

Laws of Her Majesty's Province of United Canada, passed in the year 1851. York: Stewart Derbshire and George Desbarts, 1851.

14 & 15 Victoria – Chapter 51

An Act to consolidate and regulate the General Clauses relating to Rail-ways. 30th August, 1851.

Whereas it is expedient to establish a general and uniform system for the construction and management of all Rail-ways hereafter to be undertaken in Canada: 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 this Act shall apply to every Rail-way which shall by any Act which shall hereafter be passed be authorized to be constructed, and this Act shall be incorporated with such Act; and all the clauses and provisions of this Act, save in so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act.

II. And be it enacted, That in citing this Act, in any Special Rail-way Act and in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression, "The Rail-way Clauses Consolidation Act."

III. And be it enacted, That for the purpose of making any incorporation of this Act with Special Acts hereafter to be passed, it shall be sufficient in any such Acts to enact, that the Clauses of this Act, with respect to the matter so proposed to be incorporated, describing such matter as it is described in this Act, in the word or words at the head of and introductory to the enactment with respect to such matter, shall be incorporated with such Acts, and thereupon all the Clauses and provisions of this Act, with respect to the matter so incorporated shall, save in so far as they shall be expressly varied or excepted by such Acts, form part thereof, and such Acts shall be construed as if the substance of such Clauses and provisions were set forth therein with reference to the matter to which such Acts shall relate.

IV. And be it enacted, That the power given by the Special Act to construct the Rail-way, and to take lands for that purpose, shall be exercised subject to the provisions and restrictions contained in this Act, and compensation shall be made to the owners and occupiers of and all other parties interested in any such lands so taken or injuriously affected by the construction of the Rail-way, for the value and for all damages sustained by reason of such exercise, as regards such lands, of the powers by this or the Special Act, or any Act incorporated therewith, vested in the Company; and, except where otherwise provided by this Act or the Special Act, the amount of such compensation shall be ascertained and determined in the manner provided by this Act.

V. And be it enacted, That any Company desirous to obtain a Special Act for the construction of a Rail-way, shall deposit with the Secretary of the Province, previous to the application to the Legislature, a copy of their Stock-Book, showing the number of their subscribers, and the actual *bonâ fide* amount of the subscriptions, and that at least one quarter of the intended Capital has been actually subscribed, the truth whereof shall be supported by the affidavit or solemn affirmation, as the case may be, of two of the Directors or Shareholders of the Company, and the Company shall also at the same time deposit with the said Secretary a Certificate of the Cashier of some Chartered Bank in this Province, of the deposit therein of a sum equal to ten per cent, upon the amount of subscriptions, with authority to the said Secretary to control the withdrawal of the said deposit for such time as the Secretary may think proper, not longer than six months after the Rail-way shall have been actually commenced and proceeded with.

VI. And be it enacted, That no Bill for a Special Act for the allowance or establishment of a Rail-way shall be received by the Legislature unless and until there shall be deposited with the Clerks of both Branches, a Certificate from the Secretary of the Province, that the Company applying has complied in all respects with the requirements of the next preceding Clause.

Interpretation.

VII. And with respect to the construction of this Act, and of any Special Act, and of other Acts to be incorporated therewith, Be it enacted as follows:

Firstly. The expression "the Special Act," used in this Act, shall be construed to mean any Act which shall be hereafter passed, authorizing the construction of a Rail-way, and with which this Act shall be so incorporated as aforesaid; and the word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the Special Act; and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the Special Act" had been used; and the expression "the lands" shall mean the lands which shall by the Special Act be authorized to be taken or used for the purpose thereof; and the expression "the undertaking" shall mean the Rail-way and works, of whatever description, by the Special Act authorized to be executed.

Secondly. The following words and expressions, both in this and the Special Act, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:

The word "Lands" shall include all real estate, messuages, lands, tenements and hereditaments of any tenure:

The word "Lease" shall include any agreement for a lease:

The word "Toll" shall include any rate or charge or other payment payable under this Act or the Special Act for any passenger, animal, carriage, goods, merchandize, articles, matters or things conveyed on the Rail-way:

The word "Goods" shall include things of every kind conveyed upon the Rail-way, or upon Steam or other vessels connected therewith:

The expression "Superior Courts" shall mean the Courts of Chancery, Queen's Bench and Common Pleas in Upper Canada, and the Superior Court in Lower Canada, as the case may be ?

The word "County" shall include any union of Counties, County Riding, or like division of a County in the Province or any division thereof into separate Municipalities in Lower Canada:

The word "Highways" shall mean all public roads, streets, lanes, and other public ways and communications:

The word "Sheriff" shall include Under Sheriff, or other legal competent Deputy; and where any matter in relation to any lands is required to be done by any Sheriff or Clerk of the Peace, the expression " the Sheriff," or the expression "Clerk of the Peace," shall in such case be construed to mean the Sheriff or Clerk of the Peace of the District, County, Riding, Division, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one District, County, Riding, Division, or place, the same expression shall be construed to mean the Sheriff or Clerk of the Peace of any such District, County, Riding, Division, or place where any part of such lands shall be situate:

The word "Justice" shall mean Justice of the Peace acting for the District, County, Riding, Division, City or place where the matter requiring the cognizance of any, such Justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands being the property of one and the same party, situate not wholly in any one District, County, Riding, Division, City or place, shall mean a Justice acting for the District, County, Riding, Division, City, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two Justices, the expression "two Justices" shall be understood to mean two Justices assembled and acting together:

Where, under the provisions of this Act or the Special Act, any notice shall be required to be given to the owner of any lands, or where any act shall be authorized or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any Corporation or person who, under the provisions of this Act, or the Special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the Company:

The expression "the Company" shall mean the company or party which shall be authorized by the Special Act to construct the Rail-way.

The expression "the Rail-way" shall mean the Rail-way and works by the Special Act authorized to be constructed:

The word "clause" shall mean any separate section of this Act, or any other Act therein referred to, distinguished by a separate number:

The word, "Shareholder" shall mean every subscriber to or holder of stock in the undertaking, and shall extend to and include the personal representatives of the Shareholder.

Thirdly. The Interpretation Act of this Province shall, in so far as the provisions thereof shall apply hereto, be deemed to form part hereof in the particulars not provided herein.

Incorporation.

VIII. And be it enacted, That every Company established under any Special Act shall be and is hereby declared to be a body corporate under such name as shall be declared in the Special Act, and shall be and is hereby invested with all the powers, privileges and immunities which are or may be necessary to carry into effect the intentions and objects of this Act and of the Special Act therefor, and which are incident to such Corporation, as are expressed or included in the Interpretation Act of this Province.

Powers.

IX. And be it enacted, That the Company shall have power and authority:

Firstly. To receive, hold and take all voluntary grants and donations of land or other property which shall be made to it, to aid in the construction, maintenance and accommodation of the Rail-way, but which shall be hold and used for the purpose of such grants or donations only.

Secondly. To purchase, hold and take of any Corporation or person any land or other property necessary for the construction, maintenance, accommodation and use of the Rail-way, and also to alienate, sell or dispose of the same.

Thirdly. To take, use, occupy and hold, but not to alienate except by way of lease, so much of the public beach or of the land covered with the waters of any river or lake in this Province as may be required for the Rail-way, doing no damage to, nor causing any obstruction in the navigation of the Said rivers or lakes, provided that the lease shall be conditioned not to extend beyond the time during which such beach or land is required for the Rail-way.

Fourthly. To make, carry or place the Rail-way across or upon the lands of any Corporation or person whomsoever on the line of the Rail-way, or within the distance from such line as may be stated in the Special Act, although the name of such party be not entered in the Book of Reference hereinafter mentioned, through error or any other cause, or although some other party be erroneously mentioned as the owner of or entitled to convey, or be interested in such lands.

Fifthly. To construct, maintain and work the Rail-way across, along, of upon any stream of water, water course, canal, highway or rail-way which it shall intersect or touch; but the stream, water course, highway, canal Or rail-way so intersected or touched, shall be restored by the Company to its former state, or to such state as not to have impaired its usefulness.

Sixthly. To make, complete, alter and keep in repair the Rail-way with one or more sets of rails or tracks to be worked by the force and power of steam, or of the atmosphere, or of animals, or by mechanical power, or by any combination of them.

Seventhly. To erect and maintain all necessary and convenient buildings, stations, depots, wharves and fixtures, from time to time to alter, repair or enlarge the same, and to purchase and acquire stationary or locomotive engines and carriages, waggons, floats and other machinery and contrivances necessary for the accommodation and use of the passengers, freights and business of the Rail-way.

Eighthly. To make branch Rail-ways, if required and provided by the Special Act, and to manage the same, and for that purpose to exercise and possess all the powers, privileges and authorities necessary therefor, in as full and ample a manner as for the Rail-way.

Ninthly. To construct, erect and make all other matters and things which shall be necessary and convenient for the making, extending and using of the Rail-way, in pursuance of and according to the meaning and intent of this Act, and of the Special Act.

Tenthly. To take, transport, carry, and convey persons and goods on the Rail-way, to regulate the time and manner in which the same shall be transported, and the tolls and compensation to be paid therefor, and to receive such tolls and compensation.

Eleventhly. To borrow from time to time, either in this Province or elsewhere, such sums of money as may be expedient for completing, maintaining and working the Rail-way, and at a rate of interest not exceeding eight per cent, per annum, and to make the Bonds, Debentures or other securities granted for the sums so borrowed, payable either in currency or in sterling, and at such place or places within this Province or without as may be deemed advisable, and to sell the same at such prices or discount as may be deemed expedient, or as shall be necessary, and to hypothecate, mortgage or pledge the lands, tolls, revenues and other property of the Company for the due payment of the said sums and the interest thereon, but no such debenture shall be for a less sum than Twenty-five Pounds.

Twelfthly. To enter into and upon any lands of Her Majesty without previous license therefor, or of any Corporation or person whatsoever lying in the intended route or line of the Rail-way.

Thirteenthly. To make surveys, examinations, or other necessary arrangements on such lands necessary for fixing the site of the Rail-way, and to set out and ascertain such parts of the lands as shall be necessary and proper for the Rail-way.

Fourteenthly. To fell or remove any trees standing in any woods, lands or forests, where the Rail-way shall pass, to the distance of six rods from either side thereof.

Fifteenthly. To cross, intersect, join and unite the Rail-way with any other Rail-way at any point on its route, and upon the lands of such other Rail-way, with the necessary conveniences for the purposes of such connection; and the owners of both Rail-ways may unite in forming such intersection, and grant the facilities therefor; and in case of disagreement upon the amount of compensation to be made therefor, or upon the point or manner of such crossing and connection, the same shall be determined by Arbitrators to be appointed by a Judge of the Superior Courts in Lower Canada or Upper Canada, as the case may be.

Plans and Surveys.

X. And be it enacted, That Plans and Surveys shall be made and corrected as follows:

Firstly. Surveys and levels shall be taken and made of the lands through which the Rail-way is to pass, together with a Map or Plan thereof, and of its course and direction, and of tile lands intended to be passed over and taken therefor, so far as then ascertained, and also a Book of Reference for the Rail-way, in which shall be set forth a general description of the said lands, the names of the owners and occupiers thereof, so far as they can be ascertained, and every thing necessary for the right understanding of such Map or Plan; and the Map or Plan and Book of Reference shall be examined and certified by the person performing the duties formerly assigned to the Surveyor General or his Deputies, who shall deposit copies thereof in the office of the Clerks of the Peace in the Districts or Counties through which the Rail-way shall pass, 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, and to make extracts or copies thereof, as occasion shall require, paying to the said Secretary of the Province, or to the said Clerks of the Peace, at the rate of Six Pence for every hundred words; and the said triplicates of the said Map or Plan and Book of Reference so certified, or a true copy thereof certified by the Secretary of the Province or by the Clerks of the Peace, shall be, and is and are hereby declared to be good evidence in any Court of Law and elsewhere.

Secondly. Any omission, mistatement or erroneous description of such lands, or of such owners or occupiers thereof, in any Map or Plan or Book of Reference, may be corrected by two Justices on application made to them, after giving ten days' notice to the owners of such lands, for the correction thereof, and the Justices shall certify the same accordingly if it shall appear to them that such omission, mistatement or erroneous description arose from mistake; and the Certificate shall state the particulars of any such omission, and the manner thereof, and shall be deposited with the said Clerks of the Peace of the Districts or Counties respectively in which such lands shall be situate, and be kept by them respectively along with the other documents to which they relate; and thereupon, such Map or Plan or Book of Reference shall be deemed to be corrected according to such Certificate; and it shall be lawful for the Company to make the Rail-way in accordance with such Certificate.

Thirdly. If any alterations from the original Plan or Survey he intended to be made in the line or course of the Rail-way, a Plan and Section in triplicate of such alterations as shall have been approved of by Parliament, on the same scale and containing the same particulars as the original Plan and Survey, shall be deposited in the same manner as the original plan, and copies or extracts of such Plan and Section as shall relate to the several Districts or Counties, in or through which such alterations shall have been authorized to be made, shall be deposited with the Clerks of such several Districts and Counties.

Fourthly. Until such original Map or Plan and Book of Reference, or the Plans and Sections of the alterations, shall have been deposited as aforesaid, the execution of the Rail-way, or of the part thereof affected by the alterations, as the ease may be, shall not be proceeded with.

Fifthly. The Clerks of the Peace shall receive and retain the copies of the original Plans and Surveys, and copies of the Plans and Sections of alterations, and copies and extracts thereof respectively, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, under a penalty for default of One Pound Currency.

Sixthly. The copies of the Maps, Plans and Books of Reference, or of any alteration or correction thereof, or extracts therefrom, certified by any such Clerk of the Peace, which Certificate such Clerk of the Peace shall give to all parties interested when required, shall be received in all Courts of Justice or elsewhere as good evidence of the contents thereof.

Seventhly. No deviation of more than one mile from the line of the Rail-way or from the places assigned thereto, in the said Map or Plan and Book of Reference or Plans or Sections shall be made, nor into, through, across, under or over any part of the lands not shewn in such Map or Plan and Book of Reference, or Plans or Sections, or within one mile of the said line and place, save in such instances as are provided for in the Special Act.

Eighthly. Provided that the Rail-way may be carried across or upon the lands of any person on the line, or within the distance from such line as aforesaid, although the name of such person be not entered in the Book of Reference through error or any other cause, or although some other person be erroneously mentioned as the owner of or entitled to convey, or be interested in such lands.

Ninthly. The lands which may be taken without the consent of the proprietor thereof, shall not exceed thirty yards in breadth, except in such places where the Rail-way shall be raised more than five feet higher, or cut more than five feet deeper than the surface of the line, or where offsets shall be established, or where stations, depots or fixtures are intended to be erected, or goods be delivered, and then not more than two hundred yards in length by one hundred and fifty yards in breadth, without the consent of the person authorized to convey such lands; and the places at which such extra breadth is to be taken shall be shewn on the Map or Plan, or Plans or Sections, so far as the same may be then ascertained, but their not being so shewn shall not prevent such extra

breadth from being taken, provided it be taken upon the line shewn or within the distance aforesaid from such line.

Tenthly. The extent of the public beach, or of the land covered with the waters of any river or lake in this Province, taken for the Rail-way, shall not exceed the quantity limited in the next preceding clause.

Lands, and Their Valuation.

XI. And be it enacted, That the conveyance of lands, their valuation and the compensation therefor, shall be made in manner following:

Firstly. All Corporations and persons whatever, tenants in tail or for life, *grevés de substitution*, guardians, curators, executors, administrators, and all other trustees 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, who are or shall be seized, possessed of or interested in any lands, may contract for, sell and convey unto the Company all or any part thereof; and any contract, agreement, sale, conveyance and assurance 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 anywise notwithstanding, and such Corporation or person, so conveying as aforesaid, is hereby indemnified for what he or it shall respectively do by virtue of or in pursuance of this Act.

Secondly. Provided, that any contract or agreement made by any party authorized by this Act to convey lands, and made before the deposit of the Map or Plan and Book of Reference, and before the setting out and ascertaining of the lands required for the Rail-way, shall be binding at the price agreed upon for the same lands, if they shall be afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such land may, in the mean time, have become the property of a third party; and possession of the land 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 provided, and the agreement shall be in the place of an award.

Thirdly. All Corporations or persons who cannot in common course of law sell or alienate any lands 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; and if the amount of the rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner herein prescribed, and all proceedings shall in that case be regulated as herein prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid for the purchase of any lands, or for any part of the purchase money of any lands, which the vendor shall agree to leave unpaid, the Rail-way and the tolls thereon shall be and are hereby made liable and chargeable in preference to all other claims and demands thereon whatsoever, the Deed creating such charge and liability being duly registered in the Registry Office of the proper County.

Fourthly. Whenever there shall be more than one party proprietor of any land as joint tenant or tenants in common, or *par indivis*, any contract or agreement made in good faith with any party or parties proprietor or being together proprietors of one third or more of such land, as to the amount of compensation for the same or for any damages thereto, shall be binding as between the remaining proprietor or proprietors as joint tenants or tenants in common and *par indivis*; and the proprietor or proprietors who have so agreed, may deliver possession of such land, or empower the entry upon the same, as the case may be.

Fifthly. After one month from the deposit of the Map or Plan and Book of Reference us aforesaid, and from notice thereof in at least one newspaper, if there be any, published in each of the Districts and Counties through which the Rail-way is intended to pass, application may be made to the owners of lands or to parties empowered to convey lands, or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the Rail-way, and thereupon, agreements and contracts may be made 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 shall seem expedient to both parties, and in case of disagreement between them, or any of them, then all questions which shall arise between them, shall be settled as follows, that is to say:

Sixthly. The deposit of a 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.

Seventhly. The notice served upon the party shall contain 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 of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages, and the name of a person to be appointed as the Arbitrator of the Company, if their offer be not accepted: and such notice shall be accompanied by the Certificate of a Sworn Surveyor for Upper Canada or Lower Canada, as the case may be, 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, shewn on the said map or plan and, is required for the Rail-way, or is within the limits of deviation hereby allowed; that he knows the land, or the amount of damage likely to arise from the exercise of the powers; and that the sum so offered, is, in his opinion, a fair compensation for the land, and for the damages as aforesaid.

Eighthly. If the opposite party be absent from the District or County in which the lands lie, or be unknown, then, upon application to a Judge of the District, County or Circuit Court, as the case may be, accompanied by such Certificate as aforesaid, and by an affidavit of some officer of the Company that the opposite party is so absent, or that after diligent enquiry, the party on whom the notice ought to be served cannot be ascertained, the Judge shall order a notice as aforesaid, but without a Certificate, to be inserted three times in the course of one calendar month in some newspaper published in the said District or County.

Ninthly. 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 his acceptance of the sum offered by them, or notify to them the name of a person whom he appoints as Arbitrator, then the Judge shall, on the application of the Company, appoint a Sworn Surveyor for Upper or Lower Canada, as the case may be, to be sole Arbitrator for determining the compensation to be paid as aforesaid.

Tenthly. If the opposite party shall, within the time aforesaid, notify to the Company the name of his Arbitrator, then the two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then the Judge shall, on the application of the party or of the Company, (previous notice of at least one clear day having been given to the other party) appoint a third Arbitrator.

Eleventhly. The Arbitrators, or any two of them, or the sole Arbitrator, being sworn before some Justice of the Peace for the District or County in which the lands lie as aforesaid, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the said compensation 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 be done by such majority, except at a meeting held at a time and place of which the other Arbitrator shall have at least one clear day's notice, or to which some meeting at which the third Arbitrator was present, shall have been adjourned; and no notice to either of the parties shall be necessary, but they shall be held sufficiently notified through the Arbitrator they shall have appointed, or whose appointment they shall have required.

Twelfthly. Provided, that if in any case where three Arbitrators shall have been appointed, the sum awarded be not greater than that offered, the costs of the Arbitration shall be borne by the opposite party, and deducted from the compensation, but if otherwise, they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the Judge aforesaid.

Thirteenthly. 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.

Fourteenthly. The Judge 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 the Judge (as it may be for reasonable cause shewn, on the application of such sole Arbitrator or, of 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.

Fifteenthly. If the Arbitrator appointed by such Judge, or if any Arbitrator appointed by the parties, shall die before the award be made, or be disqualified, or refuse or fail to act within a reasonable

time, then, upon the application of either party, such Judge being satisfied by affidavit or otherwise of such disqualification, refusal or failure, may, in his discretion, appoint another Arbitrator in the place of him by the Judge previously appointed, and the Company and party may each appoint an Arbitrator in the place of their Arbitrator deceased or otherwise; not acting as aforesaid, but no recommencement or repetition of prior proceedings shall be required in any case.

Sixteenthly. Any such notice for lands, as aforesaid, may be desisted from, and new notice given, with regard to the same or other lands, to the same or any other party, but in any such case, the liability to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment, shall subsist.

Seventeenthly. The Surveyor or other person offered or appointed as Valuator or as Arbitrator, shall not be disqualified by reason that he is professionally employed by either party, or that he has previously expressed an opinion as to the amount of compensation, or that he is related or of kin to any member of the Company, provided he is not himself personally interested in the amount of the compensation; and no cause of disqualification shall be urged against any Arbitrator appointed by the Judge after his appointment, but shall be made before the same, and its validity or invalidity shall be summarily determined by the Judge; 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 such Judge, 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.

Eighteenthly. No award made as aforesaid shall be invalidated from 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.

Nineteenthly. Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon 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, to their so doing, the Judge, may, on proof to his satisfaction of such award or agreement, issue his Warrant to the Sheriff of the District or County, or to a Bailiff, as he may deem most suitable, to put the said Company in possession, and to put down such resistance or opposition, which the Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do: Provided that such Warrant may also be granted by any such Judge, without such award or agreement, on affidavit to his

satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the said Rail-way with which the said Company are ready forthwith to proceed; and upon the said Company giving security to his satisfaction, and in a sum which shall not be less than double the amount mentioned in the notice, to pay or deposit the compensation to be awarded within one month after the making of the award, with interest from the time at which possession shall be given, and with such costs as may be lawfully payable by the Company.

Twentiethly. The compensation for any lands which might be taken without the consent of the proprietor, shall stand in the stead of such lands; and any claim to or incumbrance upon the said lands, or any portion thereof, shall, as against the Company, be converted into claim to the 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 that if the Company shall have reason to fear any claims 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, if the lands be situated in Upper Canada, for them to pay such compensation into the office of either of the Superior Courts for Upper Canada, with the interest thereon for six months, and to deliver to the Clerk of the Court 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 Company to the land therein mentioned; and a notice, in such form and for such time as the said Court shall appoint, shall be inserted in some newspaper, if there be any published in the County in which the lands are situate, and in the City of Toronto, which 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 the land, or to any part thereof, or representing or being the husbands of any parties so entitled, to file their claims to the compensation or any part thereof, and all such claims shall be received and adjudged upon by the Court, and the said proceedings shall for ever bar all claims to the lands, or any part thereof, including dower, as well as all mortgages 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, and according to the provisions of this Act, and the Special Act and to law, shall appertain; and the costs of the proceedings, or any part thereof, shall be paid by the Company, or by any other party as the Court shall deem it equitable to order; and if such order of distribution as aforesaid be obtained in less than six months from the payment of the compensation into Court, 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 are expired, the Court shall order the Company to pay to the proper claimants the interest for such further period as may be right.

Twenty-firstly. If the lands so taken be situate in Lower Canada, and if the said Company shall have reason to fear any such claim, mortgage, hypothec or incumbrance, 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 compensation or rent 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 Superior Court for the District in which such land is situate, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award, if there be no conveyance, and such award 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 or award) is under this Act, and shall call upon all persons entitled to the lands, or any part thereof, or representing or being the husband of any party 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 land, or any part thereof (including dower not yet open), as well as any mortgage, hypothec or incumbrance upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the security of the rights of all parties interested, as to right and justice, and the Special Act, and 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 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 are expired, the Court shall order the Company to pay the Prothonotary the interest for such further period as may be right.

Twenty-secondly. If the said Rail-way shall pass through any land belonging to or in possession of any Tribe of Indians in this Province, or if any act occasioning damage to their lands shall be done under the authority of this Act or the Special Act, compensation shall be made to them therefor, in the same manner as is provided with respect to the lands or rights of other individuals; and whenever it shall be necessary that Arbitrators shall be chosen by the parties, the Chief Officer of the Indian Department within this Province, is hereby authorized and required to name an Arbitrator on behalf of the Indians, and the amount which shall be awarded in any case shall be paid, where the lands belong to the Indians, to the said Chief Officer, for the use of such Tribe or Body.

Twenty-thirdly. Whenever it shall be necessary for the Company to occupy any part of the lands belonging to the Queen's Majesty, reserved for Naval or Military purposes, they shall first apply for and obtain the license or consent of Her said Majesty, under the Hand and Seal of the Governor for the time being, and having obtained such license and consent, they may at any time or times enter into or upon, have, hold, use, occupy and enjoy any of the said lands for the purposes of the Rail-way; Provided always, that in the case of any such Naval or Military Reserves, no such license or consent shall be given but upon a Report first made thereupon by the Naval or Military

authorities in which such lands shall for the time being be vested, approving of such license and consent being so given as aforesaid.

Highways and Bridges.

XII. And be it enacted, That the Highways and Bridges shall be regulated as follows:

Firstly. The Rail-way shall not be carried along any existing Highway, but merely cross the same in the line of the Rail-way, unless leave be obtained from the proper Municipal authority therefor; and no obstruction of such Highway with the works shall be made without turning the Highway so as to leave an open and good passage for carriages, and, on completion of the works, replacing the Highway, under a penalty of not less than Ten Pounds for any contravention; but, in either case, the rail itself, provided it does not rise above or sink below the surface of the road more than OIH; inch, shall, not be deemed an obstruction.

Secondly. No part of the Rail-way which shall cross any Highway without being carried over by a Bridge, or under by a Tunnel, shall rise above or sink below the level of the Highway more than one inch; and the Rail-way may be carried across or above any High way within the limits aforesaid.

Thirdly. The space of the arch of any Bridge erected for carrying the Rail-way over or across any Highway shall at all times be, and be continued of the open and clear breadth and space, under such arch, of not less than twenty feet, and of a height from the-surface of such Highway to the centre of such arch of not less than twelve feet; and the descent under any such Bridge shall not exceed one foot in twenty feet.

Fourthly. The ascent of all Bridges erected to carry any Highway over any Rail-way shall not be more than one foot in twenty feet increase over the natural ascent of the Highway; and a good and sufficient fence shall be made on each side of every Bridge, which fence shall not be less than four feet above the surface of the Bridge.

Fifthly. Signboards stretching across the Highway crossed at a level by any Rail-way, shall be erected and kept up at each crossing at such height as to leave sixteen feet from the Highway to the lower edge of the signboard, and having the words "Rail-way Crossing" painted on each side of signboard, and in letters not less than six inches in length; and for every neglect to comply with the requirements of this section, a penalty not exceeding Ten Founds currency shall be incurred.

Fences.

XIII. And be it enacted, That—

Firstly. Fences shall be erected and maintained on each side of the Rail-way, of the height and strength of an ordinary division fence, with openings, or gates, or bars therein and farm crossings of the Road, for the use of the proprietors of the lands adjoining the Rail-way; and also cattle

guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on the Rail-way; and until such fences and cattle guards shall be duly made, the Company shall be liable for all damages which shall be done by their trains or engines to cattle, horses or other animals on the Rail-way; and after the fences or guards shall be duly made, and while they are duly maintained, no such liability shall accrue for any such damages unless negligently or wilfully done; and if any person shall ride, lead or drive any horse or other animal upon such Rail-way, and within the fences and guards, other than the farm crossings, without the consent of the Company, he shall for every such offence forfeit a sum not exceeding Ten Pounds, and shall also pay all damages which shall be sustained thereby to the party aggrieved; and no person other than those connected with, or employed by, the Rail-way, shall walk along the track thereof, except where the same shall be laid across or along a Highway.

Secondly. Within six months after any lands shall be taken for the use of the Rail-way, and if thereunto required by the proprietors of the adjoining lands respectively, but not otherwise, the lands shall be, by the Company, divided and separated and kept constantly divided and separated from the lands or grounds adjoining thereto, with a sufficient post or rail, hedge, ditch, bank or other fence sufficient to keep off hogs, sheep and cattle, to be set and made on the lands so taken, and which the Company shall, at their own costs and charges, from time to time, maintain, support and keep in sufficient repair.

Tolls.

XIV. And be it enacted, That Tolls shall be established as follows:

Firstly. Tolls shall be from time to time fixed and regulated by the By laws of the Company, or by the Directors, if thereunto authorized by the By-laws, or by the Shareholders at any general meeting, and shall and may be demanded and received for all passengers and goods transported upon the Rail-way or in the Steam Vessels to the undertaking belonging, and which shall be paid to such persons and at such places near to the Rail-way, in such manner and under such regulations as the By-laws shall direct; and in case of denial or neglect of payment of any such Tolls, or any part thereof on demand, to such persons, the same may be sued for and recovered in any competent Court, or the Agents or Servants of the Company may, and they are hereby empowered to seize the goods for or in respect whereof such tolls ought to be paid, and detain the same until payment thereof; and in the mean time the said goods shall be at the risk of the Owners thereof; and if the said tolls shall not be paid within six weeks, the Company shall thereafter have power to sell the whole or any part of such goods, and out of the money arising from such sales to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale; rendering the surplus, if any, of the money realized from such sale, or of such of the goods as may remain unsold, to the person entitled thereto; and if any goods shall remain in the possession of the Company unclaimed for the space of twelve months, the Company shall thereafter, and on giving public notice thereof by advertisement for six weeks in the Canada Gazette, and in such other papers as they may deem necessary, have power to sell such goods by public auction at a time and place to be mentioned in such advertisement, and out of the proceeds thereof to pay such tolls and all reasonable charges for storing, advertising and selling such goods; and any balance of such

proceeds shall be kept by the Company for a further period of three months, to be paid over to any party entitled thereto; and in default of such balance being claimed before the expiration of the period last aforesaid, the same shall be paid over to the Receiver General, to be applied to the general purposes of the Province, until such time as the same shall be claimed by the party entitled thereto; and all or any of the said tolls may, by any by-law, be lowered and reduced and again raised as often as it shall be deemed necessary for the interests of the undertaking: Provided that the same tolls shall be payable at the same time and under the same circumstances upon all goods and persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any By-laws relating to the tolls.

Secondly. In all cases, a fraction in the distance over which goods or passengers shall be transported on the Rail-way shall be considered as a whole mile; and for a fraction of a ton in the weight of any goods, a proportion of the tolls shall be demanded and taken, according to the number of quarters of a ton contained therein, and a fraction of a quarter of a ton shall be deemed and considered as a whole quarter of a ton.

Thirdly. The Directors shall, from time to time, print and stick up, or cause to be printed and stuck up, in the office, and in all and every of the places where the tolls are to be collected, and in every passenger car, in some conspicuous place there, a printed board or paper exhibiting all the tolls payable, and particularising the price or sum of money to be charged or taken for the carriage of any matter or thing.

Fourthly. No tolls shall be levied or taken until approved of by the Governor in Council, nor until after two weekly publications in the Canada Gazette of the By-law establishing such tolls, and of the Order in Council approving thereof.

Fifthly. Every By-law fixing and regulating tolls shall be subject to revision by the Governor in Council from time to time, after approval thereof as aforesaid; and after an Order in Council, reducing the tolls fixed and regulated by any By-law, shall have been twice published in the Canada Gazette, the tolls mentioned in such Order in Council shall be substituted for those mentioned in such By-law so long as such Order in Council remains unrevoked.

General Meetings.

XV. And be it enacted, That the Shareholders shall always have power to assemble together at general meetings for purposes connected with or belonging to the undertaking, and at any annual general meeting, and elect Directors in the manner provided by the next succeeding clause.

Directors — Their Elections and Duties.

XVI. And be it enacted, That—

Firstly. A Board of Directors of the undertaking to manage its affairs, the number whereof shall be stated in the Special Act, shall be chosen annually by a majority of the Shareholders voting at such

election at a general meeting, the time and place for which shall be appointed by the Special Act, and if such election shall not be held on the day so appointed, it shall be the duty of the Directors to notify and cause such election to be held within thirty days after the day so appointed; and on the day so notified, no person shall be admitted to vote except those who would have been entitled to vote had the election been held on the day when it ought to have been held; and vacancies in the Board of Directors shall be filled in such manner as may be prescribed by the By-laws; and no person shall be a Director unless he be a Stockholder, owning stock absolutely in his own right, and qualified to vote for Directors at the election at which he shall be chosen.

Secondly. The method of calling general meetings, and the time and place of the first meeting of Stockholders for the appointment of Directors, shall be determined and settled in the Special Act.

Thirdly. The number of votes to which each Shareholder shall be entitled on every occasion when the votes of the members are to be given, shall be in the proportion to the number of shares held by him, unless otherwise provided by the Special Act; and all Shareholders, whether resident in this Province or elsewhere, may vote by proxy, if they shall see fit: Provided that such proxy do produce from his constituent an appointment in writing, in the words or to the effect following, that is to say:

"I, _____, of _____, one of the Shareholders of the _____, do hereby appoint _____, of _____, to be my proxy, and in my absence to vote or give my assent to any business, matter or thing relating to the said undertaking, that shall be mentioned or proposed at any meeting of the Shareholders of the said Company, or any of them, in such manner as he, the said _____, shall think proper. In witness whereof, I have hereunto set my hand and seal, the _____ day of _____, in the year _____."

Fourthly. The votes by proxy shall be as valid as if the principals had voted in person; and every matter or thing proposed or considered in any public meeting of the Shareholders shall be determined by the majority of votes and proxies then present and given as aforesaid, and all decisions and acts of any such majority shall bind the Company, and be deemed the decisions and acts of the Company.

Fifthly. The Directors first appointed, or those appointed in their stead, in case of vacancy, shall remain in office until the next annual election of Directors at the time appointed therefor, at which time an annual general meeting of the Shareholders shall be held to choose Directors for the ensuing year, and generally to transact the business of the Company: Provided always, that the said Directors, in case of the death, absence or resignation of any of them, may appoint others in their stead; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors.

Sixthly. The Directors shall, at their first or at some other meeting, after the day appointed for the annual general meeting, elect one of their number to be the President of the 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 President shall be elected in his

stead; and they may in like manner elect a Vice-President, who shall act as Chairman in the absence of the President.

Seventhly. The Directors at any meeting at which not less than a quorum to be settled by the Special Act shall be present, shall be competent to use and exercise all and any of the powers vested in the said Directors, but no one Director shall have more than one vote at any meeting except the Chairman, who shall, in case of a division of equal numbers, have the casting vote, and the Directors shall be subject to the examination and control of the Shareholders at their annual meetings, and be subject to all By-laws of the Company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the Special Act; 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.

Eighthly. No person holding any office, place or employment in or being concerned or interested in any contracts under or with the Company, shall be capable of being chosen a Director, or of holding the office of Director.

Ninthly. The Directors shall make By-laws for the management and disposition of the stock, property and business affairs of the Company, not inconsistent with the laws of this Province, and for the appointment of all officers, servants and artificers, and prescribing their respective duties.

Tenthly. The Directors may from time to time make such calls of money upon the respective Shareholders, in respect of the amount of Capital respectively subscribed or owing by them, as they shall deem necessary, provided that thirty days' notice at the least be given of each call, and that no call exceed the prescribed amount to be determined therefor in the Special Act, nor made at a less interval than two months from the previous call, or a greater amount be called in, in any one year, than the prescribed amount therefor in the Special Act, and every Shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him to the persons and at the times and places from time to time appointed by the Company or the Directors.

Eleventhly. If before or on the day appointed for payment, any Shareholder do not pay the amount of any call, he shall be liable to pay interest for the same, at the rate of six per centum per annum, from the day appointed for the payment thereof to the time of the actual payment.

Twelfthly. If at the time appointed for the payment of any call, any Shareholder shall fail to pay the amount of the call, he may be sued for the same, in any Court of Law or Equity having competent jurisdiction, and the same may be recovered with lawful interest from the day on which such call was payable.

Thirteenthly. In any action or suit to recover any money due upon any call, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the Defendant is the holder of one share or more, stating the number of shares, and is indebted 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 said Company by virtue of the Special Act.

Fourteenthly. The Certificate of Proprietorship of any share shall be admitted in all Courts as *prima facie* evidence of the title of any Shareholder, his executors, administrators, successors or assigns, to the share therein specified; nevertheless, the want of such Certificate shall not prevent the holder of any share from disposing thereof.

Fifteenthly. Any persons 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 undertaking, and all the profit and benefit thereof; all which forfeitures shall go to the Company for the benefit thereof.

Sixteenthly. Provided that no advantage shall be taken of the forfeiture, unless the same shall be declared to be forfeited at a General Meeting of the Company, assembled at any time after such forfeiture shall be incurred, and every such forfeiture shall be an indemnification to and for every 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 the said undertaking.

Seventeenthly. The Directors of the said Company may sell, either by public auction or private sale, and in such manner and on such terms as to them shall seem meet, any shares so declared to be forfeited, and also any shares remaining unsubscribed for in the Capital Stock of the Company, or pledge such forfeited or unsubscribed shares for the payment of loans or advances made or to be made thereon, or of any sums of money borrowed or advanced by or to the Company.

Eighteenthly. A Certificate of the Treasurer of the Company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact therein stated, and of their purchase by the purchaser; and with the receipt of the Treasurer for the price of such shares, shall constitute a good title to the shares, and the Certificate shall be by the said Treasurer enregistered in the name and with the place of abode and occupation of the purchasers, and shall be entered in the Books required to be kept by the By-laws of the Company, and such purchaser shall thereupon be deemed the holder of such shares, and shall not be bound to see to the application of the purchase money, nor shall his title to such shares be affected by any irregularity in the proceedings in reference to such sale, and any Shareholder may purchase any shares so sold.

Nineteenthly. Shareholders willing to advance the amount of their shares, or any part of the money due upon the respective shares beyond the sums actually called for, may pay the same, and upon the principal moneys so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls then made upon the shares in respect of which such advance shall be made, the Company may pay interest at the legal rate of interest for the time being, as the Shareholders paying such sum in advance and the said Company may agree upon: Provided, such interest shall not be paid out of the Capital subscribed.

Twentiethly. The Directors shall and they are hereby required to cause a true, exact and particular account to be kept and annually made up and balanced on the thirty-first day of December in each year, of the money collected and received by the Company, or by the Directors or Managers thereof, or otherwise, for the use of the Company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the Company or the Directors, and at the general meetings of the Shareholders of the 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 Shareholders in the stock of the Company, as such meeting 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, or be paid thereout, 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.

Twenty-firstly. The Directors of the Company may, in their discretion, until the Rail-road shall be completed and opened to the public, pay interest at any rate not exceeding Six Pounds per centum per annum, on all sums called up in respect of the shares, from the respective days on which the same shall be paid, such interest to accrue and be paid at such times and places as the Directors shall appoint for that purpose: Provided always, that no interest shall accrue to the proprietors of any share upon which any call shall be in arrear in respect of such shares or any other share to be holden by the same Shareholder during the period which such call shall remain unpaid nor shall any interest be paid or taken from the Capital subscribed or any part thereof.

Twenty-secondly. The Directors shall from time to time appoint such and so many Officers as they may deem requisite, and take from them such sufficient security by one or more Bond or Bonds, in a sufficient penalty or penalties or otherwise from the Manager and Officers for the time being, for the safe keeping and accounting of the moneys to be raised by virtue of this Act and the Special Act, and for the faithful execution by them of their offices respectively, as the Directors shall think proper.

Twenty-thirdly. In case of the absence or illness of the President, the Vice-President shall have all the rights and powers of the President, and shall be competent to sign all Notes, Bills, Debentures, and other Instruments, and to perform all acts which by the Regulations and By-laws of the Company or by the Acts incorporating the Company are required to be signed, performed and done by the President; and the Directors may at any meeting require the Secretary to enter such absence or illness among the proceedings of such meeting, and a Certificate thereof signed by the Secretary shall be delivered to any person or persons requiring the same on payment to the Treasurer of Five Shillings, and such Certificate shall be taken and considered as *primâ facie* evidence of such absence or illness, at and during the period in the said Certificate mentioned, in all proceedings in Courts-of Justice or otherwise.

Twenty-fourthly. All notices of meetings or of calls upon the Shareholders of the Company shall be published weekly in the Canada Gazette, and the said Gazette shall, on production thereof, be conclusive evidence of the sufficiency of the said notices.

Shares and Their Transfer.

XVII. And be it enacted, That—

Firstly. Shares in the undertaking may be, by the parties, sold and disposed of by instrument in writing, to be made in duplicate in the form following, one part of which shall be delivered to the Directors, to be filed and kept for the use of the said Company, and an entry thereof shall be made in a Book to be kept for that purpose; but no interest on the shares transferred shall be paid by the purchaser until said duplicate shall be so delivered, filed and entered.

Secondly. Sales 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, hereby do sell and transfer to him _____ share (or shares) of the stock of the _____, to hold to him the said C. D. his Heirs, Executors, Administrators and Assigns, subject to the same rules and orders, and on the same conditions that I held the same immediately before the execution thereof. 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 this _____ day of _____ in the year of _____.”

Thirdly. The Stock of the Company shall be deemed personal estate, but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or the said shares shall have been declared forfeited for the nonpayment of calls thereon, and no transfer of less than a whole share shall be valid.

Fourthly. If any share in the Company shall be transmitted by the death, bankruptcy or last will, donation or testament, or by the intestacy of any Shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the party to whom such share shall be so transmitted, shall deposit in the office of the Company a statement in writing, signed by him, declaring the manner of such transmission, together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or proof as may be necessary, and without which such party shall not be entitled to receive any share of the profits of the Company, nor vote in respect of any such share as to the holder thereof.

Municipalities.

XVIII. And be it enacted, That—

Firstly. Municipal Corporations in this Province may subscribe for any number of shares in the Capital Stock of, or lend to or guarantee the payment of any sum of money borrowed by the Company from any Corporation or person, or indorse or guarantee the payment of any Debenture to be issued by the Company for the money by them borrowed, and shall have power to assess and levy from time to time upon the whole rateable property of the Municipality a sufficient sum for them to discharge the debt or engagement so contracted, and for the like purpose to issue Debentures payable at such times and for such sum respectively, not less than Five Pounds currency, and bearing or not bearing interest, as such Municipal Corporation may think meet.

Secondly. Any such Debenture issued, indorsed or guaranteed, shall be valid, and binding upon such Municipal Corporation, if signed or indorsed, and countersigned by such officer or person, and in such manner and form as shall be directed by any By-law of such Corporation, and the Corporation Seal thereto shall not be necessary, nor the observance of any other form with regard to the Debentures than such as shall be directed in such By-law as aforesaid.

Thirdly. No Municipal Corporation shall subscribe for Stock or incur any debt or liability under this Act or the Special Act, unless and until a By-law to that effect shall have been duly made, and adopted with the consent first had of a majority of the qualified electors of the Municipality, to be ascertained in such manner as shall be determined by the said By-law, after public advertisement thereof containing a copy of such proposed By-law, inserted at least four times in each newspaper printed within the limits of the Municipality, or if none be printed therein, then in some one or more newspaper printed in the nearest City or Town thereto and circulated therein, and also put up in at least four of the most public places in each Municipality.

Fourthly. The Mayor, Warden or Reeve, being the Head of such Municipal Corporation, subscribing for and holding Stock in the Company, to the amount of Five Thousand Pounds, or upwards, shall be and continue to be *ex officio* one of the Directors of the Company, in addition to the number of Directors authorized by the Special Act, and shall have the same rights, powers and duties as any of the Directors of the Company.

Shareholders.

XIX. And be it enacted, That—

Firstly. Each Shareholder shall be individually liable to the creditors of the Company to an amount equal to the amount unpaid on the Stock held by him, for the debts and liabilities thereof, and until the whole amount of his Stock shall have been paid up; but shall not be liable to an action therefor before an execution against the Company shall have been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable with costs against such Shareholders.

Secondly. The original Capital Stock may be increased from time to time to any amount, but such increase must be sanctioned by a vote in person or by proxy, of at least two-thirds in amount of all the Shareholders, at a meeting of them expressly called by the Directors for that purpose, by a

notice in writing to each Shareholder, served on him personally, or properly directed to him, and deposited in the Post Office nearest to his place of residence, at least twenty days previous to such meeting, stating the time and place and object of the meeting, and the amount of increase and the proceedings; of such meeting must be entered on the Minutes of the proceedings, and thereupon, the Capital Stock may be increased to the amount sanctioned by such a vote.

Thirdly. The funds of the Company shall not be employed in the purchase of any Stock in their own or in any other Company.

Actions for Indemnity, and Fines and Penalties and Their Prosecution.

XX. And be it enacted, That—

Firstly. All suits for indemnity for any damage or injury sustained by reason of the Rail-way, shall be instituted within six calendar months next after the time of such supposed damage sustained, or if there shall be continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards; and the Defendants may plead the general issue and give this Act and the Special Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by authority of this Act and the Special Act.

Secondly. All persons by any means or in any manner or way whatsoever, obstructing or interrupting the free use of the Rail-way, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, shall, for every such offence, be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the common Gaol of the District or County where the conviction shall take place, or in the Provincial Penitentiary, for a term not to exceed five years.

Thirdly. All persons wilfully and maliciously, and to the prejudice of the Rail-way, breaking, throwing down, damaging or destroying the same, or any part thereof, or any of the buildings, stations, depots, wharves, vessels, fixtures, machinery or other works or devices incidental and relative thereto, or connected therewith, or doing any other wilful hurt or mischief, or wilfully or maliciously obstructing or interrupting the free use of the Rail-way, vessels or works, or obstructing, hindering or preventing the carrying on, completing, supporting and maintaining the Rail-way, vessels or works, shall be adjudged guilty of a misdemeanor, unless the offence committed shall, under some other Act or Law, amount to a felony, in which case such person shall be adjudged guilty of a felony, and the Court by and before whom the person shall be tried and convicted, shall have power and authority to cause such person to be punished in like manner as persons guilty of misdemeanor or felony (as the case may be) are directed to be punished by the laws in force in this Province.

Fourthly. All lines and forfeitures imposed by this Act or the Special Act, or which shall be lawfully imposed by any By-law, the levying and recovering of which 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, County or place where the act occurred, either by the confession of the parties, or by the oath or affirmation of any one credible witness, which oath or affirmation such Justice or Justices is or 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 fines, forfeitures and penalties, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer of the Company, to be applied to the use thereof, and the overplus of the money so raised, and after deducting the penalty and the expenses of the levying and recovering thereof, shall be returned 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 expense, the offender shall be sent to the common Gaol for the County or District in which he shall have been convicted, there to remain without bail or mainprize, for such term, not exceeding one month, as the Justice or Justices shall think proper, unless the penalty or forfeiture, and all expenses attending the same, shall be sooner paid and satisfied; but every such person or persons may, within four calendar months after the conviction, appeal against the same to the Court of General Quarter Sessions, to be holden in and for the County or District.

Fifthly. All contraventions of this Act or of the Special Act, by the 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 Company, if they be the offending party, from the forfeiture by this Act and the Special Act, of the privileges conferred on them by the said Acts, if by the provisions thereof or by law, the same be forfeited by such contravention.

Sixthly. All By-laws, Rules and Orders regularly made, shall be put into writing and signed by the Chairman or person presiding at the meeting at which they were adopted, and shall be kept in the office of the Company; and a printed copy of so much of them as may relate to or affect any party other than the members or servants of the Company, shall be affixed openly in all and every passenger car, and in all and every of the places where tolls are to be gathered, and in like manner so often as any change or alteration shall be made to the same; and any copy of the same, or of any of them, certified as correct by the President or Secretary, shall be deemed authentic, and shall be received as evidence thereof in any Court, without further proof: Provided nevertheless, that all such By-laws, Rules and Orders shall be submitted from time to time to the Governor General, or person administering the Government of this Province, for approval.

Seventhly. That copies of the Minutes of proceedings and resolutions of the Shareholders of the Company, at any general or special meeting, and of Minutes of proceedings and resolutions of the Directors, at their meetings, extracted from the Minute-books kept by the Secretary of the Company, and by him certified to be true copies, extracted from such Minute-books, shall be *primâ facie* evidence of such proceedings and resolutions in all Courts of civil jurisdiction, and all notices given by the Secretary of the Company, by order of the Directors, shall be deemed notices by the said Directors and Company.

Working of the Rail-way.

XXI. And be it enacted, That—

Firstly. Every servant of the undertaking employed in a passenger train or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and he shall not without such badge be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, nor meddle or interfere with any passenger or his baggage or property.

Secondly. The trains shall start and run at regular hours to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and goods as shall within a reasonable time previous thereto be offered for transportation at the place of starting, and at the junctions of other Rail-ways and at usual stopping places established for receiving and discharging way-passengers and goods from the trains, and such passengers and goods shall be taken, transported and discharged, at, from, and to such places, on the due payment of the toll, freight or fare legally authorized therefor, and the party aggrieved by any neglect or refusal in the premises, shall have an action therefor against the Company.

Thirdly. Checks shall be affixed by an agent or servant to every parcel of baggage having a handle, loop or fixture of any kind thereupon, and a duplicate of such Check shall be given to the passenger delivering the same; and if such Check be refused on demand, the Company shall pay to such passenger, the sum of Two Pounds, to be recovered in a civil action; and further, no fare or toll shall be collected or received from such passenger, and if he shall have paid his fare, the same shall be refunded by the Conductor in charge of the train; and any passenger producing such Check, may himself be a witness in any suit brought by him against the Company, to prove the contents and value of his baggage not delivered to him.

Fourthly. The baggage, freight, merchandize or lumber cars shall not be placed in rear of the passenger cars, and if any such be so placed, the officer or agent directing or knowingly suffering such arrangement, and the conductor of the train, shall severally be deemed guilty of a misdemeanor, and be punished accordingly.

Fifthly. Every locomotive engine shall be furnished with a bell, of at least thirty pounds weight, or a steam whistle; and the bell shall be rung, or the whistle sounded at the distance of at least eighty rods from every place where the Rail-way shall cross any highway, and be kept ringing or be sounded at short intervals, until the engine shall have crossed such highway, under a penalty of Two Pounds for every neglect thereof, to be paid by the Company, who shall also be liable for all damages sustained by any person by reason of such neglect, one half of which penalty and damages shall be chargeable to and collected by the Company from the Engineer having charge of such engine and neglecting to sound the whistle or ring the bell as aforesaid.

Sixthly. Passengers refusing to pay their fare, may, by the conductor of the train and the servants of the Company, be, with their baggage, put out of the cars, using no unnecessary force, at any

usual stopping place, or near any dwelling house, as the conductor shall elect, first stopping the train.

Seventhly. All persons in charge of a locomotive engine, or acting as the conductor of a car or train of cars, who shall be intoxicated on the Rail-way, shall be deemed guilty of a misdemeanor.

Eighthly. Any passenger injured while on the platform of a car, or on any baggage, wood or freight, car, in violation of the printed regulations posted up at the time in a conspicuous place, inside of the passenger cars then in the train, shall have no claim for the injury, provided sufficient room inside of such passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time.

General Provisions.

XXII. And be it enacted, That—

Firstly. The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares may be subject; and the receipt of the party in whose name any share shall stand in the Books of the Company, or if it stands in the name of more parties than one, the receipt of one of the parties named in the Register of Shareholders shall from time to time be a sufficient discharge to the Company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the Company have had notice of the trusts, and the Company shall not be bound to see to the application of the money paid upon such receipts.

Secondly. 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, shall at all times, when thereunto required by Her Majesty's Provincial Postmaster General, the Commander of the Forces, or any person having the Superintendence or Command of any Police Force, and with the whole resources of the Company if required, be carried on the Rail-way, on such terms and conditions, and under such regulations as the Governor in Council shall make; and the Company may be required by the Governor, or any person thereunto authorized by him, to place any Electric Telegraph, and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service; provided that any further enactments which the Legislature of this Province may hereafter make, for the carriage of the Mail or Her Majesty's Forces, and other persons and articles as aforesaid, or the tolls therefor, or in any way respecting the use of any Electric Telegraph or other service to be rendered to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act or the Special Act.

Thirdly. A true and perfect account of the names and places of abode of the several Shareholders shall be kept and entered in a Book to be kept for that purpose, as well as of the several persons who shall from time to time become proprietors of, or entitled to any shares therein, and of all the

other acts, proceedings and transactions of the said Company and of the Directors from the time being.

Fourthly. A Map and Profile of the completed Rail-way and of the land taken or obtained for the use thereof, shall, within a reasonable time after completion of the undertaking be made and filed in the office of the Commissioners of Public Works, and also like maps of the parts thereof located in different Counties, shall be filed in the Registry Offices for the Counties in which such parties shall be respectively; and every such Map shall be drawn on such a scale, and on such paper, as may from time to time be designated for that purpose by the Chief Commissioner of Public Works, and shall be certified and signed by the President or Engineer of such Corporation.

Fifthly. An account shall be annually submitted 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 Rail-way or any part thereof to the public, containing a detailed and particular account, attested upon oath of the President, or Vice-President in his absence, of the moneys received and expended by the Company, and a classified statement of the passengers and goods transported by them, with an attested copy of the last annual statement; 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.

Sixthly. If the construction of the Rail-way shall not have been commenced, and ten per cent, on the amount of the Capital shall not have been expended thereon, within three years after the passing of the Special Act, or if the Rail-way shall not be finished and put in operation in ten years from the passing of such Special Act as aforesaid, its corporate existence and powers shall cease.

Seventhly. The Legislature of this Province, may from time to time reduce the tolls upon the Rail-way, but not without consent of the Company, or so as to produce less than fifteen per cent, per annum profit on the Capital actually expended in its construction; nor unless, on an examination made by the Commissioners of Public Works of the amount received and expended by the Company, the net income from all sources, for the year then last passed, shall have been found to exceed fifteen percent, upon the Capital so actually expended.

Eighthly. No person shall be entitled to carry or to require the Company to carry upon their Rail-way any *aqua fortis*, oil of vitriol, gunpowder, lucifer matches, or any other goods, which, in the judgment of the Company, may be of a dangerous nature; and if any person send by the said Rail-way any such goods without distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice in writing to the Book-keeper or other Servants of the Company with whom the same are left at the time of so sending the said goods, he shall forfeit to the Company the sum of Five Pounds currency, for every such offence; and it shall be lawful for the Company to refuse to take any package or parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Ninthly. The offence of forging any Debentures or a *Coupon* of any Debenture issued under the authority of this Act or of the Special Act, or of uttering any such Debenture or *Coupon*, knowing the same to be forged, or of being accessory before or after the fact to any such offence, shall be deemed felony, and be punished accordingly.

Tenthly. The Company shall make and keep in repair all fences, roads and water courses, and be subject to all municipal regulations and provisions in respect thereof in or for lands belonging to or held by the Company, and subject to any such regulations, or to any charges, public, municipal or local, as the case may be, in any County, Parish or Township in Lower Canada through which the Rail-way shall pass; and the said Company may, in default or contravention thereof, be prosecuted therefor by the Officers of the Municipality, before the Commissioners Court or Circuit Court within the jurisdiction of which such fence, road or water course shall be, and the service of the Summons upon any Clerk or Officer in charge of the section of the Rail-way within the said jurisdiction, or at the nearest depot of the Rail-way, shall be good service upon the Company.

Eleventhly. Every Special Rail-way Act shall be a Public Act.

Twelfthly. The Legislature may at any time annul or dissolve any Corporation formed under this Act; but such dissolution shall not take away or impair any remedy given against any such Corporation, its Shareholders, Officers or Servants, for any liability which shall have been previously incurred.

Thirteenthly. 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.

Fourteenthly. No amendment or alteration in this Act shall be held to be an infringement of the rights of any Company authorized to construct a Rail-way by any Act of this or any future Session with which this Act is or shall be incorporated.