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

BILL.

An Act for the incorporation of a Company, to establish a line of Rail-road between Montreal and Missisquoi.

Received and Read a first time, Thursday, 29th
March, 1849.

Second Reading, Thursday, 5th April, 1849.

MR. BEAUBIEN.

PRINTED BY LOVELL AND GIBSON.

BILL.

An Act to incorporate *The Montreal and Vermont Junction Railway Company.*

WHEREAS The Hon. Robert Jones, Jason C. Peirce, Preamble.
 P. P. Russell, Jas. Taylor, Charles Seymour, H. H. Whitney, A. L. Taylor, H. Stephens, Edwin Atwater, John Young, Nelson Mott, Ed. Bourgeois, Henry Larocque and Robert McKay, have by their Petition to the Legislature represented that they, and several of the most energetic and influential citizens of the United States of America have it in contemplation to create conjointly an uninterrupted line of communication by Railway between
 10 the Cities of Montreal, New York and Boston: And whereas the construction of the said Railway would greatly tend to facilitate the intercourse and promote the interests of trade and commerce, between this country and the said States: Be it therefore enacted, &c.

15 And it is hereby enacted by the authority of the same, Certain persons and their successors incorporated for the purposes of this Act; and certain corporate powers conferred on them.
 That the said Honble. Robert Jones, Jason C. Peirce, P. P. Russell, Jas. Taylor, Charles Seymour, H. H. Whitney, A. L. Taylor, H. Stephens, Edwin Atwater, John Young, Nelson Mott, Ed. Bourgeois, Henry Larocque
 20 and Robert McKay, together with such person or persons as shall under the provisions of this Act, become subscribers to and proprietors of any share or shares in the Railway hereby authorized to be made and other works and property hereinafter mentioned, and their several and res-
 25 pective heirs, executors, administrators, curators and assigns, being proprietors of any such share or shares, are and shall be and be united into a Company for carrying on, making, completing and maintaining the said intended Railway and other works, according to the rules, orders
 30 and directions hereinafter expressed, and shall for that purpose be one body politic and corporate by the name of *The Montreal and Vermont Junction Railway Com-* Corporate name.
pany, and by that name shall have perpetual succession and shall have a common seal, and other the usual powers
 35 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
 40 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, without Her Majesty's *Lettres d'Amortissements*, (saving nevertheless to the Seigneur or Seigniors within

Word 'Lands' how understood in this Act.

whose *cessive* the lands, tenements and hereditaments so purchased may be situate, his and their several and respective *droits d'indemnité*, and all other Seignioral rights whatever,) 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 without *Lettres d'Amortissement*, and the said Company shall be and are hereby authorized and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Railway to be called *The Montreal and Vermont Junction 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 the River St. Lawrence at Longueuil opposite Montreal, to such point at the Province Line near Highgate, Vermont, as the Company may deem expedient (for forming a junction with a Railway from Burlington, Vermont) and crossing the River Richelieu at the foot of the navigation at the Town of Dorchester commonly called St. Johns, by a bridge with a draw corresponding in dimensions with the draws on the Chambly Canal, and of sufficient width for any vessels to pass which may navigate that canal or any canal which may connect the waters of the St. Lawrence with those of the Richelieu, with the privilege of forming a junction with the Saint Lawrence and Champlain Rail-road at Saint Johns, provided a satisfactory arrangement can be made with that Company.

Direction of
the said Rail-
way.

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

To get and
place mate-
rials.

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, 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 Rail-
 way or the works incidental or relative thereto, or which
 may hinder, prevent or obstruct the making, using or com-
 pleting, extending or maintaining the same respectively,
 5 according to the intent and purpose of this Act; and to
 make, build, erect and set up, in or upon the said inten-
 ded Rail-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,
 10 weighing beams, cranes, fire-engines, steam-engines or
 other engines, either stationary or locomotive, inclined
 planes, machines and other works, ways, roads and con-
 vicences, as and when the said Company shall think re-
 quisite and convenient for the purposes of the said Rail-
 15 way 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 Rail-way; and to
 construct, erect and keep in repair any bridges, arches
 20 and other works upon and across any rivers or brooks for
 the making, using, maintaining and repairing the said in-
 tended Railway; and to turn any such brook, river or
 water course, and to change its course; and to construct,
 erect, make and do all other matters and things which
 25 they shall think convenient and necessary for the making,
 effecting, extending, preserving, 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
 30 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 thereof, or the persons interested in the
 lands, tenements or hereditaments, water, water-courses,
 35 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
 40 Company and their servants, agents or workmen, and all
 other persons whatsoever for what they or any of them
 shall do by virtue of the powers hereby granted, subject
 nevertheless to such provisions and restrictions as are
 hereinafter mentioned.

Erecting
 buildings, ma-
 chinery, &c.

Bridges and
 other works
 for passing
 streams, &c.

Other works
 necessary for
 the Rail-way.

As little dam-
 age as possible
 to be done and
 compensation
 to be made.

45 III. Provided always, and be it enacted, That the said
 Company shall not carry the said Railway along any
 highway, but shall merely cross the same in the line of
 the said road whatever be the angle at which such line
 shall intersect the said highway; and before they shall
 50 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,

How the Rail-
 way shall be
 carried across
 roads.

Rail itself not to be deemed an obstruction.

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. 5

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.

IV. 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 and 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 Railway, 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 Corporation, and in which shall be contained everything necessary for the right understanding of such map or plan; which said map or plan and book of reference shall be examined and certified by the person performing the duties formerly assigned to the Surveyor General or his Deputies, who shall deposit copies thereof in the office of the Prothonotary of the Court of Queen's Bench for the District of Montreal, and also in the office of the Secretary of the Province, and shall also deliver one copy thereof to the said Company; and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts or copies thereof as occasion may require, paying to the said Secretary of the Province or to the said Prothonotary at the rate of sixpence, current money of this Province, for every hundred words; and the said triplicates of the said map or plan and book of reference so certified, and a true copy or copies thereof certified by the Secretary of the Province or by the Prothonotary of the Court of Queen's Bench for the said District, shall severally be and are hereby declared to be good evidence in the Courts of Law and elsewhere. 10 15 20 25 30 35 40

When the Rail-way crosses 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 public highway (which word shall in this Act include all public streets, lanes or other public ways or communications) 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 below the level of such street or highway more than one inch; and the said Railway may be carried across any highway within the limits aforesaid. 45 50

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

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

Descent under such bridges.

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

And of bridges for carrying a public road over the Rail-way.

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,
25 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, in both languages, and in letters not less than six inches in length; and for each and every neglect to
30 comply with the requirements of this section the said Company shall incur a penalty not exceeding *five pounds* currency.

Precautions to be observed when the Rail-road 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
35 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 as aforesaid, nor cut, carry, place, lay down, or convey the said Railway into, through, across, under or over any part of
40 the lands or grounds 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
45 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
50 works into, across or upon the lands of any person or

Errors in the book of reference not to prevent the

making of the Road, on the line shewn or within the limitation of deviation.

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. 5

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

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; 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 Railway to be or pass each other (and not above one hundred yards in breadth at 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 shown on the said map or plan, so far as the same may be then ascertained, but their not being so shown 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 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 fifth Section or any other part of this Act. 40

Exceptions for off-sets, passing places, &c.

And for stations for machinery, &c.

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

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

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 beach-road, or of the land covered with the waters of the River Saint Lawrence, River Richelieu, Pike River and Missisquoi Bay, as may be required for the wharves and other works of the said Railway, and other works which they are hereby authorized to construct, doing no damage to nor causing any other obstruction in the navigation of the said rivers or bay. 50

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, *grevés de substitution*, guardians, curators, executors, administrators and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, femmes-covert, or other persons or parties, who are or shall be seized, possessed of or interested in any lands or grounds which shall be so set out and ascertained as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, all or any part of such lands or grounds which shall under this Act be set out and ascertained as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; and that all bodies politic, corporate or collegiate, or communities, and all persons whatsoever, so conveying as aforesaid, are hereby indemnified for what he, she or they or any of them shall respectively do by virtue of or in pursuance of this Act; Provided always, that before the map or plan and book of reference shall be deposited as aforesaid, and before the lands required for the said Railway 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.

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, before any lands are set out, agree with the Company for the price to be paid for them if they be afterwards required.

XIV. Provided always, and be it enacted, That any body politic, community, corporation or other party who cannot in common course of law sell or alienate any lands or grounds so set out and ascertained, shall agree on a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said Railway and other the purposes and conveniences relative thereto and connected therewith; and in case the

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

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

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 5 other annual rent agreed upon or ascertained, and to be paid by the said Company for the purchase of any lands, or for any part of the purchase money of any land which the vendor shall agree to leave in the hands of the said Company, the said Railway and the Tolls to be levied and collected thereon shall be, and are hereby made 10 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 *par indivis* to a certain extent shall bind the rest.

XV. Provided always, and be it enacted, That when- 15 ever 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 20 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 em- 25 power them to enter upon the same, as the case may be.

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.

XVI. And be it enacted, That as 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 during at least one calendar month in 30 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 35 through which such Railway 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 40 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 45 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 50 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.

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;

Legal effect of map and book of reference.

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 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 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 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;

Notice to opposite party.

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

If the opposite party be absent from the District of Montreal or be unknown to the said Company, then upon application to any Justice of the Court of Queen's Bench for 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 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 language;

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 any Justice of the Court of Queen's Bench may, on the application of the said Company, appoint some sworn Surveyor for Lower Canada, resident in the District of Montreal, 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.

Opposite party appointing an Arbitrator.

Third Arbitrator.

If the opposite party shall within the time aforesaid notify to the said Company the name of the person such person shall appoint as Arbitrator, then the said two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then any Justice of the Court of Queen's Bench 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 ;

Duties of Arbitrators after being sworn.

The said Arbitrators, or any two of them or the sole Arbitrator, being sworn before some Commissioner for receiving Affidavits to be used in the Court of Queen's Bench, 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 :

Provide. 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 any Justice of the Court of Queen's Bench 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.

Time within which award must be made.

The Justice of the Court of Queen's Bench 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 con-

sent of the parties or by the order of a Justice of the said Court, (as it may be for reasonable cause shewn, 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 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 Judge or any other Judge of the said Court 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 some Judge of the said Court, as attested by the 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 ;

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, 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 ; and no change of owner after the notice shall affect the proceedings, but the party notified shall be still deemed the owner except as to the payment of the sum awarded ;

Company may desist, paying costs.

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 a Justice of the Court of Queen's Bench after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Justice ; 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

Arbitrators not disqualified by certain circumstances.

Cause of disqualification when to be urged.

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 ;

Awards not to be avoided by mere want of form.

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 and 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.

Parties need not be named in the award.

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

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, any Justice of the Court of Queen's-Bench 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 Justice upon proof by affidavit 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, such security not being for less than twice the sum offered by the Company in the notice to such adverse party.

Warrant of possession in case of resistance.

Proviso.

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

XVIII. And be it enacted, That the compensation awarded as aforesaid or agreed upon by the said Company and any party who might under this Act validly convey the lands, or then in lawful possession thereof as proprietor, for any lands which might be lawfully taken under this Act without the consent of the proprietor shall

stand in the stead of such land; and any claim to, or 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
 5 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
 10 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 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
 15 Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the said Court of Queen's Bench, with the interest thereon for six months, and to deliver to the said Prothonotary an
 20 authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of
 25 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
 30 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
 35 lands or any part thereof (including dower not yet open,) as well as all hypothecs or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the
 40 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 obtained in less than six months from the payment of the compensation to the Prothonotary, the Court shall direct a proportionate part of the interest to be returned to the
 45 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 Prothonotary the interest for such further period as may be right.

Compensation to stand in the place of the land.

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

Costs and interest how paid, &c.

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

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. 5 10

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

General issue.

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 brought 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 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. 15 20

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

How recoverable and applicable.

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, engines or other works incidental or relative thereto or connected therewith, such person shall for every such offence incur a forfeiture or penalty of not less than *five pounds*, nor exceeding *ten pounds* currency; one half of which penalty and forfeiture to be recovered before one or more Justices of the Peace for the District, shall go to the prosecutor or informer, and the other half to Her Majesty, Her Heirs and Successors, and shall be paid into the hands of the Receiver General, and be applied for the public uses of this Province and the support of the Government thereof. 25 30 35

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

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, 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 or works, or shall obstruct, hinder or prevent the carrying on, completing, supporting and maintaining the said intended Railway or works, such person or persons shall be adjudged guilty of felony, and the Court by and before whom such person or persons shall be tried and 40 45 50

convicted shall have power and authority to cause such person or persons to be punished in like manner as felons are directed to be punished by the laws in force in this Province, or in mitigation thereof to award such sentence as the law directs in cases of simple larceny, as to such Court shall seem fitting.

XXIII. And to the end that the said Company 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 them shall seem meet and convenient, a competent sum of money for the making and completing the said Railway and all such other works, matters and conveniences as may be found necessary for making; effecting, preserving, improving, completing, maintaining and using the said Railway, and other works: Provided always, that the before mentioned Honble. Robt. Jones, Jason C. Peirce, P. P. Russell, Jas. Taylor, Chas. Seymour, H. H. Whitney, A. L. Taylor, H. Stephens, Edwin Atwater, John Young, Nelson Mott, Ed. Bourgeois, Henry Larocque and Robert McKay (being the Provisional Committee named for that purpose) or a majority of them, shall cause books of subscription to be opened at the City of Montreal, at such places therein, and at such other places as they shall from time to time appoint, until the first meeting of proprietors hereinafter provided for, for receiving the signatures of persons willing to become subscribers to the said undertaking, and for this purpose they shall give public notice in some newspaper published in the District 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 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 one hundred 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 twenty-five pounds 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 the surveys, plans and estimates incident thereto, and all

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

Proviso. Books of subscription to be opened.

Proviso. Capital limited, and divided into shares of £25 each.

Order of charges on the Capital.

other expenses relating thereto, and all the rest, residue and remainder of such money for and towards making, completing and maintaining the said Railway and other purposes of this Act, and to no other use, intent or purpose whatever.

5

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

To be personal property and transferable.

Rights of Shareholders to profits, &c.

Their liabilities.

Company may allow interest on moneys invested in stock and duly paid up.

Proviso.

If this sum should not be sufficient, the

XXIV. And be it enacted, That the said sum of one hundred thousand pounds currency, or such part thereof as shall be raised by the several persons hereinbefore named, or 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 four thousand equal parts or shares, at a price not exceeding twenty-five pounds currency aforesaid per share; and that the said shares be deemed personal estate, and shall be and are hereby vested in the said several subscribers and their several respective heirs, executors, curators, administrators and assigns, to their and every of their proper use and behoof, proportionally to the sum they and each of them shall severally subscribe and pay thereunto; and all and every the bodies politic, corporate or collegiate, or communities, and all and every person or persons, their several and respective heirs, successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of twenty-five pounds, or such sum or sums as shall be demanded in lieu thereof, towards carrying on and completing the said Railway, shall be entitled to and receive after the said Railway shall be completed, the entire and net distribution of the profits and advantages that shall and may arise and accrue by virtue of the sum and sums of money to be raised, recovered or received by the authority of this Act, in proportion to the number of shares so held; and every body politic, corporate or collegiate or community, person or persons, having such property or share in the said undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional sum of money towards carrying on the said undertaking in manner by this Act directed and appointed.

XXV. And in order to induce the immediate payment of the Capital Stock of the said Company and thereby to ensure the completion of the Railway with the least possible delay: Be it enacted, That the Company may allow and pay, either yearly or half yearly, interest not exceeding the legal rate on all moneys invested in the stock of the Company and duly paid up: Provided always, that such payment of interest shall utterly cease from the time when the Railway shall be completed, and that until it shall be completed no dividend or profits shall be paid to the Shareholders.

XXVI. And be it enacted, That in case the said sum of one hundred thousand pounds hereinbefore autho-

50

rized to be raised, shall be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the said Company to raise and contribute amongst themselves in manner and form aforesaid, and 5 in such shares and proportions as to them shall seem meet, or by the admission of new subscribers, a further or other sum of money for completing and perfecting the said intended Railway and other works or conveniences incidental or relative thereto, or hereby authorized, not 10 exceeding the sum of forty thousand pounds currency, aforesaid; and every subscriber towards raising such further or other sum of money shall be a proprietor in the said undertaking, and have a like right of voting in respect of his, her or their shares in the said additional 15 sum so to be raised, and shall also be liable to such obligations, and stand interested in all the profits and powers of the said undertaking in proportion to the sum he, she or they shall or may subscribe thereto, as generally and extensively as if such other or further sum had 20 been originally raised as a part of the said first sum of one hundred thousand pounds; anything herein contained to the contrary notwithstanding.

Company may raise a further sum for completing their undertaking.

XXVII. And be it enacted, That the said Company, may from time to time lawfully borrow either in this 25 Province or elsewhere such sum or sums of money, not exceeding at any one time the sum of fifty thousand pounds, currency, as they may find expedient, and at such rate of interest not exceeding six per cent. per annum, as they may think proper; and may make the 30 bonds, debentures or other securities they shall grant for the sums so borrowed payable either in currency, or in sterling, and at such place or places within or without this Province as they may deem advisable, and may hypothecate and pledge the lands, tolls, revenues and other 35 property of the said Company for the due payment of the said sums and the interest thereon.

Company may borrow in this Province or elsewhere a sum not exceeding at one time £50,000 currency.

And grant hypothec on their property.

XXVIII. And be it enacted, That the number of votes to which each proprietor of shares in the said 40 undertaking shall be entitled on every occasion when, in conformity to the provisions of this Act, the votes of the Members of the said Company are to be given, shall be in the proportion to the number of shares held by him, that is to say, one vote for each share less than fifty; Provided always, that no one proprietor as aforesaid 45 shall have more than fifty votes; and all proprietors of shares, 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 50 the effect following, that is to say :

Votes of Proprietors according to the number of their shares.

Provido. Proprietors may vote by proxy.

Form of ap-
pointment of
proxy.

"I, of one of the proprietors
"of do hereby
"nominate, constitute and appoint
"of to be my proxy, in my name,
"and in my absence, to vote or give my assent or dissent 5
"to any business, matter or thing relating to the said
"undertaking, or any of them, in such manner as he the
"said shall think proper, according to his
"opinion and judgment, for the benefit of the said under-
"taking, or anything appertaining thereto.—In witness 10
"whereof, I have hereunto set my hand and seal, the
" day of in the year

Questions to
be decided by
majority of
votes.

And such vote or votes by proxy shall be as valid
as if such principal or principals had voted in per-
son; and whatever question, election of proper officers, 15
or matter or things shall be proposed, discussed or
considered in any public meeting of the Proprietors
to be held in virtue of this Act, shall be determined
by the majority of votes and proxies then present and
so given as aforesaid, and all decisions and acts of 20
any such majority shall bind the said Company, and be
deemed the decisions and acts of the said Company.

None but a
British subject
to be Presi-
dent or Treas-
urer.

XXVIII. Provided always, and be it enacted, That
no proprietor who shall not be a natural born subject of
Her Majesty, or a subject of Her Majesty naturalized 25
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 Corpora-
tion.

XXIX. And be it enacted, That no Shareholder in the
said Company of Proprietors, shall be in any manner 30
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 Gen-
eral Meeting
of the Share-
holders to be
held at St.
John's.

XXX. And be it enacted, That the first General 35
Meeting of the Proprietors for putting this Act in exe-
cution may be held at Saint Johns whenever four
thousand shares in the said undertaking shall have been
subscribed for; provided that public notice be given
during one week in some newspaper published in the 40
English language, and in some newspaper published in
the French language, in the District of Montreal, and
signed by at least five subscribers to the said under-
taking, holding among them at least one hundred shares,
and at such said General Meeting the Proprietors assem- 45
bled, with such proxies as shall be present, shall choose
nine persons, being each a proprietor of not less than
five 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 Regula- 50

To elect a
Board of nine
Directors.

tions and By-laws as shall seem to them fit, provided they be not inconsistent with this Act.

XXXI. And be it enacted; That the Directors first appointed (or those appointed in their stead in case of 5 vacancy) shall remain in office until the election of Directors in the month of January one thousand eight hundred and fifty, and that in the month of January in the said year and in each year thereafter, and on such day of the month as shall be appointed by any By-law, an Annual General Meeting 10 of the said Proprietors shall be held to choose Directors in the room of those whose office may at that time become vacant, and generally to transact the business of the Company; but if at any time it shall appear to any five or more of such Proprietors holding together one hundred 15 shares at least, that for more effectually putting this Act in execution, a Special General Meeting of Proprietors is necessary to be held, it shall be lawful for such five or more of them to cause fifteen days notice at least to be given thereof in two public newspapers 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 Proprietors are hereby 20 authorized to meet pursuant to such notices, and proceed to the execution of the powers by this Act given them, with respect to the matters so specified only; and all such acts of the Proprietors or the majority of them, at such Special Meetings assembled, such majority not having either as principals or proxies less than one hundred 25 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 Proprietors in case of the death, absence, resignation or removal of any person elected a director, to manage the 30 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 or resign, or be removed as aforesaid; anything in this Act to the contrary notwithstanding; but if such appointment be not 40 made, such death, absence or resignation shall not invalidate the Acts of the remaining Directors.

In the month of January in each year, a Board of Directors to be elected.

Special Meetings of Shareholders may be called.

Proviso - Vacancies among the Directors may be filled.

XXXII. And be it enacted, That at each of the said Annual Meetings of Proprietors three of the said nine 45 Directors shall retire in rotation, the order of retirement of the said first elected nine Directors being decided by lot, but the Directors then or at any subsequent time retiring shall be eligible for re-election; Provided always that no such retirement shall have effect unless the Proprietors at such Annual Meeting proceed to fill up the 50 vacancies thus occurring in the Direction.

Three Directors shall annually retire, by lot, but may be re-elected.

Proviso.

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 number 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.

And Vice-President.

Five Directors to be a Quorum for business.

XXXIV. And be it enacted, That any meeting of the said Directors, at which not less than five Directors shall be present, shall be competent to use and exercise all and any of the powers hereby vested in the said Directors of the said Company: 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, in case of the absence of the President or Vice-President, may be chosen by the Directors present, either of whom when presiding at a meeting 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 from time to time be subject to the examination and control of the said Annual and Special Meetings of the said Proprietors as aforesaid, and shall pay due obedience to all By-laws of the Company and to such orders and directions in and about the premises, as they shall from time to time receive from the said Proprietors at such Annual or Special Meetings; such orders and directions not being contrary to any express directions or provisions in this Act contained; And provided also, that the act of any majority of a *quorum* of the Directors present at any meeting regularly held shall be deemed the act of the Directors.

Proviso.

Casting vote of Chairman.

Proviso: Directors subjected to the control of Meetings.

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

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

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

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

XXXVI. And be it enacted, That every such Annual Meeting shall have power to appoint not exceeding three Auditors to audit all accounts of money laid out and disbursed on account of the said undertaking, by the Treasurer, Receiver or Receivers, and other Officer or Officers to be by the Directors appointed, or by any person or persons whatsoever, employed by or concerned for or under them, in and about the said undertaking; and to

that end the said Auditors shall have power to adjourn themselves over from time to time and from place to place, as shall be thought convenient by them; and the said Directors chosen under the authority of this Act, shall have power from time to time to make such call or calls of money from the proprietors of the said Railway and other works to defray the expense of, or to carry on the same, as they from time to time shall find wanting and necessary for these purposes; provided, however, that no call do exceed the sum of *five pounds* current money of this Province, for every share of *fifty pounds*; 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 authorise any person to affix the common seal of the Company to any act, deed, by-law, 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.

Power of the Directors to make calls.

Proviso.

Calls how to be made.

Other powers of the Directors.

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 appoint and direct; of which one month's notice at least, shall be given in two newspapers as aforesaid, or in such other manner as the said proprietors or their successors shall by any By-law direct and 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, she or they, neglecting or refusing shall forfeit a sum not exceeding the rate of *five pounds* for every *one hundred pounds* of his, her or their respective share or shares in the said undertaking; and in case such person or persons shall neglect to pay his, her or their ratable calls as aforesaid, for the space of two calendar months after the

Shareholders bound to pay calls.

Penalty for neglect.

Forfeiture for not paying calls.

time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her or their respective share or shares in the said undertaking, and all the profit and benefit thereof; all which forfeitures shall go to the rest of the proprietors of the said undertaking, their successors and assigns, for the benefit of the said proprietors, in proportion to their respective interests; and in every such case such calls shall be payable with interest from the time the same shall be so appointed to be paid until the payment thereof. 5 10

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

XXXVIII. Provided always, and be it enacted, That no advantage shall be taken of the forfeiture of any share or shares of the said undertaking unless the same shall be declared to be forfeited at some Annual or Special Meeting of the said Company assembled after such forfeiture shall be incurred; and every such forfeiture shall be an indemnification to and for every proprietor 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 proprietor and the other proprietors, with regard to carrying on the said Railway or undertaking. 15 20

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.

Penalties under By-laws limited.

By-laws to be in writing and published.

XXXIX. And be it enacted, That the said Company shall always have power and authority at any General Meeting assembled as aforesaid, to remove any person or persons chosen upon such Board of Directors as aforesaid, and to elect others to be Directors in the room of those who shall die, resign or be removed, and to remove any other officer or officers under them, and to revoke, alter, amend or change any of the By-laws or orders prescribed with regard to their proceedings amongst themselves, (the method of calling general meetings, and their time and place of assembling, and manner of voting, and of appointing Directors only excepted,) and shall have power to make such new Rules, By-laws and orders, for the good government of the said Company and their servants, agents and workmen, for the good and orderly making, maintaining and using the said Railway, and all other works connected therewith or belonging thereto, or hereby authorized, and for the well governing of all persons whatsoever, travelling upon or using the said Railway and other works, or transporting any goods, wares, merchandize and other commodities thereon; and by such By-laws to impose and inflict such fines and forfeitures upon the persons guilty of a breach of such By-laws or orders, as to such General Meeting shall seem meet, not exceeding the sum of *twenty-five pounds* current money of this Province, for every offence; such fines or forfeitures to be levied and recovered by such ways and means as are hereinafter mentioned; which said By-laws and orders shall be put into writing; under the common seal of the said Company, and shall be 25 30 35 40 45 50

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

Certified copies to be evidence.

Proviso.

XL. And be it enacted, That it shall and may be lawful to and for the several proprietors of the said Railway
 25 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
 30 executed by seller and purchaser, shall be delivered to the said Directors or their clerk for the time being, to be filed 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
 35 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
 40 said undertaking, nor any interest for the said share or shares paid unto him, her or them, nor any vote as a proprietor or proprietors.

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

XLI. And be it enacted, That the sale of the said
 45 shares shall be in the form following, varying the names and descriptions of the contracting parties as the case may require:

Form of the transfer of shares.

“ I, A. B., in consideration of the sum of
 “ paid to me by C. D., of do hereby bargain,
 50 “ sell and transfer to the said C. D. share:
 “ (or shares) of the stock of the , to hold

The form.

“to him the said C. D., his heirs, executors, curators,
 “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 5
 “the said share, (or shares) subject to
 “the same rules, orders and conditions. Witness our
 “hands and seals, this day of
 “in the year ”

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

Directors may
 appoint a
 Treasurer and
 Clerks. &c.

XLII. And be it enacted, That it shall and may be lawful
 to and for the said Directors, and they are hereby authoriz- 15
 ed from time to time to nominate and appoint a Treasurer
 or Treasurers, and a Clerk or Clerks to the said Com-
 pany, taking such security for the due execution of their
 respective offices as the said Directors shall think proper ;
 and such clerk or clerks to the said Company shall in a
 proper book or books enter and keep a true and perfect 20
 account of the names and places of abode of the several
 proprietors of the said Railway and other works, 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 25
 transactions of the said Company and of the Directors
 for the time being, by virtue of and under the authority
 of this Act.

Duty of the
 Clerk.

Company may
 establish Tolls
 for all goods,
 &c., passing
 on the Rail-
 way.

XLIII. And be it enacted, That it shall and may be
 lawful to and for the said Company, from time to time and 30
 at all times hereafter, to ask, demand, take and recover,
 to and for their own proper use and behoof, for all goods,
 wares, merchandize and commodities of whatever de-
 scription, transported upon the said Railway, such tolls 35
 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 persons or per-
 sons, and at such place or places near to the said Rail-
 way, in such manner and under such regulations as the 40
 said Company or the said Directors shall direct and ap-
 point; and in case of denial or neglect of payment for any
 such rates or dues or any part thereof on demand, to the
 person or persons appointed to receive the same as afore-
 said, the said Company may sue for and recover the same 45
 in any Court having competent jurisdiction; or the per-
 son or persons to whom the said rates or dues ought to
 be paid, may, and he is and they are hereby empowered
 to seize and detain such goods, wares, merchandize or
 other commodities for or in respect whereof such rates or 50
 dues ought to be paid, and detain the same until payment
 thereof; and in the meantime the said goods, wares,

How Tolls
 may be recov-
 ered if not
 duly paid.

Seizure of
 goods, &c.

Tolls may be

merchandize or other commodities shall be at the risk of the owner or owners thereof; and the said Company or the said Directors shall have full power, from time to time at any general meeting, to lower or reduce all 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 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.

lowered and again raised.

Proviso, against monopoly.

KLIV. 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 for managing the affairs of the said Company, shall and they are hereby required to cause a true, exact and particular account to be kept and annually made up and balanced on the first Monday of the month of February in each and every year, of the money collected and received by the said Company, or by the Directors and Treasurer of the said Company or otherwise, for the use of the said Company by virtue of this Act, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on their works, and of all other receipts and expenditure of the said Company or the said Directors; and at the general meetings of the Proprietors of the said undertaking, to be from time to time holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such meetings shall declare otherwise; and such dividend shall be at and after the rate of so much per share upon the several shares held by the Proprietors, in the joint-stock of the said Company, as such meeting or meetings shall think fit to appoint or determine: Provided always, that no dividend shall be made whereby the capital of the said Company shall be in any degree reduced or impaired, nor shall any dividend be paid in respect of any share after a day appointed for payment of any call for money in respect thereof, until such call shall have been paid.

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

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 whenever the said Company shall have declared for the then preceding year a dividend or dividends exceeding ten per cent. currency on each and every share in the said undertaking, the said Company shall and they are hereby directed and required to pay over, as a duty to Her Majesty, Her Heirs and Successors, recoverable as other duties are, one moiety of the net income from the said Railway accruing thereafter over and above the said ten per cent. per share first payable to the said Proprietors: Provided always, that no such duty shall be payable until the dividends declared shall on the whole have amounted

When profits exceed 10 per cent half the overplus to be paid to Her Majesty.

Proviso.

to ten per cent. per annum on the paid up stock of the said Company from the time it was paid up; this provision being made as an allowance to the Company for the loss of interest on the money expended before the work shall produce any income. 5

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

XLVI. 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 10 deemed and considered as a whole mile, and that in all cases where there shall be the fraction of a ton in the weight of any such goods, wares, merchandize or other commodities, a proportion of the said rates shall be demanded and taken by the said Company to the number of 15 quarters of a ton contained therein; and in all cases where there shall be a fraction of a quarter of a ton, such fraction shall be deemed and considered as a whole quarter of a ton.

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 affixed.

XLVII. Provided always, and be it enacted, That it 20 shall and may be lawful to and for the Directors of the said Company from time to time to make such regulations for ascertaining and fixing the price or sum or sums of money to be charged or taken for the carriage of any parcel not exceeding one hundred and twenty pounds 25 weight as aforesaid, upon the said Railway or any part thereof, as to them shall seem fit and reasonable; and that the said Company shall from time to time print and stick up, or cause to be printed and stuck up in their office and in all and every of the places where the tolls 30 are to be collected, in some conspicuous place there, a printed board or paper ascertaining all the tolls payable under this Act, and particularizing the price or sum or sums of money to be charged or taken for the carriage of such parcels not exceeding one hundred and twenty 35 pounds weight as aforesaid.

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

XLVIII. 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 40 superintendence or command of any Police Force, and with the whole resources of the Company if required, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all Policemen, 45 Constables and others travelling on Her Majesty's Service, on their said Railway, on such terms and conditions and under such regulations as the said Company and the said Deputy Post Master General, the Commander of the Forces, or person in command of any Police Force, 50 respectively, shall agree upon, or if they cannot agree.

then on such terms and conditions and under such regulations as the Governor or Person administering the Government shall in Council make; and the Company may be required to provide a separate carriage for the
 5 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
 10 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
 15 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
 20 privileges intended to be conferred by this Act.

Proviso; the Legislature may make further provision.

XLIX. 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
 25 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
 30 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 cost and charges, from time to time, maintain, support and keep in sufficient repair the said posts, rails, hedges, ditches, trenches,
 35 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.

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

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

LI. And be it enacted, That the several persons who shall subscribe to advance any money for and towards
 45 making and maintaining the said Railway and other works connected therewith or hereby authorized, and those who shall accept of any transfer of any share or shares in the Stock of the said Company, and their several heirs, executors, administrators, curators and assigns, or others
 50 legally representing them, and having the lawful possession or control of such share or shares, (all of whom

Subscribers to pay amount of shares when called for.

Company may
sue for the
amount in case
of neglect, &c.

shall be deemed proprietors of such share or shares for the purposes of this Section,) shall and they are hereby required to pay the sum or sums of money by them respectively subscribed, or such parts or portions thereof as shall from time to time be called for by the said Company, under and by virtue of the powers and directions of this Act, to such person or persons, and at such times and places as shall be directed by the said Company or the said Directors in manner before mentioned; and in case any person or persons shall neglect or refuse to pay the same at the time and in the manner required for that purpose, it shall be lawful for the said Company to sue for and recover the same with interest and costs in any Court of Law having competent jurisdiction: and in any such action it shall be sufficient to allege that the defendant is the proprietor of a share (or of any number of shares, stating such number) in the stock of the said Company; that certain sums of money were duly called for upon such share or shares by the said Company, under the authority of and in the manner provided by this Act, and were due and payable at a certain time or times, wherefore an action hath accrued to the said Company to recover such sum or sums with interest and costs; and the production of the newspapers containing such calls shall be evidence that the same were made as therein stated; and neither in such action nor in any other action, suit or legal proceeding by the Company, shall the election of the Directors, or the authority of them, or of any Attorney acting in the name of the Company be called in question except by the Company, nor shall it in any such case be necessary to name the Directors or any of them.

Treasurer, Receiver and Collectors to give security.

LII. 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.

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

LIII. 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 of the Peace 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
 5 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 undertak-
 10 ing; and the overplus of the money raised by such distress and sale, after deducting the penalty and the expenses of the levying and recovering thereof, shall be rendered to the owner of the goods so distrained and sold; and for want of sufficient goods and chattels where-
 15 of to levy the said penalties and expenses, the offender shall be sent to the Common Gaol for the District of Montreal, there to remain without bail or mainprize for such term not exceeding one month as such Justice or Justices shall think proper, unless such penalty or forfei-
 20 ture, and all expenses attending the same shall be sooner paid and satisfied.

Levy by distress and sale of goods and chattels.

Imprisonment for want of sufficient chattels.

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

Persons aggrieved may appeal to the General Sessions.

LV. And be it enacted, That if any action or suit shall be brought or commenced 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 given
 35 or granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed, or in case there shall be a continuation of damage, then within six calendar months next after the doing and committing such damage shall cease; and
 40 not afterwards; and the defendant or defendants in such action or suit shall and may plead the general issue, and give the act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act, and if it
 45 shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the plaintiff or plaintiffs shall be nonsuit, or discontinue his, her or their action or suit after the defendant or defendants shall have appeared, or if judg-
 50 ment 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 de-

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

General issue.

Costs to Defendant if the Plaintiff fail.

fendants hath or have for costs of suit in other cases by law.

Any contravention of this Act not otherwise punishable, to be a misdemeanor.

LVI. 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 hereby 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 shall be forfeited by such contravention. 5 10

Her Majesty may assume property of road.

LVII. And be it enacted, That Her Majesty, Her Heirs and Successors, may at any time before or after the said Railway is completed; assume the possession and property thereof, and of all the property which the said Company is hereby empowered to hold and shall then have, and of all the rights, privileges and advantages vested by this Act in the said Company (all which shall after such assumption be vested in Her Majesty, Her Heirs and Successors,) 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 after 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 *bonâ fide* furnished or advanced by the Shareholders in the said Company towards the completing and improving the said road and other works connected therewith, with interest on the paid up capital, from the time of the paying up of the same until the time of the opening of the said Railway. 15 20 25 30

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

LVIII. 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 section of this Act, within one year after the passing thereof, and to make and complete the said Railway from the present terminus in manner aforesaid, within six years from the passing of this Act; and if the said map and plan and book of reference be not so made and deposited within the said space of one year, or if the said Railway shall not be so made and completed within the said period so as to be used by the public as aforesaid, then and in either case this Act and every matter and thing therein contained shall cease and be utterly null and void. 35 40 45

Company annually to submit to the Legislature detailed accounts.

LIX. 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 50

the said Rail-way 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
 5 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 such account, or the mode of attesting or rendering the same, shall be deemed an infringement of
 10 the privileges hereby granted to the said Company.

Further provision may be made touching such accounts.

LX. 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
 15 bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Company not to be exempted from the operation of any general Railway law.

LXI. 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
 20 Act relating to Railways which may be passed during the present or any future Session of Parliament.

Saving of Her Majesty's rights, and of all other persons, &c.

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

Public Act.