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No. 63.

4th Session, 3rd Parliament, 14 Victoria, 1851.

BILL.

An Act to Incorporate the Montreal
and Kingston Railway Company.

Received and read a first time, Thursday, 5th
June, 1851.

Second Reading, Monday, 9th June, 1851.

Mr. CARTIER.

TORONTO : PRINTED BY LOVELL AND GIBSON.

B I L L .

An Act to incorporate *The Montreal and Kingston Railway Company.*

WHEREAS the construction of a Railway connecting Preamble.
 the extremities of the Province must conduce greatly
 to the interest and welfare of its inhabitants; And whereas
 John Young, the Honorable George Moffatt, the Honorable
 5 A. N. Morin, L. H. Holton, A. T. Galt, George E. Cartier,
 M. P. P., and Ira Gould have prayed to be incorporated,
 with the powers requisite for making and maintaining a
 portion of such Railway; Now therefore be it enacted by
 the Queen's Most Excellent Majesty, by and with the
 10 advice and consent of the Legislative Council and of the
 Legislative Assembly of the Province of Canada, consti-
 tuted and assembled by virtue of and under the authority
 of an Act passed in the Parliament of the United King-
 dom of Great Britain and Ireland, and intituled, "*An Act*
 15 "*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 John Young, Incorporation
of John
Young, &c.,
&c.
 Honorable A. N. Morin, Honorable George Moffatt, L.
 H. Holton, A. T. Galt and Ira Gould, together with such
 20 person or persons as shall, under the provisions of this
 Act, become subscribers to, and proprietors of, any share
 or shares in the Railway hereby authorised to be made,
 and their several and respective heirs, executors, admin-
 istrators, curators and assigns, being proprietors of any
 25 share or shares in the said Railway, are and shall be a
 Company for constructing and maintaining the said Rail-
 way, according to the rules, orders and directions hereinafter
 expressed, and shall for that purpose be one Body Politic
 and Corporate by the style and title of "*The Montreal*
 30 *and Kingston Railway Company,*" and by that name shall
 have perpetual succession, and shall have a Common Seal;
 and by that name shall and may sue and be sued, and also
 shall and may have power and authority to purchase lands,
 tenements and hereditaments for them and their succes-
 35 sors and assigns, for the use of the said Railway, without
 Her Majesty's *Lettres d'Amortissement*; saving neverthe-
 less to the Seigneur or Seigniors within whose *censive* the
 lands, tenements and hereditaments so purchased may be
 situate, his and their several and respective rights, and
 40 also to sell, let or lease, alienate and convey any of the
 said lands, tenements and hereditaments purchased for
 the purposes aforesaid; and any person or persons, bodies
 politic or corporate, or communities may give, grant, bar-
 gain, sell, let or lease, or convey to the said Company of
As the
"Montreal
and Kingston
Railway Com-
pany";

With power
to construct a
Railway
extending
from Montreal
to Kingston.

Proprietors for the purposes aforesaid any lands, tenements or hereditaments, or the same may acquire by purchase or lease from the said Company without *Lettres d'Amortissement*; and the said Company of Proprietors and their successors and assigns shall be and are hereby authorized 5 and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Railway, to be called "*The Montreal and Kingston Railway*," with one or more sets of rails or tracts, and to be worked by locomotive engines or in such other mode as the said Company may deem expedient, from the City of Montreal, by such line as may be found most advantageous, to the City of Kingston, or such other point on or near the River St. Lawrence or Lake Ontario as shall seem most suitable 15 to the purposes of the said Company, and to erect wharves, warehouses and other buildings, and also all machinery requisite for the efficient working of the said Railway, at all such places as to the said Company may seem fit: Provided always, and be it enacted, That the said Com- 20 pany shall have power at any general meeting of the Proprietors as hereinafter provided for, to determine the general course and direction of the said Railway from the said City of Montreal to, or towards the said City of Kingston, and likewise the particular course and direction 25 thereof.

Power to enter
upon Lands,
&c. and to con-
struct, &c.

II. And be it enacted, That, for the purposes aforesaid, the said Company of Proprietors, their deputies, servants, agents and workmen, are hereby authorized and empowered to enter into and upon the lands and grounds of the 30 Queen's Most Excellent Majesty, or of any person or persons, bodies politic, corporate or collegiate, or communities 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 pro- 35 per for making the said intended Railway, and all such other works, matters and conveniences, as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining and using the said intended Railway and other works, and also to bore, 40 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 Railway or other works, or out of the lands or grounds of any 45 person or persons adjoining or lying convenient thereto, and which may be proper, requisite or necessary for making or repairing the said intended Railway or works, incidental or relative thereto, or which may hinder, prevent or obstruct the making, using or completing, extend- 50 ing 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 Railway, or upon

the lands adjoining or near the same respectively, such and so many houses, warehouses, toll houses, watch houses, weighing beams, cranes, fire engines, steam engines, or other engines, either stationary or locomotive, 5 inclined planes, machines, and other works, ways, roads, and conveniences, as and when the said Company of Proprietors shall think requisite and convenient, for the purposes of the said Railway; and also from time to time to alter, repair, divert, widen, enlarge and extend 10 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 15 repairing the said intended Railway; 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 Railway and other 20 works, in pursuance of, and according to the true intent and meaning of this Act; they, the said Company of Proprietors, 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 25 to the owners or proprietors of, or the persons interested in the lands, tenements or 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 of by the execution of all or any of the powers 30 of this Act; and this Act shall be sufficient to indemnify the said Company of Proprietors 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 35 hereby granted, subject nevertheless to such provisions and restrictions as are hereinafter mentioned.

III. And be it enacted, That the said Company of Proprietors shall and may, by some sworn Land Surveyor in the Province, and by an Engineer, by them to be appointed, cause to be taken and made, surveys and levels 40 of the said lands, through which the said intended Railway is to be carried, together with a map or plan of such Railway, and of the course and direction thereof, and of the said lands through which the same is to pass, and also 45 a book of reference for the said Railway, in which shall be set forth a description of the said several lands, and the names of the owners, occupiers, and proprietors thereof, and in which shall be contained every thing necessary for the right understanding of such map or plan; which said 50 map or plan and book of reference, so made, shall, on the completion of the said Railway, be certified by the Surveyor General or any of his deputies, and a copy of the same shall be deposited in each of the offices of the Clerks of

Plan of Railway, &c. to be deposited with Prothonotaries, &c.

the Peace or Prothonotaries of the Districts through which the said Railway, or any part thereof, shall or shall be intended to pass, and also in the office of the Secretary of the Province, and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and make extracts or copies thereof as occasion may require, paying to the said Secretary of the Province, or to the said Clerks of the Peace or Prothonotaries, at the rate of *six pence*, current money of this Province, for every hundred words, and the said copies 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 one of the Prothonotaries or Clerks of the Peace of the said Districts, shall severally be, and are hereby declared to be good evidence in the Courts of Law or elsewhere. 5
10
15

Guage 5 feet
6.

IV. Provided always, and be it enacted, That the guage of the said Railway hereby authorized to be constructed shall be five feet six inches.

Flange to be
not more than
one Inch.

V. Provided always, and be it enacted, That where the said Railway shall cross any public highway, the ledge or flange of such Railway, for the purpose of guiding the wheels of the carriages, shall not rise above the level of such road, nor sink below the level of such road more than one inch. 20

Arches of
Bridges over
Roads to be
fifteen feet
wide and
sixteen feet
high.

VI. Provided always, and be it enacted, That where any bridge shall be erected or made by the said Company, for the purpose of carrying the said Railway over or across any public highway, the space of the arch of any such bridge shall be formed and shall at all times be and be continued, of such breadth as to leave a clear and open space under every such arch of not less than fifteen feet, and of a height from the surface of such public highway to the centre of such arch, of not less than sixteen feet, and the descent under any such bridge shall not exceed one foot in thirteen feet. 25
30
35

Ascent of
Bridges over
railway to be
no more than
one foot in
thirteen.

VII. Provided always, and be it enacted, That in all places where it may be necessary to erect, build, or make any bridge or bridges for carrying any public carriage road over the said Railway, the ascent of every such bridge for the purpose of every such road, shall not be more than one foot in thirteen feet; and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the surface of such bridge. 40

Guard boards
to be erected
at road
crossings.

VIII. Provided always, and be it enacted, That in all cases where the said intended Railway shall cross any public highway on a level, the said Company shall erect and at all times maintain good and sufficient guard-boards at such intersections of public highways by the said Rail- 45

way, and every such guard-board shall stretch across the highway at such a height as to leave sixteen feet from the highway to the lower edge of the guard-board, and shall have the words "Railway crossing" on each side thereof in letters not less than six inches long.

IX. And be it enacted, That the lands or grounds which may be taken without the consent of the proprietors thereof, for the use of such intended Railway, and the ditches, drains and fences to separate the same from the adjoining lands, shall not exceed thirty-three yards in breadth: Provided always, that in the places where the said intended Railway shall be raised higher, or cut more than five feet deeper than the present surface of the land, and in the places where it shall be judged necessary to have off-sets for the locomotives or other engines and carriages using the said intended Railway, there may be so taken a total breadth of one hundred and fifty yards: and provided always, that when any houses, ware-houses, toll-houses, watch-houses, weighing-beams, cranes, fixed engines, or inclined planes, may be purposed to be erected, or goods, wares or merchandize to be delivered, there may be so taken a total extent of not more than three hundred yards in length, by two hundred and fifty yards in breadth, without the consent of the proprietors.

Land may be taken without consent 33 yards wide.

For cuttings and embankments or off-sets, 150 yards.

For stations 300 yards by 250 yards.

X. 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 Railway and other works, and other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all bodies politic, corporate, or collegiate, corporation aggregate or sole, communities, 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, *femmes couvertes*, or other person or persons 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 of Proprietors, their successors or assigns, all or any part of such lands or grounds which shall from time to time 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 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;

All bodies politic. &c. may sell, &c. to the Company.

and that all such contracts, agreements, sales, conveyances, and assurances, or notarial copies thereof, shall, at the expense of the said Company of Proprietors and their successors, be deposited in the Office of the Clerks of the Peace or Prothonotaries aforesaid, and true copies thereof shall be allowed to be good evidence in all Courts whatsoever.

Annual rent may be stipulated in the case of communities which cannot sell their land.

XI. Provided always, and be it enacted, That any body politic, community, corporation, or other person or persons whomsoever, 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 Railway, 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, or by arbitration between the parties, it shall be fixed by a Jury convened and qualified in the manner hereinafter prescribed, and all proceedings and litigations in Court, shall in that case be regulated as is hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained for the purchase of any lands or grounds, the said Railway and the Tolls 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 Company may agree with proprietors as to purchase of lands, &c. or be parties to arbitrations, and if either party should fail to agree or arbitrate, the Company may apply to the Court for the Jury valuation.

XII. And be it enacted, That it shall be lawful for the said Company of Proprietors to apply to the several owners of the Estates, lands and grounds through which such Railway is intended to be carried, and to agree with such owners respectively, touching the compensation to be paid to them by the said Company of Proprietors for the purchase thereof, and for their respective damages; and in case of disagreement between the said Company and the said owners, or any of them, then all questions which shall arise between the said Company and the several Proprietors of, and persons interested in any estates, lands or grounds that shall or may be taken, affected or prejudiced by the execution of any of the powers hereby granted, or any indemnification for damages which may or shall be at any time or times sustained by any bodies politic or corporate, or communities, or any other person or persons, respectively, being owners of or interested in any estate, lands or grounds, for or by reason of the making, repairing, or maintaining the said Railway or other works or machines incidental or relative thereto, or connected therewith, shall and may be settled by arbitration; or if either of the parties shall not be inclined to make an agreement, or to appoint arbitrators, or by reason of absence shall be prevented from treating, or through disa-

bility by non-age, coverture, or other impediment, cannot treat or make such agreement, or enter into such arbitration, or shall not produce a clear title to the premises which they claim an interest in; then, and in every such case, the said Company of Proprietors may make application to the Court of

for the stating the grounds of such application, and such Court is hereby empowered and required from time to time, upon such application, to issue a warrant, 10 directed to the Sheriff of the for the time being, commanding such Sheriff to impanel, summon and return a Jury, qualified according to the laws of this Province to be returned for trials of issues joined in civil cases in the said Court of

15 to appear before the said Court at such time and place as in such warrant shall be appointed, and all parties concerned may have their lawful challenge against any of the said Jurymen, but shall not challenge the array; and the said Court is hereby empowered to summon and call 20 before them, all and every such person or persons as it shall be thought necessary to examine as witnesses touching the matters in question, and the said Court may authorize and order the said Jury, or any six or more of them to view the place or places, or matter in controversy, 25 which Jury upon their oaths (all which oaths, as well as the oaths to be taken by any person or persons who shall be called upon to give evidence, the said Court is hereby empowered to administer,) shall enquire of, assess and ascertain the distinct sum or sums of money, or annual 30 rent to be paid for the purchase of such lands or grounds, or the indemnification to be made for the damage that may or shall be sustained as aforesaid, and in so doing the said Jury shall take into consideration the damage or inconvenience which may arise by means of any bridges, 35 roads or other communication made necessary by reason of the said Railway, and may assess separate damage for the same; and the said Jury shall distinguish the value set upon the lands, and the money assessed or adjudged for damages, separate and apart from each other; and the 40 said Court shall give judgment for such sum, rent or indemnification so to be assessed by such Juries, which said verdict, and the judgment so thereupon pronounced, shall be binding and conclusive to all intents and purposes against the Queen's Majesty, Her Heirs and Successors, and against all bodies politic, corporate or collegiate, 45 or communities, and all persons whomsoever.

XIII. And be it enacted, That in all cases where a verdict shall be given for more money as an indemnification or satisfaction for any lands, grounds, hereditaments 50 or property, or for any damage done to any lands, grounds, hereditaments or property, or for any annual rent of any lands, grounds, hereditaments or property, of any person or persons whomsoever, than had previously been offered

As to the payment of the costs of Jury valuations.

by or on behalf of the said Company of Proprietors, then all the expenses of summoning such jury and taking such inquest shall be settled by the Court and defrayed by the said Company of Proprietors; but if any verdict shall be given of the same, or a less sum than had been previously offered by and on behalf of the said Company of Proprietors, or in case no damage shall be given by the verdict when the dispute is for damages only, then and in every such case the costs and expenses shall be settled in like manner by the Court, and be borne and paid by the party or parties with whom the said Company of Proprietors shall have had such controversy; which said costs and expenses having been so settled, shall and may be so deducted out of the money so assessed and adjudged, when the same shall exceed such costs and expenses, as so much money advanced to and for the use of such person or persons; and the payment or tender of the remainder of such money shall be deemed and taken, to all intents and purposes, to be a payment or tender of the whole sums so assessed or adjudged as aforesaid.

Upon tender of value, by agreement, arbitration, or Jury valuation, the Company may take possession of lands.

XIV. And be it enacted, That upon payment or legal tender of such sum or sums of money or annual rent, as shall be contracted or agreed for between the parties, or determined by arbitrators, or assessed by such juries in manner respectively as aforesaid to the Proprietors thereof, or other person or persons entitled to receive the same, or to the principal officer or officers of any such body politic, corporate or collegiate, or community, at any time after the same shall have been so agreed for, determined or assessed, such lands, grounds, hereditaments or property respectively may be entered upon and taken possession of by the said Company of Proprietors, and applied to the purpose of making and maintaining the said Railway and other works and conveniences thereunto appertaining; and if any resistance or forcible opposition shall be made by any person or party to their so doing, any Justice of Her Majesty's Court of

may, on proof to his satisfaction that the requirements of this Act have been complied with, issue his warrant to any Sheriff or to any bailiff or other proper person, to put the said Company in possession, and to put down such resistance or opposition, which such Sheriff or bailiff, or other proper person, taking with him sufficient assistance, shall accordingly do; and such warrant shall also be issued by any such Justice or Judge (and shall be addressed and executed as aforesaid,) on the application of the Company, before any award or agreement shall have been made, upon the affidavit of an engineer in the employ of the said Company, that the immediate possession of any land, or the power immediately to take any materials or to do any thing mentioned in the notice to the party interested, is necessary to the carrying on of the said works of the said

Company, and upon the said Company giving security to the satisfaction of such Justice or Judge, in such sum as he shall direct (not being less than twice the sum mentioned in the certificate of the Town Surveyor,) to pay 5 or deposit the amount to be awarded as compensation in such case, with interest from the date of such warrant, and all costs, within thirty days after the award shall have been made.

XV. And be it enacted, That when the said Com-
 10 pany and the owner of any land, ground, hereditament or property required for the purposes of the said Railway, cannot agree upon the price to be paid for the same, or cannot agree to an immediate arbitration thereon, it shall be lawful for the said Company to tender to the owner
 15 such sum of money as the said Company shall deem to be a sufficient price; and if the tender be refused, then it shall be further lawful for the said Company, upon protest against the refusal, to enter upon and take possession of, and apply to the purposes of the said Railway, the
 20 premises so required, anything in the said Act of Incorporation to the contrary notwithstanding: Provided always, that if after such tender and protest as aforesaid, the owner shall, in writing, give notice to the Company that he waives his refusal and will accept the tender,
 25 then, and in that case, the Company shall within ten days after the receipt of the notice, pay the amount of their tender to such owner.

If the Company and a proprietor cannot agree upon a price or arbitration, the Company, upon tender of a sum, &c. may take possession.

XVI. And be it enacted, That the compensation
 awarded as aforesaid, or agreed upon by the said Com-
 30 pany, 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,
 35 or mortgage, 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 compen-
 40 sation 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 lands so taken be situate in Lower Canada, and if the said Company shall have reason to fear any such claims, mortgages, hypothecs or
 45 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
 50 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

Compensation to stand in place of land.

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 5 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 said Com- 10 pany (that is the conveyance or award,) is under this Act, and shall call upon all persons entitled to, or to any part of the lands, 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 15 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 mortgages, hypothecs or incumbrances upon the same; and the Court shall 20 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 according to the provisions of this Act, and to law, shall appertain; and the costs of the said proceedings or of 25 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 are expired, the Court shall order the Company to pay the Prothonotary the interest for such further period 35 as may be right.

Instruments of agreement and conveyance to be kept by Prothonotaries or Clerks of the Peace.

XVII. And be it enacted, That all agreements, sales and conveyances, and all determinations by arbitration as aforesaid, or notarial copies thereof, when the same may be passed before Notaries, and also the said verdicts and 40 judgments thereupon shall be transmitted to and kept by the Prothonotary of the Superior Court or the Clerks of the Peace for the as the case may be, to be kept among the Records of the said Court, and shall be deemed and taken to be Records of the said Court to all 45 intents and purposes, and the same or true copies thereof shall be allowed to be good evidence in all Courts whatsoever in this Province, and all persons shall have liberty to inspect the same, paying for each inspection the sum of one shilling currency, and to have and to obtain copies 50 thereof, paying for every copy thereof, not exceeding one hundred words, the sum of six pence currency, and so in proportion for any number of words, and imme-

diately on such payment of purchase money or rent as aforesaid, and entry of such agreements, sales, conveyances, determinations by arbitration, verdicts, judgments and other proceedings of the said Court and Juries, all the 5 estate, right, title, interest, use, trust, property, claim and demand in law and equity of the person or persons for whose use such money or rent shall be paid into and out of the said lands, grounds, tenements, hereditaments and premises shall vest in the said Company of Proprietors 10 and their successors, and they shall be deemed in law to be in actual possession and seizin of the same to all intents and purposes whatsoever as fully and effectually as if every person having an estate therein had been able to convey and had actually conveyed the same to them by 15 the most effectual legal conveyance, and such payment shall bar all right, title, interest, claim and demand of the person or persons to whose use the same shall be made, bodies politic, corporate or collegiate, ecclesiastical or civil communities, women subject to marital authority, 20 minors, interdicted persons or absentees who may have or claim to have any right, title, interest, claim or demand therein, and of every other person or persons whomsoever even for dower not yet open, (*douaire non encore ouvert*), any law to the contrary notwithstanding.

25 XVIII. And be it enacted, That application to the said Court for indemnity for any damages 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 30 shall be a continuation of damage, then within six Calendar months next after the doing or committing such damage, shall cease, and not afterwards, and the defendant or defendants shall and may plead the general issue, and give this Act and the special matter in evidence at any 35 trial to be had thereupon, and may aver that the same was done in pursuance and by authority of this Act.

Claims for damages to be instituted within six months.

XIX. 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 40 carriages, 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 five pounds, nor exceeding ten pounds currency, one half of which penalty and forfeiture to be recovered 45 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 sup- 50 port of the government thereof.

Penalties for interruption.

Penalties for
damaging.

XX. And be it enacted, That if any person or persons shall wilfully and maliciously, and to the prejudice of the said Railway 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, toll-houses, 5 watch-houses, weigh-beams, cranes, carriages, 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 and maliciously obstruct or interrupt the free use of the said Rail- 10 way, or obstruct, hinder or prevent the carrying on, completing, supporting and maintaining the said intended Railway, 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 15 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 20 fitting.

Subscription
of Capital.

XXI. And to the end that the said Company of Proprietors may be enabled to carry on so useful an undertaking, be it enacted, That it shall and may be lawful for the said Company of Proprietors and their successors, to 25 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 Railway, and all such other works, matters and conveniences as may be found necessary for making, 30 effecting, preserving, improving, completing, maintaining and using the said Railway and other works: Provided always, that the before mentioned John Young, Hon. A. N. Morin, Hon. Geo. Moffatt, G. E. Cartier, M. P. P., L. H. Holton, Ira Gould and A. T. Galt, or a majority of 35 them, shall cause books of subscription to be opened in the Cities of Montreal, and Kingston, and elsewhere as they may from time to time appoint until the first meeting of Proprietors hereinafter provided for, for receiving the signatures of persons willing to become subscribers to 40 the said undertaking, and for this purpose they shall be held and bound to give public notice in the Canada Gazette, and such other newspaper or newspapers as they or a majority of them shall think proper, of the time and place at which such books will be opened and ready for 45 receiving signatures as aforesaid, and of the persons by them authorized to receive such subscriptions, and every person who shall write his or her signature in such book as a subscriber to the said undertaking shall thereby become a member of the said Corporation, and shall have 50 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.

XXII. And be it enacted, That the sums so to be raised or subscribed shall constitute the capital stock of the said Company and shall not exceed in the whole the sum of six hundred thousand pounds currency, 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, discharge and satisfaction of all fees and disbursements for obtaining and passing this Act, and for making the surveys, plans, and estimates incident thereunto, and all the rest, residue and remainder of such money for and towards making, completing and maintaining the said Railway, and other the purposes of this Act, and to no other use, intent or purpose whatever.

Capital stock
£600,000.

XXIII. And be it enacted, That the said sum of six hundred thousand pounds shall be divided and distinguished into twenty-four thousand equal parts or shares not exceeding twenty-five pounds each, and that such shares shall be deemed personal estate, and shall be transferred as such, and that the said twenty-four thousand shares shall be and are hereby vested in the said several subscribers, and their several respective heirs, executors, curators, administrators and assigns, to their and every of their purpose, use and behoof, 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-five pounds, or such sum or sums as shall be demanded in lieu thereof, towards carrying on and completing the said intended Railway, shall be entitled to and receive, after the said Railway shall be completed, the entire and net distribution of the profits and advantages that shall and may arise and accrue by virtue of the sum and sums of money to be raised, recovered or received by the authority of this Act, in proportion of the number of shares so held, and every body politic, corporate or collegiate, or community, person or persons, having such property of one twenty-four thousandth part 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.

In 24,000
shares of £25
each.

XXIV. And be it enacted, That in case the said sum of six hundred thousand 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 of Proprietors to raise and contribute amongst themselves, in manner and form aforesaid, and in such shares and proportions as to them shall seem

Extension of
Capital Stock
to £1,000,000.

meet, or by the admission of new subscribers, a further or other sum of money for completing and perfecting the said intended Railway, and its branches and other works or conveniences incidental or relative thereto, not exceeding the sum of four hundred thousand pounds currency, aforesaid; and every subscriber towards raising such further or other sum of money, shall be a proprietor in the said undertaking, and have a like vote by himself, or herself, or his or her proxy, in respect of every share 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, and a part of the said first sum of six hundred thousand pounds; anything herein contained to the contrary notwithstanding.

Directors may agree for the purchase or amalgamation of any other road.

XXV. And be it enacted, That it shall be lawful for the Directors of the said "Montreal and Kingston Railway Company," or a majority of a *quorum* of them, to enter into and make any arrangement with the Directors of any other Railway Company now or hereafter to be chartered in any portion of the country between Montreal and Toronto, and more particularly with the Directors of the Montreal and Lachine Railroad Company, for the union, junction, amalgamation or purchase of any Railway now or hereafter to be constructed, and wholly or partially completed. And in case of the amalgamation or purchase of such Railway, the same shall become to all intents and purposes a portion of the said "*Montreal and Kingston Railway Company*," and the Capital Stock of the said Montreal and Kingston Railway Company, if the said Company think fit to increase the same, shall be thereupon increased to the extent of the Capital Stock of the road so purchased, independently of all other increase of the same authorised by this Act.

Limitation of Shareholders' liability.

XXVI. And be it enacted, That no Shareholder in the said Company of Proprietors 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.

Votes of Shareholders.

XXVII. 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 of Proprietors are to be given, shall be in the proportion equal to the number of shares held by him: Provided always, that no one proprietor as aforesaid shall have more than three hundred votes; and all proprietors of shares resident within the

Province, or elsewhere, 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 _____, a proprietor of the
 “Montreal and Kingston Railway,” do hereby nominate,
 “constitute, and appoint _____ of _____
 “to be my proxy, in my name and in my absence, to
 10 “vote or give my assent or dissent to any business, mat-
 “ter, or thing relating to the said undertaking, that shall
 “be mentioned or proposed at any Meeting of the Pro-
 “prietors of the said undertaking, or any of them, in such
 “manner as he the said _____ shall think proper,
 15 “according to his opinion and judgment, for the benefit
 “of the said undertaking, or any thing appertaining there-
 “to. In witness whereof, I have hereunto set my hand
 “and seal, the _____ day of _____ in the
 “year _____.”

20 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 Proprietors, to be held by virtue
 25 of this Act, shall be determined by the majority of votes
 and proxies then present and so given as aforesaid.

XXVIII. And be it enacted, That the first General First General Meeting and Election of Committee.
 Meeting of the Proprietors for putting this Act in execu-
 tion, may be held at the Court House in the City of
 30 Montreal, whenever one thousand shares in the said
 undertaking shall have been subscribed, provided that
 public notice thereof be given during one week in the
 Canada Gazette, and in any other paper published in
 Montreal; and in some paper published at Kingston
 35 aforesaid; and at such said first General Meeting the Pro-
 prietors assembled, together with such proxies as shall
 be present, shall choose nine persons, being each a Pro-
 prietor of twenty or more shares in the said undertaking,
 out of whom any five or more of them shall be a Com-
 40 mittee for managing the affairs of the said Company of
 Proprietors, until the due appointment of Directors as
 hereinafter provided, and such Committee shall have the
 same powers and authorities as are hereinafter conferred
 on the said Directors, and shall be subject to the same
 45 restrictions and control.

XXIX. And be it enacted, That the said Committee, or First General Meeting and Election of Directors.
 any five of them, shall call a General Meeting of the Pro-
 prietors for the purpose of putting this Act into effect, to be
 held in the City of Montreal within one month after one-

fourth of the capital stock authorized to be raised under this Act shall have been subscribed, fifteen days public notice thereof being given in the Canada Gazette and in not less than one other newspaper published in each of the Cities of Montreal and Kingston, at which said General Meeting the Proprietors assembled, with such proxies as shall be present, shall choose nine persons, being each a proprietor of not less than twenty shares in the said undertaking, to be Directors of the said Company, in such manner as is hereinafter directed, and as shall from time to time be ordered by the Proprietors, and at such General Meeting the Proprietors shall also proceed to pass such rules, regulations and by-laws as shall seem to them fit, provided they be not inconsistent with this Act. 5 10 15

Annual
General
Meeting.

XXX. And be it enacted, That in the month of February in each year an annual General Meeting of the said Company of 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 Corporation; but if at any time it shall appear to any eleven or more of such Proprietors, holding together two thousand shares at least, that for more effectually putting this Act in execution, a Special Meeting of Proprietors is necessary to be held, it shall be lawful for such eleven or more of them to cause fifteen days' notice, at least, to be given thereof in the Canada Gazette, and in one other newspaper in each of the Cities of Montreal and Kingston, or in such manner as the Proprietors or their successors shall at any General Meeting 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 two thousand shares, shall be as valid to all intents and purposes as if the same were done at General Meetings: Provided always, that it shall and may be lawful for the said Company of Proprietors at such Special Meetings, in case of the death, absence, resignation or removal of any person named of the Committee to manage the affairs of the said Company of Proprietors in manner aforesaid, to choose and appoint another or others, in the room or stead of those of such Committee who may die, or be absent, resign, or to be removed as aforesaid, any thing in this Act to the contrary notwithstanding. 35 40 45 50

Retirement of
Directors in
rotation.

XXXI. And be it enacted, That at the said Annual Meeting of Proprietors, three of the said nine Directors

shall annually retire in rotation, the retirement of the said first elected nine Directors being decided by lot, but the Directors then or at any subsequent time retiring shall be eligible for re-election; Provided always, that 5 no such retirement shall have effect except the Proprietors at such General Meeting proceed to fill up the vacancies thus occurring in the direction.

XXXII. And be it enacted, That any Meeting of the said Directors, at which not less than five Directors shall 10 be present, shall be competent to do and perform all and any of the powers hereby vested in the said Directors of the said Company; Provided always, that no one member of the said Board of Directors, though he may be a Proprietor of many shares, shall have more than one vote in 15 the said Board, except the President, or in case of his absence or illness the Vice-President of the Company, who shall be chosen by and out of the said Board, and who, in case of a division of equal numbers shall have the casting vote, although he may have given one vote 20 before; and provided also, that such Board shall, from time to time, be subject to the control of the said General and other Meetings of the said Proprietors as aforesaid, and shall pay due obedience to all such orders and directions, in and about the premises, as they shall from 25 time to time receive from the said Proprietors at such General or other Meetings; such orders and directions not being contrary to any express directions or provisions in this Act.

Quorum of Directors and powers.

XXXIII. And be it enacted, That the stock qualification of shareholders to be Directors of the said Company, 30 shall be twenty shares, of twenty-five pounds currency each, of the Capital Stock: Provided, That no person holding any office, place or employment, or concerned or interested in any contract with the said Company, shall 35 be capable of being chosen a member of the Committee for managing the affairs of the said Company, or a Director of the same, or of acting in either of the said capacities.

Qualification of Directors.

XXXIV. And be it enacted, That in case of the absence 40 or illness of the President of the Company, 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 Com- 45 pany, or by the Acts incorporating and relating to the said 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 50 certificate thereof, signed by the Secretary, shall be delivered to any person or persons requiring the same, on

In case of the absence or illness of the President the Vice-President to have all the rights and powers. &c.

payment to the Treasurer of *five shillings*, and such certificate shall be taken and considered as *prima facie* evidence of such absence or illness, at and during the period in the said certificate mentioned in all proceedings for or against the said Company in Courts of Justice, or otherwise. 5

Appointment
of Auditors.

XXXV. And be it enacted, That every such Annual General 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 Treasurer, Receiver and Receivers, and other Officer and Officers to be by their said Committee 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 purpose shall have power to adjourn themselves over from time to time, and from place to place, as shall be thought convenient by them. 10 15

Directors to
take calls—
to direct and
manage con-
tract purchase,
&c., &c.

XXXVI. And be it enacted, That the said Directors assembled by 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 undertaking, to defray the expense of, or to carry on the same, as they from time to time shall find wanting and necessary for these purposes: Provided, however, that no call do exceed the sum of two pounds ten shillings per share of twenty-five pounds, and provided also, that not less than two calendar months be allowed between any two calls made;—and such Directors shall have full power and authority to direct and manage all and every the affairs of the said Company of Proprietors, as well as contracting for and purchasing lands, rights and materials for the use of the said undertaking, 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, so that no such purchase, bargain or other matter, be done or transacted without the concurrence of a majority of such Directors, and the owner or owners of one or more shares in the said undertaking, shall pay his, her or their shares and proportion of the monies to be collected for as aforesaid, to such person or persons, and at such time and place as the said Directors shall from time to time appoint and direct, of which three weeks notice at least shall be given in the Gazette, or in such other manner as the said Proprietors or their successors shall at any General Meeting 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 appointed by such general meeting or Board of Directors, he, she or they neglecting or refusing, shall forfeit a sum not exceeding *five pounds*, for every 20 25 30 35 40 45 50

one hundred pounds of his, her or their respective share and 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 two calendar 5 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 Company of Proprietors of the said undertaking, their successors and assigns, 10 in trust for, and for the benefit of the said Proprietors in proportion to their respective interests:

XXXVII. Provided always, and be it enacted, that no advantage shall be taken of the forfeiture of 15 any share or shares of the said undertaking, unless the same shall be declared to be forfeited at some General Meeting of the said Company of Proprietors assembled at any time after such forfeiture shall be incurred, and every such forfeiture shall be an indemnification to and for every Proprietor so forfeiting against all 20 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 Railway or undertaking. 25

XXXVIII. And be it enacted, That the several persons who shall hereafter subscribe to advance any money for and towards making and maintaining the said Railway and other works connected there- 30 with, 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 of Proprietors under and by virtue of the powers and directions of this 35 Act, to such person or persons and at such times and places as shall be directed by the said Company of Proprietors or the said Committee 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 40 required for that purpose, it shall be lawful for the said Company of Proprietors to sue for and recover the same in any Court of Law having competent jurisdiction.

XXXIX. And be it enacted, That if the Proprietor of any share or shares of the Capital Stock of the said 45 Company shall have made or shall make default in the payment of any call, he shall *ipso facto* be and become further liable to the payment to the Company of interest on the amount of the unpaid call from the date fixed for the payment of the same, and the Company in its corporate name shall and may recover the amount of every 50 unpaid call with interest as aforesaid and costs of suit, by

Shares to be
forfeited at
General
Meeting
only.

Shareholders
to pay calls.

Interest
chargeable on
unpaid calls.

action or suit at law in any Court of competent jurisdiction, and so long as a Proprietor of any share or shares shall be in default of the payment of any call, he shall not be entitled to vote at any meeting of the Proprietors in respect of such shares so remaining in default, any thing in the said Act to the contrary notwithstanding. 5

Calls to be published.

XL. And be it enacted, That all notices of meetings of or of calls upon the Proprietors of shares of the Capital Stock of the said Company shall be published once a week in the *Canada Gazette* and in some other newspaper published in the City of Montreal, and some newspaper published in the City of Kingston, and that in all actions by or against the Company in which it shall be necessary for the Company to prove the publication of any such notice, the proof of the publication thereof in the *Canada Gazette* (by the production of the *Gazette* itself) shall be deemed sufficient, unless the further publication be specially put in issue, and in that case it shall not be necessary for the Company to give any further proof than that the notice was duly published in one of the aforesaid *Gazettes* which was published in the District in which the defendant or party denying the publication dwelt or had his place of business, or that the defendant or party denying the same had been personally or by letter from the Secretary of the Company notified to the effect of the notice in question, anything in the said Act of Incorporation and any other law, usage or custom to the contrary notwithstanding. 10 15 20 25

In actions for calls the Company not required to set forth special matter.

XLI. And be it enacted, That in actions or suits at law by the Company against the proprietor of the share or shares of the capital stock of the Company for the recovery of any unpaid call or calls, with interest, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to declare that the defendant is a holder of one or more shares of the said capital stock, and is indebted to the Company in the sum of money to which the call or calls in arrear shall amount, with interest for non-payment, and in every such action it shall not be competent to the defendant to plead the general issue, but he may by a plea in denial traverse any particular matter or matters of fact alleged in the declaration, or specially plead some particular matter or matters of fact in confession and avoidance; and in all such actions or suits at law as well as in all other actions or suits at law by or against the Company instituted or to be instituted in any Court of civil jurisdiction in that part of this Province which heretofore constituted Lower Canada, recourse shall be had to the rules of evidence laid down by the laws of England, as recognized and used by every such Court in Lower Canada, in commercial cases, and no proprietor of a share or shares of the capital stock of the Company shall be deemed an in- 30 35 40 45 50

competent witness either for or against the Company unless he be also one of the Directors, or be otherwise than as a proprietor incompetent.

5 XLII. And be it enacted, That it shall be lawful for the Directors of the said Company to sell, either by public auction or private sale, and in such manner and on such terms as to them shall seem meet, any share or shares which shall have been declared to be forfeited in manner provided by this Act, and also any share or 10 shares which shall remain unsubscribed for in the capital stock of the said Company, or to 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 or to be borrowed or ad- 15 vanced by or to the said Company.

Directors may sell forfeited or unsubscribed shares.

20 XLIII. And be it enacted, That a certificate of the Treasurer of the Company that the calls in respect of any shares were made, and that default in payment of the said calls was made and that the forfeiture of the shares was declared and confirmed in manner directed in the said Act shall be sufficient evidence of the facts therein stated ; and such certificate and the receipts of the said Treasurer for the price of such shares shall constitute a good title to such shares, and a certificate of such shares shall be 25 by the said Treasurer countersigned and enregistered and the name, place of abode and occupation of the purchasers shall be entered in the book or books required to be kept by the by-laws of the Company, and such purchaser shall thereupon be deemed the holder of such shares 30 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.

Certificate of Treasurer evidence of title of purchaser of forfeited shares.

35 XLIV. And be it enacted, That it shall and may be lawful to and for the said Board of Directors, and they are hereby authorized from time to time to nominate and appoint a Treasurer or Secretary and a Clerk or Clerks to the said Company, taking such security for the 40 due execution of their respective offices as the said Board of Directors shall think proper, and such Secretary shall in a proper book or books enter and keep a true and perfect account of the names and places of abode of the several proprietors of the said Railway or 45 undertaking, 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 of proprietors and of the Committee for the time being, by 50 virtue of and under the authority of this Act.

Directors to appoint Treasurer, Secretary and Clerk or Clerks.

Directors to
receive secu-
rity from
Treasurer.

XLV. And be it enacted, That the said Company of Proprietors, their successors and assigns, shall and are hereby required and directed to take a sufficient security by one or more bond or bonds in a sufficient penalty or penalties, from their Treasurer, Receiver and Collector for the time being, of the monies to be raised by virtue of this Act, for the faithful execution by such Treasurer, Receiver and Collector, of his and their office and offices respectively. 5

Directors may
call special
meetings of
proprietors.

XLVI. And be it enacted, That besides the annual, general and the special meetings of the proprietors of shares in the said Company hereinbefore authorized to be respectively called and held, it shall be lawful for the Directors of the Company at any time to call a general meeting of the proprietors, either for the general business or purposes of the Company, or for a special purpose, in which latter case the special purpose shall be briefly mentioned in the preliminary notice, and then no other business than in relation to such special purpose shall be entered upon at the meeting: Provided always, that any vacancy in the Directorship of the Company may be filled up at any meeting of the proprietors, whether called for special or general purposes, and in the event of any such vacancy, the Directors may fill the same temporarily, subject to the approval or otherwise of such meeting of the proprietors. 15 20 25

Proprietors
may remove
Directors.

XLVII. And be it enacted, That the said Company of Proprietors and their successors 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 of the Board of Directors in the room of those who shall die, resign or be removed, and to remove any other Officer or Officers under them, and to revoke, alter, amend or change any of the rules and directions hereinbefore 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 committees 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 Railway, and all other works connected therewith or belonging thereto, and for the well-government of all persons whatsoever travelling upon or using the said Railway and other works or transporting any goods, wares, merchandize or other commodities thereon; and to impose and inflict such reasonable fines or forfeitures upon the persons guilty of a breach of such new rules, by-laws or orders, as to such general meeting shall seem meet not exceeding the sum of twenty-five pounds current money of the Province for 30 35 40 45 50

every offence, such fines or forfeitures to be levied and recovered by such ways and means as are hereinafter mentioned, which said rules, by-laws or orders being put into writing under the common seal of the said Company of Proprietors shall be published at

and affixed in the office of the said Company of Proprietors, 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 rules, 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.

XLVIII. And be it enacted, That it shall and may be lawful to and for the several proprietors of the said Railway or undertaking to sell or dispose of his, her or their share or shares therein subject to the rules and conditions hereinmentioned, 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 Company or their clerk for the time being, to be fyled 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 Committee or their clerk and fyled 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.

Shareholders
may sell their
shares.

XLIX. 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.

Form of
transfer.

" I, A. B. in consideration of the
40 " sum of paid to me by C. D. of
" do hereby bargain, sell and trans-
" fer to the said C. D. share (or
" shares) of the "Montreal and Kingston Railway," to hold
" to him the said C. D., his heirs, executors, curators,
45 " 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 except of the said
" (share or shares) subject to the same
50 " rules, orders and conditions. Witness, our hands and

pounds currency of this Province per ton weight, and for every passenger shillings currency, the said rates to be paid respectively for the whole distance from

as aforesaid, and so in proportion for each mile of the said distance, and shall be paid to such person or persons, and at such place or places near to the said Railway, in such manner and under such regulations as the said Company of Proprietors or their successors 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 of Proprietors 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 mean time the said goods, wares, merchandize or other commodities to be at the risk of the owner or owners thereof: And the said Company of Proprietors shall have full power from time to time to lower or reduce all or any of the said rates and dues, and again to raise the same, not exceeding the sums above mentioned, as often as it shall be deemed necessary for the interests of the said undertaking.

LIV. 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 Railway, 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 of Proprietors 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.

Rates of charge for transport.

LV. Provided always, and be it enacted, That it shall and may be lawful to and for the said Company of Proprietors, their successors and assigns, from time to time at any general meeting of the said Proprietors, to make such by-law or by-laws 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 Railway or any part thereof as to them shall seem fit and reasonable, and that the said Company of Proprietors and

Shareholders at General Meetings to make by-laws.

their successors and assigns 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, rates and dues are to be collected, in some conspicuous place there, a printed paper ascertaining and particularising 5 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 upon the said Railway or upon any part thereof.

Company may detain goods for charges.

LVI. And be it enacted, That if any person shall fail 10 to pay the tolls or freight in respect of any carriage or goods conveyed on the said Railway, it shall be lawful for the Company to detain such goods and carriage or any other carriage or goods in the possession or power of the Company, belonging to the party liable to pay such tolls, 15 for payment of such tolls or freight, and if the same shall not be paid within _____ weeks, the Company shall thereafter have power to sell such carriage or the whole or any part of such goods, and out of the money arising from such sale to retain the tolls and freight pay- 20 able as aforesaid, and all charges and expenses of such detention and sale rendering the surplus, if any, of the money arising from such sale, or of such of the carriages or goods that may remain unsold, to the person entitled thereto, or it shall be lawful for the Company to recover 25 any such tolls or freight by action at law; and if any goods shall remain in the possession of the Company unclaimed for the space of _____ months, the Company shall thereafter and on giving public notice thereof by advertisement for _____ weeks in the *Canada Gazette* and 30 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 or freights and all reasonable charges for storing, advertising, and selling 35 such goods, and any balance of such proceeds shall be kept by the Company for a further period of _____ months to be paid over to any party entitled thereto, and in default of such balance not being claimed before the expiration of the period last aforesaid, such balance shall 40 become part of the funds of the Company.

Dangerous articles.

LVII. And be it enacted, That no person shall be entitled to carry or to require the Company to carry upon the Railway, any *aqua fortis*, oil of vitriol, gunpowder, lucifer matches, or any other goods which in the judg- 45 ment of the Company may be of a dangerous nature; and if any person send by the said Railway 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 50 servant 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 _____ currency
 for every such offence, and it shall be lawful for the Com-
 pany to refuse to take any package or parcel that they
 may suspect to contain goods of a dangerous nature or
 5 require the same to be opened to ascertain the fact.

LVIII. And in order to ascertain the amount of ^{Directors to} clear profits of the said undertaking: Be it enacted, ^{keep accounts,}
 That the said Company and the Board of Directors of ^{&c.}
 the said Company shall and they are hereby required to
 10 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 said Company or by the Committee or
 Treasurer of the said Company or otherwise for the use
 15 of the said Company, by virtue of this Act, and of the
 charges and expenses attending the erecting, making and
 supporting, maintaining and carrying on the said works
 and of all other receipts and expenditure of the said Com-
 pany on the said Committee; and at the meetings of the
 20 proprietors of the said undertaking to be from time to time
 holden as aforesaid or at some adjournment thereof, a
 dividend shall be made out of the clear profits of the said
 undertaking unless such meetings shall declare otherwise,
 and such division shall be at and after the rate of so much
 25 per share upon the several shares held by the members
 thereof 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
 30 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.

LIX. And be it enacted, That the said Company of ^{The Company}
 35 Proprietors shall within six calendar months after any lands ^{to fence the}
 shall be taken for the use of the said Railway or under- ^{road.}
 taking, divide and separate, and keep constantly divided and
 separated, the lands so taken from the lands or grounds ad-
 joining thereto, with a sufficient post and rail hedge, ditch,
 40 bank or other fence, sufficient to keep off hogs, sheep and
 cattle to be set and made on the lands or grounds which
 will be purchased by, conveyed to or vested in the said
 Company of Proprietors as aforesaid, and shall at their own
 costs and charges from time to time maintain, support and
 45 keep in sufficient repair the said posts, rails, hedges,
 ditches, trenches, banks and other fences so set up and
 made as aforesaid.

LX. And be it enacted, That as soon as conveniently ^{Road to be}
 may be after the said Railway or undertaking shall be ^{measured and}
 50 completed, the said Company of Proprietors shall cause ^{marked off.}
 the same to be measured and shall cause posts with pro-

per inscriptions on the sides thereof denoting the distances, to be erected and for ever after maintained at the distance of every mile from each other.

Fines and forfeitures may be recovered before one Justice.

LXI. And be it enacted, That all fines and forfeitures inflicted by this Act or which shall be inflicted by virtue of any rule, order or by-law to be made in pursuance thereof (of which rule, order or 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 respective fines, forfeitures or penalties by this Act imposed and inflicted or authorized to be imposed and inflicted, 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 the use of the said Railway or undertaking, and the over plus 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

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 or forfeiture and all expenses attending the same shall be sooner paid and satisfied.

Appeal to Quarter or General Sessions.

LXII. And be it enacted, That if any person or persons shall think himself, herself or themselves aggrieved by anything done by any Justice 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

Suits to be brought within six months.

LXIII. And be it enacted, That if any action or suit shall be brought or commenced against any person or persons for anything done or to be done in pursuance of this Act, or in the execution of the powers and authorities or 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; and the defendant or defendants in such
 5 action or suit shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act; and if it
 10 shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the plaintiff or plaintiffs shall be non-suit or discontinue his, her or their action or suit after the defendant or defendants shall have appeared, or if the
 15 judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have full costs, and shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in other cases by law.

LXIV. And be it enacted, That if any writ of *Saisie Arrêt* or attachment shall be served upon the said Company, it shall be lawful for the secretary or treasurer in any such case to appear in obedience to the said writ, to make the declaration in such case by law required according to the exigency of each case, which said
 20 declaration or the declaration of the president shall be taken and received in all Courts of Justice in Lower Canada, as the declaration of the Company, and in causes where interrogatories *sur faits et articles* or *serment décideire* may have been or may hereafter be served upon
 25 the Company, the Directors shall have the power, by a vote or resolution entered among the minutes of the proceedings of any meeting, to authorize the president or treasurer, to appear in any cause to answer such interrogatories; and the answers of the president or
 30 treasurer, so authorized, shall be held and taken to be the answers of the Company to all intents and purposes, as if all the formalities, by law required, had been complied with; and the production of a copy of such resolution, certified by the secretary, with the said answers,
 35 shall be sufficient evidence of such authorization.

LXV. And be it enacted, That it shall and may be lawful for the said Company of Proprietors, in constructing and making the said Railway, to take and appropriate for the use of the same, so much of the land covered
 40 with the waters of the River Ottawa or of the land covered with the waters of the River Saint Lawrence, or of any other river or stream, or of their respective beds as may be found necessary for the making and completing or more conveniently using the same, and thereon to
 50 erect such wharves, quays, inclined planes, cranes and other works as to the said Company shall seem meet: Provided, always, that it shall not be lawful for the said

Writs of
Saisie Arrêt
may be
amended by
Secretary or
Treasurer.

The Company
may erect
wharves, &c.
on Ottawa, St.
Lawrence, &c.

Company to cause any obstruction in or to impede the free navigation of the River Saint Lawrence or of the River Ottawa, or of any other river or stream to or across which their Railway shall be carried; and if the said Railway shall be carried across any navigable river, the said Company shall leave such openings between the piers of their bridge or viaduct over the same; and shall construct such draw-bridge or swing-bridge over the channel of the river, and shall be subject to such regulations with regard to the opening of such draw-bridge or swing bridge for the passage of vessels and rafts, as the Governor in Council shall direct and make from time to time; nor shall it be lawful for the said Company to construct any wharf, bridge, pier, or other work upon the public beach or bed of any navigable river or stream, or upon the land covered with the waters thereof, until they shall have submitted the plan of such work to the Governor of this Province in Council, nor until the same shall have been approved by him in Council as aforesaid.

Regulations for draw-bridges and penalties for contravention thereof.

LXVI. And be it enacted, That by any regulations to be made by the Governor in Council, touching any such draw-bridge or swing-bridge as aforesaid, penalties not exceeding *ten pounds* in any case may be imposed for the contravention thereof, and such penalties shall be recoverable from the said Company or from any of their officers or servants by whom the regulations shall have been contravened in the manner provided with regard to other penalties, and an appeal shall be allowed to any person deeming himself aggrieved by the infliction of any such penalty; also, according to the provisions hereinbefore established in regard to other penalties; and one moiety of every such penalty shall belong to Her Majesty for the public uses of the Province, and the other moiety to the prosecutor or person suing for the same.

Road to be completed within ten years.

LXVII. And be it enacted, That the said Company of Proprietors, to entitle themselves to the benefits and advantages to them granted by this Act, shall and they are hereby required to make and complete the Railway aforesaid within ten years from the passing of this Act; and if the same shall not be made and completed within the said period, so as to be used by the public as aforesaid, then this Act and every other matter and thing therein contained, shall cease and be utterly null and void.

Company may borrow at or under 8 per cent.

LXVIII. And be it enacted, That for the more speedy completion of the said Railway, it shall and may be lawful for the said Company to borrow by way of loan, and at any rate of interest for which the same can be procured, not exceeding eight per centum per annum, any sum or sums of money, not exceeding in the whole the

balance of the aggregate sum which the Company is empowered to raise under this Act of Incorporation, and which is not paid up, and to agree with the lender or lenders to pay both the principal and interest, either in this Province or in Great Britain or elsewhere: And it shall also be lawful for the Company to issue debentures for the money so borrowed, under the signature of the President and counter signature of the Treasurer of the said Company, and by the said debentures or otherwise to pledge the said Railway, or such part or parts thereof as may be constructed with the net income or tolls arising therefrom, as security for the payment of the principal sum or sums of money so borrowed, and the interest thereof.

15 LXXI. And be it enacted, That the offence of forging any debenture or a *coupon* of any debenture issued under the authority of this Act, or of altering or disposing of 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.

Forgery of debentures or coupons felony.

LXX. And be it enacted, That the said Company shall have power to become parties to promissory notes and bills of exchange, and any promissory note made or endorsed; and any bill of exchange drawn, accepted, or endorsed by the President of the Company and countersigned by the Secretary and Treasurer, and under the authority of a majority of a *quorum* of the Directors, is and shall be binding upon the Company; and every promissory note or bill of exchange made, drawn, accepted or endorsed by the President of the said Company and countersigned by the Secretary and Treasurer as such, either before or after the passing of this Act, shall be presumed to have been properly made, drawn, accepted, or endorsed, as the case may be, for the Company, until the contrary be shewn; And in no case shall it be necessary to have the seal of the Company affixed to any such bill of exchange or promissory note, nor shall the President or the Secretary and Treasurer of the Company so making, drawing, accepting, or endorsing any such promissory note or bill of exchange, be thereby subjected individually to any liability whatever; Provided always, that nothing in this clause shall be construed to authorize the said Company to issue any note payable to bearer, or any promissory note intended to be circulated as money, or as the notes of a Bank.

Company may become parties to promissory notes, &c.

LXXI. And be it enacted, That if at any time the Mayor, Aldermen, and citizens of the City of Montreal, or the Mayor, Aldermen, and citizens of the City of Kingston, or the Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or any other corporate body civil or ecclesiastic-

City of Montreal, Seminary, City of Kingston, &c. &c. competent to promote.

LXXIII. And be it enacted, That it shall be lawful for the said Company to enter into all such contracts or agreements with Her Majesty's Government, or with any person or persons duly representing Her Majesty's Government, as may be necessary for carrying into full force and effect all the provisions of the Act passed in the twelfth year of Her Majesty's reign, intituled, "*An Act to provide for affording the guarantee of the Province to the Bonds of Railway Companies on certain conditions, and for rendering assistance in the construction of the Halifax and Quebec Railway.*"

Company may enter into contracts, &c. with H. M. Government under guarantee Act.

LXXIV. 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, and with the whole resources of the Company, if required, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces of 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 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; and the Company may be required to provide a separate carriage for the Mail and the person or persons in charge thereof; and the said Company shall, at any time when hereunto required by the Governor of this Province, or any person thereunto authorized by him, 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: 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, of 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.

Company to transport mails, troops, &c.

LXXV. And be it enacted, That the said Company shall annually submit to the three branches of the Legislature, within the first fifteen days of the opening of each Session of the Provincial Parliament, a detailed and particular account, attested upon oath, of the monies by them received and expended under and by virtue of this

Company to submit accounts.

Act, with a statement of the amount of tonnage and of passengers that have been conveyed along the said road.

No rights
affected except
such as are
specified.

LXXVI. 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 5 heirs and successors, or of any person or persons, or of any bodies politic, corporate, or collegiate, such only excepted as are herein mentioned.

Public Act.

LXXVII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall 10 be judicially taken notice of by all Judges, Justices of the Peace, and others, without being specially pleaded.