

Laws of Her Majesty's Province of United Canada, passed in the year 1847. Montreal:
Stewart Derbishire & George Desbarats, 1847.

10 & 11 Victoria – Chapter 122

An Act to incorporate The Canada, New Brunswick and Nova Scotia Rail-way Company.

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

The Royal Assent given by Her Majesty in Council on the 15th April, 1848; and Proclamation made thereof by His Excellency James, Earl of Elgin and Kincardine, in the Canada Gazette of the 24th June, 1848.

Whereas the construction of a Rail-way from Montreal, through the Eastern Townships, to Point Levy, opposite to Quebec, and thence, by Rivière-du-Loup, to the Province Line of New Brunswick, to meet a Rail-road to be continued through that Province, and also the adjoining Province of Nova Scotia to Halifax, would tend much to advance the prosperity of this Province, and would greatly contribute to promote the trade and facilitate the communication between this Province of Canada and the Provinces of New Brunswick and Nova Scotia; And whereas the several persons hereinafter named are desirous to make and maintain the said Rail-way: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, 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 Honorable the Speaker of the Legislative Assembly Sir Allan Napier MacNab, Knight, the Honorable John Molson, the Honorable Adam Ferrie, the Honorable James Ferrier, the Honorable John Nelson, the Honorable Robert W. Harwood, Sir George Simpson, Peter Warren Dease, Allan M'Donell, Robert Armour, Charles H. Castle, John Try, Henry Corse, John Matthewson, William B. Jarvis, Joseph Cary and Josiah Timmis, Junior, Esquires, together with such other person or persons as shall, under the provisions of this Act, become subscribers to and proprietors of any share or shares in the Rail-way hereby authorized to be made and other works and property hereinafter mentioned, and their several and respective heirs, executors, administrators, curators and assigns, being proprietors of any such share or shares, are and shall be united into a Company for carrying on, making, completing and maintaining the said intended Rail-way and other works, according to the rules, orders and directions hereinafter expressed, and shall for that purpose be one body politic and corporate by the name of The Canada, New Brunswick and Nova Scotia Rail-way Company, and by that name shall have perpetual succession and shall have a common seal, and other the usual powers and rights of bodies corporate not inconsistent with this Act, and by that name shall and may sue and be sued, and also shall and may have power and authority to purchase and hold lands, (which word shall throughout this Act be understood to include the land and all that is upon or below the surface thereof, and all the real rights and appurtenances thereunto belonging,) for them and their successors and assigns, for the use of the said Rail-way and works, without Her Majesty's *Lettres d'Amortissement*, (saving nevertheless to the Seigneur or

Seigniors within whose *censive* the lands, tenements and hereditaments so purchased may be situate, his and their several and respective *droits d'indemnité*, and all other Seigniorial rights whatever,) and also to alienate and convey any of the said lands, purchased for the purposes aforesaid, and any person or persons, bodies politic or corporate, or communities may give, grant, bargain, sell or convey to the said Company any lands for the purposes aforesaid, and the same may re-purchase of the said Company without *Lettres d'Amortissement*: And the said Company shall be and are hereby authorized and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Rail-way to be called The Canada, New Brunswick and Nova Scotia Rail-way, with one or more sets of Rail or Tracks, and to be worked by locomotive engines, or on the atmospheric principle, or in such other mode as the said Company may deem expedient, from Melbourne or Drummondville to Point Levy, opposite to Quebec, and thence by Rivière-du-Loup to the Province Line of New Brunswick, and to erect wharves, warehouses, stores and other buildings at their termination, and at such other places on the line of the said Rail-way as they may deem expedient.

II. Provided always, and be it enacted, That the Governor in Council shall determine the gauge which shall be used in the Rail-road, and such determination shall be declared by Proclamation in the Official Gazette, and shall thereupon be binding on the said Company.

III. And be it enacted, That for the purposes aforesaid, the said Company, their deputies, servants, agents and workmen, are hereby authorized and empowered to enter into and upon any lands and grounds of the Queen's Most Excellent Majesty, not hereinafter excepted, or of any person or persons, bodies politic or corporate, or collegiate, or communities or parties whatsoever, and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said intended Rail-way and other works hereby authorized, and all such works, matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining and using the said intended Rail-way and other works, and also to bore, dig, cut, trench, get, remove, take, carry away, and lay earth, clay, stone, soil, rubbish, trees, roots of trees, beds of gravel or sand, or any other matters or things which may be dug or got. in making the said intended Rail-way or other works, on or out of the lands or grounds of any person or persons adjoining or lying convenient thereto, and which may be proper, requisite or necessary for making or repairing the said intended Rail-way, or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using or completing, extending or maintaining the same respectively, according to the intent and purpose of this Act; and to make, build, erect and set up, in or upon the said intended Rail-way, or upon their lands adjoining or near the same respectively, such and so many houses, warehouses, toll-houses, watch-houses, telegraphs or other signals, weighing beams, cranes, fire-engines, steam-engines, or other engines, either, stationary or locomotive, inclined planes, machines, and other works, ways, roads and conveniences, as and when the said Company shall think requisite and convenient for the purposes of the said Rail-way and works; and also from time to time to alter, repair, divert, widen, enlarge and extend the same, and also to make, maintain, repair and alter any fences or passages over, under or through the said intended Railway, and to construct, erect and keep in repair any bridges, arches and other works upon and across any rivers or brooks for the making, using, maintaining and repairing of the

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

IV. Provided always, and be it enacted, That the said Company shall not carry the said Rail-way along any highway but shall merely cross the same in the line of the said road, whatever be the angle at which such line shall intersect the said highway; and before they shall in any way obstruct such highway with their works, they shall turn the said highway at their own charges so as to leave an open and good passage for carriages free from obstructions, and when their works are completed, they shall replace the said highway or street, under a penalty of not exceeding five pounds currency, for any contravention, over and above all damages sustained by any party: but in any case the rail itself, provided it does not rise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction.

V. And be it enacted, That for the purposes of this Act, the said Company shall and may by some sworn Land Surveyor for Lower Canada, and by an Engineer or Engineers by them to be appointed, cause to be taken and made, surveys and levels of the lands through which the said intended Rail-way is to be carried, together with a map or plan of such Rail-way, and of the course and direction thereof, and of the said lands through which the same is to pass, and the lands intended to be taken for the several purposes authorized by this Act, so far as then ascertained, and also a book of reference for the said Rail-way, in which shall be set forth a description of the said several lands, and the names of the owners, occupiers, and proprietors thereof, so far as they can be ascertained by the said Corporation, and in which shall be contained every thing necessary for the right understanding of such map or plan; which said map or plan and book of reference shall be examined and certified by the persons performing the duties formerly assigned to the Surveyor General, or his Deputies who shall deposit copies thereof in the office of the Prothonotary of the Court of Queen's Bench for the District of Quebec, and also in the office of the Secretary of the Province, and shall also deliver one copy thereof to the said Company; and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts or copies thereof as occasion shall require, paying to the said Secretary of the Province, or to the said Prothonotary, at the rate of six pence current money of this Province for every hundred words; and the said triplicates of the said map or plan and book of reference, so certified, or a true copy or copies thereof certified by the Secretary of the Province, or by the Prothonotary of the

Court of Queen's Bench for the said District, shall severally be, and are hereby declared to be good evidence in the Courts of Law and elsewhere.

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

VII. Provided always, and be it enacted, That the said Company shall, at each and every place where the said Rail-way shall cross any highway on a level, erect and keep up good and sufficient gates across the highway; and for each and every neglect to comply with the requirements of this section, the said Company shall incur a penalty not exceeding five pounds currency.

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

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

X. And be it enacted, That the lands or grounds to be taken or used for such intended Rail-way, and the ditches, drains and fences to separate the same from the adjoining lands, shall not exceed thirty yards in breadth, except in such places where the said intended Rail-way shall be raised more than five feet higher, or cut more than five feet deeper than the present surface of the land, and in such places where it shall be judged necessary to have off-sets for the locomotives or other engines and carriages using the said Rail-way to be or pass each other (and not above one hundred yards in breadth in any such place,) or where any houses, ware-houses, wharves, tollhouses, watch-houses, weighing-beams, cranes, fixed engines or inclined planes, may be intended to be erected, or goods, wares or merchandize be delivered, (and then not more than one mile in length, by one hundred and fifty yards in breadth,) without the consent of some party who can, under the provisions of this Act, convey such lands to the said Company, and the places at which such extra breadth is to be taken, shall be shewn on the said map or plan, so far as the

same may be then ascertained, but their not being so shewn shall not prevent the Company from taking such extra breadth, provided it be taken upon the line shewn or within the distance aforesaid from such line: Provided always, that no land shall be taken by the said Company from any public highway, but their right shall be limited to the laying down across the same, that is in the line of the said Rail-way at whatever angle it may intersect such highway, the rails and other contrivances, forming part of the said Rail-way, subject to the limitations mentioned in the fifth Section, or any other part of this Act.

XI. And be it enacted, That it shall be lawful for the said Company to take, use, occupy and hold, but not to alienate, so much of the Public Beach or Beach Road or of the land covered with the waters of the rivers which the said Rail-way may cross, start from or terminate at, as may be required for the wharves and other works of the said Rail-way, and other works which they are hereby authorized to construct, doing no damage to nor causing any obstruction in the navigation of the said rivers.

XII. And be it enacted, That after any lands or grounds shall be set out and ascertained in manner aforesaid, for making and completing the said Rail-way and other works, and other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all bodies politic, corporate, or collegiate, corporations aggregate or sole, communities, *grevés de substitution*, guardians, curators, executors, administrators, and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons or parties, who are or shall be seized, possessed of or interested in any lands or grounds which shall be so set out and ascertained as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, all or any part of such lands or grounds which shall under this Act be set out and ascertained as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; and that all bodies politic, corporate or collegiate, or communities, and all persons whatsoever, so conveying as aforesaid, are hereby indemnified for what he, she, or they, or any of them shall respectively do by virtue of or in pursuance of this Act: Provided always, that before the map or plan and book of reference shall be deposited as aforesaid, and before the lands required for the said Rail-way and works shall be set out and ascertained, it shall be lawful for any party who might under this Act convey any lands to the said Company, if the same were so set out and ascertained, to agree with the Company for the price to be paid for such lands if they shall be thereafter so set out and ascertained; and such agreement shall be binding, and the price agreed upon shall be the price to be paid by the Company for the same lands, if they shall be afterwards so set out and ascertained, within one year from the date of such agreement, and although such land may in the mean time have become the property of a third party; and possession of the same may be taken and the agreement and price may be dealt with, as if such price had been fixed by an award of Arbitrators as hereinafter mentioned.

XIII. Provided always, and be it enacted, That any body politic, community, corporation, or other party, who cannot in common course of law sell or alienate any lands or grounds so set out and

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

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

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

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

The Company shall serve a notice upon the opposite party, containing a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands (describing them,) a declaration that the Company are ready to pay some certain sum (or rent, as the case may be) as compensation for such lands or for the damages arising from the exercise of such power, and the name of a person whom they appoint as their Arbitrator if their offer be not accepted, and such

notice shall be accompanied by the certificate of some sworn Surveyor for Lower Canada, disinterested in the matter, and not being the Arbitrator named in the notice, that the land (if the notice relate to the taking of land) is shewn on the map or plan deposited as aforesaid, as being required for the said Rail-way and works, or as being within the limits of deviation hereby allowed from the line of the said Rail-way, that he knows such land, or the amount of damages likely to arise from the exercise of such powers, and that the sum so offered is in his opinion a fair compensation for such land and for such damages as aforesaid.

If the opposite party be absent from the District in which the land shall be situate, or be unknown to the said Company, then upon application to any Justice of the Court of Queen's Bench for the said District, accompanied by such certificate as aforesaid, and by an affidavit of some Officer of the Company, that such opposite party is so absent, or that after diligent inquiry the party on whom the notice ought to be served cannot be ascertained, such Justice shall order a notice as aforesaid (but without the certificate) to be inserted during one calendar month in some newspaper published in the City of Montreal or Quebec, as the case may require, in the English and French languages.

If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the Company that he accepts the sum offered by the said Company, or to notify to them the name of a person whom he appoints as Arbitrator, then any Justice of the Court of Queen's Bench for the District in which the land is situate, may, on application of the said Company, appoint some sworn Surveyor for Lower Canada to be sole Arbitrator for determining the compensation to be paid by the Company.

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

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

Provided always, that the award given by any sole Arbitrator shall never be for a less sum than that offered by the Company as aforesaid; and if in any case where three Arbitrators shall have been

appointed, the sum awarded be not greater than that offered by the Company, the costs of the arbitration shall be borne by the opposite party, and deducted from the compensation, otherwise they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by any Justice, of the Court of Queen's Bench.

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

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

If the party appointed by any Judge as third Arbitrator or sole Arbitrator shall die before the award be made, or shall refuse to act or fail to act, within a reasonable time, then upon the application of either party, the Judge (or any other Judge of the said Court) being satisfied by affidavit or otherwise of such disqualification, refusal or failure, may, in his discretion, appoint another in his stead; and, if the Arbitrator appointed by the said Company or by the opposite party shall die before the award shall be made, or shall leave the Province, or become unable to act within a reasonable time, (such fact being ascertained to the satisfaction of some Judge of the said Court as attested by his Certificate to that effect,) the said Company or the opposite party (as the case may be) may appoint another in his stead, notifying the other Arbitrators of such appointment.

The Company may desist from any such Notice as aforesaid, and afterwards give new Notice with regard to the same or other lands, to the same or any other party, but they shall in any such case be liable to the party first notified for all damages or costs by him incurred in consequence of such first Notice and desistment: and no change of owner after the Notice shall affect the proceedings, but the party notified shall be still deemed the owner, except as to the payment of the sum awarded.

It shall be no disqualification to the Surveyor or other person offered or appointed as Valuator, or as Arbitrator, that he be professionally employed by the Company or by the opposite party, or that he have previously expressed an opinion as to the amount of compensation, or that he be related or of kin to any member of the Company, provided he be not himself personally interested in the amount of such compensation; and no cause of disqualification shall be urged against any Arbitrator appointed by a Justice of the Court of Queen's Bench after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Justice; and no cause of disqualification shall be urged against any Arbitrator appointed by the Company, or by the opposite party, after the appointment of a third Arbitrator; and the validity or invalidity of any

cause of disqualification urged against any such Arbitrator, before the Appointment of a third Arbitrator, shall be summarily determined by any Justice of the said Court, on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified shall be held to have appointed no Arbitrator.

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

XVI. And be it enacted, That upon payment or legal tender of the compensation or annual rent so awarded, agreed upon or determined as aforesaid to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the said Company the power forthwith to take possession of the lands, or to exercise the right, or to do the thing for which such compensation or annual rent shall have been awarded or agreed upon; and if any resistance or forcible opposition shall be made by any person or party to their so doing, any Justice of the Court of Queen's Bench for the District in which the land may lie, may, on proof to his satisfaction, that the requirements of this Act have been complied with, issue his Warrant to the Sheriff of the District, or to any Bailiff of the Court, (as in his discretion may be most suitable), to put the said Company in possession, and to put down such resistance or opposition, which such Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do; Provided always, that such warrant of possession may also be granted by any such Justice, upon proof by affidavit to his satisfaction that immediate possession of the land or power to do the thing in question is necessary to the carrying on of the works of the said Company, the adverse party being summoned by one clear day's notice, to appear before such Judge, and the Company giving such security as the said Judge shall direct, to pay the sum to be awarded with interest from the day on which the warrant shall be granted, and all lawful costs, such security not being for less than twice the sum offered by the Company in the notice to such adverse party.

XVII. And be it enacted, That the compensation awarded as aforesaid or agreed upon by the said Company, and any party who might under this Act validly convey the lands, or then in lawful possession thereof as proprietor, for any lands which might be lawfully taken under this Act without the consent of the proprietor, shall stand in the stead of such land; and any claim to, or hypothec or incumbrance upon the said land, or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party: Provided always, that if the said Company shall have reason to fear any such claims, hypothecs or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof, shall be payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any

other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the said Court of Queen's Bench, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company, (that is the conveyance, agreement or award,) is under this Act, and shall call upon all persons entitled to, or to any part of the land, or representing, or being the husbands of any parties so entitled, to file their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the Judgment of confirmation shall for ever bar all claims to the lands, or any part thereof, (including dower not yet open,) as well as all hypothecs or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as to right and justice, according to the provisions of this Act and to law shall appertain; and the costs of the said proceedings, or any part thereof, shall be paid by the said Company, or by any other party, as the Court shall deem it equitable to order; and if Judgment of confirmation be obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company it shall not be obtained until after the six months have expired, the Court shall order the Company to pay to the Prothonotary the interest for such further period as may be right.

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

XIX. And be it enacted, That all suits for indemnity for any damage or injury sustained by reason of the powers and authority given by this Act shall be made within six calendar months next after the time of such supposed damage sustained, or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards.

XX. And be it enacted, That if any person shall by any means or in any manner or way whatsoever, obstruct or interrupt the free use of the said Rail-way, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, such person shall for every such offence incur a forfeiture or penalty of not less than one pound five shillings nor exceeding ten pounds currency; one half of which penalty and forfeiture, to be recovered before one or more Justices of the Peace for the District, shall go to the prosecutor or informer, and the other half to

Her Majesty, Her Heirs and Successors, and shall be paid into the hands of the Receiver General, and be applied for the public uses of this Province and the support of the Government thereof.

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

XXII. And to the end that the said Company may be enabled to carry on so useful an undertaking: Be it enacted, That it shall and may be lawful for the said Company and their successors, to raise and contribute among themselves, in such proportions as to them shall seem meet and convenient, a competent sum of money for the making and completing the said Rail-way, and all such other works, matters and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Rail-way, and other works: Provided always, that the before mentioned Sir Allan Napier McNabb, John Molson, Adam Ferrie, James Ferrier, John Neilson, R. U. Harwood, Sir George Simpson, P. W. Dease, A. McDonell, Robert Armour, C. H. Castle, John Try, Henry Corse, John Mathewson, William B. Jarvis, Joseph Cary, and Josiah Timmis, Junior, or any majority of them, shall cause books of subscription to be opened at such places as they shall appoint, for receiving the signatures of persons willing to become subscribers to the said undertaking, and for this purpose they shall give public notice in some newspapers in the English and French languages, of the time and places at which such books will be opened and ready for receiving signatures as aforesaid, and of the Bankers by them authorized to receive such subscriptions; and every person who or whose Attorney shall write her or his signature in such book as a subscriber to the said undertaking, shall thereby become a Member of the said Corporation, and shall have the same rights and privileges, as such, as are hereby conferred on the several persons who are herein mentioned by name as Members of the said Corporation: Provided always, that the sums so raised shall not exceed the sum of three millions of pounds currency, of this Province, in the whole, except as hereinafter mentioned, and that two millions of pounds be first raised by one hundred thousand shares of twenty pounds sterling, on one hundred dollars, currency, each share; and the money so to be raised is hereby directed and appointed to be laid out and applied in the first place for and towards the payment, and discharge and satisfaction of all fees and disbursements for obtaining and passing this Act, and for making the surveys, plans and estimates incident thereto, and all other expenses relating thereunto, and all the rest, residue and remainder of such money for and towards making, completing and maintaining the said Rail-way and other the purposes of this Act, and to no other use, intent or purpose whatever.

XXIII. And be it enacted, That the said sum of two millions of pounds, currency, or such part thereof as shall be raised by the several persons hereinbefore named, and by such other person or persons who shall or may at any time become a subscriber or subscribers to the said Rail-way, shall be divided into one hundred thousand equal parts or shares, of twenty pounds sterling per share; and that the shares be deemed personal estate, and shall be transferable as such; and that the said one hundred thousand shares shall be and are hereby vested in the said several subscribers and their several respective heirs, executors, curators, administrators and assigns, proportionally to the sum they and each of them shall severally subscribe and pay thereunto; and all and every the bodies politic, corporate or collegiate, or communities, and all and every person or persons, their several and respective successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of twenty pounds, or such sums as shall be demanded in lieu thereof, towards carrying on and completing the said Railway, shall be entitled to and receive, after the said Rail-way shall be completed, the entire and net distribution of the profits and advantages that shall and may arise and accrue by virtue of the money to be raised, recovered or received by the authority of this Act, in proportion to the number of shares so held; and every body politic, corporate or collegiate, or community, person or persons, having such property or share in the said undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional sum of money towards carrying on the said undertaking in manner by this Act directed and appointed.

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

XXV. And be it enacted, That the said Company may from time to time lawfully borrow either in this Province or elsewhere such sum or sums of money, not exceeding at any time one fourth part of the amount paid up, as they may find expedient, and at such rate of interest not exceeding six per cent, per annum, as they may think proper; and may make the bonds, debentures or other securities they shall grant for the sums so borrowed payable either in currency or in sterling, and at such place or places as the Shareholders in Great Britain and the said Provinces may deem advisable, and may give security on the tolls, revenues, and other property of the said Company for the due payment of the said sums and the interest thereon.

XXVI. And be it enacted, That the number of votes to which each Proprietor of shares in the said undertaking shall be entitled on every occasion when, in conformity to the provisions of this Act, the votes of the Members of the said Company are to be given, shall be in the proportion to the number of shares held by him, that is to say: one vote for any less number than five shares, and each holder or proprietor of every five shares and upwards, shall have two votes for every five shares, unless objected to by the Shareholders in Great Britain, and all Proprietors of shares may vote by proxy, if he, she or they shall see fit, provided that such proxy do produce from his constituent or constituents, an appointment in writing, in the words or to the effect following, that is to say:

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

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

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

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

XXIX. And be it enacted, That the First General Meeting of the Proprietors for putting this Act in execution, may be held at Quebec whenever sufficient shares have been subscribed for, provided that public notice thereof be given during the week in some newspapers published in the English and French languages, and signed by at least five of the subscribers to the said undertaking holding among them at least one hundred shares; and at such said General Meeting, the Proprietors assembled, with such proxies as shall be present, shall choose twelve Directors, being each a Proprietor of not less than ten shares in the said undertaking, to be Directors of the said Company,

to act in concert with Directors to be appointed by the Shareholders in Great Britain, who shall determine the number of Directors to be appointed in this Province as well as in New Brunswick and Nova Scotia, in such manner as is hereinafter directed, and shall also proceed to pass such Rules and Regulations and By-Laws as shall seem to them fit, provided they be not inconsistent with this Act.

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

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

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

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

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

XXXV. And be it enacted, That every such Annual Meeting shall have power to appoint not exceeding three Auditors to audit all accounts of money laid out and disbursed on account of the said undertaking, by the Directors and Managers and other Officer and Officers to be by the said Directors appointed, or by any other person or persons whatsoever, employed by, or concerned for or under them, in and about the said undertaking; and to that end, the said Auditors shall have power to adjourn themselves over from time to time, and from place to place, as shall be thought convenient by them: And the said Directors chosen under the authority of this Act, shall have power from time to time to make such call or calls of money from the Proprietors of the said Railway and other works, to defray the expense of, or to carry on the same, as they from time to time shall find wanting and necessary for those purposes: Provided, however, that no call do exceed the sum of two pounds ten shillings, current money of this Province, for every share of twenty pounds sterling, or twenty-five pounds currency: And provided also, that no calls be made but at the distance of at least three calendar months from each other: And such Directors shall have full power and authority to direct and manage all and every the affairs of the said Company as well in contracting for and purchasing lands, rights, and materials for the use of the said Company, as in employing, ordering and directing the work and workmen, and in placing and removing under-officers, clerks, servants, and agents, and in making all contracts and bargains touching the said undertaking; and to affix or authorize the Secretary or his Deputy to affix the Common Seal of the Company to any Act, Deed, By-Laws, Notice or other Document whatsoever; and any such Act, Deed, By-Laws, Notice or other Document bearing the Common Seal of the Company, and signed by the President, Vice-President, or any Director, or by order of the Directors, shall be deemed the act of the Directors and of the Company, nor shall the authority of the signer of any Document purporting to be so signed and sealed, to sign the same and affix the said Seal thereto, be liable to

be called in question by any party except the Company; and the Directors shall have such other and further powers as, being vested in the Company by this Act, shall be conferred upon the said Directors by the By-Laws of the Company.

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

XXXVII. Provided always, and be it enacted, That no advantage shall be taken of the forfeiture of any share or shares of the said undertaking, unless the same shall be declared to be forfeited at some Annual or Special Meeting of the said Company, assembled after such forfeiture shall be incurred; and every such forfeiture shall be an indemnification to and for every Proprietor so forfeiting against all action and actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such Proprietor and the other Proprietors with regard to carrying on the said Rail-way or undertaking.

XXXVIII. And be it enacted, That the said Company shall always have power and authority at any General Meeting assembled as aforesaid, to remove any person or persons chosen upon such Board of Directors as aforesaid, and to elect others to be Directors in the room of those who shall die, resign or be removed, and subject to the concurrence of the Directors in Great Britain, to remove any other Officer or Officers under them, and to revoke, alter, amend or change any of the Bylaws or Orders prescribed with regard to their proceedings amongst themselves (the method of calling General Meetings, and their time and place of assembling, and manner of voting, and of appointing Directors, only, excepted,) and shall have power to make such new Rules, By-laws and Orders, for the good government of the said Company and their servants, agents and workmen, for the good and orderly making, maintaining and using the said Rail-way and all other works connected therewith, or belonging thereto, or hereby authorized, and for the well governing of all persons whatsoever travelling upon or using the said Rail-way and other works, or transporting any goods, wares, merchandize or other commodities thereon; and by such By-Laws to impose and inflict such fines or forfeitures upon the persons guilty of a breach of such

By-laws or Orders, as to such General Meeting shall seem meet, not exceeding the sum of ten pounds, current money of this Province, for every offence; such fines or forfeitures to be levied and recovered by such ways and means as are hereinafter mentioned; which said By-laws and Orders being put into writing under the common seal of the said Company, shall be kept in the office of the Company, and a printed or written copy of so much of them as may relate to or affect any party other than members or servants of the Company, shall be affixed openly in the Office of the said Company and in all and every of the places where Tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same; and the said By-laws and Orders so made and published as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same, and any copy of the said By-Laws, or any of them certified as correct by the President or some person authorized by the Directors to give such certificate, and bearing the Common Seal of the Company, shall be deemed authentic, and shall be received as evidence of such By-laws in any Court without further proof.

XXXIX. And be it enacted, That it shall and may be lawful to and for the several Proprietors of the said Rail-way or undertaking to sell or dispose of his, her or their share or shares therein, subject to the rules and conditions herein mentioned; and every purchaser shall have a duplicate of the deed of bargain and sale and conveyance made unto him or her, and one part of such deed, duly executed by seller and purchaser, shall be delivered to the said Directors or their Clerk for the time being, to be filed and kept for the use of the said Company, and an entry thereof shall be made in a book or books to be kept, by the said Clerk for that purpose, for which no more than one shilling and three pence, shall be paid, and the said Clerk is hereby required to make such entry accordingly; and until such duplicate of such deed shall be so delivered to the said Directors or their Clerk, and filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said undertaking, nor any interest for the said share or shares, paid unto him, her or them, nor any vote as a Proprietor or Proprietors.

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

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

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

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

XLII. And be it enacted, That it shall and may be lawful to and for the said Company from time to time, and at all times hereafter, to ask, demand take and recover, to and for their own proper use and behoof, for all goods, wares, merchandize and commodities, of whatever description, transported upon the said Rail-way, such Tolls as they, with the approbation of the Governor in Council, may deem expedient; which said Tolls shall be from time to time fixed and regulated by By-laws of the Company, or by the Directors if thereunto authorized by the said By-laws, and shall be paid to such person or persons, and at such place or places near to the said Rail-way, in such manner and under such regulations as the said Company or the said Directors shall direct and appoint; and in case of denial or neglect of payment of any such rates or dues, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having competent jurisdiction, or the person or persons to whom the said rates or dues ought to be paid, may and he is, and they are hereby empowered to seize and detain such goods, wares, merchandize or other commodities, for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof; and in the meantime the said goods, wares, merchandize or other commodities shall be at the risk of the owner or owners thereof; and the said Company or the said Directors shall have full power, from time to time, at any General Meeting, with the like approbation aforesaid, to lower or reduce all or any of the said Tolls, and again to raise the same, as often as it shall be deemed necessary for the interests of the said undertaking: Provided always, that the same Tolls shall be payable at the same time and under the same circumstances upon all goods and upon all persons, so that no undue advantage, privilege or monopoly maybe afforded to any person or class of persons by any By-law relating to the said Tolls.

XLIII. And in order to ascertain the amount of the clear profits of the said under taking — Be it enacted, That the said Company, or the Directors for managing the affairs of the said Company, shall and they are hereby required to cause a true, exact and particular account to be kept and semi-annually made up and balanced to the first day of January and the first day of July in each year, of the money collected and received by the said Company, or by the Directors or Managers and Clerks of the said Company, or otherwise, for the use of the said Company, by virtue of this Act, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on their works, and of all other receipts and expenditure of the said Company or the said Directors; and at the General Meetings of the Proprietors of the said undertaking, to be from time to time holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such Meetings shall declare otherwise; and such dividend shall be at and after the rate of so much per share upon the several shares held by the Proprietors, in the joint stock of

the said Company, as such meeting or meetings shall think fit to appoint or determine: Provided always, that no dividend shall be made whereby the capital of the said Company shall be in any degree reduced or impaired, nor shall any dividend be paid in respect of any share, after a day appointed for payment of any call for money in respect thereof, until such call shall have been paid.

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

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

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

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

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

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

L. And be it enacted, That the several persons who shall subscribe to advance any money for and towards making and maintaining the said Rail-way and other works connected therewith or hereby authorized, and those who shall accept of any transfer of any share or shares in the Stock of the said Company, and their several heirs, executors, administrators, curators, and assigns, or others legally representing them, and being in lawful possession of such share or shares, (all of whom shall be deemed proprietors of such share or shares for the purposes of this Section,) shall and they are hereby required to pay the sum or sums of money by them respectively subscribed, or such parts or portions thereof as shall from time to time be called for by the said Company, under and by virtue of the powers and directions of this Act, to such person or persons, and at such times and places as shall be directed by the said Company or the said Directors, in manner before mentioned; and in case any person or persons shall neglect or refuse to pay the same at the time and in the manner required for that purpose, it shall be lawful for the said Company to sue for and recover the same with interest and costs in any Court of Law having competent jurisdiction; and in any such action it shall be sufficient to allege that the defendant is the proprietor of a share (or of any number of shares, stating such number) in the stock of the said Company; that certain sums of money were duly called for upon such share or shares by the said Company, under the authority of and in the manner provided by this Act, and

were due and payable at a certain time or times, whereby an action hath accrued to the said Company to recover such sum or sums with interest and costs; and the production of the newspapers containing such calls shall be evidence that the same were made as therein stated; and neither in such action, nor in any other action, suit or legal proceeding by the Company, shall

the election of the Directors, or the authority of them, or of the Solicitor acting in the name of the Company, be called in question except by the Company, nor shall it in any such case be necessary to name the Directors, or any of them.

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

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

LIII. And be it enacted, That if any action or suit shall be brought or commenced against any person or persons for any thing done or to be done in pursuance of this Act, or in the execution of the powers and authorities, or of the orders and directions hereinbefore given or granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed; or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards.

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

LV. And be it enacted, That Her Majesty, Her Heirs and Successors may at any time after twenty-one years from the complete construction of the said Rail-way assume the possession and property thereof, and of all the property which the said Company is hereby empowered to hold and shall then have, and of all the rights, privileges and advantages vested by this Act in the said Company, (all which shall after such assumption be vested in Her Majesty, Her Heirs and Successors,) on giving to the said Company three years' notice of the intention to assume the same, and on paying to the said Company, within three months of the expiration of such notice, the whole current amount of their Capital Stock according to its value at that time, and twenty per cent, additional thereon.

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

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

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

LIX. And be it enacted, That the said Company shall not proceed to lay down or commence the construction of the said Rail-road until shares to the amount of five hundred thousand pounds shall have been taken in the Capital Stock of the said Company, and ten per cent, thereon shall have been paid into the hands of the Treasurer of the said Company, nor until the said election of Directors hereinbefore in that behalf provided shall have been held.

LX. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace and others, without being specially pleaded.

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