested in such Company and their successors.

General corporate powers of the Company.

Common Seal.

Holding lands.

Works vested in Company.

V. And be it enacted, That every Company incorporated under this Act shall have power to make By-laws, and from time to time to alter and amend the same, for the purpose of regulating the safe and orderly transmission of timber over or through the works of the said Company, and the navigation therewith connected; and copies of such By-laws shall be annexed to the reports required to be made by such Company by the third section of this Act, and copies of all new By-laws or of all amended By-laws shall be annexed to the annual reports required by the twenty-second section of this Act; and no such By-law or amended By-law shall have any force until one month after it shall have been included in such report, but, if at the end of one month such By-law shall not have been disallowed by the Chief Commissioner of Public Works, as the case may be, it shall have full force and be binding upon

Company to make By-laws for regulating the use of their works, and to report the same to Commissioner of Public Works.

Commissioner may disallow such By-law.

the said Company and upon all persons using the said works :  
 Provided always, that no such By-law shall impose any penalties or shall contain anything contrary to the true meaning and intention of this Act.

Proviso.

Affairs of the Company to be managed by five Directors.

Provisions of By-law touching Election of Directors.

Notice of By-law to be published.

Power to amend.

Quorum. Proviso as to failure to elect Directors at any time.

Proviso: one vote for each share.

Case of any Company wishing to extend their works provided for.

Issuing Debentures, &c.

VI. And be it enacted, That the affairs, stock, property and concerns of every Company which shall or may be formed under the provisions of this Act, shall for the first year be managed and conducted by five Directors, to be named in the 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 of Directors, and of Candidates for the direction, 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 such 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* 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 in any such Company, and upon which such Stockholder shall not be in arrear on any call in respect thereof ; and that any person being a Stockholder and not in arrear as aforesaid, shall be eligible as a Director.

VII. 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 alter, improve or extend the said work, 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

amount in whole one fourth of their paid-up Capital, or to borrow upon security of the said Company, by bond or mortgage of the works 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 the head of the Subscription List to be opened for Subscribers, to the additional number of shares thereby authorized to be subscribed; 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 Registrar 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 with respect to the first works undertaken as to any extension or alteration thereof as aforesaid, and which the said Companies are hereby authorized to make and construct, and which shall thenceforth be considered as part and parcel of the original undertaking; and such additional shares and 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.

Amount limited, &c.

New Stock.

Registry of new subscribers.

Rights and liabilities of new subscribers.

Calls on new Stock.

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

Shares to be five pounds each, and how transferable.

IX. And be it enacted, That any such Company so to be incorporated as aforesaid, may in any Court having jurisdiction in matters of simple contract to the amount demanded, sue for, recover 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 thereof 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 the oath of the said Treasurer shall be deemed sufficient proof of said notice, a copy whereof shall be filed in the office of the Clerk of the Court where such trial shall take place.

Companies may sue for amount of unpaid calls.

Notice.

Proof of notice.

Directors may make calls on Stock: not exceeding ten per cent.

Notice.

Proviso.

Forfeiture of Shares on which calls are not paid within a certain time.

X. 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 being a Shareholder, neglecting or refusing to pay a rateable share of the calls as aforesaid, for the space of two calendar months after the time appointed for the payment thereof, shall forfeit their respective shares in the Company, which forfeiture shall go to the Company for the benefit thereof; but 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 any such forfeiture shall be an indemnification to or 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.

What it shall be necessary to aver in actions brought by Companies to recover arrears.

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

What it shall be necessary to prove in such actions.

XII. 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.

XIII. 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 the President, and to nominate and appoint such and so many officers and servants as they shall deem necessary for performing the duties required of them by the said Company; and in their discretion, to take security from them or any of them for the due performance of his or their duty, and that he or they shall duly account for all moneys coming into his hands to the use of such Company.

Election of President and appointment of Officers.

XIV. And be it enacted, That if any vacancy or vacancies shall at any time happen amongst the Directors of any such Company 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 it be otherwise provided by some By-law or Regulation of the Company in which such vacancy may occur.

Vacancies occurring among Directors, how to be filled up.

XV. And be it enacted, That if the owner or owners, occupier or occupiers of any land, over, through or upon which any such Company as aforesaid may be desirous of constructing any such work, or which would be flooded or otherwise interfered with, 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 using such land, or for flooding or otherwise interfering with the same, and for appropriating the same to and for the uses of any such Company, or for the exercise of any such power as aforesaid, it shall and may be lawful for the said Company to name one Arbitrator, and for the owner or occupier of such land so required, or with regard to which such power is intended to be exercised as aforesaid, to name another Arbitrator, and for the said two Arbitrators, to name a third, to arbitrate upon, adjudge and determine the amount which the said Company shall pay, before taking possession of such land or exercising such power as aforesaid, and the decision of any two of the said Arbitrators shall be final, 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 intended works, 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 such other 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 such

Arbitrators to be appointed in case of owners of property on which the works may be situate, &c., disagreeing with the Company as to compensation.

Appointment of Arbitrators.

Mode of computing damages, &c.

Tender of payment: Its effect.

conveyance

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

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 of the said Arbitrators shall refuse or neglect, within the space of ten days after their appointment, to take upon him 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 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.

Award may be made by any two.

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

XVI. And be it enacted, That whenever any lands required by any such Company for the purpose of any 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, body politic, corporate or collegiate, whose residence may not be within this Province or may be unknown to the said Company, or where the title to any such lands may be in dispute, or where such lands may be mortgaged, or when the owner or owners of such lands 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 and appoint 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 business, or, in the event of their disagreeing as to the choice of such other person, to be appointed by any such Judge as aforesaid, before the others proceed to business, shall be Arbitrators to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective parties entitled to receive the same, for the said lands or 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 a record of such award or arbitration shall be made up and

Award to be paid forthwith.

signed



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 are situate, and such Company shall thereupon be fully authorized to enter upon and take possession of such land to and for the uses of the said Company, and to proceed with the construction of the works affecting the same, and the expenses of any Arbitration under this Act shall be paid by the said Company, and by them deducted from the amount of such award on payment thereof to the parties entitled to receive the same, if the Company shall, before the appointment of their Arbitrator, have tendered an equal or greater sum than that awarded by the Arbitrators, otherwise such expenses shall be borne by the Company: and the Arbitrators shall specify in their award, by which of the parties the said costs are to be paid: And provided also, that all lands which shall be taken by any such Company, for the purpose of any such work, and which shall have been purchased and paid for by any such Company, in the manner hereinbefore provided, shall become and thenceforward shall continue to be the property of such Company, free from all mortgages, incumbrances and other charges.

Award to be registered.

By whom the costs shall be paid.

Lands taken to be free of incumbrances.

XVII. And be it enacted, That if any such work shall be constructed upon or otherwise interfere with 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 shall 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 the Province is hereby authorized and required to name an Arbitrator on behalf of the said Indians; and the amount which shall be awarded in any case shall be paid, where the said lands belong to any tribe or body of Indians, to the said Chief Officer, for the use of such tribe or body.

Case of lands belonging to Indians provided for.

XVIII. 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.

Meeting and proceedings of the Arbitrators.

Provision if there be works commenced by any Company other than one formed under this Act.

Proviso : Mill sites not to be injured.

XIX. And be it enacted, That if there shall be already established by any party other than a Company formed under this Act, any slide, pier, boom, or other work, intended to facilitate the passage of timber down any water, for the improvement of which a Company shall be formed under this Act, it shall be lawful for such Company to take possession of such works, and the owners thereof (or if they have been constructed on the property of the Crown,) the persons at whose cost they were constructed shall be entitled to become Stockholders in the said Company for an amount equal to the value of such works, as ascertained by Arbitrators appointed in the manner hereinbefore provided : Provided always, that nothing herein contained shall be construed to authorize any Company formed under this Act to take possession of, or in any wise injure any mill site, upon which there shall be then existing any mills or machinery, or any hydraulic works other than those intended to facilitate the passage of timber ; and it shall not be lawful for any Company formed under this Act to commence any work, which shall interfere with or endanger any such occupied mill site, without the assent in writing of the proprietor thereof previously obtained, or an award of Arbitrators appointed as herein provided, to the effect that the proposed works will not injure such mill site, which assent or award is hereby required to be registered in the same manner as the Instrument of Incorporation of such Company.

Act 13 & 14 V. c. 75, extended to works under this Act.

XX. And be it enacted, That the provisions of the Act thirteenth and fourteenth Victoria chapter seventy-five intituled, *An Act for the protection of Mill Owners in Upper Canada*, respecting subsequent purchasers of land of the Crown overflowed by mill dams, shall be extended to similar land overflowed by any of the works to be constructed by any Company formed under this Act.

Company not to improve waters already navigable.

Case of the erection of any Dam by the Company provided for.

XXI. And be it enacted, That nothing herein contained shall extend to authorize any Company formed under this Act to obstruct any waters already navigable, or to collect any tolls other than those upon timber ; and if by reason of any dam erected by a Company formed under this Act, any fall or water power shall be created, such Company shall in no wise have any title or claim to the use of such water power ; nevertheless, if the owner or occupier of the land adjoining shall have made any claim for compensation for damages arising from such dam, the Arbitrators may lawfully take into account the increased value of his property by reason of the water power so created.

Directors to report annually to the proper Municipality : a full statement of their

XXII. And be it enacted, That it shall be the duty of the Directors of every Company incorporated under this Act, to report annually at some time during the month of January in each year, to the Chief Commissioner of Public Works, which Report shall be under the oath of the Treasurer of such Company, and shall specify the cost of the work,—the amount of all

money

money expended,—the amount of the 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, and distinguishing the tolls on different kinds of timber,—the amount of dividends paid and the amount expended for repairs, and the amount of debts due by such Company, specifying the objects for which such debts respectively were incurred ; and every such Company shall keep regular books of accounts, 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 and examination of any Stockholder or any person or persons who may for that purpose be appointed by the Chief Commissioner of Public Works, 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, so as to enable such Inspector or Inspectors to ascertain whether the tolls levied upon such work are greater than this Act allows to be levied.

receipts and expenditure, Tolls, &c.

Company to keep regular books open to inspection by the Municipality, &c.

Information to be afforded by the Company.

XXIII. And be it enacted, That the tolls for the first year shall be calculated upon the estimates hereinbefore required to be made of the cost of the work, and the quantity of different kinds of timber expected to pass down the stream, and the tolls in all future years shall be calculated upon the cost of the works and the receipts and expenditure, according to the accounts of the then next preceding year, as rendered in accordance with the provisions of the twenty-second section of this Act ; and the tolls shall be so calculated that, after defraying the necessary cost of maintaining and superintending the works and collecting the tolls, the balance of the receipts shall as nearly as may be equal and in no case exceed Ten Pounds for every hundred expended and invested in the said works ; and if in any year the receipts from tolls shall be such, that, after defraying all the current expenses, there shall remain a clear profit of more than Ten Pounds upon every hundred of the capital expended, there shall nevertheless be divided amongst the Shareholders no greater dividend than after the rate of Ten Pounds for every hundred, and the remainder shall be carried over to the receipts of the following year.

Amount of Tolls how to be calculated and limited.

Provision in case of a surplus in any one year.

XXIV. And be it enacted, That the tolls to be collected upon different kinds of timber shall bear to each other the following proportions, viz :

Proportion of Tolls on different kinds of Timber.

Red and White Pine.....	per piece.....	1d.
Oak, Elm and other hard wood	“ .....	1½
Spars.....	“ .....	3
Masts.....	“ .....	5
Saw Logs.....	“ .....	½
Sawed Lumber per M. board measure.....		1
Staves per M.....		15
Firewood, shingle bolts, and other timber per cord,		2

Annual account of Company to contain a Schedule of Tolls for the following year: how such Schedule may be altered and amended.

XXV. And be it enacted, That the annual account required to be rendered by every Company formed under this Act, shall contain a Schedule of the tolls, calculated as aforesaid, which it is proposed to collect in the following year, and if it shall not have been notified to the President of such Company on or before the fifteenth day of March in each year, that the Schedule of tolls has been disallowed by an order of the Chief Commissioner of Public Works, the President of such Company shall cause the said Schedule of tolls to be published for the space of one month in some newspaper published within the County or Counties in which, or nearest to which such works are situate, and such tolls so published shall be the lawful tolls for that year; but if it shall appear to the Chief Commissioner of Public Works, that the proposed Schedule of tolls has not been calculated according to the true intent and meaning of this Act, it shall be lawful for such Chief Commissioner, by an Instrument under his hand, to alter or vary the said Schedule of tolls, so as to make them correspond with the true meaning of this Act; and such amended Schedule of tolls shall be notified to the President of such Company, and shall by him be published as aforesaid, and shall be the lawful tolls for that year.

Amended Schedule to be in force for the next year.

Company may recover the lawful tolls on any Timber, from the owner.

XXVI. And be it enacted, That every such Company shall have authority to demand from the owner of any timber intended to be passed through any portion of the works of such Company, or from the person in charge of the same, a written statement of the quantity of each kind of timber and of the destination of the same, and of the sections of the works through which it is intended to pass, and if no such written statement is given when required or a false statement is given, the whole of such timber or such part of it as was omitted by a false statement, shall be liable to double toll; and every such Company shall have authority to demand and receive the lawful toll upon all timber which shall have come through or over any of the works of such Company; and it shall be lawful for such Company, by its servants, to have free access to all such timber for the purpose of measuring or counting the same; and if the just tolls shall not be paid on demand, such Company shall have power to sue for the same in any Court of competent jurisdiction, and shall recover from the owner or owners of the timber the amount of the tolls and the costs of suit; Provided always, that if the owner or owners of the timber shall object to the amount of tolls demanded, and shall tender a sum which he

Proviso.

he or they claim to be the true and just amount of the toll, such Company shall pay the costs of the suit, unless the judgment obtained shall be for a greater amount than the sum so tendered ; Provided also, that if any timber shall not have come through or over the whole of the works of any such Company, but only through or over a part thereof, the owner or owners of such timber shall only be liable to pay tolls for such sections of the whole works as he or they shall have made use of, if in the Schedule of tolls the work is divided into sections, and if not, then to pay such a portion of the whole toll as the distance such timber has come through the works, bears to the whole distance, over which such works extend.

Proviso.

XXVII. And be it enacted, That if the true owner of any timber which shall have passed through any of the works of such Company cannot be ascertained, or if there shall be reasonable grounds of apprehension that the tolls thereon have not been paid by the owner or reputed owner or person in charge, it shall be lawful for any Mayor, Reeve or Justice of the Peace, having jurisdiction within the locality, through or adjoining which such navigation extends, or where the timber may be found, if within twenty miles of any such works ; and he is hereby required, upon the oath of any Director or servant of the Company that the just tolls have not been paid, to issue a Warrant for the seizure of such timber, or so much thereof as shall be sufficient to satisfy the tolls, which Warrant shall be directed to any Constable or any person sworn in as a Special Constable for that purpose, at the discretion of the Magistrate, and shall authorize the person to whom it is directed, if the tolls shall not be paid within fourteen days from the date thereof, to sell the said timber, and out of the proceeds to pay to the said Company the just tolls, together with the costs of the Warrant and sale, rendering the surplus on demand to the owner.

Mode of enforcing payment of Tolls in certain cases.

Warrant and seizure.

XXVIII. 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 dam, pier, slide, boom or other work of any such Company, or any chain or other fastening attached thereto, or wilfully and maliciously impede or block up any channel or passage intended for the transmission of timber, every such offender shall be guilty of a misdemeanor, and on conviction thereof shall be punished by fine and imprisonment in the Common Gaol for any term not exceeding one year, at the discretion of the Court before whom the offender shall be convicted.

Punishment of persons injuring the works, &c., of any Company.

XXIX. And be it enacted, That if any person shall resist or impede any of the servants of such Company, in the transmission of any timber through any such works, or in carrying out any regulations of such Company for the greater safety and regularity of such transmission, or shall resist any such servants who may require access to any raft or other timber to ascertain the

Punishment of persons impeding the use of the works, &c.

the just tolls thereon, or shall in any way molest such Company or its servants in the exercise of any rights secured to them by this Act, every such person shall, upon conviction thereof in a summary way before any Justice of the Peace having jurisdiction in the locality in or adjoining which the offence was committed, be sentenced to pay a fine of not more than Fifty Shillings nor less than Five Shillings, together with all costs, to be paid within a time to be limited by the said Justice, and in default to be levied as next hereinafter provided.

Mode of compelling the appearance of parties against whom complaint shall be made.

XXX. And be it enacted, That in any proceedings 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, or with any adult person belonging to the raft to which such party is attached, the Justice may either proceed 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 parties shall appear or be brought shall proceed to hear and determine the case.

Fines how recovered and levied.

XXXI. 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 or Warrants, 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 or any thing therein shall be held or construed to interfere with the provisions made in the twenty-eighth Section of this Act, (upon conviction for any offence therein mentioned,) for issuing a Warrant of Commitment in the first instance.

Proviso.

To whom fines shall be paid.

XXXII. And be it enacted, That all fines and forfeitures collected under the authority of this Act shall be paid to the Treasurer of the Company or Companies, owning the work in respect of which such fines and forfeitures shall be imposed for the use of such Companies respectively.

Stockholders may be witnesses.

XXXIII. And be it enacted, That in any action or suit brought by or against any such Company, upon any contract or for

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.

XXXIV. 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.

Suits to be brought within six calendar months.

XXXV. And be it enacted, That every such Company so to be incorporated as aforesaid, shall be bound and is hereby required to complete each and every 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 Counties in or adjoining which said work shall be situate; and if any Company formed under this Act, shall for the space of one year abandon any works already completed by them, so that the same are not in sufficient repair and cannot be used for the purpose proposed in their Instrument of Incorporation, then their corporate powers shall cease and determine.

Works, &c., to be completed within a certain period after incorporation of Companies.  
Penalty for default.

Consequence of abandonment of work by any Company.

XXXVI. And be it enacted, That after any works constructed by a Company under this Act shall have been completed and tolls established, it shall be the duty of such Company to keep the same in good and sufficient repair; and if any such works shall not have been constructed according to the description given thereof in the report required by the third Section of this Act, or shall have become insufficient or out of repair, it shall be lawful for any person interested in such navigation to serve upon any servant of the Company a notice of such insufficiency, and if within a reasonable time after the service of such notice the necessary repairs have not been completed, such Company shall be liable for the damage which any person may sustain from the continuance of such insufficiency: Provided always, that no Company formed under this Act shall be held liable for any damage, so long as their works are in accordance with the description or specification thereof in the original Instrument required to be registered, or in any description or specification subsequently approved of and registered, nor for any damage arising from the accidental destruction or injury of their works, but only for the damage which may arise from the wilful neglect of the Company after notice served upon one of its servants as hereinbefore provided.

Company must keep the works in sufficient repair.

Proviso.  
Company not liable if work agree with original description.

Cases in which two Companies may unite and be formed into one.

XXXVII. And be it enacted, That it shall and may be lawful for any two Companies formed for the construction of works on any streams which may be contiguous to each other, to unite and form one Consolidated Company, on such terms as to them may seem meet; and the name of such united Companies to be then assumed, shall thenceforth be the corporate name thereof, and such united Companies shall be then entitled to and have, exercise and enjoy all the rights, and be subject to all the liabilities of other Companies formed under the provisions of this Act, and which the separate Companies had and enjoyed before the union thereof.

Legislature may make additions to this Act.

XXXVIII. And be it enacted, That notwithstanding the privileges which may be conferred by this Act, the Legislature may at any time hereafter, in their discretion, make such additions to this Act, or such alterations of any of its provisions as they may think proper for affording just protection to the public, or to any person or persons, body corporate or politic, in respect to their estate, property, right or interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right of way that may be affected by any of the powers given to any such Corporation; and whenever it shall be found expedient for the public service, it shall and may be lawful for the Governor in Council, to declare any Company formed under this Act dissolved, and all the works of any such Company, Provincial Works, upon payment to such Company of the then actual value of the works, to be decided by Arbitrators, one of whom shall be appointed by the Chief Commissioner of Public Works, and one by the Company, and if they shall not agree to an award, the Judge of the County Court for the County in or adjoining which the works are situate, shall be the third Arbitrator.

Government may dissolve any Company and assume the works on paying the then actual value thereof.

#### SCHEDULE.

Be it remembered, that on this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_ we, the undersigned Stockholders, met at \_\_\_\_\_ in the \_\_\_\_\_ County of \_\_\_\_\_ in the Province of Canada, and resolved to form ourselves into a Company, to be called (*here insert the corporate name intended to be taken by the Company*) according to the provisions of a certain Act of the Parliament of this Province, intituled, *An Act, &c.*, (*insert the title of this Act*) for the purpose of constructing a slide, wharf, pier, (*or other such work as aforesaid, describing the nature, extent and situation thereof*), and we do hereby declare that the Capital Stock of the said Company shall be \_\_\_\_\_ Pounds, to be divided into \_\_\_\_\_ shares, at the price or sum of Five Pounds each; and we the undersigned Stockholders, do hereby agree to take and accept the number of shares set by us opposite to our respective signatures, and we do hereby agree to pay the calls thereon, according to the provisions of the said \_\_\_\_\_



said in part recited Act, and of the Rules, Regulations, Resolutions and By-laws of the said Company, to be made or passed in that behalf ; and we do hereby nominate (*the names to be here inserted*) to be the first Directors of the said Company.

Name.	Number of Shares.	Amount.

C A P. C X C I I .

An Act to amend an Act of the Parliament of the late Province of Upper Canada, relating to Mutual Insurance Companies.

[Assented to 14th June, 1853.]

**W**HEREAS it is expedient to amend the Act of the Parliament of Upper Canada, passed in the sixth year of the Reign of King William the Fourth, and intituled, *An Act to authorize the establishment of Mutual Insurance Companies, in the several Districts of this Province*, so as to facilitate the operations of Insurance Companies incorporated under the authority of the said Act: 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 for and notwithstanding any thing to the contrary in the Act first above cited or in any other Act or law, it shall be lawful for the Directors of any such Mutual Insurance Company established under the Act first above cited, from time to time to issue Debentures or Promissory Notes of the Company, bearing interest, for such sums and to such an amount as may be necessary for the purpose of paying or of raising money by loan for the purpose of paying any loss or losses sustained by such Company: Provided always, that the whole amount of such Debentures or Promissory Notes at any one time outstanding shall not exceed one fourth part of the amount then unpaid on the Deposit or Premium

Preamble.

Act of U. C. 6 W. 4, c. 18.

Directors may issue Debentures or Promissory Notes for Losses.

Proviso: as to amount.