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No. 56.

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

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**B I L L .**

**An Act to authorise the Company of  
Proprietors of the Champlain and St.  
Lawrence Railroad to extend the said  
Road, and for other purposes.**

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**Received and Read a first time, Wednesday, 5th  
June, 1850.**

**Second Reading, Monday, 10th June, 1850.**

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**MR. DEWITT.**

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**TORONTO : PRINTED BY LOVELL AND GIBSON.**

56

## BILL.

An Act to authorise the Company of Proprietors of the Champlain and St. Lawrence Railroad to extend the said road, and for other purposes.

WHEREAS the Company of Proprietors of the Champlain and St. Lawrence Railroad, incorporated under and by virtue of an act of the Legislature of the late Province of Lower Canada, passed in the second year of the Reign of His late Majesty King William the Fourth, and intituled, "*An Act for making a Railroad from Lake Champlain to the River St. Lawrence,*" have by their Petition to the Legislature represented that they are desirous of constructing a Branch of their Railroad from some Point on their present Line between St. John's and Laprairie to some point on the River St. Lawrence opposite or nearly opposite the City of Montreal, and of continuing their present Railroad from some point at or near its terminus at the village of Dorchester, commonly called St. John's, to the Province Line at or near Rouse's Point, there to connect with the American Railroads now in progress of construction, and thereby to afford an uninterrupted line of communication from Montreal to Boston, New York or to the West, and have prayed to be authorised by Legislative enactment to effect the said improvements;—and whereas the Montreal and Province Line Junction Railway Company have by their Petition to the Legislature, set forth, that they consider that the interests of the public would be better served if the right granted them by the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, "*An Act to incorporate the Montreal and Province Line Junction Railway Company,*" of constructing a Railway from the terminus of the Champlain and St. Lawrence Railroad, at the said village of Dorchester, commonly called St. John's, to or near the Province Line at Rouse's Point, were transferred to the said Company of Proprietors of the Champlain and St. Lawrence Railroad and have prayed that their said right be so transferred, and it is expedient to grant the prayer of the said Petitions;—Be it therefore enacted, &c. &c.

And it is hereby enacted by the authority of the same, that the Act last cited in the Preamble to this Act, and the Act passed in the twelfth year of the same Reign, and intituled, "*An Act to amend and extend the Act to incorporate the Montreal and Province Line Junction Railway Company,*" shall be and the same are hereby repealed; and the said Company of Proprietors of the Champlain and St. Lawrence Railroad are hereby authorised and empowered to construct a Branch of their said Railroad from some point on its present Line to some point on the River St. Lawrence opposite or nearly opposite to the City of Montreal, and a continuation of their said Railroad from some point at or near the Terminus at St. John's aforesaid, in as direct a line as may be readily practicable, to the Province Line at or near Rouse's Point, with one or more sets of rails and on the locomotive or atmospheric principle as the said Company may deem best, and to erect wharves, warehouses, stores and other buildings at either termi-

Preamble.

2 Wm. 4 c. 58. and

10 and 11 Vict. c. 121, cited.

The last mentioned Act and 12 Vict. c. 179 repealed.

nation, and at such other places on the Line of the said Branch or continuation as they may deem expedient.

A competent sum of money to be subscribed for undertaking.

II. And to the end that the said Company of Proprietors of the Champlain and St. Lawrence Railroad may be enabled to construct the said Branch and continuation :—Be it enacted, That it shall and may be lawful for the said Company from time to time to raise and contribute among themselves, or by the admission of new Subscribers, or both, in such proportions as to them shall seem meet and convenient, a competent sum of money for the making and completing the said Branch and continuation and all such other works, matters and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Branch, continuation and other works:—Provided always, that the said Company shall cause books of subscription to be opened at their Office in the City of Montreal, for receiving the signatures of stockholders or others, or both (as the case may be) willing to become subscribers to the said additional stock, and for this purpose they shall give public notice in some newspaper published in the City of Montreal in the English Language, and in some newspaper there published in the French Language, 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 authorised to receive such subscriptions, and of the amount to be then raised, and so from time to time when more is to be raised; and every person who, or whose Attorney shall write his signature in such book as a subscriber to the said undertaking shall thereby become a member of the said Company, and shall have like rights and privileges, and be subject to like obligations, as the present members of the said Company of Proprietors of the Champlain and St. Lawrence Railroad, in proportion to the amount of paid up stock held by him, and shall be bound to pay the amount of all instalments thereon as the same shall be called for by the Directors, and if any such instalment be not paid at the time it shall so be called for it may be recovered by the Company with interest from such time, and costs, in any Court having competent jurisdiction; and in any such action it shall be sufficient to allege that the Defendant is the proprietor of a share or shares (stating the number) of the stock of the said Company; that certain sums of money were called for upon such share, in conformity to the act incorporating the Company, and remain unpaid; and that therefore an action hath accrued to the Company to recover the same; and the production of the newspapers containing notice of the calls shall be evidence that the same were made as therein stated; and neither in such action nor in any other action, suit or proceeding by the Company, shall the election of the Directors or the authority of them or any Attorney acting in the name of the Company, be called in question except by the Company, nor shall it be necessary to name the Directors or any of them: Provided always that the sums to be so raised, shall not in the whole exceed the sum of one hundred and eighty five thousand pounds currency, and shall be divided into shares of fifty pounds each, and be subject to the same provisions, rules and regulations as to the amounts of dividends to be made thereon; and in all other respects as the original Capital Stock which the said Company are authorised to hold by their act of incorporation above cited, in so far as such provisions, rules and regulations may not be inconsistent with this act; and the said sum of one hundred eighty five thousand pounds or so much thereof as it may be found necessary to raise, shall 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

Proviso.

proviso.

the surveys, plans and estimates incident thereto, and all other expenses relating thereto, and all the rest, residue and remainder of such money for and towards making completing and maintaining the said Branch and continuation and other the purposes of this Act and of the Act last aforesaid, and to no other use, intent or purpose whatsoever.

III. And be it enacted, That in case the said sum of one hundred and eighty-five thousand pounds or such less sum as the said Company shall find it practicable and expedient to raise as new Stock, shall be found insufficient for the purpose of constructing the said Branch and continuation and other the purposes aforesaid, it shall be lawful for the said Company to borrow from time to time, either in this Province or elsewhere, such further sum or sums of money not exceeding at any time the sum of seventy-five thousand pounds, as they may find expedient for completing their said undertaking, and at such rate of interest not exceeding eight per cent per annum as they may think proper; and to 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 places within or without this Province as they may deem advisable, and to hypothecate and pledge the lands, tolls, revenues and other property of the said Company or any part thereof for the due payment of the sums borrowed and the interest thereon, provided that no such bond or debenture shall be for a less sum than one hundred pounds currency.

£75,000 new Stock may be raised if £185,000 be not sufficient.

IV. Provided always, and be it enacted, That the sums actually expended by the said Company on their Railroad and the other works and property they are authorized by law to hold for the purposes thereof, shall as respects the limitation of the profits of the Company made in their act of incorporation, be deemed to be the capital upon which the said profits may be reckoned and upon which they shall be limited, whether such sum be raised by subscription for Stock or by loan or both, provided such sum do not exceed the total amount of the Capital Stock which the said Company are by law authorized to hold, added (if the said Capital be all subscribed for and paid up but not otherwise) to the amount they are empowered to borrow.

Sums expended by Company, to be deemed as Capital.

V. And be it enacted, That for the purpose of constructing the said Branch and continuation, the said Company are hereby authorized and empowered to enter into and upon any lands and grounds of the Queen's Most Excellent 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 Branch and continuation 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 Branch and continuation and other works, and also to bore, cut, dig, 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 Branch and continuation or other works, on or out of the lands or grounds of any person or persons adjoining or lying convenient thereto, and which may be proper, requisite or necessary for making or repairing the said intended Branch or continuation, or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using and completing, extending or maintain-

Company may enter upon Her Majesty's lands, &c.

ing 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 Branch or continuation, or upon their lands adjoining or near the same respectively, such and so many houses, watch-houses, warehouses, toll-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 Branch, continuation 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 Branch and continuation, and to construct, erect and keep in repair any bridges, arches or other works upon and across any rivers or brooks for the making, using, maintaining, and repairing the said intended Branch and continuation, and to turn away 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 Branch and continuation 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 whomsoever 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 hereafter mentioned.

Branch, &c.,  
not to be carried along a  
highway.

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

Survey and  
levels to be  
taken, &c.

VII. And be it enacted, That for the purposes of this Act, the said Company shall and may, by some sworn Land Surveyor for Lower Canada, and by an Engineer by them to be appointed, cause to be taken and made, surveys and levels of the lands through which the said intended branch and continuation are to be carried respectively, together with the maps or plans of such branch and continuation, 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 branch and continuation, in which shall be set forth a description of the said several

lands, and the names of the owners, occupiers and proprietors thereof, so far as they can be ascertained by the said Company, and in which shall be contained every thing necessary for the right understanding of such map or plan: which said map or plan and  
 5 book of reference shall be examined and certified by the person performing the duties formerly assigned to the Surveyor General or his Deputies, who shall deposit a copy thereof in the Office of the Secretary of the Province, and another in the Office of the Prothonotary of the Superior Court in the District of Montreal,  
 10 and shall also deliver one copy thereof to the said Company; and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts or copies thereof as occasion shall require, paying to the said Secretary of the Province, or to the said Prothonotary, at the rate of *six pence* current  
 15 money of this Province, for every hundred words; and the said triplicates of the said map or plan, and book of reference, so certified, or a true copy or copies thereof, certified by the Secretary of the Province, or by the Prothonotary of the said Superior Court, shall severally be, and are hereby declared to be, good  
 20 evidence in the Courts of law and elsewhere: *Provido* always, that it shall not be necessary that the map or plan and book of reference for the said Branch be made or fyled at the same time with those for the said continuation, so as they be respectively made and fyled within the time hereinafter limited; nor shall it be  
 25 necessary that the same or the surveys on which they are founded respectively, be made after the passing of this Act, but the said Company, if they think proper, may adopt any survey, map, plan or book, or any part thereof, made before the passing of this Act, so as the same be adopted and fyled after the passing hereof,  
 30 and the same shall nevertheless bind the Company, and all parties concerned, as if made after the passing hereof.

VIII. *Provido* always, and be it enacted, That where the said Branch or continuation shall cross or be carried along any public highway, (which word shall in this Act include all public streets,  
 35 lanes or other public ways or communications,) neither the rails or any other part of the Branch or continuation, 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 Branch or continuation may be carried  
 40 across any highway within the limits aforesaid.

IX. *Provido* 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 Branch or continuation over and across any highway, the space of the arch of any such bridge shall be formed and  
 45 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 in breadth, and of 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  
 50 in twenty feet.

X. *Provido* 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 said Branch or continuation, the ascent of every such bridge for the purpose of every  
 55 such highway, shall not rise more than one foot in twenty feet; and a good and sufficient fence shall be made on each side of such bridge, which fence shall not be less than four feet above the surface of such bridge.

A sign board  
to be erected at  
each mile.

XI. Provided always, That the first section of the Ordinance amending the Act first cited in the preamble of this Act shall be repealed, and that the said Company shall, at each and every place where the said Branch or continuation, or the now existing 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 word "RAILWAY CROSSING," painted on each side of such sign board, in both languages, and in letters not less than six inches in length; and for each and every neglect to conform with the requirements of this section, the said Company shall incur a penalty not exceeding *five pounds* currency. 5 10

Company not  
to deviate  
more than a  
mile from line  
of Branch, &c.

XII. And be it enacted, That the said Company, in making the said intended Branch or continuation, shall not deviate more than a mile from the line of the Branch or continuation, or from the places assigned to the several works of the Company, in the map or plan and book of reference to be deposited as aforesaid, with reference to the said Branch, continuation and works respectively, nor cut, carry, place, lay down or convey the said Branch or continuation, into, through, across, under or over any of the lands or grounds, not shewn and mentioned in such map or plan and book of reference, as being required for such purpose, or as being within one mile of the said line and of the places assigned therein to them 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. 15 20 25

Effect of error  
in Book of re-  
ference.

XIII. And be it enacted, That the said Company may make, carry or place their said intended Branch or continuation, 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. 30 35

Lands in  
breadth, &c.

XIV. And be it enacted, That the lands or grounds to be taken or used for such intended Branch or continuation, 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 Branch or continuation shall be raised more than five feet higher, or cut more than five feet deeper than the present surface of the land, and in such places where it shall be judged necessary to have off-sets for the locomotives, or other engines and carriages using the said intended Branch or continuation to lie or pass each other, (and not above one hundred yards in breadth 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 length by one hundred and fifty yards in breadth,) without the consent of some party who can, under the provisions of this Act, convey such lands to the said Company; and the places at which such extra breadth is to be taken, shall be shewn on the said map or plan, so far as the same may be then ascertained; but their not being so shewn shall not prevent the Company from taking such extra breadth, provided it be taken upon the line shewn or within the distance aforesaid from such line: Provided always, that no land shall be taken by the said Company from any public highway, but their right shall be 40 45 50 55



limited to the laying down across the same, (that is in the line of the said Branch or continuation, at whatever angle it may intersect such highway,) the rails and other contrivances forming part of the Railroad, subject to the limitations mentioned in the 5 section, or any other part of this Act.

XV. And be it enacted, That it shall be lawful for the said Company to take, use, occupy and hold, but not to alienate, so much of the public beach or beach road, or of the land covered with the waters of the River St. Lawrence and of the River Richelieu, or Lake Champlain, as may be required for the wharves and other works of the said Branch or continuation, and other works, which they are hereby authorized to construct, not more than two hundred yards in length, nor more than one hundred and fifty yards in breadth, doing no damage to nor causing any obstruction in the navigation of the said rivers: Provided always, that such land shall not be taken, or any such wharf or work erected thereon, except by permission of the Governor of the Province, and in accordance with any conditions he shall think proper to impose, nor shall any land vested in the Principal Officers of Her Majesty's Ordnance be taken without their consent.

Company may use beaches, &c.

Proviso.

XVI. 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 Branch, continuation and other works, and for other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all bodies politic, corporate or collegiate, corporations aggregate or sole, communities, *grevés de substitution*, guardians, curators, executors, administrators, and all other trustees or persons whomsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons or parties who are or shall be seized, possessed of or interested in any lands or grounds which shall be so set out and ascertained as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, all or any part of such lands or grounds which shall under this Act be set out and ascertained as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in anywise notwithstanding; and that all bodies politic, corporate or collegiate, or communities, and all persons whomsoever, so conveying as aforesaid, are hereby indemnified for what 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 Branch, continuation 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 meantime 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 as if the agreement were such award.

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

Proviso.

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

XVII. Provided always, and be it enacted, That any body politic, community, corporation or other party, who cannot, in common course of law, sell or alienate any lands or grounds so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said Branch or continuation, 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 fixed by the said Company for the purchase of any lands, or for any part of the purchase money of any land which the vendor shall agree to leave in the hands of the said Company, the said Branch or continuation, 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 deed creating such charge and liability being duly registered.

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

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

Company to apply to owners of lands touching compensation to be paid for the same.

XIX. And be it enacted; That so soon as the said map or plan and book of reference shall have been deposited as aforesaid, and notice of its being so deposited shall have been given in at least one newspaper published in the City of Montreal, in the English language, and in at least one newspaper there published in the French language, it shall be lawful for the said Company to apply to the several owners of or parties hereby empowered to convey the lands through which the said Branch or continuation 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 modo 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:—

Arbitration clauses.

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 Branch or continuation and works.

The Company shall serve notice upon the opposite party, containing a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, (describing them), a declaration that the Company are ready to pay some  
 5 certain sum (or rent, as the case may be) as compensation for such lands or for the damages arising from the exercise of such power, and the name of a person whom they appoint as their Arbitrator if their offer be not accepted; and such notice shall be accompanied by the certificate of some sworn Surveyor for Lower  
 10 Canada, disinterested in the matter, and not being the Arbitrator named in the notice, that the land (if the notice relate to the taking of land) is shewn on the map or plan deposited as aforesaid, as being required for the said Branch or continuation, and works, or as being within the limits of deviation hereby allowed, that he  
 15 knows such land, or the amount of damages likely to arise from the exercise of such powers, and that the sum so offered is, in his opinion, a fair compensation for such land or for such damages as aforesaid.

If the opposite party be absent from the District of Montreal,  
 20 or be unknown to the said Company, then, upon application to any Judge of the Superior Court residing in the said District, accompanied by such certificate as aforesaid, and by an affidavit of some officer of the Company, that such opposite party is so absent, or that, after diligent inquiry, the party on whom the  
 25 notice ought to be served, cannot be ascertained, such Justice shall order a notice as aforesaid (but without the certificate) to be inserted three times, in the course of one calendar month, in some newspaper published in the City of Montreal in the English language, and in some newspaper there published in the French  
 30 language.

If within three days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the Company that he accepts the sum offered by the said Company, or notify to them the name  
 35 of a person whom he appoints as Arbitrator, then any Judge of the said Court, resident in the District of Montreal, may, on the application of the said Company, appoint some sworn Surveyor for Lower Canada, resident in the said District, to be sole Arbitrator for determining the compensation to be paid by the  
 40 Company.

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

The said Arbitrators or any two of them, or the sole Arbitrator, being sworn before some Commissioner for receiving affidavits to  
 50 be used in the Superior Court, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company in such way as they or he, or a majority of them shall deem best, and the award of such Arbitrators, or of any two of them, or of the sole Arbitrator, shall  
 55 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 at least one clear day's notice, or to which some meeting at

which such other Arbitrator was present, shall have been adjourned; but no notice to the Company or opposite party shall be necessary, and they shall be held sufficiently notified through the Arbitrator they shall have appointed, or whose appointment they shall have required :—

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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 Arbitration shall be borne by the 10 opposite party and deducted from the compensation, otherwise they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by any Judge of the said Superior Court :

The Arbitrators, or a majority of them, or the sole Arbitrator, 15 may in their discretion, 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.

The Judge of the said Superior Court by whom any third Arbitrator or sole Arbitrator shall be appointed, shall, at the same 20 time, fix a day on or before which the award shall be made, and if the same be not made on or before such day, or some other day to which the time for making it shall have been prolonged, either by the consent of the parties, or by the order of a Judge of the said Court, (as it may be for reasonable cause shewn, on the appli- 25 cation of such sole Arbitrator or one of the Arbitrators after one clear day's notice to the others,) then the sum offered by the Company as aforesaid, shall be the compensation to be paid by them :

If the party appointed by such Judge as third Arbitrator or sole Arbitrator shall die before the award be made, or shall be 30 disqualified, or refuse or fail to act within a reasonable time, then, upon the application of either party, the Judge or any Judge of the said Court, residing in the District of Montreal, being satisfied by affidavit or otherwise of such disqualification, refusal or failure, may in his discretion, appoint another in his stead; and, 35 if the Arbitrator appointed by the said Company or by the opposite party shall die before the award shall be made, or shall leave the Province, or become unable to act within a reasonable time, (such fact being ascertained to the satisfaction of some Judge of the said Court, as aforesaid, as attested by his certificate to that 40 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 no recommencement or repetition of prior proceedings shall be required:

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The Company may desist from any such notice as aforesaid, and afterwards give new notice with regard to the same or other lands, to the same or any other party, but they shall in any such case be liable to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment; 50 and no change of ownership after the notice, shall affect the proceedings, but the party notified shall still be deemed the owner, except as to the payment of the sum awarded:

It shall be no disqualification to the Surveyor, or other person offered or appointed as Valuator, or as Arbitrator, that he be 55 professionally employed by the Company or by the opposite party, or that he has previously expressed an opinion as to the amount

of compensation, or that he be related or of kin to any member of the Company, provided he be not himself personally interested in the amount of such compensation, and no cause of disqualification shall be urged against any Arbitrator appointed by a Judge of the said Superior Court as aforesaid, after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Judge; and no cause of disqualification shall be urged against any Arbitrator appointed by the Company, or by the opposite party, after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, shall be summarily determined by any Judge of the said Court as aforesaid, on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified, shall be held to have appointed no Arbitrator:

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

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

Possession may be taken on payment, &c., of sum awarded.

Proviso.

XXI. 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 tenements or then in lawful possession thereof as proprietor, for any lands which might be lawfully taken under this Act without the consent of the

Compensation to stand in place of land.

Proviso.

proprietor, shall stand in the stead of such land; and any claim to, or hypothec or incumbrance upon the said land, or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party; Provided always, that if the said Company shall have reason to fear any such claims, hypothecs or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof, shall be payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to deliver to the Prothonotary of the said Superior Court, at the City of Montreal, an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and an accepted draft on some solvent Chartered Bank in the said City, for the amount of the awarded or compensation money, bearing interest, and payable to the order of such Prothonotary or his successor in office, five months after the date thereof, and such award or agreement shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company, (that is, the conveyance, agreement or award,) is under this Act, and shall call upon all persons entitled to, or to any part of the land, or representing or being the husbands of any parties so entitled, to file their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall for ever bar all claims to the lands, or any part thereof, (including dower not yet open,) as well as all hypothecs or incumbrances on the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as to right and justice according to the provisions of this Act and to law shall appertain; and the costs of the said proceedings, or any part thereof, shall be paid by the said Company, or by any other party, as the Court shall deem it equitable to order, and if judgment of confirmation be not obtained in five months from the delivery of the conveyance, agreement or award to the Prothonotary from any error, fault or neglect of the Company, the Court shall order the Company to pay to the Prothonotary the interest for such further period as may be right.

Proviso as to lands as to which this Act shall not have been complied with.

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

Provisions of 2 Wm. 4, c. 58, and 6 Wm. 4, c. 6, and 4 Vic. c. 18, applied to a certain

XXIII. And be it enacted, That all the provisions of the Act first cited in the Preamble of this Act, and of the Act and Ordinance amending the same, shall, in so far as it is not otherwise specially provided in this Act, be applicable to and shall govern the Branch and continuation hereby authorised to be constructed as if 60

such Branch or continuation had been authorized by and constructed under the authority of the said Acts and Ordinance and the said Branch or continuation, respectively, shall when completed form part of, and together with the present Railroad, shall be and be called "The Champlain and St. Lawrence Railroad:" Provided always, that the forty-eighth section of the said first mentioned Act and generally all such provisions as may be contrary to the provisions of this Act shall be and are hereby repealed.

extent, to the Branch, &c.

Proviso.

XXIV. 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 superintendance or command of any Police Force, and with the whole resources of the Company if necessary, 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 commanding 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 in Council shall make; Provided always, 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.

Provision as to carriage of Her Majesty's Mail, &c.

Proviso.

XXV. And be it enacted, That Her Majesty may at any time before or after the said Branch and continuation are completed assume the possession and property of the whole of the said Railroad, and of all the property of the Company held by them under the said first recited Act and this Act, and of all the rights, privileges, and advantages vested by this Act and the said first recited Act in the said Company (all which shall after such assumption be vested in Her Majesty) on giving to the said Company three months notice of the intention to assume the same, and on paying to the said Company within three months of the expiration of such notice, the whole amount of their Capital Stock then paid up and expended, and twenty *per centum* increase thereon, together with any sums *bond fide* furnished or advanced by the Shareholders or borrowed by the said Company and expended in completing and improving the said Railroad and other works connected therewith, with legal interest on the sums expended on the said Branch or continuation from the time of the expenditure thereof until the time of the opening of the Branch or continuation on which they shall have been expended.

Her Majesty may assume possession of Railroad on certain conditions.

XXVI. And be it enacted, That the said Company, to entitle themselves to all the benefits and advantages to them granted by this Act, shall and they are hereby required to make and deposit the maps or plans and books of reference mentioned in this Act within two years from the passing thereof, and to make and complete the said Branch and continuation in manner aforesaid within six years from the passing of this Act; and if the said maps or plans and book of reference be not so made and deposited within the space of two years, or if the said Branch and continuation shall not be so made and completed within the said period of six years, so as to be used by the public as afore-

Deposit of map and plan, &c.

said, then and in either case this Act and every matter and thing therein contained shall cease, and be utterly null and void in so far as regards the Branch or continuation which shall not be so completed or with regard to which the map or plan and book of reference hereby required shall not be deposited within the period hereby 5 limited for completing or depositing the same respectively.

By-laws of  
Company res-  
pecting tolls,  
&c. to be sanc-  
tioned by  
Governor.

XXVII. And be it enacted, That no By-law of the said Company to be hereafter made and by which any Tolls shall be fixed or directed to be taken for the conveyance of Passengers, goods, wares or merchandize on the said Railroad, or which shall be intended to 10 affect any party other than the members, officers and servants of the Company, shall have force or effect until it shall have been sanctioned and confirmed by the Governor of this Province, under his hand and seal at arms, and published in the Canada Gazette, a copy whereof shall be proof of such By-law and of such sanction and 15 confirmation, in all Courts and places whatsoever:—Provided always, that the same Tolls shall be payable at the same time and under the same circumstances upon all like goods, wares, merchandize and passengers by the same class of carriages, so that no undue privilege or monopoly may be afforded to any person or class of 20 persons by any By-law relating to Tolls.

Branch, &c. not  
to be exempt  
from operation  
of any general  
Railway Act.

XXVIII. And be it enacted, That nothing herein contained shall be construed to except the Branch or continuation by this Act authorized to be made, from the provisions of any general Act 25 relating to Railways which may be passed during the present or any future session of Parliament; and that no further provisions which the Legislature may hereafter make with regard to the form and times and details of the accounts to be laid before the Legislature by the Company, or the mode of attesting or rendering the same shall be deemed an infringement of the privileges of the 30 Company.

Public Act.

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