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No. 202.

2nd Session, 3rd Parliament, 12 Victoria, 1849.

BILL.

An Act to incorporate *The Niagara and
Detroit Rivers Railway Company.*

Received and Read a first time, Monday, 26th
March, 1849.

Second Reading, Monday, 2nd April, 1849.

Mr. McFARLAND.

PRINTED BY LOVELL AND GIBSON.

BILL.

An Act to incorporate the *Niagara and Detroit Rivers Railway Company*.

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

And it is hereby enacted by the authority of
 the same, That Alexander Douglas, James
 Kirby, George Hardison, John W. Lewis,
 20 John Greybiel, James Stanton, Richard Gra-
 ham, John Hardison, Abraham Herchey,
 Abraham Cook, Arunah Huntington, David
 Christie, Charles Hill, Arthur Johnston, and
 George S. Wilkes, together with such per-
 25 son or persons as shall, under the provisions
 of this Act, become subscribers to and proprie-
 tors of any share or shares in the Rail-way
 hereby authorized to be made and other
 works and property hereinafter mentioned,
 30 and their several and respective heirs, execu-
 tors, 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, com-
 35 pleting and maintaining the said intended
 Railway and other works, according to the

Certain per-
 sons and their
 successors in-
 corporated for
 the purposes of
 this Act; and
 certain corpo-
 rate powers
 conferred on
 them.

Corporate
name.

Word 'Lands'
how under-
stood in this
Act.

Rail-way may
be made on any
plan.

Direction of
the said Rai-
way.

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 Railway 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 Railway and 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 made and complete a Rail-way or Railways, to be called *The Niagara and Detroit Rivers Railway*, 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 Railway 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 Railway or Railways 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.

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 Railway 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 Railway 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 Railway 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 Railway, or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using or completing, extending or maintaining the same respectively, according to the intent and purpose of this Act; and to make, build, erect and set up, in or upon the said intended Rail-

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

To get and place materials.

Erecting buildings, machinery, &c.

way, or upon their lands adjoining or near the same respectively, such and so many houses, warehouses, toll-houses, watch-houses, telegraphs or other signals, weighing beams, cranes, fire-engines, steam-engines, 5 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 10 Railway 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 15 Railway, and to construct, erect and keep in repair any bridges, arches and other works upon and across any rivers or brooks for the making, using, maintaining and repairing the said intended Railway; and to turn any such 20 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, 25 improving, completing, and easy using of the said intended Railway 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 30 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, 35 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 40 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 45 of the powers hereby granted, subject never-

Bridges and other works for passing streams, &c.

Other works necessary for the Rail-way.

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

theless to such provisions and restrictions as are hereinafter mentioned.

III. Provided always, and be it enacted, That the said Company shall not carry the said Railway along any street or existing highway, but merely cross the same in the line of the said Railway; 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 does not rise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction.

How the Railway shall be carried across roads.

Rail itself not to be deemed an obstruction.

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 Railway is to be carried, together with a map or plan of such Railway, and of the course and direction thereof, and of the said lands through which the same is to pass, and the lands intended to be taken for the several purposes authorized by this Act, so far as then ascertained, and also a book of reference for the said Rail-way, in which shall be set forth a 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 Districts through which the said Railway is intended to

Company by a sworn Surveyor and Engineer shall take surveys and levels of the lands through which the Rail-way is to be carried, and make a map or plan.

Plan and book of reference to be made and deposited.

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.

5

When the
Rail-way
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 Railway shall cross any highway (which word shall in this Act include all public roads, streets, lanes and other public ways or communications), without being 10 carried either over the same by a bridge or under the same by a tunnel, neither the rail nor any other part of the Railway or works connected therewith, shall rise above the level of such street or highway, or sink 15 below the level of such street or highway more than one inch; and the said Railway may be carried across any highway or above any highway within the limits aforesaid.

Height of
bridges for
carrying the
Rail-way over
any highway.

VI. Provided always, and be it enacted, 20 That where any bridge shall be erected or made by the said Company, for the purpose of carrying the said Railway over or across any highway, the space of the arch of any such bridge shall be formed and shall at all 25 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 30 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
over the Rail-
way.

VII. Provided always, and be it enacted, That in all places where it may be necessary 35 to erect, build or make any bridge or bridges for carrying any highway over the Railway, 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 40 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.

Fence to
bridge.

VIII. Provided always, and be it enacted, That the said Company shall, at each and every place where the said Railway 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 "RAILWAY 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 currency. £5.

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

IX. And be it enacted, That the said Company, in making the said intended Railway, shall not deviate more than a mile from the line of the Railway 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 Railway 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 shown 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 Railway 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

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

owner of or party entitled to convey, or interested in such lands.

Lands taken for Rail-way not to exceed 30 yards in breadth.

Exceptions for off-sets passing places, &c.

And for stations for machinery, &c.

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

XI. And be it enacted, That the lands or grounds to be taken or used for such intended Railway, 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 Railway shall be raised more than five feet higher, or cut more 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 Railway to be 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 merchandise 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 shown on the said map or plan, so far as the same may be then ascertained, but their not being 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, (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 Railway at whatever angle it may intersect such highway, the rails and other contrivances forming part of the said Railway, subject to the limitations mentioned in the 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 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, (not exceeding the quantity limited in the next preceding section,) as may be required for the Railway 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.

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

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 Railway and other works, and other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all bodies politic, corporate or collegiate, 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 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,

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

Proviso.
Parties who
may convey
lands may, be-
fore any lands
are so set out,
agree with the
Company for
the price to be
paid for them
if they be af-
terwards re-
quired.

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 indem- 5 nified 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 refer- ence shall be deposited as aforesaid, and 10 before the lands required for the said Rail- way and works shall be set out and ascer- tained, 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 15 out and ascertained, to agree with the Com- pany 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 20 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 25 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 30 shall be in the place of an award.

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

Privilege
granted for se-
curing such
Rent or any

XIV. Provided always, and be it enacted, That any body politic, community, corpora- tion or other like party, who cannot in com- mon course of law sell or alienate any lands 35 or grounds so set out and ascertained, shall agree upon a fixed annual rent as an equi- valent, 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 40 Railway, and other the purposes and conveni- ences relative thereto and connected there- with; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner 45

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
 5 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, the
 10 said Railway and the Tolls to be levied and collected thereon shall be, and are hereby made liable and chargeable, in preference to all other claims and demands thereon, whatsoever, the deed creating such charge
 15 and liability being duly registered in the Registry Office of the proper County.

purchase
 money not
 paid.

XV. Provided always, and be it enacted, That whenever there shall be more than one party proprietor of any land or property as
 20 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
 25 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
 30 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.

Agreement
 with proprie-
 tors in com-
 mon to a cer-
 tain extent
 shall bind the
 rest.

XVI. And be it enacted, That so soon as
 35 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
 40 in each of the Districts through which the said Railway is intended to pass, it shall be lawful for the said Company to apply to the several owners of or parties hereby em-
 powered to convey the lands through which

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

such Rail-way is intended to be carried, or which may suffer damage from the taking of materials, or the exercise of any of the powers granted to the said Company by this Act, and to agree with such owners or parties respectively, touching the compensation to be paid to them by the said Company for the purchase thereof, and for their respective damages, and to make such agreements and contracts with the said parties touching the said lands, or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained, as to such parties and the said Company shall seem expedient; and in case of disagreement between the said Company and the said owners or parties or any of them, then all questions which shall arise between them and the said Company shall be settled as follows, that is to say:

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 Railway and works.

Notice to opposite party.

Offer.

Name of arbitrator.

Certificate of a Surveyor that the offer is a fair one, &c.

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

required for the said Railway and works, or as being within the limits of deviation hereby allowed from the line of the said Railway, that he knows such land, or the amount of damages likely to arise from the exercise of such powers, and that the sum so offered is in his opinion a fair compensation for such land and for such damages as aforesaid.

If the opposite party be absent from the District in which the lands lie or be unknown to the said Company, then upon application to the District Judge for such District, accompanied by such Certificate as aforesaid, and by an affidavit of some Officer of the Company, that such opposite party is so absent, or that after diligent inquiry the party on whom the notice ought to be served cannot be ascertained, such Judge 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 said District.

If the party be absent or unknown.

If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the Company, that he accepts the sum offered by the said Company, or notify to them the name of a person whom he appoints as Arbitrator, then such District Judge as aforesaid 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.

Party not accepting the Company's offer, and not appointing an Arbitrator.

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 the District Judge of the District in which the lands lie, shall, on the application of the said party or of the Company, (previous notice of at least one

Opposite party appointing an Arbitrator.

Third Arbitrator.

clear day having been given to the other party,) appoint a third Arbitrator.

Duties of Arbitrators after being sworn.

The said Arbitrators or any two of them or the sole Arbitrator, being sworn before some Justice of the Peace for the District in which the lands lie as aforesaid, 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 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.

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

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 District Judge aforesaid.

Arbitrators to have power to examine witnesses on oath.

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. False statement to be perjury.

The District 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 District 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. Time within which award must be made.

Time may be prolonged in certain cases.

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 District 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 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 no recommencement or repetition of prior proceedings shall be required in any case. Arbitrator dying, &c.

The Company may desist from any such notice as aforesaid, and afterwards give new notice with regard to the same or other lands, Company may desist, paying costs.

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:

5

Arbitrators not disqualified by certain circumstances.

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

Cause of disqualification when to be urged.

How tried and determined.

35

Awards not to be avoided by mere want of form.

Parties need not be named in the award.

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

45

XVII. 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, the District Judge may on proof to his satisfaction of such award or agreement, issue his Warrant to the Sheriff of the District, 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 Railway 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.

Possession may be taken on payment, tender or deposit of the sum awarded.

Warrant of possession in case of resistance.

Proviso.

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

Compensation
to stand in the
place of the
land.

Proviso.
Proceedings if
the Company
have reason to
fear incum-
brances, or
claims by
other parties
than the ven-
dor.

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 5 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 15 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 20 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 for Upper Canada, with the interest 25 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 30 deemed to be the title of the said Company 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 newspaper published in the Gore District, and 35 in the City of Toronto, and such notice 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, 40 or representing or being the husbands of any parties so entitled, to file their claims to the compensation or any part thereof, and all such claims shall be received and adjudged upon by the Court, and the said proceed- 45 ings shall for ever bar all claims to the lands;

or any part thereof, (including dower,) as well as all mortgages or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as to 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 Company, or by any other party as the Court shall deem it equitable to order; and if such order of distribution as aforesaid be obtained in less than six months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company it shall not be obtained until after the six months are expired, the Court shall order the Company to pay to the proper claimants the interest for such further period as may be right.

Cost and interest how paid, &c.

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 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.

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.

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 of damage, then within six calendar months next after the doing or

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

committing such damage shall cease, and not afterwards, and the Defendant or Defendants shall and may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and may aver that the same was done in pursuance and by authority of this Act.

General issue.
Penalty on persons obstructing the free use of the Rail-way.

£5.
£10.
How recoverable and applicable.

Punishment of persons breaking down or obstructing or damaging the Rail-road or any works of the Company.

XXI. And be it enacted, That if any person shall by any means or in any manner or way whatsoever, obstruct or interrupt the free use of the said Railway, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, such person shall for every such offence incur a forfeiture or penalty of not less than nor exceeding 15
currency; one half of which penalty and forfeiture, to be recovered before one or more Justices of the Peace for the District in which the offence shall be committed or the offender shall be taken, shall go to the prosecutor or informer, and the other half to Her Majesty, Her Heirs and Successors, and shall be paid into the hands of the Receiver General, and be applied for the public uses of this Province and the support of the Government thereof. 25

XXII. And be it enacted, That if any person or persons shall wilfully and maliciously, and to the prejudice of the said Railway authorized to be made by this Act, break, throw down, damage or destroy the same, or any part thereof, or any of the houses, warehouses, toll-houses, watch-houses, weigh-beams, cranes, carriages, vessels, engines, inclined planes, machines or other works or devices incidental and relative thereto or connected therewith, or do any other wilful hurt or mischief, or wilfully or maliciously obstruct or interrupt the free use of the said Railway, vessels or works, or shall obstruct, hinder or prevent the carrying on, completing, supporting and maintaining the said intended Railway, ves-

sels or works, such person or persons shall be adjudged guilty of a misdemeanor, unless the offence committed shall under some other Act or law amount to a felony, in which
 5 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
 10 in like manner 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.

XXIII. And to the end that the said Com-
 15 pany may be enabled to carry on so useful an undertaking: Be it enacted, That it shall and may be lawful for the said Company and their successors, to raise and contribute among themselves, in such proportions as to
 20 them shall seem meet and convenient, a competent sum of money for the making and completing the said Railway and all such other works, matters and conveniences as may found necessary for making, effecting,
 25 preserving, improving, completing, maintaining and using the said Railway and other works: Provided always, that the before mentioned Alexander Douglas, James Kirby, George Hardison, John W. Lewis, John
 30 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
 35 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
 40 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
 45 public notice in some newspaper published

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

Proviso. Books of subscription to be opened.

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 Railway and other the purposes of this Act, and to no other use, intent or purpose whatever.

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

Order of charges on the Capital.

The sum that may be raised by the Company of Proprietors, to be divided into shares.

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 Railway, 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 vested in the

5 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

10 subscribe and pay thereunto; and all and every the bodies politic, corporate or collegiate, or communities, and all and every person or persons, their several and respective successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of twelve pounds ten shillings, or such sum or sums as shall be demanded in lieu thereof, towards carrying on and completing the said

20 Railway, shall be entitled to and receive, after the said Rail-way, shall be completed, the entire and net distribution of the profits and advantages that shall and may arise and accrue by virtue of the sum and

25 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, corporate or collegiate, or community, person or persons, having such

30 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

35 this Act directed and appointed.

To be personal property and transferable.

Rights of Shareholders to profits &c.

Their liabilities.

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

40 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

45 shall seem meet, or by the admission of new

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

subscribers, a further or other sum of money for completing and perfecting the said intended Railway and other works or conveniences incidental or relative thereto, or hereby authorized, not exceeding the sum of one hundred thousand pounds currency, 5
 said; 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 10
 their shares in the said additional sum so to be raised, and shall also be liable to such obligations, and stand interested in all the profits and powers of the said undertaking, in proportion to the sum he, she or they shall 15
 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 contained 20
 to the contrary notwithstanding.

Company may borrow in this Province or elsewhere a sum not exceeding at one time £25,000 currency.

And grant hypothec on their property.

Votes of Proprietors according to the

XXVI. And be it enacted, That the said Company may from time to time lawfully borrow either in this Province or elsewhere such sum or sums of money, not exceeding 25
 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 30
 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 35
 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 40
 than twenty-five pounds.

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 5 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 15 say:

number of their shares.

Proviso.

Proprietors may vote by proxy.

“ I, _____ of
 “ one of the Shareholders of the *Niagara and Detroit Rivers Railway Company*, do hereby nominate, constitute, and appoint
 20 “ _____ 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
 25 “ 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
 30 “ and judgment, for the benefit of the said
 “ undertaking, or anything appertaining there-
 “ to. In witness whereof, I have hereunto
 “ set my hand and seal, the
 “ day of _____ in the
 35 “ year _____ .”

Form of appointment of proxy.

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 40 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 afore-

Questions to be decided by majority of votes.

said, 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.

Shareholders not liable for the debts of the Corporation.

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 or their share in the Capital of the said Company not paid up.

The first General Meeting of the Shareholders 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 the said undertaking shall have been subscribed for, provided that public notice thereof be given during one week in some newspaper published in the Gore District, and signed by subscribers to the said undertaking holding among them at least 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 undertaking, 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 thirteen Directors.

In the month of _____ and of each year thereafter, a Board of Di-

XXXI. And be it enacted, That the Directors first appointed (or those appointed in their stead in case of vacancy) shall remain in office until the election of Directors

in the month of 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 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 that time become vacant, and generally to transact the 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 be lawful for such ten or more of them to cause fifteen days' notice at least to be given thereof in one public newspaper as aforesaid, or in such manner as the Company shall by any By-law direct or appoint, specifying in such notice the time and place, and the reason and intention of such Special Meetings, respectively; and the 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 the majority of them, at such Special Meetings assembled, such majority not having either as principals or proxies, less than one hundred shares, shall be as valid to all intents and purposes as if the same were done at Annual Meetings: Provided always, that it shall and may be lawful for the said 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 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

Directors to be elected.

Special Meetings of Shareholders may be called.

Quorum at Special Meetings.

Proviso: Vacancies among the Directors may be filled.

resignation shall not invalidate the acts of the remaining Directors.

Three Directors shall annually retire, by lot, but may be re-elected. XXXII. And be it enacted, That at each of the said 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 : 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 Direction. 5 10

Directors to elect a President. XXXIII. And be it enacted, That the Directors shall, at their first (or at some other) Meeting after the day appointed for the Annual General Meeting in each year, elect one of their members to be the President of the said Company, who shall always (when present) be the Chairman of, and preside at all meetings of the Directors, and shall hold his office until he shall cease to be a Director, or until another 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. 15 20 25

Seven Directors to be a Quorum for business. XXXIV. And be it enacted, That any Meeting of the 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 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, 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 30 35 40

Casting vote of Chairman.

of the Directors shall, in case of a division of equal numbers, have the casting vote, although he may have given one vote before :
 And provided also, that such Directors shall
 5 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
 10 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
 15 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:
 Directors subjected to the control of Meetings.

Proviso:
 Acts of a majority of a *Quorum* to be valid.

20 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
 25 chosen a Director or of holding the office of Director.

No officer of the Company, or Contractor to be a Director.

XXXVI. And be it enacted, That every such Annual Meeting shall have power to
 30 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
 35 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
 40 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

Annual Meeting may appoint three Auditors to audit all accounts of money laid out and disbursed on behalf of the said undertaking.

Power of the Directors to make calls.

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

Shareholders bound to pay calls. 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 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 ap-

point 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 shall by any By-law direct

5 or appoint; and, if any person or persons shall neglect or refuse to pay his, her or their ratable or proportionable part or share of the said money, to be called for as aforesaid, at the time and place so appointed, he;

10 she or they neglecting or refusing shall 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

15 person or persons shall neglect to pay his, her or their ratable calls as aforesaid for the space of two calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her

20 and 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 Shareholders of the said undertaking, their successors and assigns, for the

25 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 payment thereof:

30 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, neglecting to pay the same when due; and in any

35 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

40 representative of such Shareholder therein; that certain call or calls have been made, and that the defendant is indebted to the Company in the sum remaining due and unpaid on such calls and interest thereon, with-

45 out alleging the election of the Directors, or any other special matter, or naming the

Penalty for neglect.

Forfeiture for not paying calls.

Directors or any of them: and to maintain 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 5 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 10 thereon.

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 15 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 20 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 re- 25 gard to carrying on the said Railway or undertaking.

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

And so of Officers.

And to make By-laws.

XXXIX. And be it enacted, That the said Company shall always have power and authority at any General Meeting assembled 30 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 35 Officer or Officers under them, and to revoke, alter, amend or change any of the By-laws or Orders proscribed with regard to their proceedings amongst themselves (the method of calling General Meetings, and their 40 time and place of assembling, and manner of voting, and of appointing Directors; only, accepted,) and shall have power to make such new Rules, By-laws and Orders for the

good government of the said Company and
 their servants, agents and workmen, for the
 good and orderly making, maintaining and
 using the said Railway and all other works
 5 connected therewith or belonging thereto,
 or hereby authorized, and for the well go-
 vernaing of all persons whatsoever travelling
 upon or using the said Railway and other
 works, or transporting any goods, wares,
 10 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 Or-
 ders as to such General Meeting shall seem
 15 meet, not exceeding the sum of £25.
 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
 20 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
 25 any party other than the members or ser-
 vants 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
 30 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
 35 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,
 40 shall be deemed authentic, and shall be re-
 ceived as evidence of such By-laws in any
 Court without further proof: Provided al-
 ways, that no By-law by which it is intend-
 ed that any other person than the members,
 45 officers and servants of the Company shall
 be affected or bound, shall have any force or

Penalties un-
der By-laws
limited.

By-laws to be
in writing and
published.

Certified co-
pies to be evi-
dence.

effect until it shall have been submitted to and approved and sanctioned by the Governor in Council.

Proprietors of the said Railway may dispose of their shares, and how. XL. And be it enacted, That it shall and may be lawful to and for the several Proprietors of the said Railway or undertaking to sell or dispose of his, her or their share or shares therein, subject to the rules and conditions 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 filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said undertaking, nor any interest for the said share or shares, paid unto him, her or them, nor any vote as a Proprietor or Proprietors.

Form of the transfer of shares. 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 :

The form. “ I, A. B, in consideration of the sum of 35
 “ 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 Rail-way*
 “ *Company*, to hold to him the said C. D, his
 “ heirs, executors, administrators and assigns,
 “ subject to the same rules and orders, and

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

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

XLII. And be it enacted, That it shall Directors may
 appoint a
 Treasurer and
 Clerks, &c.
 15 and may be lawful to and for the said Direc-
 tors, and they are hereby authorized from
 time to time to nominate and appoint a Treas-
 urer or Treasurers, and a Clerk or Clerks
 to the said Company, taking such security
 for the due execution of their respective of-
 20 fices as the said Directors shall think proper ;
 and such Clerk shall in a proper book or Duty of the
 Clerk.
 books enter and keep a true and perfect ac-
 count of the names and places of abode of
 the several Shareholders in the Stock of the
 25 said Company, and of the several persons
 who shall from time to time become owners
 and Proprietors of, or entitled to any share
 or shares therein, and of all the other acts,
 proceedings and transactions of the said Com-
 30 pany and of the Directors for the time being,
 by virtue of and under the authority of this
 Act.

XLIII. And be it enacted, That it shall Company may
 establish Tolls
 for all goods,
 &c., passing
 on the Rail-
 way.
 35 and may be lawful to and for the said Com-
 pany from time to time, and at all times here-
 after, to ask, demand, take and recover, to
 and for their own proper use and behoof, for
 all goods, wares, merchandize and commo-
 dities, of whatever description, transported
 40 upon the said Railway or in the said steam-
 boats or vessels, such tolls as they may
 deem expedient ; which said tolls shall be
 from time to time fixed and regulated by By-
 laws of the Company, or by the Directors if

thereunto authorized by the said By-laws, and shall be paid to such person or persons, and at such place or places near to the said Railway, in such manner and under such regulations as the said Company or the said 5 Directors shall direct and appoint; and in case of denial or neglect of payment of any such rates or dues, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said 10 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 15 and detain such goods, wares, merchandize or other commodities, for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof; and in the meantime the said goods, wares, 20 merchandize or other commodities shall be at the risk of the owner or 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 25 or any of the said tolls; and again to raise the same, as often as it shall be deemed necessary for the interests of the said undertaking: Provided always, that the same tolls shall be payable at the same time and 30 under the same circumstances upon all goods and upon all persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any By-law relating to the said Tolls. 35

How Tolls may be recovered if not duly paid.

Seizure of goods. &c.

Tolls may be lowered and again raised.

Proviso, against monopoly.

Account of the profit of the said undertaking to be annually made up and balanced at certain periods.

XLV. And in order to ascertain the amount of the clear profits of the said undertaking: Be it enacted, That the said Company or the Directors of the said Company, shall and they are hereby required to cause a true, 40 exact and particular account to be kept and annually made up and balanced on the thirty-first day of December in each year, of the money collected and received by the said Company, or by the Directors or Treasurer 45

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, 5 maintaining and carrying on their works, and of all other receipts and expenditure of the said Company or the said Directors; and at the general meetings of the shareholders of the said undertaking, to be from time to time 10 holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such meetings shall declare otherwise; and such dividend shall be at and after the rate of so much per share upon the 15 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 made whereby the capital of 20 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 25 been paid.

Dividends to be made from time to time at General Meetings.

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 passengers shall be conveyed or transported on the said Railway, such fraction shall, in ascertaining the said rates, be deemed and considered as a whole mile, and that in all cases where there shall be the fraction of a ton in the 35 weight of any such goods, wares, merchandize or other commodities, a proportion of the said rates shall be demanded and taken by the said Company of Proprietors, to the number of quarters of a ton contained therein; and in all cases where there shall be a fraction of a ton such fraction shall be deemed and considered as a whole 40 quarter of a ton.

Fractions in miles and fractions in weight of goods, in ascertained rates, &c., how regulated.

Company may
at a General
Meeting make
By-laws for
fixing the
price for the
carriage of
parcels on the
Rail-way.

Tables of
Tolls to be
publicly affix-
ed.

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

Proviso as to
starting of
Trains, &c.

XLVI. Provided always, and be it enacted, That it shall and may be lawful to and for the said Company, from time to time to make such Regulations by By-law for ascertaining and fixing the price or sum or sums 5 of money to be charged or taken for the carriage of any parcel not exceeding one hundred and twenty pounds weight as aforesaid, upon the said Railway or any part thereof, as to them shall seem fit and reasonable; and 10 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 15 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 20 and twenty pounds weight as aforesaid.

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 Com- 25 mander 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 30 Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all Policemen, Constables, and others, travelling on Her Majesty's Service, on their said Railway, on such terms and conditions 35 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 40 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 45

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.

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 Railway 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.

Company of Proprietors to divide the land taken from the lands adjoining, if required.

XLIX. And be it enacted, That as soon as conveniently may be after the said Railway shall be completed, the said Company shall

The Company to have the Rail-way measured and miles marked.

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.

5

Treasurer and Receiver and Collector to give security.

L. And be it enacted, That the said Company shall and are hereby required and directed to take sufficient security, by one or more bond or bonds, in a sufficient penalty or penalties, from their 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.

15

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

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

Levy by distress and sale of goods and chattels.

40

penalty and the expenses of the levying and recovering thereof, shall be rendered to the owner of the goods so distrained and sold; and for want of sufficient goods and chattels
 5 whereof to levy the said penalty and expenses, the offender shall be sent to the Common Gaol for the District in which he shall have been convicted, there to remain without bail or mainprize for such term not
 16 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.

Imprisonment for want of sufficient chattels.

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

Persons aggrieved may appeal to the General Sessions.

LIII. And be it enacted, That if any action or suit shall be brought or commenced
 25 against any person or persons for any thing done or to be done in pursuance of this Act, or in the execution of the powers and authorities or of the orders and directions hereinbefore
 30 given or granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed; or in case there shall be a continuation of damage, then within six calendar months
 35 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
 40 evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act, and if it shall appear to have been so done, or if any action or suit shall be brought after the time so

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

General issue.

Costs to Defendant if the Plaintiff fail.

limited for bringing the same, or if the Plaintiff or Plaintiffs shall be nonsuit, or discontinue his, 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 for costs of suit in other cases by law.

Any contravention of this Act not otherwise punishable, 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; 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.

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

LV. And be it enacted, That the said Company shall allow the Great Western Rail-road Company, or any other Company incorporated or to be incorporated for the construction of a Railway through the tract of country traversed by the Railway herein mentioned, to connect their Railway or a branch thereof with the Railway hereby authorized to be constructed at any point thereof; And that if the said Great Western Rail-road Company shall not within three years from the passing of this Act make a Rail-road from the City of Hamilton to some point of the Railway hereby authorized, then the Company hereby incorporated shall make a branch Railway from some point of their Railway to the City of Hamilton, within two years after the expiration of the three years last aforesaid: And all the powers given to the said Company for making the Railway hereinbefore authorized to be constructed, shall be and are hereby extended and shall apply to any Railway to be made under

this section ; and no provision or enactment which the Legislature shall hereafter make 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 Railway with that herein authorized to be constructed, shall be deemed an infringement of the privileges granted by this Act.

LVI. And be it enacted, That the said Company to entitle themselves to the benefits and advantages to them granted by this Act, shall and they are hereby required to make and deposit the map or plan and book of reference mentioned in the fifth Section of this Act within one year after the passing thereof, and to make and complete the said Railway 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 plan and book of reference be not so made and deposited within the said one year, or if the said Railway shall not be 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 contained, shall cease and be utterly null and void.

Map and Book of reference to be deposited and the Railway 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 the said Railway 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 conveyed along the said Railway ; And no further provisions which the Legislature may hereafter make with regard to the form or details of

Company annually to submit to the Legislature detailed accounts.

Further provision may be made touching such accounts.

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 Railway law.

LVIII. And be it enacted, That nothing herein contained shall be construed to except the Railway by this Act authorized to be made, from the provisions of any general Act relating to Railways 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. 15

Public Act.

LX. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and as such shall be judically taken notice of by all Judges, Justices of the Peace and others, without being specially pleaded. 20