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No. 71.

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

BILL.

An Act to incorporate “ *The Kingston and Toronto Junction Railroad Company.*”

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

Second Reading, Wednesday, 11th June, 1851.

Mr. SMITH (of Durham).

TORONTO: PRINTED BY LOVELL AND GIBSON.

B I L L .

An Act to Incorporate "The Kingston and Toronto Junction Railroad Company."

WHEREAS it is desirable, in carrying out the design Preamble.
of a main trunk line of Railroad through the Province of Canada, that a Company should be incorporated for the purpose of constructing so much of the said Railroad as may extend from the City of Kingston to the City of Toronto: and whereas Francis Manning Hill, Mayor of the City of Kingston; David Roblin, Warden of the United Counties of Frontenac, Lennox and Addington; George Benjamin, Warden of the County of Hastings; William Hamilton Ponton, Mayor of the Town of Bellville; Asa Allworth Burnham, Warden of the United Counties of Northumberland and Durham; William Weller, Mayor of the Town of Cobourg; James Smith, Mayor of the Town of Port Hope; and John George Bowes, Mayor of the City of Toronto, have petitioned for the passing of a law incorporating a Joint Stock Company for the purpose of constructing a single or double track iron Railroad or Way, to extend from Kingston to Toronto aforesaid; Be it therefore enacted, &c.,

That the said Francis Manning Hill, David Roblin, George Benjamin, William Hamilton Ponton, Asa Allworth Burnham, William Weller, James Smith, and John George Bowes, with all such other persons or Corporations as shall become Stockholders in such Joint Stock Company as is hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be, a body corporate and politic in fact, by and under the name and style of "*The Kingston and Toronto Junction Railroad Company,*" and by that name they and their successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever, and they and their successors may and shall have a common seal; and may change and alter the same at their will and pleasure; and also that they and their successors, by the same name of "*The Kingston and Toronto Junction Railroad Company,*" shall by law be capable of purchasing, having and holding to them and their successors any estate, real or personal, or mixed, to and for the use of the said Company, and of letting, conveying or otherwise depart-

Certain persons incorporated.

ing therewith, for the benefit and on account of the said Company, from time to time, as they shall deem necessary and expedient; Provided always nevertheless, that the real estate to be held by the said Company shall be only such as may be required to be held by them for the purpose of making, using, and preserving the said Railroad, and for objects immediately connected therewith. 5

Company may
construct a
Railroad.

II. And be it enacted, That the said Company, and their agents or servants, shall have full power under this Act to lay out, construct, make and finish a double or single iron Railroad or Way, at their own costs and charges, on and over any part of the country lying between the said City of Kingston and the said City of Toronto, and to take, convey and transport thereon, passengers goods and property, either in carriages used and propelled by the force of steam or by the power of animals, or any other mechanical or other power, or by any combination of power which the said Company may choose to employ. 10 15 20

And explore
country, &c.

III. And be it enacted, That the said Company shall have full power and authority to explore the country lying between the said City of Kingston and the said City of Toronto, and to designate and establish, and for the said Company to take, appropriate, have, hold, to and for the use of them and their successors and assigns, the line and boundaries of a double or single Railroad, with the necessary railways to connect the said City of Kingston with the said City of Toronto; and for the purposes aforesaid the said Company and their engineers, agents, servants and workmen, are hereby authorised and empowered to enter into and upon the lands and grounds of Her Majesty, her heirs and successors; or any other person or persons, bodies politic or corporate, 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 double or single Railroad, and all such matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, and using the said intended Railroad, and also to make, build, erect and set up in and upon the route of the said Railroad, or upon the line adjoining or near the same, all such works, buildings, telegraphs or other signals, weighing-beams, cranes, fire-engines, steam-engines, or other engines, either stationary or locomotive, inclined planes, tunnels, machines, and other works, ways, roads and conveniences as the said Company shall think requisite and necessary for the purposes of the said Railroad, and also from time to time to alter, repair, amend, widen or enlarge the same or any other of the conveniences above mentioned, as well for carrying and conveying of all manner of materials necess- 25 30 35 40 45 50

sary for making, erecting, furnishing, altering or repairing, widening or enlarging the works of or belonging to the said Railroad, and also to place, lay, work and manufacture the said materials on the ground near to the place
 5 or places where the said works or any of them are or shall be intended to be made, erected, repaired, or done, and to build and construct the several works and erections belonging thereto, and also to make, maintain, repair and alter any fences or passages near, under or through
 10 the said Railroad, or which shall communicate therewith, and to construct, erect and keep in repair any bridges, piers, arches or other works in and upon and across any rivers or brooks, for making, using, maintaining and repairing the said Railroad and side paths, and also to turn any
 15 river or brook, or water-course, and alter its course, and also to construct, make and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving and improving, completing and using the said Railroad, in pursuance of and
 20 within the true meaning of this Act, they the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction, in the manner hereinafter mentioned, for all damages to be sustained by the owners or occupiers of
 25 such lands, tenements and hereditaments.

IV. And be it enacted, That the said Company, either before or after the commencement of the said Railroad, but before its completion, are hereby empowered to contract, compound, compromise and agree with the owner
 30 or owners, occupier or occupiers of any lands upon which they may determine to construct the said Railroad, and appurtenances, as aforesaid, either by purchase or lease of so much of the said land and privileges as they shall require for the purposes of the said Company, or for
 35 the damages which he, she or they shall and may be entitled to receive of the said Company, in consequence of the said Railroad being made and constructed in and upon his, her or their respective lands; and in case of any disagreement between the said Company and the owner
 40 or owners, occupier or occupiers, as aforesaid, it shall and may be lawful, from time to time, for such owner or occupier so disagreeing with the said Company, either upon the value of the lands and tenements, or private privileges proposed to be purchased, or upon the amount
 45 of damages to be paid to them as aforesaid, to nominate and appoint one indifferent person, and for the said Company to nominate one other indifferent person, who, together with one other person to be chosen by the persons so named before proceeding to business, or in the event
 50 of their disagreement as to the choice of such other person, to be appointed by the Judge of the County Court, or, in his absence or illness, the Judge of the Surrogate Court for the County in which the lands are situate, before

Agree with owners of lands.

the others proceed to business, shall be Arbitrators to award, determine, order and adjudge the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of a majority of whom shall be final; and the said Arbitrators shall be and are hereby required to attend at some convenient place in the vicinity of the said intended Railroad, to be appointed by the said Company, after eight days' notice given for that purpose by the said Company, then and there to arbitrate and award, adjudge and determine such matters and things as shall be submitted for their consideration by the parties interested; and that each Arbitrator shall be sworn before some one of Her Majesty's Justices of the Peace in and for the County in which the subject matters of the said disagreement shall originate, any of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties according to the best of his judgment: Provided always, that no award made as aforesaid shall be invalidated by any want of form or other technical objection, if the requirements of this Act shall have been complied with, and if the award shall state clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation or price, nor shall it be necessary that the party or parties to whom the sum is to be paid be named in the award: And provided, also, that in all arbitrations under this or any other Act relating to the said Railroad, the Arbitrators shall take into consideration the benefit conferred on the property on which they are arbitrating, as well as the damage done to any particular portion thereof.

Damages may
be paid in
Stock.

V. And be it enacted, That it shall be lawful for the said Company to agree with the owner or occupier, or party interested in any land required for the uses of the said Railroad, to pay for the same or any damages thereto in the Stock of the said Company, either in whole or in part.

Parties may
be examined
on oath.

VI. And be it enacted, That the said Arbitrators, or any of them, if they shall see fit, may examine on oath or solemn affirmation the parties interested, or such witnesses as shall voluntarily appear before them, and may administer such oath or affirmation, and any wilfully false statement made by any witness under such oath or affirmation shall be deemed wilful and corrupt perjury, and be punishable accordingly.

Sums
awarded when
to be paid.

VII. And be it enacted, That under any such arbitration as aforesaid, whatever sum of money may be finally awarded to any person or persons for compensation for property required to be occupied, or for damages occasioned by the interference of the said Company with his or their rights or privileges, shall be paid within three months

from the time of the same being awarded, unless otherwise agreed upon with such person or persons; and in case the said Company shall fail to pay the same within that period, then their right to assume any such property, or commit any act in respect of which sum of money was awarded, shall wholly cease; and it shall be lawful for the proprietor to resume his occupation of such property, and to possess fully his rights and privileges in respect thereof, free from any claim or interference from the said Company.

VIII. And be it enacted, That where an award shall be made for more money as an indemnification or satisfaction for any lands, grounds, hereditaments or property, or for any damages done to any lands, tenements, hereditaments, or property of any person or persons whomsoever, than had previously been offered by or on behalf of the said Company, then all the expenses of holding the said arbitration (which shall be settled by the Arbitrators) shall be defrayed by the said Company; but if any award shall be given for the same or a less sum than had been previously offered by and on behalf of the said Company, or in case no damages shall be awarded (when the dispute is for damages only), then, and in every such case, the costs and expenses shall be settled in the like manner by the Arbitrators, and paid by the party or parties with whom the said Company shall have had such dispute; which said costs and expenses, having been so settled, shall and may be deducted out of the money so awarded, when the same shall exceed such costs and expenses, as so much money advanced to and for the use of such person or persons, and the payment or tender of the remainder of such sum shall be deemed and taken, to all intents and purposes, to be a payment or tender of the whole sum so awarded to be paid by the said Company to such person or persons as aforesaid.

Provision when more money awarded than previously offered by Company, &c.

IX. And be it enacted, That whenever any lands or grounds required by the said Company for the purposes of the said Railroad are held or owned by any person or persons, bodies politic or corporate or collegiate, whose residence may not be within this Province, or unknown to the said Company, or where the titles to any such lands or grounds may be in dispute, or when the owner or owners of such lands or grounds are unwilling or unable to treat with the said Company for the sale thereof, or to appoint Arbitrators as aforesaid, or refuse or neglect so to do for the space of one calendar month after having been thereunto required by the said Company, it shall and may be lawful for the said Company to nominate one indifferent person, and for the Judge of the County or Surrogate Court as aforesaid for the County in which such lands are situate, on the application of the said Company, to nominate and appoint one other indifferent per-

Provision as to lands held by absentees, &c.

son, who, together with one other person to be chosen by the persons so named before proceeding to business, or, in the event of their disagreement as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be Arbitrators to award, determine and adjudge, and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same for the said lands or grounds or damages, as aforesaid, and the decision of the majority of such Arbitrators shall be final, which said amount so awarded, the said Company are to pay or cause to be paid to the several parties entitled to the same, when demanded; and also that a record of such award or arbitration shall be made up and signed by the said Arbitrators or a majority of them, specifying the amount of such award and the cost of such arbitration, which may be settled by the said Arbitrators or a majority of them, which record shall be deposited in the Registry Office of the County in which such lands or grounds are situate; and also that the expense of such arbitration shall be paid by the said Company, and by them deducted from the amount of such award, on payment thereof to the parties entitled to receive the same; Provided always that in any case where any body politic, community, corporation or other party, cannot in the common course of law, sell or alienate any lands required for the said Railroad, the said Arbitrators, appointed as aforesaid, shall agree upon a fixed annual rent for the said lands, to be paid as long as the disability remains which may prevent the sale of the said lands; and for the payment of the said annual rent, the said Railroad and the tolls thereon, are hereby made liable and chargeable in preference to all claims and demands thereon whatsoever, the deed or lease creating such charge being duly registered as aforesaid.

And as to
lands under
mortgage.

X. And be it enacted, That whenever any lands or grounds required to be used or occupied by the said Company shall be held under mortgage, it shall and may be lawful to and for the said Company to nominate one indifferent person, and for the said Judge, on the application of the said Company, to nominate and appoint one other indifferent person, who, together with one other person, to be chosen by the persons so named before proceeding to business, or, in the event of their disagreeing as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be Arbitrators to decide on and assess the value of the said lands or grounds, or the amount of damages to be paid to the owners thereof as aforesaid; and upon such decision or award, the said Company shall pay or cause to be paid the amount of such award to the mortgagee, as a payment for and on account of the said mortgage; and upon such payment being so made, the mortga-

gor and mortgagee are hereby required and compelled to join in conveying the said lands or grounds to the said Company and their successors: Provided always, that when the amount of such award shall exceed the amount
 5 secured or payable on such mortgage, the said Company, after the amount due on such mortgage, shall pay or cause to be paid the balance of the said award to the mortgagor or other party entitled to receive the same.

XI. And be it enacted, That if the said Railroad shall
 10 pass through any tract of land or property belonging to or in possession of any tribe of Indians in this Province, or if any act occasioning damage to their property or their possessions shall be done under the authority of this Act, compensation shall be made to them therefor, in the same
 15 manner as is provided with respect to the property, possession, or rights of other individuals; and that whenever it shall be necessary that Arbitrators shall be chosen by the parties for settling the amount of such compensation, the chief officer of the Indian Department within this
 20 Province, is hereby authorized and required to name an Arbitrator on behalf of the said Indians, and the amount which shall be awarded in any case, shall be paid, where the said lands belong to any tribe or body of Indians; to the said chief officer, for the use of such tribe or body.

When the Railroad passes through Indian lands.

25 XII. And be it enacted, That whenever it shall be necessary for the said Company to occupy any part or parts of the land or ground belonging to the Queen's Majesty, or which may at any time heretofore have been especially set apart and reserved, or which are designated or com-
 30 monly known as Crown, Clergy or School Lands, or lands reserved for Military purposes, they shall first apply for and obtain the license or consent of her said Majesty, her heirs or successors, under the hand and seal of the Governor or person administering the Government of this
 35 Province for the time being, and having obtained such license and consent, it shall and may be lawful for them at any time or times to enter into or upon, have, hold, use, occupy and enjoy, any part or parts of the said lands or grounds for the purposes of this Act, or for any other
 40 purpose connected therewith.

Crown, Clergy lands, &c.

XIII. And be it enacted, That after any lands or grounds shall be set out or taken as aforesaid, by the said Company, for the purpose of making and completing the
 said Railroad, or for other purposes and conveniences
 45 aforesaid, it shall and may be lawful for all bodies politic, corporate or collegiate, corporations, communities, guardians, executors, administrators, trustees and all other persons whomsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on be-
 50 half of those they represent, whether infants, issue unborn, lunatics, idiots, *femes covert*, or other person or per-

Bodies corporate may convey lands, &c.

sons who are or shall be seized, possessed of, or interested in any lands or grounds which shall be required as aforesaid, or any part thereof, to contract for, sell and convey to the said Company, their successors or assigns, all or every part of such lands or grounds which may from time to time be required as aforesaid; that all contracts, agreements, sales, conveyances and assurances, so to be made, shall be valid and effectual in law to all intents and purposes whatsoever, any law, statute, usage, or custom to the contrary thereof, in any wise notwithstanding; and all bodies corporate, politic or collegiate, 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.

As to lands held in common.

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

Deeds to be in form of Schedule A.

XV. And be it enacted, That all Deeds and Conveyances for lands to be conveyed to the said Company for the purposes of this Act, shall and may, as far as the title to the said land or the circumstances of the party making such conveyance will admit, be made in the form given in the Schedule of this Act marked A, and all Registrars are hereby required to enter in their Registry book such Deeds on the production thereof and proof of execution, without any Memorial, and to Minute such on the said Deed; and the said Company are to pay to the said Registrar for so doing the sum of two shillings and six pence and no more.

Privileges not to be interfered with.

XVI. And be it enacted, That the said Company, their agents or servants shall not in constructing building or finishing the said Railroad in any degree interfere with or encroach upon any land, rights or privilege, except only for the purposes authorized by this Act, and subject to the references herein provided.

Directors to regulate tolls.

XVII. And be it enacted, That so soon as the Railroad shall be so far completed as to be capable of being used, it shall and may be lawful for the said Company through their President and Directors from time to time to fix and regulate the tolls and charges to be received for transportation of all goods, wares, merchandize and

passengers thereon, or any other convenience, erection or improvement, built, occupied or owned by the said Company, to be used therewith, and it shall and may be lawful for them to ask, demand, receive, recover and take
 5 the said tolls, dues or charges, to and for their own proper use and benefit, and also that they shall have full power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the said Railroad, as well as the manner of collecting all tolls and
 10 dues on account of transportation and carriage, and shall have power to erect and maintain such toll houses and other buildings, for the accommodation and proper transaction of their business, as to them may seem necessary.

XVIII. And be it enacted, That if any person fail to
 15 pay the tolls or freights in respect of any carriage or goods conveyed on the said Railroad, it shall be lawful for the Company to detain such goods and carriage, or any other carriage or goods in the possession or power of the Company belonging to the party liable to pay such tolls
 20 for payment of such tolls or freight; and if the same shall not be paid within six weeks, the Company shall thereafter have power to sell such carriage or the whole or any part of such goods, and out of the money arising from such sale to retain the tolls and freights payable as
 25 aforesaid, and all charges and expenses of such detention and sale; rendering the surplus if any of the money arising from such sale or of such of the carriages or goods that may remain unsold to the person entitled thereto; or it shall be lawful for the Company to recover any such
 30 tolls or freight by action at law, and if any goods shall remain in the possession of the Company unclaimed for the space of twelve months, the Company shall thereafter, and on giving public notice thereof by advertisement for six weeks in the Canada Gazette, and in such
 35 other papers as they may deem necessary have power to sell such goods by public auction at a time and place to be mentioned in such advertisement, and out of the proceeds thereof to pay such tolls or freights, and all reasonable charges for storing, advertising and selling such
 40 goods, and any balance of such proceeds shall be kept by the Company for a further period of three months, to be paid over to any party entitled thereto. And in default of such balance not being claimed before the expiration of the period last aforesaid, such balance shall be
 45 paid over to the Receiver General to be applied or used for the general purposes of the Province until such time as the same shall be claimed by any party entitled thereto.

In case of failure by parties to pay tolls.

XIX. And be it enacted, That no person shall be entitled to carry or to require the Company to carry upon
 50 the said Railway any aquafortis, oil of vitriol, gunpowder, lucifer matches, or any other goods which in the judgment of the Company may be of a dangerous nature;

Dangerous articles need not be carried on Railway.

and if any person send by the said Railway any such goods without distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice in writing to the Book-keeper or other servants of the Company with whom the same are left at the time of so sending the said goods, he shall forfeit to the Company the sum of five pounds currency for every such offence; and it shall be lawful for the Company to refuse to take any package or parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

When road
crosses
highways, &c.

XX. And be it enacted, That whenever it shall be necessary for the said Railroad to intersect or cross any stream of water or water-course, or any road or highway lying in the route thereof, between the said city of Kingston and the said city of Toronto, it shall and may be lawful for the said Company to construct their Railroad across or upon the same: Provided always, that the Company shall restore the stream, or water-course, or road, or highway, thus intersected, to its former state, or in a sufficient manner not to impair its usefulness, and shall, moreover, during the continuance of this Company, make and repair sufficient fences upon the line or route of their said Railroad.

Proviso.

Ledge or
flange of road
not to sink,
&c.
more than
one inch,
when crossing
highways.

XXI. And be it enacted, That when the said Railroad shall cross any public highway, the ledge or flange of such Railway, for the purpose of guiding the wheels of the carriages, shall not rise above the level of such road, nor sink below the level of such road, more than one inch; and that when any bridge shall be erected or made by the said Company, for the purpose of carrying the said Railroad over or across any public way, the span of the arch of such bridge shall be formed, and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than fourteen feet, and a height from the surface of such public highway to the centre of such arch of not less than twelve feet, and the descent over any such bridge shall not exceed one foot in ten feet, and that in all places where it may be necessary to erect, build or make any bridge or bridges for carrying any public carriage road or highway over the said Railroad, the ascent of every such bridge for the purpose of every such road shall not be more than one foot in ten 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 level of such bridge.

Guard-boards.

XXII. And be it enacted, That in all cases where the said intended Railroad shall cross any public highway on a level, the said Company shall be held bound to erect and at all times maintain good and sufficient guard-boards

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

XXIII. And be it enacted, That if any, person shall by any means or in any manner or way whatsoever, obstruct or interrupt the free use of the said Railway, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, such person shall for every such offence be deemed guilty of a misdemeanor, and shall on conviction thereof be punished by imprisonment in the Provincial Penitentiary, for a term not to exceed five years.

Obstructing Railway.

XXIV. 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, thrown down, damage or destroy the same or any part thereof or any of the houses, ware-houses, toll-houses, watch-houses, weigh-beams, cranes, carriages, vessels, engines, inclined planes, machines or other works, or devices incidental and relative thereto or connected therewith or do any other wilful hurt or mischief, or wilfully or maliciously obstruct or interrupt the free use of the said Railway, vessels or works, or shall obstruct, hinder or prevent the carrying or completing, supporting and maintaining the said intended Railway, vessels or works, such person or persons shall be adjudged guilty of a misdemeanor, unless the offence committed shall under some other Act or Law amount to a felony, in which case such person shall be adjudged guilty of a felony, and the Court by and before whom such person or persons shall be tried and convicted shall have power and authority to cause such person or persons to be punished in like manner as persons guilty of misdemeanors, or felons (as the case may be) are directed to be punished by the laws in force in Upper Canada.

Damages to Railway.

XXV. And be it enacted, That the capital stock of the said Company, including any real estate which they may hold by virtue of this Act, shall not exceed in the whole the sum of seven hundred and fifty thousand pounds currency, to be divided in thirty thousand shares of twenty-five pounds each, which amount shall be raised by the persons above named or some of them, together with such other persons and corporations as may become subscribers towards such stock; and the said money so raised shall be applied in the first place towards the payment and discharge of all fees, expenses and disbursements for procuring the passage of this Act, and for making the surveys, plans and estimates connected with the

Capital stock.

Railroad, and all the rest and remainder of such money shall be applied towards making, completing and maintaining the said Railroad and other purposes of this Act, and to no other purpose whatever: Provided always, that until the said preliminary expenses connected with the said Railroad shall be paid out of the capital stock thereof, it shall be lawful for the Municipality of any County, City or Town on the line of the said road to pay out of the general funds of such Municipality their fair proportion of such preliminary expenses; which sum shall be refunded to such Municipality from the stock of the said Company, or be allowed to them in payment of stock. 5 10

Shares transferable.

XXVI. And be it enacted, That such shares of the said capital stock shall be deemed personal property, and may, after the first instalment shall be paid, be transferred by the parties or bodies holding the same to any other parties or bodies, and such transfer shall be entered in a book or books to be kept for that purpose by the Company, and shall be made under and subject to such regulations as the said Company shall from time to time provide for the purpose. 15 20

Liability of Stockholders.

XXVII. And be it enacted, That no Stockholder in the said Company shall be in any manner whatsoever liable for or be charged with the payment of any debt or demand due by the said Company beyond the extent of his, her or their share or shares in the capital of the said Company not paid up. 25

Who shall manage the stock of Company.

XXVIII. And be it enacted, That until one-third of the capital stock of the said Company shall have been subscribed, the affairs of the said Company shall be managed by the heads of the Municipalities of the Counties of Frontenac, Lennox, and Addington, Hastings, Northumberland and Durham, and York, the Cities of Kingston and Toronto, and the Towns of Belleville, Cobourg and Port Hope, or by such persons in lieu thereof as may be appointed under the seal of the said Municipalities, who, or a majority of them, are hereby authorized to take all necessary measures for opening the stock books, and commencing the operations of the Company. 30 35 40

Meeting of Stockholders.

XXIX. And be it enacted, That so soon as one-third of the said capital stock shall have been subscribed, a general meeting of the Stockholders shall be held at the City of Kingston for the purpose of putting this Act into effect, which meeting may be called by the heads of any five Municipalities of Cities or Counties on the line of road, fifteen days' public notice thereof being given, and to be published once in one newspaper in each City or County on the line of road, at which said general meeting the Stockholders present, either in person or by proxy, 45 50

shall choose eleven Directors in manner and qualified as hereinafter mentioned, who shall hold office until the first Monday in April following. Provided, that the heads of Municipalities subscribing for stock may represent such stock at the said first meeting, or in their absence such persons as may be duly authorized under the seal of the Municipality for the purpose, and such heads of Municipalities or persons so voting shall vote according to the scale of votes hereinafter mentioned, and in the same manner as individual Stockholders.

XXX. And be it enacted, That on the first Monday in April in each year, at such time and place as shall be appointed by the Directors of the previous year, there shall be chosen by the Stockholders present either in person or by proxy eleven Directors, in the manner hereinafter mentioned, one of whom shall be President; which Directors shall hold office for one year, but who may be re-elected, and who shall be qualified as hereinafter mentioned; and public notice of such annual election shall be published one month before the day of election in the Canada Gazette, and also once fifteen days before the election in one newspaper in each City or County on the line of road; and all elections for such Directors shall be by ballot, and the persons who shall have the greatest number of votes at any election shall be Directors, and if it shall happen that two or more shall have an equal number of votes, the Stockholders shall determine the election by another or other votes until a choice is made; and if any vacancy shall at any time happen among the Directors by death, resignation or removal from the Province, such vacancy shall be filled for the remainder of the year by a majority of the Directors.

XXX. And be it enacted, That the said Directors, soon as may be after their election, shall proceed by ballot to elect one of their number President and another Vice-President, who shall hold office for the same term as the Directors, and which such President and Vice-President, together with the Treasurer of the said Company, shall be natural-born or naturalized subjects of Her Majesty: Provided, that in the absence of the President, the Vice-President shall preside and have the same powers as the President, and the Treasurer of the said Company shall be chosen from among the Directors.

XXXII. And be it enacted, That in case it shall happen that an annual election of Directors be not made on the day when pursuant to this Act it ought to be made, the said Company shall not for that cause be dissolved, but it shall and may be lawful for the Stockholders on any subsequent Monday in the said month of April, to hold and make the election in the manner elsewhere authorized by this Act, in case the President or Vice-

Directors.

President.

Company not dissolved by failure to elect Directors.

President or Treasurer give at least six days' public notice of the time and place of meeting for such election.

Quorum.

XXXIII. And be it enacted, That six Directors shall form a quorum for the transaction of business; and the President, Vice President, or presiding Director, shall be entitled to one vote, and in case of a tie, to a second or casting vote: Provided, That the said Directors may employ one or more of their said number, as paid Director or Directors; but otherwise no person holding any office, place or employment, or concerned or interested in any contract, under or with the Company, (except the Treasurer,) shall be a Director of the said Company. 5 10

Qualification of Directors.

XXXIV. And be it enacted, That the persons qualified to be Directors of said Company under this Act, shall be any stockholder, holding stock to the amount of five hundred pounds, who shall have paid up all calls on the said stock, or the Warden or Mayor of any municipality which shall have subscribed or own five Thousand pounds of the stock of the Company, and have paid up all calls thereon, and the said Warden or Mayor shall hold office as Director of the said Company for his term of office as Director, though he may cease to be a Warden or Mayor. 15 20

Directors to manage property, &c. of Company.

XXXV. And be it enacted, That the property, affairs and concerns of the said Company shall be managed and conducted by the Directors, who shall have power to make and subscribe such rules and regulations as to them may appear needful and proper, touching the management, disposition and transfer of the stock of the Company, its property, estate and effects, so that the same be not contrary to this or any other Act relating to the said Railroad, and touching the duty of the officers, clerks and servants, and all such other matters and things as appertain to the business of the said Company; and shall also have power to appoint as many officers, clerks and servants, for carrying on the said business, with such salaries and allowances as to them shall seem fit; and shall also have power to call special meetings of the stockholders whenever they shall deem it necessary for the interest of the Company: Provided always, That the said Directors shall be bound to call a general meeting of the stockholders whenever required by the heads of any five municipalities owning stock in the Road, or on the written requisition of any twenty individual stockholders. 25 30 35 40

Instalments.

XXXVI. And be it enacted, That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company, by giving thirty days notice thereof in any newspaper published in each of the said Districts, for an instalment of five per cent. upon each share which 54 50

they or any of them may respectively subscribe for; and that the residue of the amount of shares of the Stockholders shall be payable by instalments at such times and in such proportions as the Directors of the said Company may see fit, so as no such instalment shall exceed ten per cent., nor become payable in less than thirty days after public notice in the newspapers aforesaid: Provided always, that the said Directors shall not commence the construction of the said Railroad or way until the said first instalment shall be called in.

XXXVII. And be it enacted, That if any Stockholder or Stockholders as aforesaid, shall refuse or neglect to pay at the time required, any such instalment or instalments as shall be lawfully required by the Directors, as due and payable upon any share or shares, such Stockholder or Stockholders so refusing or neglecting, shall forfeit such share or shares as aforesaid, with any amount that shall have been previously paid thereon, and that the share or shares so forfeited, may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and applied in like manner as other moneys of the said Company: Provided always, that the purchaser or purchasers shall pay the said Company, the amount of the said instalments required, over and above the purchase money of the share or shares so purchassd by him, her or them, as aforesaid, immediately after the sale, and before they shall be entitled to the certificate of the transfer of such shares so purchased as aforesaid: Provided always, that before such stock shall become finally forfeited, thirty days' notice of the sale of such forfeited shares shall be given in any newspaper published in each of the said Counties, and that the instalments due may be received in redemption of any of such forfeited shares at any time before the day appointed for the sale thereof.

Neglect to pay instalments.

XXXVIII. And be it enacted, That it shall be the duty of the Directors to make an annual or semi-annual dividends of so much of the profits of the said Company, as to them or a majority of them shall seem advisable, and that once in each year, an exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses, such statement to appear in the books, and to be open to the perusal of any stockholder, at his or her reasonable request, which said statement, attested on oath, shall be submitted annually to the three branches of the Legislature, within twenty days after the opening of each session of the Provincial Parliament, as also a statement of the tonnage of goods and number of passengers that have been conveyed along the said Railroad.

Dividends.

Ratio of votes
to shares.

XXXIX. And be it enacted, That each stockholder, whether in his own right, or representing any municipality or corporation, shall be entitled to the number of votes proportioned to the number of shares which he or they shall have had in his or their name at least two weeks prior to the time of voting, according to the following scale, that is to say; for each share not exceeding four or under, one vote; for six shares, five votes; for eight shares, six votes; for ten shares, seven votes; and for every five shares above ten, one vote; and any person representing any municipality or corporation shall vote on the stock of the same, and shall be qualified to vote in the same manner as is provided for at the first election of Directors to be held under this Act.

Additional
stock.

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

Borrow
money.

XLI. And be it enacted, That the said Company may from time to time lawfully borrow, either in this Province or elsewhere, such sum or sums of money as they may find expedient, and at such rate of interest, not exceeding eight per cent. per annum, as they may think proper; and may make the bonds, debentures, or other securities, they shall grant for the sums so borrowed, payable either in currency or in sterling, and at such place or places within or without this Province as they may deem advisable, and shall have authority to sell the same at such prices or discount as may be deemed expedient, or as shall be necessary, and may hypothecate or pledge the lands, tolls, revenues, and other property of the said Company for the due payment of the said sums and the

interest thereon, but no such debenture shall be for a less sum than twenty-five pounds.

XLII. And in order to ascertain the amount of the clear profits of the said undertaking, be it enacted, That the said Company or the Directors of the said Company shall, and they are hereby required to cause a true, exact and particular account to be kept, and annually made up, and balanced on the thirty-first day of December in each year, of the money collected and received by the said Company, or by the Directors or Treasurer 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 Shareholders 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 shareholders in the joint stock of the said Company, as such meeting or meetings shall think fit to appoint or determine; Provided always, That no dividend shall be made whereby the capital of 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.

XLIII. And be it enacted, That it shall be competent to the Proprietor of any share or shares of the Capital stock of the said Company, to anticipate the payment of the amount thereof, or of such parts of the amount thereof as may remain unpaid or uncalled for; and thereupon, it shall be lawful for the Company to allow and pay lawful interest for the amount of the anticipated payment, until the same shall in due course become payable in virtue of the calls of the Directors.

XLIV. And be it enacted, That if the Proprietors of any share or shares of the Capital stock of the said Company shall have made, or shall make default in the payment of any call, he shall, *ipso facto*, be and become further liable to the payment to the Company of interest on the amount of the unpaid call from the date fixed for the payment of the same; and the Company, in its corporate name, shall and may recover the amount of every unpaid call, with interest as aforesaid, and costs of suit, by action, or suit at law, in any Court of competent jurisdiction; and so long as a Proprietor of any share or shares shall be in default of the payment of any call, he

shall not be entitled to vote at any meeting of the Proprietors in respect of such shares so remaining in default.

Transfer of shares.

XLV. And be it enacted, That no transfer of shares of the Capital stock of the Company shall be allowed, or shall be valid, unless all calls due, together with any interest that may be due in respect of unpaid calls, and the costs and expenses incurred in relation thereto, shall have been paid and discharged; nor shall any transfer of less than a whole share of said stock be allowed or be valid.

Declaration in actions for unpaid calls.

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

Certified extracts of minutes to be prima facie evidence.

XLVII. And be it enacted, That copies of the minutes of proceedings and resolves of the Proprietors of shares of the Capital stock of the said Company, at any general or special meeting, and of minutes of proceedings and resolves of the Directors, at their meetings, extracted from the minute book or books kept by the Secretary of the Company, and by him certified to be true copies, extracted from such minute book or books, shall be *prima facie* evidence of such proceedings and resolves in all Courts of civil jurisdiction, and all notices given by the Secretary of the Company, by order of the Directors, shall be deemed notices by the said Directors and Company.

XLVIII. And be it enacted, That the offence of forging any debenture or a coupon of any debenture, issued under the authority of this Act, or of altering or disposing of any such debenture or coupon, knowing the same to be forged, or of being accessory, before or after the fact, to any such offence, shall be deemed felony and be punished accordingly.

Forging
debentures.

XLIX. And to the end of encouraging the immediate investment of capital in the Stock of the said Company, and thereby promoting the completion of the said Railroad within the shortest possible time, be it enacted, that it shall and may be lawful for the said Company, by resolution to be passed at a special meeting of the Proprietors, to be called for the purpose, to allow and pay, either annually or semi-annually, interest not exceeding per centum per annum, upon all such monies as are or shall be vested in shares of the Capital Stock of the said Company, and duly paid up: Provided always, that the allowance and payment of such interest shall utterly cease on the completion of the said Railroad; Provided also, that it shall and may be lawful for any special meeting of Proprietors duly convened for the purpose to annul, abrogate or alter any such resolution.

Interest on
stock.

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

Fraction of a
mile, con-
sidered a
whole mile in
ascertaining
rates.

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

Carriage of
parcels.

be charged or taken for the carriage of such parcels, not exceeding one hundred and twenty pounds weight as aforesaid.

Postmaster
General, &c.

LII. Provided always, and be it enacted, That the said Company shall at all times when thereunto required by 5 the Post Master General of the Province, the Commander of the Forces, or any person having the superintendance or command of any Police Force, and with the whole resources of the Company, if required, carry Her Majesty's Naval or Military Forces or Militia, and all 10 artillery, ammunition, provisions or other stores for their use, and all Policemen, Constables and others, travelling on Her Majesty's service, on the said Railway, on such terms and conditions and under such regulations as the said Company and the said Post Master 15 General, the Commander of the Forces, or person in command of any Police Force, respectively, shall agree upon, or if they cannot agree, then on such terms and conditions, and under such regulations, as the Governor, or person administering the government, shall in Council 20 make; and the Company may be required to provide a separate carriage for the Mail and the person or persons in charge thereof; and the said Company shall, at any time when thereunto required by the Governor of this Province, or any person thereunto authorised by him, 25 place any Electric Telegraph, and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service; and provided also, that any further enactments which the Legislature of this Province may 30 hereafter deem it expedient to make with regard to the carriage of the said Mail or Her Majesty's Forces, and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph, or other service to be rendered 35 by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

Bonds from
Treasurer, &c.

LIII. And be it enacted, That the said Company shall be and are hereby required and directed to take sufficient 40 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 45 and offices, respectively.

Fines, &c. how
levied.

LIV. And be it enacted, That all fines and forfeitures imposed by this Act, 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 50 Justice or Justices of the Peace for the County, either by

the confession of the party or parties, or by the oath or affirmation of any one credible witness (which oath or affirmation such Justice or Justices are hereby empowered and required to administer without fee or reward), be
 5 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 authorised to be imposed, the application whereof is not hereinbe-
 10 fore particularly directed, shall be paid into the hands of the Treasurer of the Railroad, and shall be applied and disposed of for the use of the said Railway or undertaking, and the overplus of the money raised by such distress and sale, and after deducting the penalty and the expenses
 15 of the levying and recovery thereof, shall be returned to the owner of the goods so distrained and sold; and for want of sufficient goods and chattels whereof to levy the said penalty and expenses, the offender shall be sent to the Common Gaol for the County in which he shall have
 20 been convicted, there to remain without bail or mainprize for such term, not exceeding one month, as such Justice or Justices shall think proper, unless such penalty or forfeiture, and all expenses attending the same, shall be sooner paid and satisfied.

25 LV. And be it enacted, That it shall be lawful for any Municipal Corporation in this Province, through the head thereof, to subscribe for or purchase any number of shares in the Capital Stock of the said Company, or to lend any sum of money to the said Company, or to guarantee and
 30 become security for the payment of any sum of money borrowed by the said Company after the passing of this Act, from any other corporation or party, or to endorse or guarantee the payment of any debenture to be issued by the said Company, for money borrowed by them after
 35 the passing hereof: Provided always, that any such Municipality may sell and dispose at par of any Stock subscribed for or purchased by them as aforesaid, and the same may be transferred under the seal of the said Municipality and the signature of the head thereof, whenever the said Mu-
 40 nicipality shall approve thereof.

Municipal
 Corporations
 may take
 stock.

LVI. And be it enacted, That the Municipal Corpora-
 tion of any County, City, Town, Township or Village, who shall subscribe for Stock of the said Company, or lend or
 guarantee the payment of any sum of money under this
 45 Act, shall have full power and authority to cause to be assessed and levied, from time to time, upon the whole rateable property in such County, City, Town, Township or Village, sufficient sums to enable them to discharge the debts, obligations and engagements which they shall have
 50 contracted as aforesaid: and also, for the like purpose to issue Debentures, payable at such times, and for such sum respectively, not less than twenty-five pounds, and

And assess
 for that
 purpose.

hearing or not bearing interest, as such Corporation may think meet.

Debentures
how signed,
&c.

LVII. And be it enacted, That any debenture which any Corporation may, under this Act, issue, endorse or guarantee, shall be valid and binding upon such Corporation, if signed and endorsed or countersigned by such officer or person, and in such manner and form as shall be directed by any By-laws of the Corporation; and it shall not be necessary that it be under the Seal of the Corporation, or that any further form be observed with regard to it than such as shall be directed in such By-laws as aforesaid. 5 10

Company may
become
parties to
promissory
notes, &c.

LVIII. And be it enacted, That the said Company shall have power to become parties to promissory notes and bills of exchange, and any promissory note made or endorsed, and any bill of exchange drawn, accepted or endorsed by the President of the Company, or in his absence or illness the Vice President, and countersigned by the Secretary and Treasurer, and under the authority of a majority of a *quorum* of the Directors, is and shall be binding upon the said Company, and every Promissory note or bill of exchange so made, drawn, accepted or endorsed by the President or Vice President of the said Company, and countersigned by the Secretary and Treasurer as such, either before or after the passing of this Act, shall be presumed to have been properly made, drawn and accepted or endorsed, as the case may be, for the Company, until the contrary be shewn; and in no case shall it be necessary to have the seal of the Company affixed to any such bill of exchange or promissory note, nor shall the President, Vice President or the Secretary and Treasurer of the Company so making, drawing, accepting or endorsing any such promissory note or bill of exchange, be thereby subjected individually, to any liability whatever: Provided always that nothing in this clause shall be construed to authorise the said Company to issue any note payable to bearer, or any promissory note intended to be circulated as money, or as the notes of a Bank. 15 20 25 30 35

Contravention
of this Act to
be misde-
meanor.

LIX. And be it enacted, That any contravention of this Act, by the said Company or by any other party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punishable accordingly; but such punishment shall not exempt the said Company (if they be the offending party) from the forfeiture of this Act, and the privileges hereby conferred on them, if by the provisions thereof, or by law, the same be forfeited by such contravention. 40 45

Company may
unite, &c.

LX. And be it enacted, That it shall be lawful for the Directors; (if authorised by any general meeting of the 50

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Stockholders to be called for the purpose), to enter into and make any arrangement with the Directors of any other Railway Company, now or hereafter to be chartered in any part of this Province, more particularly with the Company of any Railway extending from Kingston to Montreal, for the union, junction, amalgamation or purchase of any Railway or Railway Company, by mutual agreement with such Company; and the Capital Stock of any Companies so united shall become the Capital Stock of the Companies so united, and be controlled and managed as such, independently of all other increase of Stock authorised by this Act.

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

LXII. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, her heirs and successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

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

SCHEDULE A.

FORM OF CONVEYANCE.

Know all men by these presents, that I, A. B., of ———, do hereby, in consideration of (here state the purchase-money), paid to me by the Kingston and Toronto Junction Railroad Company, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey, and confirm, unto the said Kingston and Toronto Junction Railroad Company, their successors and assigns, for ever, all that certain tract or parcel of land situate (here describe the land), the same having been selected and laid out by the said Company for the purposes of their Road: To have and to hold the said land and premises, together with the hereditaments and appurtenances thereto, to the said Kingston and Toronto Junction Railroad Company, their successors and assigns, for ever.

Witness my hand and seal this ——— day of ———, 18—.

————— [L.S.]

Signed, sealed and delivered in presence of