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No. 79.

3d Session, 3d Parliament, 13 Victoria, 1850.

BILL.

An Act to incorporate certain persons
under the name and style of the *Nia-
gara and Detroit Rivers Railroad Com-
pany.*

Received and Read a first time, Monday, 10th
June, 1850.

Second Reading, Monday, 17th June, 1850.

MR. MCFARLAND.

m 19.

BILL.

An Act to incorporate certain persons under the name and style of the *Niagara and Detroit Rivers Rail-road Company*.

WHEREAS the construction of a Railroad from some point on the Niagara River in the Township of Bertie, to some point on the Detroit River, in the Township of Sandwich, and passing through the Township of Brantford, would greatly contribute to the facility of intercourse between those parts of this Province lying upon the said Rivers, and to the advancement and prosperity of the country lying upon the said Rivers and along the line of the said Railroad, and of this Province generally: And whereas the several persons hereinafter named are desirous to make and maintain the said Railroad: Be it therefore enacted, &c.

Preamble.

And it is hereby enacted by the authority of the same, That Alexander Douglas, James Kirby, George Hardison, John W. Lewis, John Greybiel, James Stanton, Richard Graham, John Hardison, Abraham Herchey, Abraham Cook, Arunah Huntington, David Christie, Charles Hill, Arthur Johnston, and George S. Wilkes, together with such person or persons as shall, under the provisions of this Act, become subscribers to and proprietors of any share or shares in the Railroad hereby authorized to be made and other works and property hereinafter mentioned, and their several and respective heirs, executors, administrators, curators and assigns, being proprietors of any such share or shares, are and shall be, and be united into a Company for carrying on, making, completing and maintaining the said intended Railroad and other works, according to the rules, orders and directions hereinafter expressed, and shall for that purpose be one body politic and corporate by the name of *The Niagara and Detroit Rivers Railroad Company*, and by that name shall have perpetual succession and shall have a common seal, and other the usual powers and rights of bodies corporate not inconsistent with this Act, and by that name shall and may sue and be sued, and also shall and may have power and authority to purchase and hold lands, (which word shall throughout this Act be understood to include the land and all that is upon or below the surface thereof, and all the real rights and appurtenances thereunto belonging,) for them and their successors and assigns, for the use of the said Railroad and

Certain persons and their successors incorporated for the purposes of this Act; and certain corporate powers conferred on them.

Corporate name.

Word 'Lands' how understood in this Act.

works, and also to alienate and convey any of the said lands, purchased for the purposes aforesaid, and any person or persons bodies politic or corporate, or communities may give, grant, bargain, sell or convey to the said Company any lands for the purposes aforesaid, and the same may repurchase of the said Company : and the said Company shall be and are hereby authorized and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Railroad or Railroads, to be called *The Niagara and Detroit Rivers Railroad*, with one or more sets of Rails or Tracks, and to be worked by locomotive engines, or on the atmospheric principle, or in such other mode as the said Company may deem expedient, from some place or places on the Niagara River in the Township of Bertie aforesaid, to some place or places on the Detroit River in the Township of Sandwich, and in as direct a line as may be found convenient, except that the said Railroad shall be carried through the Town of Brantford, or as near thereto as the Directors may deem practicable ; and to erect wharves, warehouses, stores and other buildings at either termination, and at such other places on the line of the said Railroad or Railroads as they may deem expedient ; and to build or purchase, hold and use one or more steamboats or other vessels to ply on the waters of the said Rivers of Niagara and Detroit, to any place not more than ten miles distant from either of the said termini.

Railroad may be made on any plan.

Direction of the said Railroad.

Power to the Company to set out and survey lands necessary for their works, &c.

To got and place materials.

II. And be it enacted, That for the purposes aforesaid the said Company, their deputies, servants, agents and workmen, are hereby authorized and empowered to enter into and upon any lands and grounds of the Queen's Most Excellent Majesty, not hereinafter excepted, without leave or license first had and obtained from Her Majesty; or of any person or persons, bodies politic, or corporate or collegiate, or communities or parties whatsoever, and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said intended Railroad and other works hereby authorized, and all such works, matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining and using the said intended Railroad and other works, and also to bore, dig, cut, trench, get, remove, take, carry away, and lay earth, clay, stone, soil, rubbish, trees, roots of trees, beds of gravel or sand, or any other matters or things which may be dug or got in making the said intended Railroad or other works, on or out of the lands or grounds of any person or persons adjoining or lying convenient thereto, and which may be proper, requisite or necessary for making and repairing the said intended Railroad, or the works incidental or relative thereto, or which may

hinder, prevent or obstruct the making, using, or completing, extending or maintaining the same respectively, according to the intent and purpose of this Act; and to make, build, erect and set up, in or upon the said intended Railroad, or upon their lands adjoining or near the same respectively, such and so many houses, warehouses, toll-houses, watch houses, telegraphs or other signals, weighing beams, cranes, fire-engines, steam-engines, or other engines, either stationary or locomotive, inclined planes, machines and other works, ways, roads and conveniences; as and when the said Company shall think requisite and convenient for the purposes of the said Railroad and works, and also from time to time to alter, repair, divert, widen, enlarge and extend the same, and also to make, maintain, repair and alter any fences or passages over, under or through the said intended Railroad, and to construct, erect and keep in repair any bridges, arches and other works upon and across any rivers or brooks for the making, using, maintaining and repairing the said intended Railroad; and to turn any such brook, river or water-course, and to change its course; and to construct, erect, make and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing, and easy using of the said intended Railroad and other works, in pursuance of and according to the true intent and meaning of this Act; they the said Company, doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned to the owners or proprietors of, or the persons interested in the lands, tenements 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 or by the execution of all or any of the powers given by this Act; and this Act shall be sufficient to indemnify the said Company and their servants, agents or workmen, and all other persons whatsoever for what they or any of them shall do by virtue of the powers hereby granted, subject nevertheless to such provisions and restrictions as are hereinafter mentioned.

Erecting buildings, machinery, &c.

Bridges and other works for passing streams, &c.

Other works necessary for the Railroad.

As little damage as possible to be done and compensation to be made.

III. Provided always, and be it enacted, That the said Company shall not carry the said Railroad along any street or existing highway, but merely cross the same in the line of the said Railroad; and before they shall in any way obstruct such street or highway with their works, they shall turn the said highway or street at their own charges so as to leave an open and good passage for carriages free from obstructions, and when their works are completed, they shall replace the said highway or street, under a penalty of £5 for any contravention but in either case the rail itself, provided it

How the Railroad shall be carried across roads.

Rail itself not

to be deemed an obstruction. does not rise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction.

Company by a sworn Surveyor and Engineer shall take surveys and levels of the lands through which the Railroad is to be carried, and make a map or plan. IV. And be it enacted, That for the purposes of this Act, the said Company shall and may by some sworn Land Surveyor for Upper-Canada, and by an Engineer or Engineers by them to be appointed, cause to be taken and made, surveys and levels of the lands through which the said intended Railroad is to be carried, together with a map or plan of such Railroad, and of the course and direction thereof, and of the said lands through which the same is to pass, and the lands intended to be taken for the several purposes authorized by this Act, so far as then ascertained, and also a book of reference for the said Railroad, in which shall be set forth a general description of the said several lands, and the names of the owners, occupiers, and proprietors thereof, so far as they can be ascertained by the said Company, and in which shall be contained every thing necessary for the right understanding of such map or plan, one copy whereof shall be deposited in the office of the Clerk of the Municipal Council for each of the Counties through which the said Railroad is intended to be carried, and another in the office of the said Company; and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts or copies thereof as occasion shall require.

When the Railroad crosses or is carried along any highway, the rail, &c. to be within one inch of the surface.

V. Provided always, and be it enacted, That where the said Railroad shall cross any highway (which word shall in this Act include all public roads, streets, lanes and other public ways or communications), without being carried either over the same by a bridge or under the same by a tunnel, neither the rail nor any other part of the Railroad or works connected therewith, shall rise above the level of such street or highway, or sink below the level of such street or highway more than one inch; and the said Railroad may be carried across any highway or above any highway within the limits aforesaid.

Height of bridges for carrying the Railroad over any highway.

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 Railroad over or across any 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 twenty feet, and a height from the surface of such 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 twenty feet.

Descent under such bridges.

And of bridges for carrying a public road

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 highway over the Railroad, the ascent of every such bridge for the purpose of every such highway shall not be more than one foot in twenty 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.

over the Railroad.

Fence to bridge.

VIII. Provided always, and be it enacted, That the said Company shall, at each and every place where the said Railroad shall cross any highway on a level, erect and keep up a sign-board stretching across the highway at such height as to leave sixteen feet from the highway to the lower edge of the sign-board, and having the words "RAILROAD CROSSING" painted on each side of such sign-board, and in letters not less than six inches in length; and for each and every neglect to comply with the requirements of this section the said Company shall incur a penalty not exceeding

Precautions to be observed when the Railroad crosses a highway on a level.

£5.

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

Company not to deviate more than one mile from the line to be shewn in the map aforesaid.

Except by consent of parties.

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

Errors in the book of reference not to prevent the making of the Road, on the line shewn or within the limits of deviation.

XI. And be it enacted, That the lands or grounds to be taken or used for such intended Railroad, and the ditches, drains and fences to separate the same from the adjoining lands, shall not exceed thirty yards in breadth except in such places where the said intended Railroad shall be raised more than five feet higher, or cut more

Lands taken for Railroad not to exceed 30 yards in breadth.

Exceptions for off-sets passing places, &c.

than five feet deeper than the present surface of the land, or in such places where it shall be judged necessary to have off-sets for the locomotives or other engines and carriages using the said intended Railroad to be or pass each other (and not above one hundred yards in breadth 5
 in any such place), or where any houses, warehouses, wharves, toll-houses, watch-houses, weighing-beams, cranes, fixed engines or inclined planes, may be intended to be erected, or goods, wares or merchandize be delivered, (and then not more than two hundred yards in 10
 length by one hundred and fifty yards in breadth), without the consent of some party who can, under the provisions of this Act, convey such lands to the said Company; and the places at which such extra breadth is to be taken, shall be shown on the said map or plan, so far as the same may be then ascertained, but their not being so 15
 shewn shall not prevent the Company from taking such extra breadth provided it be taken upon the line shewn or within the distance aforesaid from such line: Provided always, that no land shall be taken by the said Company 20
 from any public highway, (except only as hereinbefore provided), but their right shall be limited to the laying down across the same, that is in the line of the said Railroad at whatever angle it may intersect such highway, the rails and other contrivances forming part of the said Railroad, subject to the limitations mentioned in the 25
 Section, or any other part of this Act; nor shall any land or property vested in Her Majesty, or in any party in trust for Her Majesty, except under the next following section, be taken by the said Company without the consent of Her Majesty or of the party in whom the same 30
 shall be vested in trust.

XII. And be it enacted, That it shall be lawful for the said Company to take, use, occupy and hold, but not to alienate so much of the public beach or of the land covered with the waters of the Rivers Niagara and Detroit, 35
 (not exceeding the quantity limited in the next preceding section,) as may be required for the Railroad and other works which they are hereby authorized to construct, doing no damage to nor causing any obstruction in the navigation of the said rivers. 40

XIII. 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 Railroad and other works, and other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for 45
 all bodies politic, corporate or collegiate, corporations aggregate or sole, communities, tenants in tail or for life, 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 50
 for and on behalf of those whom they represent, whether

And for stations for machinery, &c.

Proviso as to lands forming part of public roads, &c.

Company may use the Public Beaches, &c. doing no damage to the navigation.

After any lands have so been set out all bodies corporate, &c. may sell their property therein to the Company.

infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons or parties who are or shall be seized, possessed of or interested in any lands or grounds which shall be so set out and ascertained as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, all or any part of such lands or grounds which shall under this Act be set out and ascertained as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; and that all bodies politic, corporate or collegiate, or communities, and all persons whatsoever, so conveying as aforesaid, are hereby indemnified for what he, she or they, or any of them shall respectively do by virtue of or in pursuance of this Act: Provided always, that before the map or plan and book of reference shall be deposited as aforesaid, and before the lands required for the said Railroad and works shall be set out and ascertained, it shall be lawful for any party who might under this Act convey any lands to the said Company, if the same were so set out and ascertained, to agree with the Company for the price to be paid for such lands if they shall be thereafter so set out and ascertained; and such agreement shall be binding, and the price agreed upon shall be the price to be paid by the Company for the same lands, if they shall be afterwards so set out and ascertained, within one year from the date of such agreement, and although such land may in the mean time have become the property of a third party; and possession of the same may be taken and the agreement and price may be dealt with, as if such price had been fixed by an award of arbitrators as hereinafter mentioned, and the agreement shall be in the place of an award.

Proviso.
Parties who may convey lands may, before any lands are so set out, agree with the Company for the price to be paid for them if they be afterwards required.

XIV. Provided always, and be it enacted, That any body politic, community, corporation or other like party, who cannot in common course of law sell or alienate any lands or grounds so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said Railroad, and other the purposes and conveniences relative thereto and connected therewith; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed, and all proceedings shall in that case be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid by the said Company for the purchase of any lands, or for any part of the purchase money of any lands, which the vendor shall agree to leave in the hands of the said Company,

Where no power is vested in any body corporate or other party to sell, a fixed annual rent to be established instead of a principal sum.

Privilege granted for securing such rent or any purchase money not paid.

the said Railroad and the Tolls to be levied and collected 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. 5

Agreement with proprietors in common to a certain extent shall bind the rest.

XV. Provided always, and be it enacted, That whenever there shall be more than one party proprietor of any land or property as joint-tenants or tenants in common, any agreement made in good faith between the said Company and any party or parties proprietor, or being together proprietors of one third or more of such land or property, as to the amount of compensation for the same or for any damages thereto, shall be binding as between the remaining proprietor or proprietors as joint-tenants or tenants in common and the Company; and the proprietor or proprietors who have so agreed, may deliver possession of such land or property to the Company, or empower them to enter upon the same, as the case may be. 10 15

The Company to apply to the owners of the lands through which the Railroad is to be carried, touching the compensation to be paid for the same, or for any right exercised upon them.

XVI. And be it enacted, That so soon as the said map or plan and book of reference shall have been deposited as aforesaid, and notice of their being so deposited shall have been given during at least one calendar month, in at least one newspaper published in each of the Counties through which the said Railroad is intended to pass, it shall be lawful for the said Company to apply to the several owners of or parties hereby empowered to convey the lands through which such Railroad is intended to be carried, or which may suffer damage from the taking of materials, or the exercise of any of the powers granted to the said Company by this Act, and to agree with such owners or parties respectively, touching the compensation to be paid to them by the said Company for the purchase thereof, and for their respective damages, and to make such agreements and contracts with the said parties touching the said lands, or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained, as to such parties and the said Company shall seem expedient; and in case of disagreement between the said Company and the said owners or parties or any of them, then all questions which shall arise between them and the said Company shall be settled as follows, that is to say: 25 30 35 40

Or as to mode of establishing such compensation.

How the same shall be settled when the parties cannot agree.

Legal effect of map and book of reference.

The deposit of the map or plan and book of reference, and the notice of such deposit, given as aforesaid, shall be deemed a general notice to all such parties as aforesaid, of the lands which will be required for the said Railroad and works. 45

Notice to opposite party.

The Company shall serve a notice upon the opposite party, containing—a description of the lands to be taken, or of the powers intended to be exercised with regard to 50

any lands (describing them—a declaration that the Com- Offer.
 5 pany are ready to pay some certain sum (or rent, as the
 case may be,) as compensation for such lands or for the
 damages arising from the exercise of such power—and
 the name of a person whom they may appoint as their Name of Arbi-
 Arbitrator if their offer be not accepted—and such notice trator.
 shall be accompanied by the certificate of some sworn Certificate of a
 Surveyor for Upper Canada, disinterested in the matter, the offer is a
 and not being the Arbitrator named in the notice, that the fair one, &c.
 10 land (if the notice relate to the taking of land) is shown
 on the map or plan deposited as aforesaid, as being re-
 quired for the said Railroad and works, or as being within
 the limits of deviation hereby allowed from the line of the
 said Railroad, that he knows such land, or the amount of
 15 damages likely to arise from the exercise of such powers.
 and that the sum so offered is in his opinion a fair com-
 pensation for such land and for such damages as aforesaid.

If the opposite party be absent from the County in If the party be
 which the lands lie or be unknown to the said Company, absent or
 20 then upon application to the County Judge for such unknown.
 County, accompanied by such Certificate as aforesaid, and
 by an affidavit of some Officer of the Company, that such
 opposite party is so absent, or that after diligent inquiry
 the party on whom the notice ought to be served cannot
 25 be ascertained, such Judge shall order a notice as afore-
 said (but without the certificate) to be inserted three
 times in the course of one calendar month in some news-
 paper published in the said County.

If within ten days after the service of such notice, or Party not ac-
 30 within one month after the first publication thereof as cepting the
 aforesaid, the opposite party shall not notify to the Com- Company's of-
 pany, that he accepts the sum offered by the said Com- fer, and not
 pany, or notify to them the name of a person whom he appointing an
 appoints as Arbitrator, then such County Judge as afore- Arbitrator.
 35 said shall, on the application of the said Company, appoint
 some sworn Surveyor for Upper Canada, to be sole
 Arbitrator for determining the compensation to be paid
 by the Company.

If the opposite party shall, within the time aforesaid, Opposite party
 40 notify to the said Company the name of the person such appointing an
 party shall appoint as Arbitrator, then the said two Arbi- Arbitrator.
 trators shall jointly appoint a third, or if they cannot agree Third Arbi-
 upon a third, then the County Judge of the County in trator.
 which the lands lie, shall, on the application of the said
 45 party or of the Company, (previous notice of at least one
 clear day having been given to the other party,) appoint
 a third Arbitrator.

The said Arbitrators or any two of them or the sole Duties of Ar-
 Arbitrator, being sworn before some Justice of the Peace bitrators after
 50 for the County in which the lands lie as aforesaid, faith- being sworn.

Proviso. Award not to be made except at proper meetings or times.

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

Costs, how paid.

Provided always, that the award given by any sole Arbitrator shall never be for a less sum than that offered by the Company as aforesaid; and if in any case where three Arbitrators shall have been appointed, the sum awarded be not greater than that offered by the Company the costs of the arbitration shall be borne by the opposite party, and deducted from the compensation, otherwise, they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the County Judge aforesaid.

Arbitrators to have power to examine witnesses on oath

False statement to be perjury.

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 wilful false statement made by any witness, under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly.

Time within which award must be made.

Time may be prolonged in certain cases.

The County 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 said County Judge, (as it may be for reasonable cause shown, on the application of such sole Arbitrator or one of the Arbitrators after one clear day's notice to the others,) then the sum offered by the Company as aforesaid shall be the compensation to be paid by them.

Arbitrator dying, &c.

If the party appointed by such Judge as third Arbitrator or sole Arbitrator shall die before the award be made, or shall be disqualified, or refuse or fail to act within a reasonable time, then upon the application of either party, the County Judge being satisfied by affidavit or otherwise of such disqualification, refusal or failure,

may, in his discretion, appoint another in his stead; and, if the Arbitrator appointed by the said Company or by the opposite party shall die before the award shall be made, or shall leave the Province or become unable to act
 5 within a reasonable time, (such fact being ascertained to the satisfaction of the Judge as attested by his Certificate to that effect,) the said Company or the opposite party (as the case may be) may appoint another in his stead, notifying the other Arbitrators of such appointment; but
 10 no recommencement or repetition of prior proceedings shall be required in any case.

The Company may desist from any such notice as aforesaid, and afterwards give new notice with regard to the same or other lands, to the same or any other party,
 15 but they shall in any such case be liable to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment.

It shall be no disqualification to the Surveyor or other person offered or appointed as Valuator, or as Arbitrator,
 20 that he be professionally employed by the Company or by the opposite party, or that he have previously expressed an opinion as to the amount of compensation, or that he be related or of kin to any member of the Company, provided he be not himself personally interested in
 25 the amount of such compensation; and no cause of disqualification shall be urged against any Arbitrator appointed by the County Judge after his appointment, but shall be made before the same, and its validity or invalidity shall be summarily determined by such Judge; and no cause
 30 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
 35 Arbitrator, shall be summarily determined by any Justice of the said Court on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified,
 40 shall be held to have appointed no Arbitrator.

No award made as aforesaid shall be invalidated by any want of form or other technical objection, if the requirements of this Act shall have been complied with, and if the award shall state clearly the sum awarded, and
 45 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.

XVII. And be it enacted, That upon payment or legal
 50 tender of the compensation or annual rent so awarded,

tender or deposit of the sum awarded.

agreed upon or determined as aforesaid to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the said Company the power forthwith to take possession of the lands or to exercise the right or to do the thing for which such compensation or annual rent shall have been awarded or agreed upon: and if any resistance or forcible opposition shall be made by any person or party to their so doing, the County Judge may on proof to his satisfaction of such award or agreement, issue his Warrant to the Sheriff of the County, or to any Bailiff (as in his discretion may be most suitable), to put the said Company in possession, and to put down such resistance or opposition, which such Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do; Provided also, 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 Railroad or works 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 possession shall be given and with such costs as may be lawfully payable by the Company.

Warrant of possession in case of resistance.

Provido.

As to incumbrances or claims to or upon the lands so purchased or taken.

Compensation to stand in the place of the land.

Provido. Proceedings if the Company have reason to fear incumbrances, or claims by other parties than the vendor.

XVIII. And be it enacted, That the compensation awarded as aforesaid or agreed upon by the said Company, and any party who might under this Act validly convey the lands, or then in lawful possession thereof as proprietor, for any lands which might be lawfully taken under this Act without the consent of the proprietor, shall stand in the stead of such land; and any claim to or incumbrance upon the said land, or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party: Provided always, that if the said Company shall have reason to fear any such claims or incumbrances, or if any party to whom the compensation or annual rent or any part thereof, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the office of the Court of Queen's Bench or of Common Pleas for Upper Canada, with the interest thereon for six months, and to.

- deliver to the Clerk of the said 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 said Company
- 5 to the land therein mentioned, and notice in such form and for such time as the said Court shall appoint shall be inserted in some news-paper published in the County of Wentworth or the County of Halton, and in the City of Toronto, and such notice shall state that the title of the
- 10 Company, (that is the conveyance, agreement or award,) is under this Act, and shall call upon all persons entitled to, or to any part of the land, or representing or being the husbands of any parties so entitled, to file their claims to the compensation or any part thereof, and all
- 15 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,
- 20 payment or investment of the compensation, and for the securing of the rights of all parties interested as to the right and justice according to the provisions of this Act and to law, shall appertain ; and the costs of the said proceedings or any part thereof, shall be paid by the said
- 25 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
- 30 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.
- 35 XIX. Provided always, and be it enacted, That with regard to any lands which could not be taken without the consent of some party entitled under this Act to convey the same, or in any case in which the requirements of this Act shall not have been complied with, and in all
- 40 cases where land shall have been taken or damage shall have been done by the Company without previously complying with the requirements of this Act, the rights of the Company and of other parties shall be governed by the ordinary rules of law.
- 45 XX. And be it enacted, That all suits for indemnity for any damage or injury sustained by reason of the powers and authority given by this Act shall be made within six calendar months next after the time of such supposed damage sustained, or in case there shall be a continuation
- 50 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

Cost and interest how paid, &c.

Proviso : as to lands which cannot be taken without the consent of a party who could convey, or when this Act shall not have been complied with.

All applications for indemnity for damage done under this Act, to be made within a certain time.

General issue. may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and may aver that the same was done in pursuance and by authority of this Act.

Penalty on persons obstructing the free use of the Railroad.

£5.—£10.

How recoverable and applicable.

XXI. And be it enacted, That if any person shall by 5
any means or in any manner or way whatsoever, obstruct
or interrupt the free use of the said Railroad, or the car-
riages, vessels, engines or other works incidental or
relative thereto, or connected therewith, such person shall
for every such offence incur a forfeiture or penalty of not 10
less than nor exceeding
currency; one half of which penalty and forfeiture, to be
recovered before one or more Justices of the Peace for
the County in which the offence shall be committed or
the offender shall be taken, shall go to the prosecutor or 15
informer, and the other half to Her Majesty, Her Heirs
and Successors, and shall be paid into the hands of the
Receiver General, and be applied for the public uses of
this Province and the support of the Government
thereof. 20

Punishment of persons breaking down or obstructing or damaging the Railroad or any works of the Company.

XXII. And be it enacted, That if any person or per-
sons shall wilfully and maliciously, and to the prejudice
of the said Railroad 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- 25
houses, watch-houses, weigh-beams, cranes, carriages,
vessels, engines, inclined planes, machines or other works
or devices incidental and relative thereto or connected
therewith, or do any other wilful hurt or mischief, or wil-
fully or maliciously obstruct or interrupt the free use of 30
the said Railroad, vessels or works, or shall obstruct,
hinder or prevent the carrying on, completing, supporting
and maintaining the said intended Railroad, vessels or
works, such person or persons shall be adjudged guilty of
a misdemeanor, unless the offence committed shall under 35
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 such person or persons shall
be tried and convicted shall have power and authority to
cause such person or persons to be punished in like man- 40
ner as persons guilty of misdemeanors, or felons (as the
case may be) are directed to be punished by the laws in
force in this Province.

Company to contribute among themselves the necessary sums for carrying on their undertaking.

XXIII. And to the end that the said Company may be
enabled to carry on so useful an undertaking: Be it 45
enacted, That it shall and may be lawful for the said
Company and their successors, to raise and contribute
among themselves, in such proportions as to them shall
seem meet and convenient, a competent sum of money
for the making and completing the said Railroad and all 50
such other works, matters and conveniences as may found

necessary for making, effecting, preserving, improving, completing, maintaining and using the said Railroad and other works: Provided always, that the before mentioned Alex. Douglas, James Kirby, George Hardison, John W. Lewis, John Greybiel, James Stanton, Richard Graham, John Hardison, Abraham Herchey, Abraham Cook, Arunah Huntington, David Christie, Charles Hill, Arthur Johnston, and George S. Wilkes, (being a Provisional Committee hereby appointed for that purpose) or a majority of them, shall cause books of subscription to be opened at Dunnville, Brantford, St. Thomas, Windsor, and at such place therein as they shall from time to time appoint, until the first meeting of Shareholders hereinafter provided for, for receiving the signatures of persons willing to become subscribers to the said undertaking, and for this purpose they shall give public notice in some newspaper published in Hamilton, Brantford, St. Thomas or London, of the time and place at which such books will be opened and ready for receiving signatures as aforesaid, and of the persons by them authorized to receive such subscriptions; and every person who or whose Attorney 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 the same rights and privileges as such, as are hereby conferred on the several persons who are herein mentioned by name as members of the said Corporation: Provided always, that the sums so raised shall not exceed the sum of seven hundred and fifty thousand pounds currency of this Province in the whole, except as hereinafter mentioned, and that the same be divided into such numbers of shares as hereinafter directed, at a price of twelve pounds, ten shillings currency aforesaid, per share; and the money so to be raised is hereby directed and appointed to be laid out and applied in the first place for and towards the payment, discharge and satisfaction of all fees and disbursements for obtaining and passing this Act, and for making surveys, plans and estimates incident thereto, and all other expenses relating thereunto, and all the rest, residue and remainder of such money for and towards making, completing and maintaining, the said Railroad and other the purposes of this Act, and to no other use, intent or purpose whatever.

Proviso
Books of sub-
scription to be
opened.

Proviso.
Capital limited,
and divided into shares
of each.

Order of
charges on the
Capital.

XXIV. And be it enacted, That the said sum of seven hundred and fifty thousand pounds currency, or such part thereof as shall be raised by the several persons hereinbefore named, and by such other person or persons who shall or may at any time become a subscriber or subscribers to the said Railroad, shall be divided and distinguished into sixty thousand equal parts or shares at a price not exceeding twelve pounds ten shillings currency aforesaid, per share; and that the said sixty thousand shares be deemed personal estate, and shall be transferable as such; and that the said shares shall be and are hereby

The sum that
may be raised
by the Com-
pany of Prop-
rietors, to be
divided into
shares.

Rights of
Shareholders
to profits, &c.

vested in the said several subscribers and their several
respective heirs, executors, curators, administrators and
assigns, to their and every of their proper 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 com-
munities, 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 twelve pounds ten shillings, or such
sum or sums as shall be demanded in lieu thereof, towards
carrying on and completing the said Railroad, shall be
entitled to and receive, after the said Railroad shall be com-
pleted, 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 to the
number of shares so held; and every body politic, cor-
porate or collegiate, or community, person or persons,
having such property of one sixty thousandth part 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.

Their liabili-
ties.

If this sum
should not be
sufficient, the
Company may
raise a further
sum for com-
pleting their
undertaking.

XXV. And be it enacted, That in case the said sum
of seven hundred and fifty 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 to raise and contribute
among themselves, in manner and form aforesaid, and in
such shares and proportions as to them shall seem meet,
or by the admission of new subscribers, a further or other
sum of money for completing and perfecting the said in-
tended Railroad and other works or conveniencies inci-
dental or relative thereto, or hereby authorized, not
exceeding the sum of one hundred thousand pounds cur-
rency, aforesaid; and every subscriber towards raising
such further or other sum of money shall be proprietor in
the said undertaking, and have a like right of voting in
respect of his, her or their shares in the said additional
sum so to be raised, and shall also be liable to such obli-
gations, and stand interested in all the profits and powers
of the said undertaking, in proportion to the sum he, she
or they shall or may subscribe thereto, as generally and
extensively as if such other or further sum had been
originally raised as a part of the said first sum of seven
hundred and fifty thousand pounds; anything herein con-
tained to the contrary notwithstanding.

Company may
borrow in this
Province or
elsewhere &

XXVI. And be it enacted, That the said Company
may from time to time lawfully borrow either in this Pro-
vince or elsewhere such sum or sums of money, not ex-
ceeding at any one time the sum of twenty-five thousand

pounds currency, as they may find expedient, and at such rate of interest not exceeding six *per cent. per annum*, as they may think proper; and may make the bonds, debentures or other securities, they shall grant for the sums so borrowed, payable either in currency or in sterling, and at such place or places within or without this Province as they may deem advisable, and may hypothecate or pledge the lands, tolls, revenues, and other property of the said 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.

time £25,000
currency.

And grant by-
poteec on their
property.

XXVII. And be it enacted, That the number of votes to which each Shareholder in the said undertaking shall be entitled on every occasion when in conformity to the provisions of this Act the votes of the Members of the said Company are to be given, shall be in the proportion to the number of shares held by him, that is to say: one vote for each share less than twenty; Provided always, that no one Shareholder as aforesaid shall have more than twenty votes; and all Shareholders, whether resident in this 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:

Votes of Pro-
prieters ac-
cording to the
number of
their shares.

Proviso.

Proprietors
may vote by
proxy.

“ I of one of the Shareholders of the *Niagara and Detroit Rivers Railroad Company*, do hereby nominate, constitute, and appoint of to be my proxy, in my name, and in my absence to vote or give my assent or dissent to any business, matter or thing relating to the said undertaking, that shall be mentioned or proposed at any meeting of the Shareholders of the said Company, or any of them, in such manner as he the said shall think proper, according to his opinion and judgment, for the benefit of the said undertaking, or anything appertaining thereto. In witness whereof, I have hereunto set my hand and seal, the day of in the year .”

Form of ap-
pointment of
proxy.

Questions to
be decided by
majority of
votes.

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

None but a
British subject
to be President
or Treasurer.

XXVIII. Provided always, and be it enacted, That no Shareholder who shall not be a natural born subject of Her Majesty, or a subject of Her Majesty naturalized under an Act of the British Parliament, or an Act of the Parliament of this Province, shall be elected President or Treasurer of the said Company. 5

Shareholders
not liable for
the debts of
the Corpora-
tion.

XXIX. And be it enacted, That no Shareholder in the said Company shall be in any manner whatsoever liable for or charged with any debt or demand due by the said Company beyond the payment of the extent of his, her 10 or their share in the Capital of the said Company not paid up.

The first Gen-
eral Meeting of
the Share-
holders to be
held in

XXX. And be it enacted, That the first General Meeting of the Shareholders for putting this Act in execution, may be held at Brantford, whenever ten thousand shares in 15 the said undertaking shall have been subscribed for, provided that public notice thereof be given during one week in some newspaper published in the County of Wentworth or in the County of Halton, and signed by subscribers to the said undertaking holding among them at least 20 two hundred shares; and at such said General Meeting the Shareholders assembled, with such proxies as shall be present, shall choose thirteen persons, being each a Proprietor of not less than twenty shares in the said under- 25 taking, to be Directors of the said Company, in such manner as is hereinafter directed, and shall also proceed to pass such Rules and Regulations and By-Laws as shall seem to them fit, provided they be not inconsistent with this Act.

To elect a
Board of thir-
teen Directors.

In the month
of
and of
each year
thereafter, a
Board of Di-
rectors to be
elected.

XXXI. And be it enacted, That the Directors first ap- 30 pointed (or those appointed in their stead in case of vacancy) shall remain in office until the election of Directors in the month of May, one thousand eight hundred and fifty-two, and that in the month of May in the said year and each year thereafter, and on such day of the month 35 as shall be appointed by any By-Law, an Annual General Meeting of the said Shareholders shall be held at the Office of the Company for the time being, to choose Directors in the room of those whose office may at that time become vacant, and generally to transact the 40 business of the Company; but if at any time it shall appear to any ten or more of such Shareholders holding together two hundred shares at least, that for more effectually putting this Act in execution, a Special General Meeting of Shareholders is necessary to be held, it shall 45 be lawful for such ten or more of them to cause fifteen day's notice at least to be given thereof in one public newspaper as aforesaid, or in such manner as the Com- 50 pany shall by any By-law direct or appoint, specifying in such notice the time and place, and the reason and intention of such Special Meetings, respectively; and the

Special Meet-
ings of Share-
holders may
be called.

Shareholders 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 Shareholders or Quorum at Special Meet-
ing.

5 the majority of them, at such Special Meetings assembled, such majority not having either as principals or proxies, less than one hundred shares, shall be as valid to all intents and purposes as if the same were done at Annual Meetings: Provided always, that it shall and may be law- Proviso ;
Vacancies among the
Directors may
be filled.

10 ful for the said Directors in case of the death, absence, resignation or removal of any person elected a Director to manage the affairs of the said Company in manner aforesaid, to appoint another or others in the room or

15 stead of those of the Directors who may die, or be absent, resign, or be removed as aforesaid; any thing in this Act to the contrary notwithstanding; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors.

XXXII. And be it enacted, That at each of the said Three Direc-
tors shall an-
nually retire,
by lot, but
may be re-
elected.

20 Annual Meetings of Shareholders three of the said thirteen Directors shall retire in rotation, the order of retirement of the said first elected thirteen Directors being decided by lot; but the Directors then or at any subsequent time retiring shall be eligible for re-election:

25 Provided always, that no such retirement shall have effect unless the Shareholders shall at such Annual Meeting proceed to fill up the vacancies thus occurring in the Proviso.

Direction.

XXXIII. And be it enacted, That the Directors shall, Directors to
elect a Presi-
dent.

30 at their first (or at some other) Meeting after the day appointed for the Annual General Meeting in each year, elect one of their members to be the President of the said Company, who shall always (when present) be the Chair-
man of, and preside at all meetings of the Directors, and

35 shall hold his office until he shall cease to be a Director, or until another President shall be elected in his stead: and the said Directors may, in like manner, elect a Vice-
President, who shall act as Chairman in the absence of the President. And Vice-
President.

XXXIV. And be it enacted, That any Meeting of the Seven Direc-
tors to be a
Quorum for
business.

40 said Directors, at which not less than seven Directors shall be present, shall be a *quorum*, and shall be competent to use and exercise all and any of the powers hereby vested in the said Directors: Provided always, that no Proviso.

45 one Director, though he may be a proprietor of many shares, shall have more than one vote at any meeting of the Directors, except the President or Vice-President when acting as Chairman, or any temporary Chairman, Casting vote
of Chairman.

50 who, in case of the absence of the President and Vice-President, may be chosen by the Directors present, either of whom when presiding at a meeting of the Directors shall,

Proviso:
Directors sub-
jected to the
control of
Meetings.

in case of a division of equal numbers, have the casting vote, although he may have given one vote before : And provided also, that such Directors shall from time to time be subject to the examination and control of the said Annual and Special Meetings of the said Shareholders as aforesaid, and shall pay due obedience to all By-laws of the Company, and to such orders and directions in and about the premises, as they shall from time to time receive from the said Shareholders at such Annual or Special Meetings ; such orders and directions not being contrary to any express directions or provisions in this Act contained : and provided also, that the act of any majority of a *quorum* of the Directors present at any meeting regularly held shall be deemed the act of the Directors.

Proviso:
Acts of a ma-
jority of a
Quorum to be
valid.

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

No officer of
the Company,
or Contractor
to be a Direc-
tor.

Annual Meet-
ing may ap-
point three
Auditors to
audit all ac-
counts of mo-
ney laid out
and disbursed
on behalf of
the said un-
dertaking.

XXXVL And be it enacted, That every such Annual Meeting shall have power to appoint not exceeding three Auditors to audit all accounts of money laid out and disbursed on account of the said undertaking, by the Treasurer, Receiver or Receivers, and other Officer and Officers to be by the said Directors appointed, or by any other person or persons whatsoever, employed by, or concerned for or under them in and about the said undertaking ; and to that end the said Auditors shall have power to adjourn themselves over from time to time, and from place to place, as shall be thought convenient by them : and the said Directors chosen under the authority of this Act, shall have power from time to time to make such call or calls of money from the Shareholders to defray the expense of, or to carry on the Railway and other works, as they from time to time shall find wanting and necessary for these purposes : Provided, however, that no call do exceed the sum of one pound five shillings current money of this Province for every share of twelve pounds ten shillings : And provided also, that no call be made but at the distance of at least one calendar month from each other ; and such Directors shall have full power and authority to direct and manage all and every the affairs of the said Company as well in contracting for and purchasing lands, rights, and materials for the use of the said Company, as in employing, ordering and directing the work and workmen, and in placing and removing under-officers, clerks, servants and agents and in making all contracts and bargains touching the said undertaking : and to affix and authorize any person to affix the common seal of the Company to any act, deed, by-laws, notice or other document whatsoever ; and any such act, deed, by-laws, notice or other docu-

Power of the
Directors to
make calls.

Proviso.

Calls how to
be made.

Other powers
of the Direc-
tors.

ment bearing the common seal of the Company and signed by the President, Vice-President, or any Director, or by order of the Directors, shall be deemed the act of the Directors and of the Company, nor shall the authority
 5 of the signer of any document purporting to be so signed and sealed, to sign the same and affix the said seal thereto, be liable to be called in question by any party except the Company; and the Directors shall have such other and further powers as, being vested in the Company by
 10 this Act, shall be conferred upon the said Directors by the By-laws of the Company.

XXXVII. And be it enacted, That the owner or
 owners of one or more shares in the said undertaking
 shall pay his, her or their shares and proportion of the
 15 moneys to be called 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 one newspaper as aforesaid, or in such other manner as the said Shareholders
 20 shall by any By-law direct or appoint; and if any person or persons shall neglect or refuse to pay his, her or their rateable or proportionable part or share of the said money, to be called for as aforesaid, at the time and place so appointed, he, she or they neglecting or refusing shall
 25 forfeit a sum not exceeding the rate of pounds for every hundred pounds of his, her or their respective share or shares in the said undertaking: and in case such person or persons shall neglect to pay his, her or their rateable calls as aforesaid for the space of
 30 two calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her or their respective share and shares in the said undertaking, and all the profit and benefit thereof; all which forfeiture shall go to the rest of the
 35 Shareholders of the said undertaking, their successors and assigns, for the benefit of the said Shareholders, in proportion to their respective interests; and in every case such calls shall be payable with interest from the time the same shall be appointed to be paid until the pay-
 40 ment thereof: Provided always, that it shall be lawful for the said Company to sue for and recover the amount of any such call or calls, and interest, from any Shareholder, or the personal representatives of any Shareholder, neglect-
 45 ing to pay the same when due; and in any such action it shall be sufficient to state in the declaration that the defendant is a Shareholder of a certain number of shares in the stock of the said Company, or the personal representative of such Shareholder therein; that certain call or calls have been made, and that the defendant is
 50 indebted to the Company in the sum remaining due and unpaid on such calls and interest thereon, without alleging the election of the Directors, or any other special matter, or naming the Directors or any of them: and to maintain

Shareholders bound to pay calls.

Penalty for neglect.

Forfeiture for not paying calls.

such action it shall be sufficient to prove by any one witness, whether in the service of the Company or not, that the defendant subscribed for or accepted the transfer of so many shares of the stock of the Company, or is the personal representative of some person who subscribed for or accepted the transfer thereof; and that the calls were duly made, and that a certain sum remains unpaid thereon. 5

No advantage to be taken of any forfeiture of any shares of the said undertaking, unless declared forfeited at some General Meeting.

XXXVIII. Provided always, and be it enacted, That no advantage shall be taken of the forfeiture of any share or shares of the said undertaking, unless the same shall be declared to be forfeited at some Annual or Special Meeting of the said Company, assembled after such forfeiture shall be incurred; and every such forfeiture shall be an indemnification to and for every Shareholder so forfeiting against all action and actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such Shareholder and the other Shareholders with regard to carrying on the said Railroad or undertaking. 10 15 20

Company may remove any person chosen upon such Board of Directors; and may elect others in case of death, removal, &c.

XXXIX. And be it enacted, That the said Company shall always have power and authority at any General Meeting assembled as aforesaid, to remove any person or persons chosen upon such Board of Directors as aforesaid, and to elect others to be Directors in the room of those who shall die, resign or be removed, and to remove any other Officer or Officers under them, and to revoke, alter, amend or change any of the By-laws or Orders prescribed with regard to their proceedings amongst themselves (the method of calling General Meetings, and their time and place of assembling, and manner of voting, and of appointing Directors, only, excepted,) and shall have power to make such new Rules, By-laws and Orders for the good government of the said Company and their servants, agents and workmen, for the good and orderly making, maintaining and using the said Railroad and all other works connected therewith or belonging thereto, or hereby authorized, and for the well governing of all persons whatsoever travelling upon or using the said Railroad and other works, or transporting any goods, wares, merchandize or other commodities thereon; and by such By-laws to impose and inflict such fines or forfeitures upon the persons guilty of a breach of such By-laws or Orders as to such General Meeting shall seem meet, not exceeding the sum of 25 30 35 40 45

And so of Officers. And to make By-laws.

Penalties under By-laws limited.

£25.

By-laws to be in writing and published.

pounds, current money of this Province, for every offence; such fines or forfeitures to be levied and recovered by such ways and means as are hereinafter mentioned, which said By-laws and Orders shall be put into writing under the common seal of the said Company, and shall be kept in the office of the Company, and a printed or written copy of so much of them as may relate to or affect any 50

party other than the members or servants of the Company, shall be affixed openly in all and every of the places where tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same; and the said By-laws and Orders so made and published as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same, and any copy of the said By-laws or any of them certified as correct by the President or some person authorized by the Directors to give such certificate, and bearing the common seal of the Company, shall be deemed authentic, and shall be received as evidence of such By-laws in any Court without further proof: Provided always, that no By-law by which it is intended that any other person than the members, officers and servants of the Company shall be affected or bound, shall have any force or effect until it shall have been submitted to and approved and sanctioned by the Governor in Council.

Certified copies to be evidence.

XL. And be it enacted, That it shall and may be lawful to and for the several Proprietors of the said Railroad or undertaking to sell or dispose of his, her or their share or shares therein, subject to the rules and conditions herein mentioned; and every purchaser shall have a duplicate of the deed of bargain and sale and conveyance made unto him or her, and one part of such deed, duly executed by seller and purchaser, shall be delivered to the said Directors or their Clerk for the time being, to be 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 Directors 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.

Proprietors of the said Railroad may dispose of their shares, and how. Transfer to be notified to the Company.

XLI. 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 the transfer of shares.

45 " I, A. B, in consideration of the sum of
 " paid to me by C. D. of do
 " hereby bargain, sell and transfer to the said C. D.
 " share (or shares) of the Stock of the
 " *Niagara and Detroit Rivers Railroad Company*, to hold
 50 " to him the said C. D, his heirs, executors, administrators
 " and assigns, subject to the same rules and orders, and

The form.

“ on the same conditions that I held the same immediately
 “ before the execution hereof. And I, the said C. D., do
 “ hereby agree to accept of the said
 “ share (or shares) subject to the same rules, orders and
 “ conditions. Witness our hands and seals, this 5
 “ day of in the year .”

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

Directors may appoint a Treasurer and Clerk, &c. XLII. And be it enacted, That it shall and may be law- 10
 ful to and for the said Directors, and they are hereby authorized from time to time to nominate and appoint a Treasurer or Treasurers, and a Clerk or Clerks, to the said Company, taking such security for the due execution of their respective offices as the said Directors shall think 15
 proper; and such Clerk 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 Shareholders in the Stock of the said Company, and of the several persons who shall from time to time become owners and Proprie- 20
 tors of, or entitled to any share or shares therein, and of all the other acts, proceedings and transactions of the said Company and of the Directors for the time being, by virtue of and under the authority of this Act.

Company may establish tolls for all goods, &c., passing on the Railroad. XLIII. And be it enacted, That it shall and may be 25
 lawful to and for the said Company from time to time, and at all times hereafter, to ask, demand, take and recover, to and for their own proper use and behoof for all goods, wares, merchandize and commodities, of whatever description, transported upon the said Railroad or in the 30
 said steam-boats or vessels, such tolls as they shall deem expedient, which said tolls shall be from time to time fixed and regulated by By-laws of the Company, or by the Directors if thereunto authorized by the said By-laws, and shall be paid to such person or persons, and 35
 at such place or places near to the said Railroad, in such manner and under such regulations as the said Company or the said Directors shall direct and appoint; and in case of denial or neglect of payment of any such rates or dues, or any part thereof, on demand, to the person or 40
 persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having competent jurisdiction, or the person or persons to whom the said rates or dues ought to be paid, may and he is, and they are hereby empowered to seize and 45
 detain such goods, wares, merchandize or other commodities, for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof; and in the meantime the said goods, wares, merchandize or other commodities shall be at the risk of the owner or 50
 owners thereof; and the said Company shall have full power, from time to time by By-law to be made at any General Meeting, to lower or reduce all or any of the said

How tolls may be recovered if not duly paid.

Seizure of goods, &c.

Tolls may be lowered and again raised.

tolls, and again to raise the same, as often as it shall be deemed necessary for the interests of the said undertaking : Provided always, that the same tolls shall be payable at the same time and under the same circumstances upon
 5 all goods and upon all persons, so that no undue advantage, privilege or monopoly may be offered to any person or class of persons by any By-laws relating to the said Tolls.

Proviso,
against mono-
poly.

XLIV. And in order to ascertain the amount of the clear profits of the said undertaking : Be it enacted, That
 10 the said Company or the Directors of the said Company, 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 said
 15 Company, or by the Directors or Treasurer of the said Company or otherwise, for the use of the said Company, by virtue of this Act, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on their works, and of all other receipts and
 20 expenditure of the said Company or the said Directors; and at the general meetings of the shareholders of the said undertaking, to be from time to time holden as afore- said; a dividend shall be made out of the clear profits of the said undertaking, unless such meetings shall declare
 25 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 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
 30 made whereby the capital of the said Company shall be in any degree reduced or impaired; nor shall any dividend be paid in respect of any share, after a day appointed for payment of any call for money in respect thereof, until such call shall have been paid.

Account of the
profit of the
said undertak-
ing to be an-
nually made
up and balanc-
ed at certain
periods.

Dividends to
be made from
time to time at
General Meet-
ings.

Proviso.
Capital not to
be impaired.

XLV. 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 pas- sengers shall be conveyed or transported on the said Rail- road, such fraction shall, in ascertaining the said rates
 40 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, merchandizé or other commodities, a proportion of the said rates shall be de- manded and taken by the said Company of Proprietors,
 45 to the number of quarters of a ton contained therein; and in all cases where there shall be fraction of a quarter of a ton, such fraction shall be deemed and considered as a whole quarter of a ton.

Fractions in
miles and
fractions in
weight of
goods, in as-
certained
rates, &c.,
how regulated.

XLVI. Provided always, and be it enacted, That it
 50 shall and may be lawful to and for the said Company, from time to time to make such Regulations by By-law

Company may
at a General
Meeting make
By-laws for

fixing the price for the carriage of parcels on the Railroad.

Tables of Tolls to be publicly affixed.

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 Railroad or any part thereof, as to them shall seem fit and reasonable ; and that the said Company shall from time to time print and stick up, or cause to be printed and stuck up in their office, and in all and every of the places where the tolls are to be collected, in some conspicuous place there, a printed board or paper ascertaining all the tolls payable under this Act, and particularising the price or sum or sums of money to be charged or taken for the carriage of such parcels not exceeding one hundred and twenty pounds weight as aforesaid.

Provision as to the carriage of H. M.'s Mail, Soldiers, Police Force, &c.

XLVII. Provided always, and be it enacted, That the said Company shall at all times when thereunto required by Her Majesty's Deputy Post Master General, the Commander of the Forces, or any person having the superintendence or command of any Police Force, and with the whole resources of the Company if required, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all Policemen, Constables, and others, travelling on Her Majesty's Service, on their said Railroad, on such terms and conditions and under such regulations as the said Company and the said Deputy Post Master General, the Commander of the Forces, or person in command of any Police Force, respectively, shall agree upon, or if they cannot agree, then on such terms and conditions, and under such regulations as the Governor or Person administering the Government shall in Council make ; 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 thereunto 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 or Her Majesty's Forces and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

Proviso: The Legislature may make further provision.

Company of Proprietors to divide the land taken from the lands adjoining-

XLVIII. And be it enacted, That the said Company shall within six calendar months after any lands shall be taken for the use of the said Railroad or undertaking, and if thereunto required by the proprietors of the adjoining

lands respectively, but not otherwise, divide and separate, and keep constantly divided and separated, the lands so taken from the lands or grounds adjoining thereto, with a sufficient post and rail, hedge, ditch, bank, or other fence sufficient to keep off hogs, sheep and cattle, to be set and made on the lands or grounds which shall be purchased by, conveyed to or vested in the said Company as aforesaid, and shall at their own costs and charges, from time to time, maintain, support and keep in sufficient repair the said posts, rails, hedges, ditches, trenches, banks, and other fences so set up and made as aforesaid.

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

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

LI. And be it enacted, That all fines and forfeitures imposed by this Act, or which shall be lawfully imposed by any By-law to be made in pursuance thereof, (of which By-law, when produced, all Justices are hereby required to take notice,) the levying and recovering of which fines and forfeitures are not particularly herein directed, shall, upon proof of the offence before any one or more Justice or Justices of the Peace for the County, either by the confession of the party or parties, or by the oath or affirmation of any one credible witness (which oath or affirmation such Justice or Justices are hereby empowered and required to administer without fee or reward,) be levied by distress and sale of the offender's goods and chattels, by Warrant under the hand and seal or hands and seals of such Justice or Justices; and all such fines, forfeitures or penalties by this Act imposed or authorized to be imposed, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer or Receiver of the moneys to be raised by virtue of this Act, and shall be applied and disposed of for the use of the said Railroad or undertaking, and the overplus of the money raised by such distress and sale, and after deducting the penalty and the expenses of the levying and recovering thereof, shall be

ing, if required.

The Company to have the Railroad measured and miles marked.

Treasurer and Receiver and Collector to give security.

Forfeitures under this Act how to be recovered and applied, when not otherwise provided for.

Levy by distress and sale of goods and chattels.

Imprisonment
for want of
sufficient chat-
tels.

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 expenses, the offender shall be sent to the Common Goal for the County in which he shall have been convicted, there to remain 5 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.

Persons ag-
grieved may
appeal to the
General Ses-
sions.

LII. And be it enacted, That if any person or persons 10 shall think himself, herself, or themselves aggrieved by any thing done by any Justice or Justices of the Peace in pursuance of this Act, every such person or persons may, within four calendar months after the doing thereof, appeal to the Justices of the Peace at the General Quar- 15 ter or General Sessions to be holden in and for the County.

Limitation of
actions for
things done in
pursuance of
this Act.

LIII. And be it enacted, That if any action or suit shall be brought or commenced against any persons for any thing done or to be done in pursuance of this Act, 20 or in the execution of the powers and authorities or of the orders and directions hereinbefore given or granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed; or in case there shall be a continuation of damage, 25 then within sixth calendar months next after the doing or committing such damage shall cease, and not afterwards; and the defendant or defendants in such 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 30 thereupon, and that the same was done in pursuance and by the authority of this Act, and if it 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 nonsuit, or discontinue his, 35 her or their action or suit after the defendant or defendants shall have appeared, or if 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 40 for costs of suit in other cases by law.

General issue.

Costs to De-
fendant if the
Plaintiff fail.

Any contra-
vention of this
Act not other-
wise punisha-
ble, to be a
misdemeanor.

LIV. And be it enacted, That any contravention of this act by the said Company or by any other party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punishable accordingly; 45 but such punishment shall not exempt the said Company (if they be the offending party) from the forfeiture of this Act and the privileges hereby conferred on them, if by the provisions thereof or by law the same be forfeited by such contravention. 50

LV. And be it enacted, That the said Company shall allow the Great Western Railroad Company, or any other Company incorporated for the construction of a Railroad through the tract of country traversed by the
 5 Railroad herein mentioned, to connect their Railroad or a branch thereof with the Railroad hereby authorized to be constructed at any point thereof; And that if the said Great Western Railroad Company shall not within three years from the passing of this Act make a Railroad from
 10 the City of Hamilton to some point of the Railroad hereby authorized, then the Company hereby incorporated shall make a branch Railroad from some point of their Railroad to the City of Hamilton, within two years after the expiration of the three years last aforesaid:
 15 And all the powers given to the said Company for making the Railroad hereinbefore authorized to be constructed, shall be and are hereby extended and shall apply to any Railroad to be made under this section; and no provision or enactment which the Legislature shall hereafter make
 20 for the purpose of compelling the performance of the provisions and conditions in this section contained, or for settling the terms and conditions upon which any other Company may connect their Railroad with that herein authorized to be constructed, shall be deemed an infringement
 25 ment of the privileges granted by this Act.

Company may form junctions with the Great Western and other Railroads.

LVI. And be it enacted, That the said Company to entitle themselves to the benefits and advantages to them granted by this Act, shall and they are hereby required to make and deposit the map or plan and book of refer-
 30 ence mentioned in the Section of this Act within one year after the passing thereof, and to make and complete the said Railroad from the Niagara River to the Detroit River in manner aforesaid, within seven years from the passing of this Act: and if the said map or
 35 plan or book of reference be not so made and deposited within the said one year, or if the said Railroad shall not be so made and completed within the said period so as to be used by the public as aforesaid, then and in either case this Act and every matter and thing therein con-
 40 tained, shall cease and be utterly null and void.

Map and Book of reference to be deposited and the Railroad to be completed within certain periods, or this Act to be void.

LVII. And be it enacted, That the said Company shall annually submit to the three Branches of the Legislature, within the first fifteen days after the opening of each Session of the Provincial Parliament after the opening of
 45 the said Railroad or any part thereof to the public, a detailed and particular account, attested upon oath, of the moneys by them received and expended under and by virtue of this Act, with a classified statement of the amount of tonnage and of passengers that have been
 50 conveyed along the said Railway; And no further provisions which the Legislature may hereafter make with

Company annually to submit to the Legislature detailed accounts.

Further provision may be

made touching such accounts. 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.

Company not to be exempted from the operation of any general Railroad law; LVIII. And be it enacted, That nothing herein contained shall be construed to except the Railroad by this Act authorized to be made, from the provisions of any general Act relating to Railroads which may be passed during the present or any future Session of Parliament. 5

Saving of Her Majesty's rights, and of all other persons, &c. LIX. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned. 10 15

Meaning of word "County." LX. And be it enacted, That the word *County* in this Act shall include Counties united for judicial purposes.

Public Act. LXI. And be it enacted, That this Act shall be a 20 Public Act.