

PROVINCIAL STATUTES

OF

CANADA,

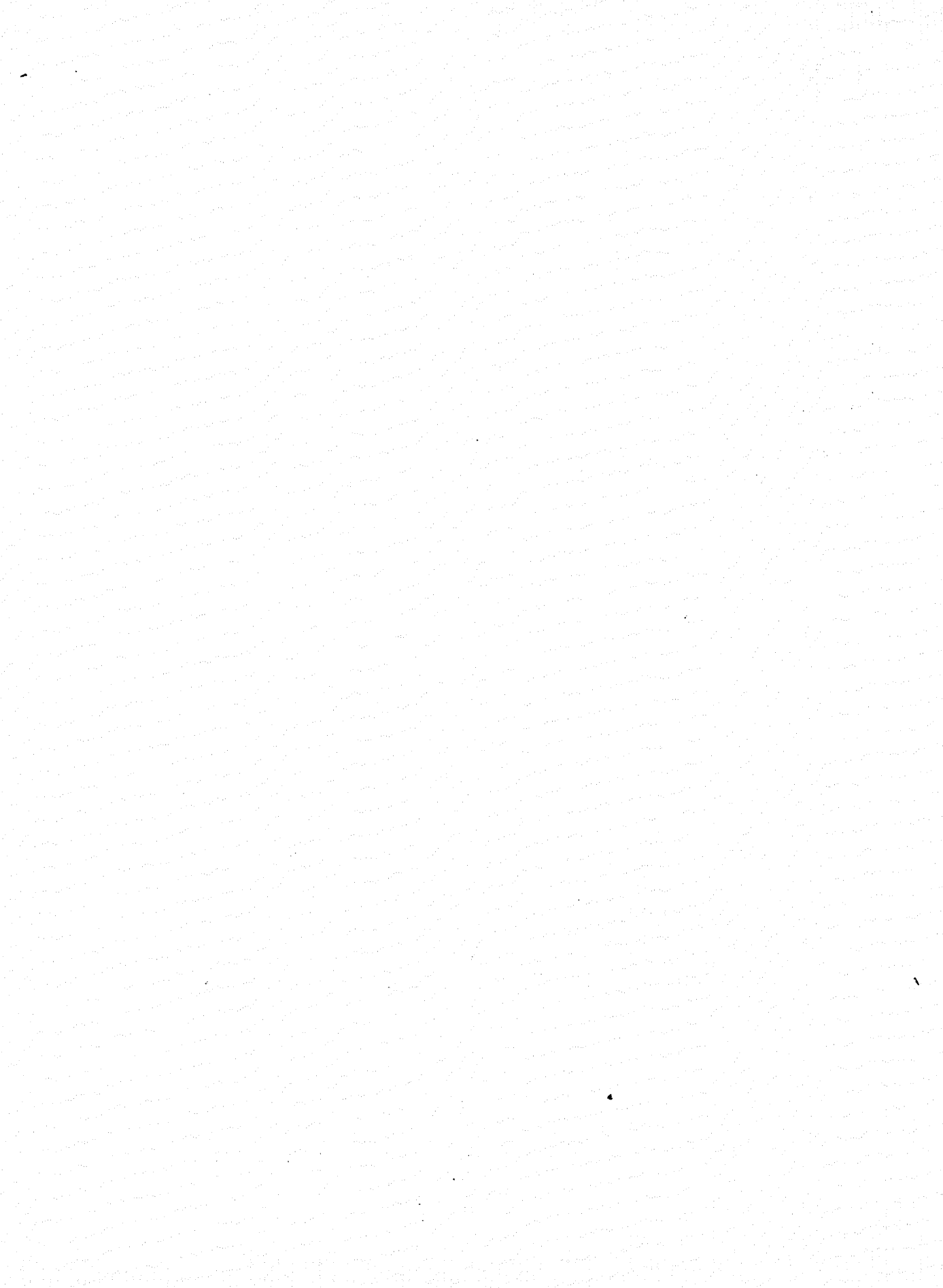
ENACTED by Her Most Excellent Majesty, Our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, &c., by and with the advice and consent of the Legislative Council and Assembly of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Third and Fourth years of Her Majesty's Reign, intituled, "*An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*"

VOL. III. 3rd Sess. 3rd Part.



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Anno Domini, 1850.



PROVINCIAL STATUTES

OF

CANADA.

ANNO REGNI TERTIO-DECIMO & QUATUOR-DECIMO

VICTORIÆ,

DEI GRATIÂ BRITANNIARUM REGINÆ.

HIS EXCELLENCY THE RIGHT HONORABLE

JAMES, EARL OF ELGIN AND KINCARDINE, K. T.

GOVERNOR GENERAL.

BEING THE THIRD SESSION OF THE THIRD PROVINCIAL PARLIAMENT OF
CANADA.





ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

C A P. I.

An Act for granting to Her Majesty certain sums required for defraying certain expenses of the Civil Government for the years one thousand eight hundred and forty-nine, and one thousand eight hundred and fifty.

[10th August, 1850.]

MOST GRACIOUS SOVEREIGN.

WHEREAS by Messages from His Excellency The Right Honorable JAMES, EARL OF ELGIN AND KINCARDINE, Governor General of British North America and Captain General and Governor in Chief in and over this Province of Canada, bearing date respectively the twenty-second and thirty-first days of July in the present year one thousand eight hundred and fifty, and the estimates accompanying the same, it appears that the sums hereinafter mentioned are required to defray certain expenses of the Civil Government for the years one thousand eight hundred and forty-nine and one thousand eight hundred and fifty, not otherwise provided for by law: May it therefore please Your Majesty that it may be enacted, and be it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and out of any unappropriated moneys forming part of the Consolidated Revenue Fund of this Province, there shall and may be paid and applied a sum not exceeding One Hundred and Seventy-three Thousand Four Hundred and Forty-eight Pounds Three Shillings and Ten Pence, Currency, for defraying certain expenses of the Civil Government, for the years one thousand eight hundred and forty-nine and one thousand eight hundred and fifty, not otherwise provided for by law.

Preamble.

Messages of 22 and 31 July, 1850, recited.

£173,448 3s. 10d. appropriated for certain expenses of the Civil Government for 1849 and 1850.

II. And be it enacted, That from and out of the unappropriated moneys, forming part of the Jesuits' Estate Fund, there shall and may be paid and applied the sum of Two Thousand Five Hundred and Ninety-two Pounds Four Shillings and Seven Pence Currency, towards the support of certain Educational Institutions in Lower Canada.

£2592 4s. 7d. appropriated for educational purposes in L. C. out of the Jesuits' Estate Fund.

III. And be it enacted, That the due application of the moneys hereby appropriated shall be accounted for to Her Majesty, Her Heirs and Successors through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

Accounting clause.

IV. And be it enacted, That a detailed account of the moneys expended under the authority of this Act, shall be laid before the Legislative Assembly of this Province, during the first fifteen days of the Session of the Provincial Parliament next after such expenditure.

Accounts to be laid before the P. Parliament.

C A P.

CAP. II.

An Act for raising on the credit of the funds therein mentioned, certain sums required for the Public Service.

[10th August, 1850.]

Preamble:

WHEREAS it is expedient to authorize the raising of certain sums by loan for the purposes and on the credit of the funds hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor in Council to authorize the raising by way of loan, on the credit of the Consolidated Revenue Fund of this Province, of a sum not exceeding One Hundred and Eighty-seven Thousand Five Hundred and Seventy-three Pounds, Fourteen Shillings and Three Pence Currency, to be applied to the purpose of meeting certain contingencies of the public service connected with the Public Works.

Loan not exceeding
£187,573 14s. 3d.
for Public Works.

Debentures may be
issued.

II. And be it enacted, That for the purpose of raising such sum as aforesaid, it shall be lawful for the Governor in Council to authorize the issuing of Debentures to an amount not exceeding in the whole the sum last aforesaid, in such form, for such separate sums, at such rate of interest not exceeding six per centum per annum, and to make the principal and interest thereon payable at such periods and at such places as to Him shall seem most expedient, the said principal and interest being hereby made chargeable upon the Consolidated Revenue Fund of this Province.

Loan not exceeding
£30,000, for Lunatic
Asylum and U. C.
Normal School.

III. And be it enacted, That it shall be lawful for the Governor in Council, to authorize the raising by way of loan on the credit of the Upper Canada Building Fund, that is to say, the fund to arise from the proceeds of the rate or tax imposed by the Act passed in the present session to provide funds for defraying the cost of the erection of the Lunatic Asylum, and other Public Buildings in Upper Canada, of a sum not exceeding Thirty Thousand Pounds Currency, to be applied to the purpose of defraying certain expenses connected with the Lunatic Asylum at Toronto, and with the intended building for the Normal School of Upper Canada.

Debentures may be
issued.

IV. And be it enacted, That for the purpose of raising the sum last aforesaid, it shall be lawful for the Governor in Council to authorize the issuing of Debentures to an amount not exceeding in the whole the sum last aforesaid, in such form, for such separate sums, and at such rate of interest not exceeding six per centum per annum, and to make the principal and interest thereon payable at such periods and at such places as to Him shall appear most expedient, the said principal and interest being hereby made chargeable upon the said Upper Canada Building Fund.

Accounts to be laid
before P. Parliament.

V. And be it enacted, That accounts in detail of all moneys received and paid under this Act and of the Debentures issued, and the interest thereon, and of the redemption of the whole or any part of such Debentures, and of all expenses attending the collection and payment of the sums of money collected, received, or paid by authority of this Act, shall be laid before the Legislature of this Province at each Session thereof.

Accounts to Her
Majesty.

VI. And be it enacted, That the due application of the moneys so to be raised shall be accounted to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors shall be graciously pleased to direct.

CAP. III.

An Act to facilitate Reciprocal Free Trade between this Province and the other British North American Provinces.

[24th July, 1850.]

WHEREAS it is expedient to make provision for the establishment of Reciprocal Free Trade between this Province and the other British North American Provinces or Possessions: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor in Council from time to time to declare that any article whatever, when of the growth, produce or manufacture of the British North American Provinces or Possessions of Nova Scotia, New Brunswick, Prince Edward's Island and Newfoundland, or of any one or more of them, is or is not admissible into this Province free from duty, and under what circumstances, conditions and regulations: Provided always, that nothing herein contained shall have the effect of rendering any such article liable to duty in any case where without this Act it would be free from duty.

Preamble.

Produce of B. N. A. Provinces may be admitted free under order in Council.

Proviso.

CAP. IV.

An Act to encourage Emigrants from Europe to the United States to use the St. Lawrence route.

[24th July, 1850.]

WHEREAS it is expedient to encourage the use of the St. Lawrence route by Emigrants from Europe to the United States: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor to instruct the Collector of the Customs at any Port or Ports on or near the frontier between this Province and the United States, to pay back to such person as shall be designated in a Certificate from the Emigrant Agent at the Port at which the Duty shall have been paid, as the proper person to receive such payment, a sum equal to one half of the Duty paid upon any Emigrant arriving in the Province after the first day of May, provided such Certificate shall also shew that such Emigrant came into this Province with the declared intention of passing directly through it to the United States, and provided the Collector shall be satisfied by the Certificate of the same or of some other Emigrant Agent, that such Emigrant hath not been (or if he be the head of a family, that no one of such family hath been) chargeable upon the Province since his arrival therein, and shall also be satisfied by his own knowledge and inquiry, that such Emigrant hath come directly, and with all reasonable despatch, from the place where the Duty was paid to such frontier Port, and hath there paid for a passage by and embarked (with his baggage and family if any) on board of some Vessel or Boat bound for and immediately about to depart to a port or place in the United States: Provided also, that such Collector shall obey and be bound by any further instructions he may receive in this behalf from the Governor, and that such instructions may extend to the employment of a proper officer or person to accompany any such Emigrants to the United States, and there to pay the sum to be returned as aforesaid.

Preamble.

Part of the tax on any Emigrant coming through this Province to the United States, may be paid back on certain conditions.

Proviso.

Penalty for fraudulently obtaining such re-payment.

II. And be it enacted, That if any person shall by any false pretence, obtain any sum of money under this Act without being legally entitled thereto, he shall for such offence incur a penalty not exceeding ten pounds, to be recovered with costs, on the oath of one credible witness other than the prosecutor, before any Justice of the Peace, and to belong to the prosecutor and be levied by distress and sale of the goods and chattels of the offender under Warrant of such Justice; or the offender may be committed to prison for a time not exceeding three months, unless such penalty be sooner paid.

Instructions how communicated.

III. And be it enacted, That the instructions of the Governor under this Act may be communicated to any Collector, in like manner as instructions with regard to the remission of any other duty, or to any other matter relative to the collection and management of Provincial Revenue: that the word "Emigrant" shall in this Act have the meaning assigned to the word "Passenger" or "Emigrant" in the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and to make further provision respecting Emigrants*, and the word "Duty" shall mean the rate or duty payable under the said Act; that any sum hereby authorized to be paid back may be so paid out of any public moneys in the hands of the Collector or out of public moneys to be advanced to him for the purpose; that no such repayment shall cancel or affect any Bond given under the said Act, by the Master of any Vessel with regard to any Emigrant; and that the proper person to receive back such portion as aforesaid of the said duty, shall be the Owner, Charterer, Consignee or Master of the vessel by the Master whereof such duty shall have been payable, or other party who would eventually bear the said duty if not paid back as aforesaid, and not the Emigrant himself, unless he shall have paid such duty separately and apart from his passage money, and shall have then expressly covenanted for the right to receive such repayment.

Words interpreted.

12 Vic. cap. 6.

Out of what moneys such re-payment may be made, &c.

And to whom.

C A P. V.

An Act to amend the Act imposing Duties of Customs.

[10th August, 1850.]

Preamble.

12 Vic. cap. 1.

WHEREAS it is expedient to make the following amendments to the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the Law relative to Duties of Customs*: Be it therefore enacted by the Queen's Most Excellency Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor in Council, from time to time, to order any article not enumerated in the Schedule to the Act cited in the Preamble to this Act, and thereby made subject to a duty of twelve and a half *per centum, ad valorem*, to be placed among the articles subjected to a duty of two and a half *per centum, ad valorem*, which last mentioned duty, and no other, shall be payable on such article so long as such order shall be in force.

Unenumerated articles may be admitted at 2½ per cent. duty.

Articles imported for certain purposes exempted from duty.

II. And be it enacted, That for and notwithstanding any thing in the said Act, no duty shall be payable on Military Clothing imported into this Province for the use of Her Majesty's Troops, nor upon Wines so imported for the use of any Officers' Mess, nor upon Salt imported into the District of Gaspé for the use of the Fisheries in that District, provided such Regulations as the Governor in Council shall make for the purpose of preventing fraud or abuse under pretext of such exemption from duty, be duly complied with, and not otherwise.

CAP VI.

An Act to impose a duty on Foreign re-prints of British Copyright Works.

[10th August, 1850.]

WHEREAS it is declared by an Act of the Imperial Parliament, passed in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom*, that in case the Legislature in any British Possession shall be disposed to make due provision for securing or protecting the rights of British Authors in such Possession, and shall pass an Act for that purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to Her Majesty, and in case Her Majesty should be of opinion that such Act is sufficient for the purpose of securing to British Authors reasonable protection within such Possession, it shall be lawful for Her Majesty to express Her Royal Approval of such Act, and thereupon by Order in Council, to suspend, so long as the provisions of such Act shall continue in force within such Colony, the prohibition contained in the Imperial Acts in the said above recited Act mentioned, or in any other Acts against the importing, selling, letting to hire, exposing for sale or hire, or possessing Foreign re-prints of Books first composed, written, printed or published in the United Kingdom, and entitled to Copyright therein, and it is expedient to pass such Act to the end that such Foreign re-prints may, under the provisions of the said Imperial Act, be allowed to be imported into this Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor in Council to impose an *ad valorem* duty not exceeding twenty *per centum* upon Books imported into this Province, wherein the Copyright shall be subsisting, first composed or written or printed in the United Kingdom, and printed or re-printed in any other Country, and with regard to which the notice to the Commissioners of Customs required by any Act of the Imperial Parliament in force in that behalf, shall have been given, and from time to time to alter the said duty (not exceeding in any case the rate aforesaid), and from time to time to establish such regulations and conditions as may be consistent with any Act of the Parliament of the United Kingdom then in force, and as he may deem requisite and equitable, with regard to the admission of such Books, and to the distribution of the proceeds of such duty to or among the party or parties beneficially interested in the Copyright; Provided always, that no such order in Council shall impose a duty on the importation of any Book which may now be imported free from duty.

II. And be it enacted, That the word "Book" in this Act, shall include every Volume, part or division of a Volume, Pamphlet, Sheet of Letter Press, Sheet of Music, Map, Chart or Plan separately published.

III. Provided always and be it enacted, That the foregoing provisions of this Act (except in so far as may be otherwise directed in such Order as aforesaid of Her Majesty in Council) shall come into operation upon, from and after the day to be appointed for that purpose in any Proclamation of the Governor of this Province, signifying Her Majesty's Royal approval of this Act, and the issuing of such Order of Her Majesty in Council, and not before.

Preamble.

Imperial Act.
10 & 11 Vic. cap. 95.

Governor in Council
may impose a duty on
Foreign re-prints of
British Copyright
Works, &c.

Proviso.

Interpretation.

Commencement of
this Act.

CAP. VII.

An Act to amend the Laws relative to Hawkers and Pedlers.

[10th August, 1850.]

Preamble.

*Remained
16th Dec 1854*

Acts U. C. 56 G. 3,
c. 34, and L. C. 35,
G. 3, c. 8, amended.

Exemptions made.

WHEREAS it is expedient to exempt persons employed only for the purposes hereinafter mentioned from the obligation to take out Licenses as Hawkers or Pedlers: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the Act of the Parliament of Upper Canada, passed in fifty-sixth year of the Reign of King George the Third, and intituled, *An Act for granting to His Majesty Duties on Licenses to Hawkers, Pedlers and Petty Chapmen, and other trading persons therein mentioned*, or in the Act of the Parliament of Lower Canada, passed in the thirty-fifth year of the said Reign, and intituled, *An Act for granting to His Majesty duties on Licenses to Hawkers, Pedlers and Petty Chapmen, and for regulating their trade; and for granting additional duties on Licenses to persons for keeping houses of public entertainment, or for retailing wine, brandy, rum or other spirituous liquors in this Province, and for regulating the same, and for repealing the Act or Ordinance therein mentioned*, or in any other Act or Law relating to Hawkers or Pedlers, nothing in the said Acts, or any of them, shall render it necessary for persons in the employ of any Temperance, Benevolent or Religious Society in this Province, to take out Licenses as Hawkers or Pedlers, in order to enable them lawfully to sell and peddle Temperance Tracts and other moral and religious publications under the direction of such Society.

CAP. VIII.

An Act to amend the Currency Act of this Province.

[10th August, 1850.]

Preamble.

4 & 5 Vic. cap. 93.

Current value of dollars and half dollars altered.

WHEREAS it is expedient to amend the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to regulate the Currency of this Province*, in the manner hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the seventh section of the Act cited in the Preamble to this Act, the dollars and half dollars of the nations, weights and dates mentioned in the said section, shall not pass for five shillings and one penny, currency, and for two shillings and six pence half-penny, currency, respectively, but such dollars shall pass for five shillings, currency, and such half dollars for two shillings and six pence, currency, and no more, as shall also the dollars and half dollars of the same nations and weights, but of later date, to which the provisions of the said seventh section may be extended by proclamation under the ninth section of the said Act.

Silver coins may be struck for the use of this Province.

II. And be it enacted, That it shall be lawful for the Governor in Council to cause silver coins to be struck for circulation in this Province, which shall respectively pass for five shillings, two shillings and six pence, two shillings, one shilling and three pence, one shilling, six pence and three pence, currency, each, and shall be a legal tender at

at those rates to the amount of two pounds ten shillings currency, and no more, subject to the proviso in the tenth section of the Act aforesaid; and the intrinsic value of such silver coins shall bear the same proportion to their nominal value as the intrinsic value of British silver coins bears to the nominal value thereof.

III. And be it enacted, That it shall be lawful for the Governor in Council to cause gold coins to be struck for circulation in this Province, which shall respectively pass for one pound five shillings, one pound, twelve shillings and six pence, and ten shillings, currency, each, and shall be a legal tender at those rates to any amount; and the intrinsic value of such gold coins shall bear such proportion to the intrinsic value of the British sovereign, as the sums for which they respectively pass, shall bear to one pound four shillings and four pence currency.

Gold coins may be struck.

IV. And be it enacted, That the cost of such gold and silver coin and of importing the same, may be defrayed by the Governor out of the Consolidated Revenue Fund of this Province.

Cost how paid.

V. And be it enacted, That this Act shall commence and have force and effect upon, from and after the first day of January, one thousand eight hundred and fifty-one, and not before.

Commencement of this Act.

C A P. I X.

An Act to alter the rate at which certain Silver Coins shall be a Legal Tender.

[24th July, 1850.]

WHEREAS it is inexpedient that the Coins hereinafter mentioned should continue current at the rates now assigned to them by law: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to regulate the Currency of this Province*, the Silver Coins of Spain, of the several States of Peru, Chili, and Central America, and of the States of South America and Mexico, respectively, being less than half dollars, shall not in any case be a legal tender at any higher rates than the following, that is to say: The quarter dollar, at one shilling; the eighth of a dollar, at six pence; and the sixteenth of a dollar, at three pence: Provided always, that nothing herein contained shall be construed to make any of the said Coins a legal tender at the rates aforesaid, in any case in which they would not be a legal tender under the Act above cited, at the rates therein assigned to them respectively.

Preamble.

Current rate of certain Coins reduced from that fixed by 4 & 5 Vic. cap. 93.

C A P. X.

An Act to continue for a limited time the several Acts and Ordinances therein mentioned.

[10th August, 1850.]

WHEREAS it is expedient further to continue the Acts and Ordinances hereinafter mentioned, which would otherwise expire at the end of the present Session: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada,*

Preamble.

- and for the Government of Canada, and it is hereby enacted by the authority of the same, That the Act of the Parliament of this Province, passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to regulate the Fisheries in the District of Gaspé*; the Act of the said Parliament, passed in the eighth year of Her Majesty's Reign, and intituled, *An Act for the better preservation of the Peace, and the prevention of riots and violent outrages at and near Public Works while in progress of construction*; the Act of the said Parliament, passed in the same year of Her Majesty's Reign, and intituled, *An Act to amend the Act and Ordinance therein mentioned, relative to the Registration of Titles to and incumbrances upon Real Property in Lower Canada*; the Act of the said Parliament, passed in the same year of Her Majesty's Reign, and intituled, *An Act for the relief of Insolvent Debtors in Upper Canada, and for other purposes therein mentioned*; the Act of the said Parliament, passed in the same year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and better to encourage Agriculture in Lower Canada, by the establishment of Agricultural Societies therein*; excepting so much of the said last mentioned Act as is repealed by the Act of the said Parliament, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to amend the Act for the encouragement of Agriculture by the establishment of Agricultural Societies in Lower Canada*, and the said last mentioned Act; the Act of the said Parliament, passed in the said ninth year of Her Majesty's Reign, and intituled, *An Act to allow the formation of more than one Agricultural Society in a County in Lower Canada, and for the relief of the Society for the County of Montreal*; the Act of the said Parliament, passed in the same year of Her Majesty's Reign, and intituled, *An Act to empower Commissioners for inquiring into matters connected with the public business, to take evidence on oath*; the Act of the said Parliament, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to enlarge the powers of the Trinity House of Montreal in certain cases where the Public Health of the City may be endangered*; the Act of the said Parliament, passed in the eleventh year of Her Majesty's Reign, and intituled, *An Act to provide for the Inspection of Butter in Quebec and Montreal*; the Act of the said Parliament, passed in the said eleventh year of Her Majesty's Reign, and intituled, *An Act to amend the Laws relating to the Incorporation of the City of Montreal*; and the Act of the Parliament of the late Province of Lower Canada, passed in the second year of the Reign of His late Majesty, King George the Fourth, and intituled, *An Act for better regulating the Common of the Seigneurie of Laprairie de la Madeleine*; the Act of the said Parliament, passed in the same year of the same Reign, and intituled, *An Act to enable the Inhabitants of the Seigniorie of La Baie St. Antoine, commonly called La Baie du Febvre, to provide for the better regulation of the Common in the said Seigneurie, as amended and extended by the Act of the said Parliament, passed in the fourth year of the same Reign, and intituled, An Act to authorize the Chairman and Trustees of the Common of the Seigneurie of the Baie Saint Antoine, commonly called the Baie du Febvre, to terminate certain disputes relating to the limits of the said Common, and for other purposes appertaining to the same, and the said last mentioned Act*; the Act of the said Parliament, passed in the ninth year of the same Reign, and intituled, *An Act to provide for the more effectual extinction of secret incumbrances on lands than was heretofore in use in this Province*; the Act of the said Parliament, passed in the same year of the same Reign, and intituled, *An Act to prevent fraudulent Debtors evading their Creditors in certain parts of this Province*; the Act of the said Parliament, passed in the same year of the same Reign, and intituled, *An Act to facilitate the proceedings against the estates and effects of Debtors in certain cases*; the Act of the said Parliament, passed in the same year of the same Reign, and intituled, *An Act to alter and amend an Act passed in the sixth year of His Majesty's Reign, intituled, 'An Act to authorize the inhabitants of the Fief 'Grosbois, in the County of Saint Maurice, to make Regulations for the Common of 'the said Fief'*; the Act of the said Parliament, passed in the same year of the same Reign,
- 4 & 5 Vic. c. 36.
8 Vic. c. 6.
8 Vic. c. 27.
8 Vic. c. 48.
8 Vic. c. 53.
9 Vic. c. 14.
9 Vic. c. 24.
9 Vic. c. 38.
10 & 11 Vic. c. 1.
11 Vic. c. 7.
11 Vic. c. 11.
L. C.
2 Geo. 4, c. 8.
2 Geo. 4, c. 10.
9 Geo. 4, c. 26.
9 Geo. 4, c. 20.
9 Geo. 4, c. 27.
9 Geo. 4, c. 28.
9 Geo. 4, c. 32.

Reign, and intituled, *An Act for the preservation of the Salmon Fisheries in the Counties of Cornwallis and Northumberland*; the Act of the said Parliament, passed in the first year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to encourage the destruction of wolves*; the Act of the said Parliament, passed in the third year of the same Reign, and intituled, *An Act further to suspend certain parts of an Act or Ordinance therein mentioned, and to consolidate and further to continue for a limited time the provisions of two other Acts therein mentioned, for more effectually ascertaining the damages on protested Bills of Exchange, and for determining disputes relating thereto, and for other purposes*; the Act of the said Parliament, passed in the sixth year of the same Reign, and intituled, *An Act to regulate the fees of persons employed by Justices of the Peace, in the Country Parishes, as Clerks or Bailiffs in certain cases*; the Act of the said Parliament, passed in the same year of the same Reign, and intituled, *An Act to provide for the medical treatment of sick mariners*; the Act of the said Parliament, passed in the same year of the same Reign, and intituled, *An Act to repeal a certain Act therein mentioned, and more effectually to remedy divers abuses prejudicial to agriculture*; the Ordinance of the Special Council of the said Province, passed in the third Session of the said Council, held in the second year of Her Majesty's Reign, and intituled, *An Ordinance to amend the Act passed in the thirty-sixth year of the Reign of King George the Third, chapter nine, commonly called the Road Act*; the Act of the Parliament of the late Province of Upper Canada, passed in the eleventh year of the Reign of His late Majesty, King George the Fourth, and intituled, *An Act to authorize the Quarter Sessions of the Home District to provide for the relief of Insane Destitute persons in that District*; the Act of the said Parliament, passed in the third year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to continue an Act passed in the eleventh year of His late Majesty's Reign, intituled, 'An Act to authorize the Quarter Sessions of the Home District to provide for the relief of Insane Destitute persons in that District, and to extend the provisions of the same to the other Districts of this Province'*; and the Act of the said Parliament, passed in the sixth year of the same Reign, and intituled, *An Act to repeal an Act passed in the forty-ninth year of the Reign of His late Majesty, King George the Third, intituled, 'An Act to encourage the destroying of wolves in this Province,' and to make further provision for the extermination of those destructive animals—shall be, and all and every of the said Acts and Ordinances are hereby continued to the First day of January next, and from thence until the end of the then next ensuing Session of the Provincial Parliament, and no longer.*

9 Geo. 4, c. 51.

1 Wm. 4, c. 6.

3 Wm. 4, c. 14.

6 Wm. 4, c. 19.

6 Wm. 4, c. 35.

6 Wm. 4, c. 56.

2 Vic. (3) c. 7.

U. C.

11 Geo. 4, c. 20.

3 Wm. 4, c. 45.

6 Wm. 4, c. 29,
continued.

II. And be it enacted, That the Act of the Parliament of this Province, passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to repeal an Ordinance of Lower Canada, intituled, an Ordinance concerning Bankrupts, and the administration and distribution of their estates and effects, and to make provision for the same object throughout the Province of Canada*; and the Act amending the same, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to continue and amend the Bankrupt Laws now in force in this Province*, in so far only as the same are continued by and for the purposes mentioned in the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to make provision for the continuance and completion of proceedings in Bankruptcy, now pending*, and the said last mentioned Act, shall respectively be and they are hereby continued and shall remain in force until the said first day of January next, and thence until the end of the then next ensuing Session of the Provincial Parliament, and no longer.

7 Vic. c. 10.

9 Vic. c. 30.

And 12 Vic. c. 18
continued to a certain
extent.

III. Provided always, and be it enacted, That nothing herein contained, shall prevent or be construed to prevent the effect of any Act passed or to be passed during the present Session, repealing, amending, rendering permanent, or continuing to any further period than that herein appointed, any of the Acts or Ordinances hereinbefore mentioned and continued.

Proviso: this Act to
be controlled by any
Act passed this
Session.

CAP. XI.

An Act to continue for a limited time therein mentioned, the Act for the better defence of the Province, and to regulate the Militia thereof.

[10th August, 1850.]

Preamble.

9 Vic. c. 28.

Continuation.

Proviso: for case of war.

WHEREAS it is expedient to continue for a limited time the Act of the Parliament of this Province, passed in the ninth year of her Majesty's Reign, chaptered twenty-eight, and intituled, *An Act to repeal certain Laws therein mentioned to provide for the better defence of this Province, and to regulate the Militia thereof*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Act shall be, and the same is hereby continued in force for three years from the passing of this Act, and from thence to the end of the next ensuing Session of Parliament: Provided always, nevertheless, that if at the time the said Act would expire, according to the provisions of this Act, there should happen to be war between Her Majesty, Her Heirs or Successors and the United States of America, then and in such case, the said Act herein referred to, shall continue and be in force until the end of the Session of Parliament next ensuing the Proclamation of Peace between Her Majesty, Her Heirs and Successors and the said United States, and no longer.

CAP. XII.

An Act to revive and continue for a limited time the Act making provision for a Geological Survey of this Province.

[24th July, 1850.]

Preamble.

Period mentioned in sec. 2, of 8 Vic. c. 10, extended.

WHEREAS the period limited in the second section of the Act hereinafter cited as that during which the sum of money therein mentioned should be annually applied to defray the expenses of the Geological Survey directed by the said Act, hath expired, and it is expedient to revive and continue the said appropriation and the said Survey: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the second section of the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to make provision for a Geological Survey of this Province*, the annual appropriation made by the said section for the purposes of the said Act shall be and is hereby revived, and shall continue during five years from the passing of this Act, and thence until the end of the then next Session of the Provincial Parliament, and shall be held to have been so continued from the expiration of the period of five years mentioned in the said section, and all the provisions of the said Act shall be revived, and shall apply to the said appropriation as hereby continued.

CAP. XIII.

An Act to amend the Laws relating to the Public Works of this Province.

[10th August, 1850.]

WHEREAS it is expedient and necessary to alter, amend and enlarge a certain Act passed in the Session held in the ninth year of the Reign of Her present Majesty, intituled, *An Act to amend the Law constituting the Board of Works*; and also another Act passed in the Session which was held in the tenth and eleventh years of Her said Majesty's Reign, intituled, *An Act to amend the Act intituled, An Act to amend the Law constituting the Board of Works*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of An Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Commissioners of Public Works shall have power for and in the name of Her Majesty, Her Heirs and Successors, to acquire and take possession of any lands or real estate, streams, waters or water-courses adjoining or lying in the neighbourhood of any public work under their management and control, which in their judgment they may deem requisite for the enlargement or improvement of such work, or for obtaining better access thereto, and to enable them to acquire and take possession of all such lands or other property, the said Commissioners are hereby vested with all the powers, rights and privileges conferred upon them by the first recited Act, for the purpose of enabling them to acquire such lands or real estate, streams, waters and water-courses as are contemplated by the said Act hereinbefore first recited, and to take possession of them whenever the owners or occupiers thereof refuse or fail to agree with the said Commissioners for the purchase thereof; and the said Commissioners shall have full power and authority whenever they deem it expedient to sell, alien and convey to any person or body corporate, any lands or other real estate which they may have under their control and which may not be required for the use of any such Public Work, the proceeds of all which sales shall be by the said Commissioners accounted for in due course of law.

II. And be it enacted, That no claim for land or other property alleged to have been taken for or injured by the construction, improvement, maintenance or management of any public works, or for damages alleged to have been occasioned either directly or indirectly to any such land or other property by the construction, maintenance, or management of any such public work, and no claim arising out of or connected with the execution of any contract or agreement for the performance of any such public work or of any part thereof, shall be entertained by the Arbitrators appointed or to be appointed under the first hereinbefore recited Act, unless such claims and the particulars thereof shall have been filed at the office of the said Commissioners, within six calendar months next after the loss or injury complained of, when such claim shall relate to the taking of or damage occasioned to land or other property; and when such claim relates to or is alleged to arise out of the execution or fulfilment of any contract or agreement for the construction of any public work, unless the same shall have been filed at the said office, within three calendar months next after the date of the final estimate made under such contract: Provided that nothing herein contained shall prevent the said Arbitrators from entertaining, investigating or awarding upon any claims filed within the delay allowed by any former Act.

III. And be it enacted, That whenever the said Commissioners cannot effect an amicable settlement of any such claim, they shall refer the same to the said Arbitrators within sixty days from the filing thereof; and the said Arbitrators shall proceed to investigate and make their award thereon, at such time and place as the Commissioners shall appoint.

Preamble.

9 V. c. 37.

10 & 11 V. c. 24.

Commissioners of Public Works empowered to take lands, waters, &c., in certain cases.

And may alienate the same, when no longer necessary.

Claims for land or damages, or arising out of contracts, to be filed within a certain time.

Proviso.

Time and place of Arbitration.

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All pending cases to be disposed of forthwith.

Rules to be observed by the Arbitrators in estimating the value of lands taken, &c.

Arbitrators to be bound by the stipulations of any contract.

As to interest.

Penalties not to be deemed comminatory.

Commissioners to make drains in certain cases.

Drains and ditches to be kept in repair by parties interested.

Proviso: such parties may claim compensation in certain cases.

Recital.

IV. And be it enacted, That the said Arbitrators shall within two months next after the passing of this Act, meet at such time and place as the said Commissioners shall appoint, and shall continue to meet from day to day until all claims filed in the Office of the Public Works within the time allowed by law shall have been heard, investigated, awarded upon and determined.

V. And be it enacted, That the said Arbitrators in estimating and awarding the amount of damages to be paid by the said Commissioners to any claimant for injury done to any land or real property, and in estimating the value of lands taken by the said Commissioners under this or any former Act, shall not only take into consideration the advantages which may have accrued or are likely to accrue to such land or real property by reason of the work or works, in the construction or maintenance of which such injury shall have been occasioned, but shall also estimate or assess such land or real property in accordance with the value thereof at the time when the injury complained of was occasioned, and not according to the value of the adjoining lands at the time of making their award.

VI. And be it enacted, That the said Arbitrators in investigating and awarding upon any claim arising out of any contract in writing, shall be bound to decide in accordance with the conditions and stipulations contained in such contract, and the said Arbitrators shall not in any case have power to award compensation to any claimant on account of his having expended larger sums of money in the performance of any work than the sum or sums for which he had contracted or agreed to perform such work; nor shall the said Arbitrators have power to award to such claimant any amount of interest upon any sum of money which they may consider to be due to such claimant in the absence of any contract or agreement in writing, stipulating payment of such interest; and no clause in any such contract in which any drawback or penalty shall be stipulated for the non-performance of or neglect to complete any public work, or to fulfil any of the covenants contained in such contract shall be considered as comminatory, but the same shall be taken, construed and enforced as importing an assessment by mutual consent of the damages arising out of such non-performance or neglect.

VII. And be it enacted, That it shall be the duty of the Commissioners of Public Works, either to construct back ditches or drains for carrying off all water accumulating behind the banks of all Public Canals under their control or to pay a reasonable amount of compensation to the owners or proprietors of the Lands injured by the accumulation of such water, and whenever the said Commissioners shall have constructed any such ditches or drains, and whenever the said Commissioners shall have made and put up any fence or fences dividing the property of private individuals from any bridge, canal or other work heretofore constructed or which shall hereafter be constructed at the public expense, the said Commissioners of Public Works, and the Government of the Province, shall be forever released and discharged from all liability or obligation in regard to such fences, ditches or drains which shall thenceforward be maintained, repaired and renewed, when necessary, by the adjoining proprietors, who shall be alone liable for any damages arising out of the disrepair of any such fences, ditches or drains: Provided always, that whenever the provisions of this Act shall have the effect of imposing upon any person any liability or obligation beyond what would have otherwise fallen upon him in regard of such fences, ditches or drains, it shall be lawful for such person by one claim filed in the manner and within the time required by this Act, to demand compensation for all losses, injuries and expenses accrued or incurred or which thereafter might accrue or be incurred to and by himself, his heirs, assigns and legal representatives, by reason of such additional liability or obligation; and it shall be lawful for the said Arbitrators in all such cases to award such compensation as they may deem sufficient to cover all such losses, injuries and expenses for the future as well as for the past.

VIII. And inasmuch as the said Commissioners fulfil all duties and exercise all powers conferred upon them by law as the servants or agents of Her Majesty, in respect of the Public Works of this Province: And inasmuch as all property acquired by them under

under the authority of law is acquired for and vested in Her Majesty: And inasmuch as the said Commissioners are not by law clothed with any Corporate capacity: Be it declared and enacted, That the said Commissioners cannot and shall not as such Commissioners sue or be sued or impleaded in any Court of Law or Equity in this Province, for any cause or under any pretence whatever: Provided always, that in case any claim should arise against the said Commissioners of a nature different from those described in this Act, or the Acts hereinbefore recited, which the said Commissioners are unable to settle amicably, then every such disputed claim (unless the same be made for salary, wages, or allowances, by any subordinate officer or person in the employ of the said Commissioners) shall and may be referred to the said Arbitrators, who shall have power and authority, and are hereby required, to investigate and give their award upon such disputed claim, in like manner as hereinbefore and in the said recited Acts provided for their award upon the claims therein referred to: Provided always, That no such disputed claim shall be entertained by the said Arbitrators unless the same, with the particulars thereof, shall have been filed at the office of the said Commissioners within six calendar months after the same may have arisen or accrued.

Commissioners not to be sued.

Proviso: all disputes with them may be referred to the Arbitrators.

Proviso.

IX. And be it enacted, That whenever it shall become necessary to resort to any legal proceedings before any Court of Law or Equity in any part of this Province, for the purpose of enforcing performance of any contract or obligation made or entered into by any person with the said Commissioners, or for any other purpose connected with the duties and powers conferred upon the said Commissioners by this or the said above recited Acts, all such proceedings shall be brought or instituted in the name of Her Majesty's Attorney-General or Solicitor-General for that part of the Province in which such proceedings shall be had, for and in behalf of Her Majesty.

Commissioners to act on behalf of the Queen.

X. And be it enacted, That the said Arbitrators, in investigating any claim referred to them, shall cause all legal evidence offered on either side, to be taken down and recorded in writing, and shall make or cause to be made a list of all plans, receipts, vouchers, documents and other papers which may be produced before them during any such investigation: And with a view to enable the said Arbitrators to perform their several duties with accuracy and despatch, it is hereby enacted, that the Governor of this Province shall appoint a fit and proper person to act as Clerk to the said Arbitrators for Lower Canada, and another to act as Clerk to the Arbitrators for Upper Canada; And the said Governor shall have power from time to time to remove such Clerks and to put and appoint others in their places, as and whensoever he may see fit so to do; And each of the said Clerks shall be allowed the sum of Fifteen Shillings for every day of his attendance to his duties as such Clerk.

Arbitrators to take evidence in writing, &c.

Clerks to be appointed.

Remuneration of Clerks.

XI. And be it enacted, That it shall be the duty of the said Clerks to deliver to any person requiring the same certified copies of any depositions, documents or other papers taken or filed before the said Arbitrators: Provided always, that before delivering any such certified copies the said Clerk shall be entitled to receive payment at the rate of Six Pence for every hundred words contained in the same, and One Shilling additional for such certificate.

Clerks to furnish copies of papers.

Proviso.

XII. And with a view to remove various doubts and difficulties which have arisen in Lower Canada as to the mode of proceeding which should be adopted to obtain the revision of awards given by such Arbitrators: Be it enacted, that from and after the passing of this Act, any Claimant who shall be dissatisfied with any award made or pronounced by the said Arbitrators in Lower Canada, may appeal from such award by petition, addressed to the Superior Court, sitting in Term, or to any two Judges thereof, sitting in vacation in the District in which such award shall have been made or pronounced, praying such Court or Judges, for reasons to be set forth at length in such petition, to revise and re-consider the same, and to set aside and annul the same, either wholly or in part and if in part, stating what part, or to amend or reform the same; and it shall be lawful for Her Majesty's Attorney General or Solicitor General for Lower Canada, for the time being, to appear in such Court or before such Judges to answer such petition for and on behalf of Her said Majesty; And it shall be lawful for

Appeal given to either party from award of Arbitrators.

Powers of the Court.

for Her Majesty's Attorney General or Solicitor General, whenever the said Commissioners shall be dissatisfied with any award made or pronounced by such Arbitrators, to apply in like manner by information, for and on behalf of Her said Majesty, to the said Court or to the said Judges, for reasons to be set forth in such information, to set aside or annul such award, either wholly or in part, or to amend or reform the same; and it shall be lawful for such Court or Judges either to amend or reform such award or to set aside and annul the same; and if such Court or Judges shall be of opinion that the Claimant in any such appeal is entitled to recover an amount of compensation larger than that awarded by the Arbitrators, the Claimant shall be entitled to receive from the said Commissioners not only the amount of compensation specified in the judgment of the said Court, but also such costs as the said Court or Judges may award upon such appeal; and when in any appeal instituted by Her Majesty's Attorney General or Solicitor General, such Court or Judges shall set aside or annul any such award, or shall diminish the amount of compensation awarded to the Claimant, then it shall be lawful for such Court or Judges to award costs to Her Majesty's Attorney General or Solicitor General, as the case may be, for and in behalf of Her Majesty.

As to costs.

What evidence shall be admissible on appeal.

XIII. And be it enacted, That in every such appeal the Arbitrators shall be bound to produce before the said Superior Court or the said Judges all such evidence as shall have been taken down and recorded before them, together with all plans, receipts, vouchers and other documents which shall have been submitted to and filed before them in relation to such claim; and the said Court or the said Judges shall not allow any other evidence to be adduced before them upon any such petition in appeal except when the said Arbitrators shall have rejected and refused to record evidence by law admissible: Provided always, that no such appeal from any such award shall lie or be entertained unless such Petition in appeal shall have been filed before the said Court or the said Judges within four months from the date of such award and unless due notice of such Petition shall have been given at least twenty full days before the filing of such Petition.

Proviso: within what time appeal must be brought.

Where notices to the Commissioners may be served.

XIV. And be it enacted, That notice of any proceeding had or to be had under the authority of this Act or of either of the above recited Acts, shall be given to the said Commissioners at their Office, if such notice relate to a proceeding had or to be had in that one of the two sections of the Province respectively known as Upper Canada and Lower Canada, in which such Office for the time being is situate, but if it relate to a proceeding had or to be had in the other section of the Province, such notice shall be served at some place which shall be appointed by the said Commissioners as their domicile elect for such other section of the Province; Provided always, that the said Commissioners shall give notice of the election of such domicile by inserting an advertisement once every month in the Canada Gazette, specifying the place where they shall have elected the same.

Proviso.

Act not to affect pending cases.

XV. And be it enacted, That nothing in this Act contained shall prevent or be construed to prevent any proceedings now pending in any Court of law in Lower Canada, and in or to which the said Commissioners have become or have been declared to be parties from being dealt with as if this Act had not been passed.

Commissioners may allow certain moneys to be expended by Municipal authorities.

XVI. And be it enacted, That whenever any sum of money has or shall have been appropriated by any Act of the Legislature of this Province, for the purpose of making or improving any Road or highway, the said Commissioners may in their discretion intrust the whole or any part of such appropriation to the Municipal Councils of the Municipalities through which such road or highway shall pass to be appropriated by such Municipal Councils in the manner and for the purposes by law provided.

Inconsistent enactments repealed.

XVII. And be it enacted, That any Law or Act, or any part or parts of any Act or Acts repugnant to or inconsistent with the present Act shall be and the same are hereby repealed.

An Act to extend the Acts for the formation of Companies for constructing Roads and other Works, to Companies formed for the purpose of acquiring Public Works of like nature.

[24th July, 1850.]

WHEREAS it is expedient to extend the benefit of the Acts hereinafter mentioned, to Companies to be formed for the purpose of acquiring and holding Public Works, or property under the provisions of the Act authorizing the transfer of such works or property to any such Company or to other parties therein designated: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That, subject to the provisions of this Act, the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to authorize the formation of Joint Stock Companies for the construction of Roads and other Works in Upper Canada*, and of the Act passed in the year last aforesaid and intituled, *An Act to authorize the formation of Joint Stock Companies in Lower Canada, for the construction of macadamized Roads, and of Bridges and other Works of like nature*, shall be and are hereby extended and shall apply to any Company to be formed for the purpose of acquiring for ever or for any term of years, any of the Public Roads, Harbours, Bridges or Public Buildings which may be lawfully transferred to any such Company under the Act passed in the year last aforesaid and intituled, *An Act for the better management of the Public Debt, Accounts, Revenue and Property*, or for the purpose of so acquiring and of improving or extending (or both) any such Public Work, as fully and effectually as if such purpose were expressly enumerated in the said Acts firstly and secondly mentioned respectively, among the purposes for which Companies may be formed under the same, the form of the instrument of association given in the schedules to the said Acts respectively, being varied so as to express that the Company is formed under one of the said Acts as amended by this Act, and for what purpose it is so formed: Provided always, that notwithstanding any thing in either of the said Acts, no Company to be formed under this Act for the purpose of acquiring any such Public Work as aforesaid (whether with or without the intention of extending the same) shall be liable to be opposed or prevented from acquiring such work or from using and working the same, by any Municipal Council or other party, nor shall the Company be bound to make any report respecting such work to any Municipal authority, nor shall such Municipal authority or the Crown have the right of taking such work at the end of any term of years, but the provisions of the said Acts respectively, as to such opposition and prevention, or to such report, or to the taking of the works and property of the Company by any Municipal authority or by the Crown, shall apply only to the extension of the same beyond the local limits of the work when transferred to the Company; nor shall any of the provisions of the said Acts which shall be inconsistent with any lawful provision or condition in any Order in Council legally made under the Act thirdly mentioned, or with the rights transferred by the same, apply to the Company to which such Order in Council shall relate; but nothing herein contained shall be construed to prevent the reservation in any such Order of the power of taking any such work with or without any such extension, and by the Crown or any Municipal authority, on the terms and conditions therein to be expressed. Provided always that the thirty-fifth section of the Act first above cited, and thirty-seventh section of the Act secondly above cited shall respectively apply to Roads, Bridges and other Works transferred to any Company and to the Company to whom the same shall have been transferred in relation to such Roads, Bridges and Works.

Preamble.

Act 12 Vic. cap. 56,
and 12 Vic. cap. 84,
extended to companies
formed for purchasing
public works under 12
Vic. cap. 5.

Proviso: such companies not liable to certain provisions of the said Acts.

Proviso: certain sections of the said Acts to apply.

What shall be the maximum Tolls to be taken by any such company.

12 Vic. cap. 4.

Proviso: as to exemptions from Toll.

Provision in favor of parties residing within a certain distance of the limits of any City or incorporated Town.

Order in Council transferring any public work may extend to certain matters.

Proviso: certain powers to be reserved, &c.

II. And be it enacted, That the Tolls to be taken by any Company to be formed for the purposes aforesaid, on any such Public Work as aforesaid, not being a Road, shall not be regulated by the provisions of the Acts firstly and secondly mentioned, respectively, but the maximum Tolls to be levied on such work by the Company shall be the maximum Tolls which can be lawfully levied on such work under the Act passed in the year last aforesaid and intituled, *An Act to make better provision with regard to the Tolls to be levied on the Public Provincial Works, and for other purposes relative to the said Works*, unless some lower maximum be fixed (as it may be) by Order in Council transferring the work to the Company or by some further order amending the same, made with the consent of the Company, and the Tolls to be levied on any Road, or on any extension of such other Public Work shall alone be regulated by the Acts firstly and secondly mentioned respectively in the absence of any special provision for lower rates in the Order in Council as aforesaid: Provided always, that no exemption from Toll on any Road or other Public Work so transferred as aforesaid or on any extension thereof, shall be valid against any Company to be formed under this Act, except such only as can be validly claimed under the Act firstly or secondly mentioned (as the case may be) on works constructed under the authority thereof, unless such exemption from Toll be stipulated (as the case may be) in the Order in Council transferring such Public Work to the Company.

III. And be it enacted, That it shall always be lawful for any party residing on the line of any Road transferred to any Company or Municipal Corporation under the provisions of this Act and of the Acts therein cited, and within half a mile of the limits of any City or Incorporated Town, to commute with such Company or Municipal Corporation for a certain sum per month to be paid by such party to the Company or Corporation for passing and re-passing through the Toll-gate between the residence of such party and the limits of such City or Town, and in default of agreement such commutation may be fixed by arbitration, each party appointing one arbitrator, and the two arbitrators a third, and the decision of any two of such arbitrators being final, and in default of commutation either by agreement or award of arbitration, such Company or Municipal Corporation shall be entitled to charge such party or his servants and others passing such gate with his carriages or vehicles, horses or cattle, such Tolls only as shall bear the same proportion to the Tolls per mile then charged by the Company or Municipal Corporation to other parties as the distance between the limits of the said City or Town and the residence of the party first aforesaid shall bear to one mile.

IV. And for avoiding doubts, Be it enacted, That the provisions and conditions of any Order in Council made under the Act thirdly above mentioned, may extend to the mode of adjusting and determining any difference which may arise between the Crown and any Company or Municipal Corporation as to their respective rights under the same, or to the reservation of the right of re-entry by the Crown into possession of any Public Work on the default of such Company or Corporation to perform the conditions agreed upon, and to the vesting in any Sheriff power to give possession of such Public Work to any Public Officer for the Crown, on any warrant under the hand and seal of the Governor to be addressed to such Sheriff, reciting such default and commanding him to give possession to such Officer for the Crown as aforesaid; and that no enactment to be made for the purpose of enforcing the provisions of any such Order in Council as aforesaid, shall be deemed an infringement of the rights of the Company or Municipal Corporation to which it shall relate: but nothing in this section shall prevent the enforcement of the rights of the Crown in any legal manner not inconsistent with the provisions and conditions of any such Order in Council as aforesaid.

V. Provided always, and be it enacted, firstly, That no Road, Bridge or Public Work shall be transferred to any Company without the reservation of power on the part of the Government to resume the same at any time after the expiration of a period which shall not exceed ten years, on conditions to be embodied in the order in Council transferring it: and no such Road, Bridge or Public Work shall be leased to any Company

Company for a longer period than ten years: Provided always, secondly, That no Road, Bridge or Public Work shall be sold or leased to any Company unless security, real or personal, shall have been given to the satisfaction of the Governor in Council, for an amount equal to ten per centum of the actual value of such Road, Bridge or Public Work in case of sale, or on the estimated value of such Work in case of lease, and such security shall be forfeited to the Crown in case of non-compliance with the conditions of such sale or lease: Provided always, thirdly, That in every instance one of the conditions of the sale or lease of any Road, Bridge or Public Work shall be, that such Work shall be kept in thorough repair, and that for all the purposes of such contract, sale or lease, the sufficiency of such repair shall be ascertained and decided on by such Engineer as shall be appointed to examine the same by the Commissioners of Public Works in this Province.

Proviso: security to be taken.

Proviso: condition that the work shall be kept in complete repair.

C A P. XV.

See Proclamation

An Act to make better provision with regard to the repairing of Roads within the limits of incorporated Cities and Towns, and of Roads and Bridges which having been under the control of the Commissioners of Public Works may hereafter be released from such control.

*17 April
1837 in Gazette
26 April
17 June
1853*

[10th August, 1850.]

WHEREAS it is expedient to remove all doubt on certain points with regard to the Roads and Highways within the limits of the several Cities and incorporated Towns in this Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the right to use as Public Highway all Roads, Streets and Public Highways within the limits of any City or Incorporated Town in this Province, (except in so far as the right of property or other right in the Land occupied by the same Highways may have been expressly reserved by some private party when it was first used as such Road, Street or Highway, and except as to any Concession Road or Side Road within any such City or Town where the persons now in possession or those under whom they claim may have laid out Streets in such City or Town without any compensation therefor in lieu of such Concession or Side Road,) shall be vested in the Municipal Corporation of such City or Incorporated Town, and such Roads, Streets and Highways shall be maintained and kept in proper repair so long as they shall remain open as such, by and at the cost of such Corporation whether they were originally opened and made by such Corporation, or by the Government of this Province, or of either of the late Provinces of Upper or Lower Canada, or by any other authority or party; and if the Municipal Corporation of any such City or Incorporated Town shall fail to keep in repair any such Road, Street or Highway within the limits thereof, such default shall be a misdemeanor for which such Corporation shall be punished by fine in the discretion of the Court before whom the conviction shall be had; and such Corporation shall be also civilly responsible for all damages which may be sustained by any party by reason of such default, provided the action for the recovery of such damages be brought within three months after the same shall have been sustained, but not otherwise.

Preamble.

Roads, &c., in Cities or Towns vested in the Corporation, who shall keep them in repair.

Liability for failure to keep in repair.

II. And be it enacted, That any Public Road or Bridge made, built or repaired at the expense of the Province and now under the management and control of the Commissioners of Public Works may by Proclamation of the Governor issued by and with the advice and consent of the Executive Council, be declared to be no longer under the

How Roads and Bridges made by the Province, shall be kept in repair, if released from the control

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of the Commissioners of Public Works.

12 V. c. 4.

Proviso: as to the Bridge over the river Don at Toronto.

the management and control of the said Commissioners, and upon, from and after a day to be named in such Proclamation, such Road or Bridge shall cease to be under the management and control of the said Commissioners, and no Tolls shall thereafter be levied thereon under the authority of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to make better provision with regard to the Tolls to be levied on the Public Provincial Works and for other purposes relative to the said Works*, but such Road or Bridge shall be under the control of the Municipal Authorities of the locality and of the Road Officers thereof, in like manner with other Public Roads and Bridges therein, and shall be maintained and kept in repair under the same provisions of law, which are hereby declared to extend and shall apply to such Road or Bridge: Provided always, and be it declared and enacted, that the Bridge over the River Don, on the Kingston Road, at the east end of the City of Toronto, and the said Kingston Road east of the said River shall not be held to be within the said City or the Liberties thereof, or be under the control of the Corporation thereof, but shall remain under the control of the Commissioners of Public Works, or of any party to whom they may be transferred by order of the Governor in Council.

C A P . X V I .

An Act to limit the time for redeeming Land Scrip.

[10th August, 1850.]

Preamble.

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No Land Scrip to be redeemable or receivable in payment unless offered within one year from the passing of this Act.

WHEREAS it is desirable to call in all Land Scrip heretofore issued, or that may hereafter be issued, at as early a day as may be consistent with justice to the parties holding the same: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That no Land Scrip heretofore issued, or that may hereafter be issued, under the authority of any Act, Ordinance or Law in force in this Province, shall be redeemable by the Provincial Government, or receivable in payment upon sales, or for deferred payments of instalments or other dues of or upon Public Lands, or otherwise, unless the same be presented and offered in payment at the office of the Commissioner of Crown Lands, or at the office of one of his Agents, within one year from the passing of this Act; and all such Scrip which shall not be presented and offered in payment within the period aforesaid, shall be null and void: any Act, Ordinance or Law to the contrary notwithstanding.

C A P . X V I I .

An Act to provide for the transfer of the management of the Inland Posts to the Provincial Government, and for the regulation of the said Department.

[10th August, 1850.]

Preamble.

Imperial Act, 12 & 13 Vic. cap. 66.

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WHEREAS by the Act of the Parliament of the United Kingdom, passed in the Session held in the twelfth and thirteenth years of Her Majesty's Reign, and intituled, *An Act for enabling Colonial Legislatures to establish Inland Posts*, the Legislatures or proper legislative authorities of Her Majesty's Colonies are empowered, by Acts, Laws or Ordinances, to be from time to time for that purpose made and enacted, in the manner and subject to the conditions of law required in respect of Acts, Laws or Ordinances of such Legislatures or legislative authorities, to make such provisions as such legislatures or legislative authorities may think fit, for and concerning the establishment, maintenance and regulation of Posts or Post Communications within such

14 & 15 Vic (cap 66)
16 Vic

such Colonies respectively, and for charging rates of postage for the conveyance of letters, packets, newspapers and other printed papers, by such Posts or Post Communications, and for appropriating the Revenue to be derived therefrom, provided that where in any Colony Her Majesty's Post Master General shall have established any Post or Post Communication, and his powers and privileges in relation to such Post or Post Communication shall not have determined under the said Act, no such Act, Law or Ordinance as aforesaid, shall take effect unless assented to by Her Majesty, with the advice of Her Privy Council, nor until the time when such assent shall be proclaimed in the Colony, or such subsequent time as in the order of Her Majesty in Council, by which the assent to such Act, Law or Ordinance may be signified, shall be fixed in that behalf: And whereas it is expedient that a uniform and cheap rate of postage should be established throughout the several Colonies of British North America, and with a view to the establishment thereof, the Local Governments of the said Colonies have agreed upon certain conditions hereinafter mentioned and forming part of the provisions of this Act, and it is therefore expedient to exercise the powers so vested as aforesaid in the Legislature of this Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That this Act shall come into force at and from the time when the assent of Her Majesty thereto with the advice of Her Privy Council shall be proclaimed in this Province, or at such subsequent time as in the order of Her Majesty in Council by which the assent to this Act may be signified, shall be fixed in that behalf, and not before; and that at, from and after the time so fixed, the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to make provision for the management of the Post Office Department whenever it shall be transferred to the Provincial Government*, shall be repealed, and all other Acts or parts of Acts or provisions of Law relative to matters subject to the control and jurisdiction of the Provincial Legislature, and with regard to which provision is made by this Act, shall cease to be in force in this Province, except in so far as may be otherwise hereinafter provided; and excepting in so far as regards any postage, duty or sum of money due before the said repeal shall take effect, or any engagement contracted, penalty incurred, or offence committed before that time, which shall and may be received, collected, enforced, recovered and punished, under such Acts, parts of Acts and provisions of Law and as to which they shall remain in full force and effect: Provided always, that nothing in this Act shall be construed as intended to derogate from or impair the effect of any Act of the Parliament of the United Kingdom, or of any regulation or order made under such Act, or to affect the privileges, powers or authorities of Her Majesty's Post Master General, his Deputies, Servants or Agents, or of the Commissioners of Her Majesty's Treasury, otherwise than as respects the Posts or Post communications within this Province, and the rates of Postage to be charged for the conveyance of letters and other things by Post within the same: and provided also, that any Commission, appointment or regulation made before this Act shall be in force, but limited to take effect only at some time after it shall be in force, shall at and after the time so limited be as valid and have the same effect as if made after the coming into force of this Act.

Commencement of this Act.

12 Vic. c. 34.

Proviso.

Proviso.

II. And be it enacted, That the Inland Posts and Post Communications in this Province shall, so far as may be consistent with the Acts of the Parliament of the United Kingdom in force in this Province, be exclusively under Provincial management and control; the Revenue arising from the duties of postage and other dues receivable by the Officers employed in managing such Posts and Post Communications shall form part of the Provincial Revenue, unless such moneys belong of right to the United Kingdom or to some other Colony, or to some Foreign State; and the expenses of management

Transfer of Inland Posts, &c.

8 Vic. cap. 5, to apply.

management shall be defrayed out of Provincial Funds; and that the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to provide for the management of the Customs and of matters relative to the collection of the Provincial Revenue*, shall apply to the said Posts and Post Communications, and to the Officers and persons employed in managing the same, or in collecting or accounting for the duties and dues aforesaid, except in so far as any provision of the said Act may be insusceptible of such application or may be inconsistent with any provision of this Act.

Commissions, divisions, contracts, powers, &c., to remain in force until altered.

III. And be it enacted, That until it shall be otherwise provided in any case or cases by the proper authority under this Act and the Act last aforesaid, all Post Offices and Postal Divisions, Stations, Districts and Establishments, and all commissions or appointments of any Officers or persons employed in managing the said Inland Posts and Post Communications, or in collecting or accounting for the duties and dues aforesaid, in force when this Act shall come into effect, shall continue and remain in force, and the nature of the duties and local extent of the powers of each Office, and the salary and emoluments of the Officer, shall remain the same as if such commissions or appointments had been granted or made under the authority of this Act, subject always to the provisions hereinafter made; and that all Bonds given by such Officers or persons or their sureties, and all contracts, agreements or engagements made by any party with or to any such Officer or person shall remain in full force and effect, and shall be construed and have effect to all intents and purposes as if made and entered into with express reference to this Act, and for the performance of the duties, which under this Act may be lawfully assigned to such Officers and persons respectively; and any contract for the conveyance of Her Majesty's Mails or for any other service to be performed with reference to the Post Office shall be construed as a contract for the conveyance of Her Majesty's Mails under this Act, and for the performance of the services therein contracted for, for Her Majesty's Provincial Post Office, and the fulfilment of such contract may be enforced accordingly under this Act, payment for such services being made out of Provincial Funds, but otherwise according to the terms of such contract; And every regulation and departmental order not inconsistent with this Act and not providing for a matter for which provision is made by this Act, made by any then competent authority, to guide or direct such Officers and persons in the performance of their duties, or to confer, define or regulate their powers and the exercise thereof, shall remain in full force and effect until such regulation or order shall be abrogated or provision shall be made in the like matter by some regulation or order made by competent authority under this Act; nor shall any thing in this Act be construed to prevent any person from being at the same time an Officer or Servant of the British and of the Provincial Post Office.

Bonds.

Regulations.

Provincial Officers may be also Officers of British P. Office.

Salaries and emoluments limited.

IV. Provided always, and be it enacted, That except the Provincial Post Master General who shall be appointed under the authority of this Act, no officer appointed or continued in office under this Act, shall receive from any Provincial source more than four hundred pounds per annum, (and in proportion for any shorter period) in salary or emoluments, or both; and that the salary of the Provincial Post Master General shall not exceed seven hundred and fifty pounds per annum; and that except Post Masters, who may be paid by a per-centage on the amount collected by them, or by a salary, as the Governor in Council shall see fit in each case, each officer shall be remunerated by a stated salary or pay, subject to the provisions of the Act last cited.

Appointments how made.

V. And be it enacted, That the Provincial Post Master General shall be appointed by Commission under the Great Seal of this Province, and to hold his office during pleasure, but the Post Masters and other Officers of the Department shall be appointed and may be removed by letter from the proper Officer communicating the Governor's pleasure: And nothing in this Act or in any other Act or law shall be construed to prevent the Provincial Post Master General from sitting and acting as a Member of the Legislative Assembly, (provided he be elected after his appointment); but to the Post Masters at Quebec, Montreal, Three-Rivers and Sherbrooke, and at any incorporated City or Town in Upper Canada divided into Wards, and to the other Officers of

Except to Provincial Post Master General, 7 Vic. cap. 65, to apply.

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the Department, except only the Post Masters at places other than those aforesaid, all the provisions of the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act for better securing the independence of the Legislative Assembly*, shall apply, as if they were Officers of the Customs or Excise, and they shall not sit or vote in the Legislative Assembly, nor vote at the election of any Member of the same, under the penalties in the said Act imposed for contravention thereof in like case.

VI. And be it enacted, That all privileges, powers and authority now vested by any Provincial Act in Her Majesty's Deputy Post Master General, with regard to services to be required from any Rail-road Company, touching the conveyance of the Mail, or with regard to any other matter relative to the Inland Posts or Post Communications, shall be and are hereby transferred to and vested in the Provincial Post Master General.

VII. Provided always, and be it enacted, That when this Act shall come into effect all enactments or provisions of law obliging ferrymen to transport any mail across their ferries without remuneration shall be and are hereby repealed; and the sum to be paid for such service shall be fixed by contract, or if any ferryman shall demand more than the Post Office authorities or the contractor for carrying the mail are willing to pay, the amount to be paid shall be fixed by arbitrators, each party naming an Arbitrator, and the two Arbitrators a third, the decision of any two Arbitrators to be binding.

VIII. And in conformity to the agreement made as aforesaid between the Local Governments of the several Colonies of British North America, Be it enacted, That the Provincial Postage on letters and packets not being of Newspapers or Printed Pamphlets, Magazines or Books, entitled to pass at lower rate, shall not exceed the rate of three pence currency, per half ounce, for any distance whatever within this Province, any fraction of a half ounce being chargeable as a half ounce: that no transit postage shall be charged on any letter or packet passing through this Province or any part thereof to any other Colony in British North America, unless it be posted in this Province and the sender choose to pre-pay it; nor on any letter or packet from any such Colony if pre-paid there: that two pence sterling the half ounce shall remain as the rate in operation as regards letters by British Mails, to be extended to Countries having postal conventions with the United Kingdom, unless Her Majesty's Government in the United Kingdom shall see fit to allow this rate to be changed to three pence currency:

That the pre-payment of Provincial Postage shall be optional:

That all Provincial Postage received within this Province shall be retained as belonging to it, and that all Provincial Postage received within any other of the British North American Colonies, may be retained as belonging to such Colony:

That the British Packet Postage and other British Postage collected in this Province shall be accounted for and paid over to the proper authorities in the United Kingdom; but the Colonial Postage on the same letters or packets shall belong to the Colony collecting it, or if prepaid to the British Post Office, it may be credited to the Colony to which such letters or packets are addressed:

That no privilege of franking shall be allowed as regards Provincial Postage:

The Provincial Stamps for the prepayment of postage may be prepared under the orders of the Governor in Council, which stamps shall be evidence of the prepayment of Provincial Postage to the amount mentioned on such stamp, and that such stamps prepared under the direction of the proper authorities in the other British North American Colonies, shall be allowed in this Province as evidence of the prepayment of Provincial Postage in such other Colonies respectively, on the letters or packets to which they are affixed, and which have been mailed there:

That the Provincial Postage on Newspapers, Pamphlets, Magazines and Printed Books, shall remain such as it now is until it be altered by regulation under this Act, and in cases where they are now free of Postage they shall continue to be so free; and that such postage shall not be raised by any such regulation, but may be thereby diminished in any case or class of cases; and that if any regulation be made by the proper authorities in any other of the British North American Colonies, diminishing the postage therein

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Transfer of privileges.

Ferrymen not bound to carry over Mails gratis.

Agreement with other Colonies to be carried into effect.

Pre-payment.

Appropriation of Provincial Postage.

Of British Packet Postage and colonial Postage.

Franking.

Stamps.

Newspapers, &c.

Proviso: in favor of Publishers of Newspapers.

therein in such Colony, or directing that none shall be payable in any case or class of cases, then in the case or cases to which such regulation shall apply, such diminished postage only (if not pre-paid), or no postage (as the case may be), shall be payable in this Province: Provided always, that one copy of each Newspaper published in this Province may be sent free from postage to any Publisher of another Newspaper in this Province, that all printed documents addressed to the Publisher of any Newspaper in this Province shall be delivered to him free, and that all Newspapers published in this Province and addressed to Subscribers in the United States, shall pass free to the Province Line, under such regulations as the Governor in Council shall make to prevent the abuse of the privileges hereby granted :

Transport of British Mails.

That the rate of remuneration for the transport of British Mails by express through the Provinces of Nova Scotia and New Brunswick, may from time to time be fixed by arrangement to be made between the Government of this Province, and the other Provinces or Governments concerned :

Interpretation of agreement.

Provided always, That if it shall appear to the Local Governments or proper authorities of the several Colonies of British North America, and of the United Kingdom, and the Governor in Council, that the foregoing conditions and provisions of this section, or any of them, are not or is not in accordance with the true intent and meaning of the agreement aforesaid, then it shall be lawful for the Governor in Council to declare what was and is the true intent and meaning thereof in the case in question, and the foregoing conditions shall then be construed and have effect as if the condition so declared to be correct had been inserted in this section, instead of that declared to be inconsistent with the said agreement, unless and until it be otherwise ordered by the Provincial Parliament.

Regulations to be made by the Governor in Council.

And, subject to the foregoing provisions of this section and to the other express provisions of this Act, the Governor in Council shall have full power and authority to make orders and regulations for establishing or discontinuing any Post Office or Post Route, and for taking security from any parties to make good the deficiency or any part thereof, in the receipts of such Office or Route, to meet the expenses incurred by its establishment,—for defining the powers and duties of the Officers of and persons employed by or under the Provincial Post Office and regulating all matters concerning the conduct and management of the business thereof,—and for prescribing the form of the oath of office to be taken by such Officers or persons employed, by or under the Provincial Post Office, which oath may be varied so as to meet the duties to be performed, and the offences to be avoided by such Officers or persons,—for establishing the rates of postage on Newspapers and Printed Pamphlets, Magazines and Books, and for declaring what shall be deemed such, or directing that in any case or class of cases they be free of postage, either in the first instance or in the case of their being re-mailed, and what shall be the conditions to be complied with in order to enable them to pass without being subject to letter postage, as they shall be if such conditions be not complied with, and for authorizing the opening thereof by any Officer or person, for the purpose of ascertaining whether such conditions shall have been complied with,—for the preparing and distributing of Provincial stamps for pre-payment, for limiting the weight and dimensions of letters or packets to be sent by Post, and prohibiting and preventing the sending of explosive, dangerous, contraband or improper articles,—for making, authorizing, sanctioning or giving effect to any arrangements which may require to be made with the Government or with the Postal authorities of the United Kingdom or of any British Possession, or of the United States or any Foreign Country, with regard to the collecting and accounting for postage, the transmission of Mails and other matters connected with Posts and Postal business, and the remuneration or indemnity to be paid or received under any such arrangement,—for prescribing the conditions and circumstances under which letters, accounts and papers relating solely to the business of the Post Office, and addressed to or sent by some officer thereof, shall be free from Provincial Postage,—for preventing, in cases where it shall deem it expedient, the carriage of Foreign Mails

or of Foreign mailable matter not mailed in this Province, through any part thereof from one part of a Foreign Country to another part of the same,—for providing, when he shall think it expedient, means for avoiding the risk of transmitting small sums of money through the Post, by establishing a system of money orders to be granted by one Post Master or officer of the Département on another, and fixing the terms on which such orders may be obtained, for establishing a system for the Registering of letters and the charge * be made for such registration,—for vesting in any officer or officers power to open letters or packets having no address upon them, or refused by the party to whom they are addressed, or where such party cannot be found after proper enquiry, or on which any Foreign or other Postage which ought to be pre-paid, shall not have been so; or which shall contain or be reasonably supposed to contain any article lawfully forbidden to be sent by Post, or which for any other cause cannot lawfully be transmitted by Post, or cannot within a reasonable time be delivered to the party to whom they are addressed or to any party legally entitled to receive them,—and for prescribing the regulations under which such letters and packets shall be opened, the notice which shall be previously given, the proceedings which shall be adopted after such opening,—the keeping or otherwise dealing with any money or other article found therein, and other matters thereunto appertaining or relating,—for making a reasonable compensation to the Masters of Vessels and others for letters conveyed by them from any places without the limits of the Province, and brought by them to the Post Office for delivery,—for the delivery of letters and packets in the larger and more populous Cities and Towns, at the residences of the parties to whom they are addressed, and fixing the limits within which such delivery shall take place, and the rates to be paid by the parties who shall prefer to have their letters and packets so delivered, rather than apply for them at the Post Office: and upon letters posted and delivered at the same Post Office or in the same City, Town and place, for imposing pecuniary penalties not exceeding fifty pounds, for any one offence, on persons offending against any such regulation as aforesaid, whether they be or be not officers of the Post Office; and generally to make such regulations as may be deemed necessary for the due and effective working of the Post and Postal business and arrangements, and for carrying this Act fully into effect; and every such regulation as aforesaid, may from time to time be repealed or amended by any subsequent regulation made in like manner, and every such regulation shall, until it be otherwise ordered by any subsequent regulation, have force and effect as if it formed part of the provisions of this Act, unless it be inconsistent with the enactments thereof.

* (Sic.)

General provisions.

IX. And be it enacted, That subject always to the provisions and regulations aforesaid, the Provincial Post Master General shall have the sole and exclusive privilege of conveying, receiving, collecting, sending and delivering letters within this Province; and that any person or party who shall (except in the cases hereinafter excepted) collect, send, convey or deliver, or undertake to convey or deliver any letter within this Province, or who shall receive or have in his possession any letter for the purpose of conveying or delivering it, otherwise than in conformity with this Act, shall for each and every letter so unlawfully conveyed or undertaken to be conveyed, received, delivered or found in his possession, incur a penalty not exceeding five pounds currency: but such exclusive privilege, prohibition and penalty shall not apply to—

Exclusive privilege of Provincial Post Master General.

Letters sent by a private friend in his way, journey or travel, provided such letters be delivered by such friend to the party to whom they are addressed :

Exceptions.

Letters sent by a Messenger on purpose, concerning the private affairs of the sender or receiver :

Commissions or returns thereof, and affidavits or writs, process or proceedings or returns thereof, issuing out of a Court of Justice :

Letters addressed to a place out of the Province and sent *by sea* and by a private vessel :

Letters lawfully brought into this Province, and immediately posted at the nearest Post Office :

Letters of Merchants, Owners of Vessels of Merchandize, or of the cargo or loading therein, sent by such vessel of Merchandize, or by any person employed by such Owners for the carriage of such letters according to their respective addresses, and delivered to the persons to whom they are respectively addressed, without pay, hire, reward, advantage or profit for so doing :

Letters concerning goods or merchandize sent by common known carriers to be delivered with the goods to which such letters relate, without hire or reward, profit or advantage for receiving or delivering them.

Provided always, that nothing herein contained shall authorize any person to collect any such excepted letters for the purpose of sending or conveying them as aforesaid : and provided also, that nothing in this Act shall be construed to oblige any person to send any Newspaper, Pamphlet or Printed Book by Post.

Letters sent contrary to this Act to be seized.

X. And be it enacted, That it shall be lawful for any person, and it shall be the duty of any Officer or person employed in the Provincial Post Office, or in the collection of the Revenue, to seize any letters conveyed, received, collected, sent or delivered in contravention of this Act, and to take them to the nearest Post Office, and to give such information as he may be able to give, to the Post Master, and as may be necessary for the effectual prosecution of the offender ; and the letters moreover shall be chargeable with letter Postage.

Postage when payable, &c.

XI. And be it enacted, That as well the Colonial, British or Foreign as the Provincial postage on any letter or packet shall (if not pre-paid) be payable to the Provincial Post Master General by the party to whom the same shall be addressed, or who may lawfully receive such letter or packet, which may be detained until the same be paid ; and any refusal or neglect to pay such postage shall be held to be a refusal to receive such letter or packet, which shall be detained and dealt with accordingly, but if the same be delivered, the postage on it shall be charged against and paid by the Post Master delivering it, saving his right to recover it from the party by whom it was due as money paid for such party ; and if any letter or packet be refused, or if the party to whom it is addressed cannot be found, then such postage shall be recoverable by the Provincial Post Master General from the sender of such letter or packet ; and the postage marked on any letter or packet shall be held to be the true postage due thereon, and the party signing or addressing it shall be held to be the sender, until the contrary be shewn ; and that all postage may be recovered with costs, by civil action in any Court having jurisdiction to the amount, or in any way in which duties are recoverable.

Post Masters not bound to give change.

XII. And for avoiding doubts, and preventing inconvenient delay in the delivery of letters, Be it declared and enacted, that no Post Master shall be bound to give change, but the exact amount of the postage on any letter or packet shall be tendered or paid to him in current coin or in Provincial Postage stamps.

Certain powers vested in the Provincial Post Master General.

XIII. And be it enacted, That subject to the provisions of this Act, and to the regulations to be made under it, and the instructions he may receive from the Governor, the Provincial Post Master General shall have power to open and close Post Offices and Mail Routes, to suspend any Post Master or other officer or servant of the department until the pleasure of the Governor be known, and to appoint a person to act in the mean time in the place and stead of such officer or servant, to enter into and enforce all contracts relating to the conveyance of the Mail, the local accommodation of the department and to other matters connected with the business thereof ; and to make rules and orders for the conduct of and management of the business and affairs of the department, and for the guidance and government of the officers and servants thereof, in the performance of their duties ; to sue for and recover all sums of moneys due for postage or penalties under this Act, or by any Post Master or officer, or servant of the department or his sureties : and all such powers may be lawfully exercised by him or by any Post Master, officer, servant or party whom he shall depute to exercise the same, or whose act in that behalf he shall approve, confirm or adopt ; and each officer, servant or party employed in the Post Office, shall, as regards the duties

duties attached to the office held by him, be deemed the Deputy of the Provincial Post Master General, and the Governor in Council may by regulation direct by what officer or person the duties of any office shall be performed *pro tempore* in case of the death, resignation or unforeseen absence or inability to act, of the person holding or having held such office; and all suits, proceedings, contracts and official acts to be brought, had, entered into or done by the Provincial Post Master General, shall be so in and by his name of office, and may be continued, enforced and completed by his successor in office, as fully and effectually as by himself, nor shall the appointment or authority of any Provincial Post Master General or of any Post Master, officer or servant of the Provincial Post Office, be liable to be traversed or called in question, in any case, except only by those who act for the Crown.

Certain powers vested in Governor in Council.

Suits by P. M. General.

XIV. And be it enacted, That in every case in which any Seaman in Her Majesty's Navy, Sergeant, Corporal, Drummer, Trumpeter, Fifer or Private Soldier in Her Majesty's service, or in the service of the East India Company, shall be entitled to receive or send letters on the payment of a certain sum and no more, in place of all British Postage thereon, the payment of such sum shall likewise free such letter from all Provincial Postage thereon, and in all cases in which a letter or packet addressed to a Commissioned Officer of the Army, Navy or Ordnance or any of the Departments belonging thereto respectively, at a place where he shall have been employed on actual service, would be free from British Postage on the transmission thereof from such place to any place to which he shall have removed in the execution of his duty, before the delivery of such letter or packet, the same shall in like manner be free from Provincial Postage; and the Governor in Council may make such regulations declaratory and otherwise, as may be necessary for giving effect to this Section.

As to letters of Soldiers, Seamen, &c.

XV. And be it enacted, That from the time any letter, packet, chattel, money or thing shall be deposited in the Post Office for the purpose of being sent by Post, it shall cease to be the property of the sender, and shall be the property of the party to whom it is addressed or the legal representatives of such party: Provided always, that the Provincial Post Master General shall not be liable to any party for the loss of any letter or packet sent by Post.

Post letters to be property of party addressed.

Proviso.

XVI. And be it enacted, That to steal, embezzle, secrete or destroy any Post Letter shall be felony, punishable in the discretion of the Court by imprisonment in the Provincial Penitentiary, for not less than three nor more than fourteen years; unless such Post Letter shall contain any chattel, money or valuable security, in which case the offence shall be punishable by imprisonment in the said Penitentiary for life;

Certain offences to be felonies: stealing or receiving stolen letters, &c.

To steal from or out of a Post Letter any chattel, money or valuable security, shall be felony, punishable by imprisonment in the said Penitentiary for life;

To steal a Post Letter Bag, or a Post Letter from a Post Letter Bag, or a Post Letter from any Post Office, or from any office of the Provincial Post Office, or from a Mail, or to stop a Mail with intent to rob or search the same, shall be felony punishable by imprisonment in the said Penitentiary for life;

To open unlawfully any Post Letter Bag, or unlawfully to take any letter out of such bag, shall be felony punishable by imprisonment in the said Penitentiary for fourteen years;

To receive any Post Letter, or Post Letter Bag, or any chattel, money or valuable security, the stealing, taking, secreting or embezzling whereof is hereby made felony, knowing the same to have been feloniously stolen, taken, secreted or embezzled, shall be felony, punishable by imprisonment in the said Penitentiary for fourteen years, and the offender may be indicted and convicted either as an accessory after the fact or for a substantive felony, and in the latter case whether the principal felon hath or hath not been previously convicted or shall not be amenable to justice; and however such receiver shall be convicted, the offence shall be punishable as aforesaid;

To forge, counterfeit or imitate any Postage Stamp issued or used under the authority of this Act, or by or under the authority of the Government or proper authority of the United Kingdom, or of any British North American Province, or of any Foreign Country,

Forging Stamps, &c.

Country, or knowingly to use any such forged, counterfeit or imitated stamp, or to engrave, cut, sink or make any plate, die or other thing whereby to forge, counterfeit or imitate such stamp or any part or portion thereof, except by the permission in writing of the Provincial Post Master General, or of some officer or person who under the regulations to be made in that behalf, may lawfully grant such permission, or to have possession of any such plate, die or other thing as aforesaid, without such permission as aforesaid, or to forge, counterfeit or unlawfully imitate, use or affix to or upon any letter or packet, any stamp, signature, initials, or other mark or sign purporting that such letter or packet ought to pass free of postage, or at a lower rate of postage, or that the postage thereon or any part thereof hath been prepaid or ought to be paid by or charged to any person, department or party whomsoever, shall be felony, punishable by imprisonment in the Provincial Penitentiary for life, and to such felony, all the provisions of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to consolidate and amend the laws and to repeal certain Acts relating to the crime of forgery*, shall apply as if such offence were made felony under that Act, in so far as the provisions thereof may not be inconsistent with this Act, and the accessories to any such offence shall be punishable accordingly ;

10 & 11 Vic. cap. 9.

Certain offences to be misdemeanors.

To open unlawfully, or wilfully to keep, secrete, delay or detain, or procure or suffer to be unlawfully opened, kept, secreted or detained, any Post Letter Bag, or any Post Letter whether the same came into the possession of the offender by finding or otherwise howsoever, or after payment or tender of the postage thereon, (if payable to the party having possession of the same) to neglect or refuse to deliver up any Post Letter to the person to whom it shall be addressed or who shall be legally entitled to receive the same, shall be a misdemeanor;

To steal or for any purpose to embezzle, secrete, destroy, wilfully detain or delay, any printed vote or proceeding, newspaper, printed paper or book sent by Post, shall be a misdemeanor;

To obstruct or wilfully delay the passing or progress of any Mail, or of any carriage or vessel, horse, animal or carriage employed in conveying any Mail, on any public highway, river, canal or water communication in this province, shall be a misdemeanor ;

To cut, tear, rip or wilfully to damage or destroy any Post Letter Bag, shall be a misdemeanor ;

It shall be a misdemeanor for any Mail Carrier or any person employed to convey any Mail, Post Letter Bag, or Post Letters, to be guilty of any act of drunkenness, negligence or misconduct whereby the safety or punctual delivery of such Mail, Post Letter Bag, or Post Letters shall be endangered, or contrary to this Act or any Regulation made under it, to collect, receive or deliver any letter, or packet, or to neglect to use due care and diligence to convey any Mail Post Letter Bag, or Post Letter, at the rate of speed appointed therefor by the Regulations then in force or the contract under which he acts ;

It shall be a misdemeanor for any Toll-gate Keeper to refuse or neglect forthwith upon demand to allow any Mail or any Carriage, Horse or animal employed in conveying the same to pass through such Toll-gate, whether on pretence of the non-payment of any Toll or any other ; provided that nothing herein shall affect the right of any Officer or person travelling with any Mail to pass Toll free through any Toll-gate, but in any case where such Officer or person would now pass Toll free an Officer or person in travelling with a Mail after the passing of this Act shall in like manner pass Toll free, but not otherwise or elsewhere, unless it be otherwise provided by competent authority ; but in any case he shall not be detained on pretence of demanding such Toll, but the same if due and not paid shall be recoverable in the usual course of Law from the party liable.

Any wilful contravention of any Regulation lawfully made under this Act, shall be a misdemeanor, if declared to be so by such regulation.

To solicit or endeavour to procure any person to commit any act hereby made or declared a felony or misdemeanor, shall be a misdemeanor ;

And.

And every such misdemeanor as aforesaid shall be punishable by fine or imprisonment or both in the discretion of the Court before whom the offender shall be convicted ;

And every principal in the second degree and every accessory before or after the fact to any such felony as aforesaid, shall be guilty of felony, and punishable as the principal in the first degree ; and every person who shall aid, abet, counsel or procure the commission of any such misdemeanor as aforesaid, shall be guilty of a misdemeanor and punishable as a principal offender ;

And any imprisonment awarded under this Act shall be in the Provincial Penitentiary, if for a term of or exceeding two years; and if the imprisonment awarded be for a less term, it may be with or without hard labour in the discretion of the Court awarding it.

XVII. And be it enacted, That any indictable offence against this Act may be dealt with, indicted and tried and punished, and laid and charged to have been committed either in the district or county or place where the offence shall be committed, or in that in which the offender shall be apprehended or be in custody, as if actually committed therein; and where the offence shall be committed in or upon, or in respect of a Mail, or upon a person engaged in the conveyance or delivery of a Post Letter Bag, or Post Letter, or chattel or money or valuable security sent by Post, such offence may be dealt and inquired of, tried and punished and charged to have been committed as well within the district, county or place in which the offender shall be apprehended or be in custody, as in any district, county or place through any part whereof such Mail, person, Post Letter bag, Post Letter, chattel, money or valuable security, shall have passed in the course of conveyance and delivery by the Post, in the same manner as if it had been actually committed in such district, county or place ; and in all cases where the side or centre or other part of a highway, or the side bank, centre or other part of a River or Canal, or navigable water, shall constitute the boundary between two districts, counties or places, then to pass along the same, shall be held to be passing through both : and every accessory before or after the fact, if the offence be felony, and every person aiding or abetting or counselling or procuring the commission of any offence if the same be a misdemeanor, may be dealt with, indicted, tried and punished as if he were a principal, and his offence may be laid and charged to have been committed in any district, county or place, where the principal offence may be tried.

As to the locality of any offence.

XVIII. And be it enacted, That in every case where an offence shall be committed in respect of a Post Letter Bag, or a Post letter, packet, chattel, money or a valuable security, sent by Post, it shall be lawful to lay in the indictment to be preferred against the offender, the property of such Post Letter Bag, Post letter, packet, chattel, money or valuable security, sent by Post, in the Provincial Post Master General ; and it shall not be necessary to allege in the indictment or to prove upon the trial or otherwise, that the Post Letter Bag, Post letter, packet, chattel or valuable security was of any value : but except in the cases aforesaid, the property of any chattel or thing used or employed in the service of the Provincial Post Office or of moneys arising from duties of postage, shall be laid in Her Majesty, if the same be the property of Her Majesty, or if the loss thereof would be borne by the Province and not by any party in his private capacity : and in any indictment against any person employed in the Provincial Post Office for any offence against this Act, or in any indictment against any person for an offence committed in respect of some person so employed, it shall be sufficient to allege that such offender or such other person as aforesaid, was employed in the Provincial Post Office, at the time of the commission of such offence, without stating further the nature or particulars of his employment.

Property of Post letters, &c., stolen, how to be laid.

XIX. And be it enacted, That all enactments of the Act passed in the session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act for repealing and consolidating the present Duties of Customs in this Province, and for other purposes therein mentioned*, for the purpose of protecting officers and others employed in collecting duties or in preventing the evasion of the laws imposing duties, when in the performance of the duties of their office, or in respect of suits or proceedings against

Certain provisions of 10 & 11 Vic. cap. 31, extended to Officers of Provincial Post Office.

against them for things done or alleged to be done in pursuance of any Act or Law, shall extend and apply in like manner to officers and persons employed in or under the Provincial Post Office, and to suits or proceedings against them for things done or alleged to be done under this Act; and the provisions of the said Act relative to the publication and proof of regulations or orders made under it and to the time of their coming into force, shall apply to the publication and proof of regulations and orders made under this Act and to the time of their coming into force; and any bond or security required or authorized by any such regulation or by any order of the Governor in Council, in any matter relative to the Provincial Post Office, or to the observance of any provision of this Act or of any regulation or order made under it, shall be valid in law and may be enforced according to its tenor on breach of the condition thereof.

Bonds authorized by regulation to be valid.

Actions, &c., may be compounded.

XX. And be it enacted, That the Provincial Post Master General, (subject always to the orders of the Governor,) may compromise and compound any action, suit or information which shall at any time hereafter be commenced by his authority or under his control, against any person for recovering any penalty incurred under this Act, on such terms and conditions as he shall in his discretion think proper, with full power to him or any of the officers and persons acting under his orders to accept the penalty so incurred or alleged to be incurred, or any part thereof, without action, suit or information brought or commenced for the recovery thereof.

Penalties how recoverable, &c.

XXI. And be it enacted, That all mere pecuniary penalties imposed by this Act or by any regulation of the Governor in Council to be made under this Act, shall be recoverable with costs by the Provincial Post Master General, by civil action in any Court having jurisdiction to the amount, and shall belong to the Crown, saving always the power of the Governor in Council to allow any part or the whole of such penalty to the Officer or party by whose information or intervention the same shall have been recovered, as in the case of penalties recovered under other Acts relating to the collection of the Revenue; but all such penalties shall be sued for within one year after they are incurred and not afterwards: Provided always, that if the penalty do not exceed ten pounds, it may be recovered before any one Justice of the Peace in a summary manner, and if not paid may be levied by distress under warrant of such Justice; and if the penalty exceed ten pounds, the offender may be indicted for a misdemeanor in contravening the provisions of this Act or of the regulations made under it, (instead of being sued for such penalty) and if convicted shall be punishable by fine or imprisonment or both, in the discretion of the Court.

Who may be a Witness.

XXII. And be it enacted, That in any action or proceeding for the recovery of postage, or of any penalty under this Act, the same may be recovered on the evidence of any one credible witness, and any Post Master or other Officer or Servant of the Provincial Post Office, shall be a competent witness, although he may be entitled to or entertain reasonable expectation of receiving some portion or the whole of the sum to be recovered; and the *onus* of shewing that any thing proved to have been done by the Defendant was done in conformity to or without contravention of this Act, shall lie upon the Defendant.

What shall be evidence in any action against Post Officers for moneys officially received by them.

XXIII. And be it enacted, That in any action, suit or proceeding against any Post Master or other Officer of the Provincial Post Office, or his sureties for the recovery of any sum of money alleged to be due to Her Majesty as the balance remaining unpaid of moneys received by such Post Master or Officer by virtue of his office, a statement of the account of such Post Master or Officer shewing such balance, and attested as correct by the certificate and signature of the Accountant of the Provincial Post Office or of the officer then doing the duties of such accountant, shall be evidence that such amount is so due and unpaid as aforesaid; and in every such suit it shall be lawful to demand and the judgment shall be rendered for double the amount proved by such account to be so due to Her Majesty by the Defendant, provided that nothing herein contained shall be construed to prevent the provisions of the Act cited in the second section of this Act from applying to such Post Master or officer.

Double the amount may be recovered.

XXIV. And be it enacted, That the Interpretation Act shall apply to this Act which shall be cited and known as *The Post Office Act*; and that the following terms and expressions therein shall have the meanings hereinafter assigned to them, unless such meaning be repugnant to the subject or inconsistent with the context; the term "Letter" shall include Packets of Letters; the term "Postage" shall mean the duty or sum chargeable for the conveyance of Post Letters, Packets and other things by Post; the term "Foreign Country" shall mean any country not included in the dominions of Her Majesty; the term "Foreign Postage" shall mean the postage on the conveyance of Letters, Packets or other things within any Foreign Country; the term "Colonial Postage" shall mean the postage on the conveyance of Letters, Packets or other things within any of the British Colonies in North America, which Colonies when referred to in this Act shall be understood to be those only which, being parties to the agreement aforesaid, shall have acquired the right of establishing and regulating Inland Posts under the Act of the British Parliament mentioned in the Preamble of this Act; the term "Provincial Postage" shall mean the postage on the conveyance of letters, packets and other things by Post within this Province; the term "Mail" shall include every conveyance by which Post letters are carried, whether it be by land or by water; the term "British Packet Postage" shall mean the postage due on the conveyance of letters by British Packet Boats, between the United Kingdom and any British North American Colony, and the term "British Postage" shall include all Postage not being Foreign, Colonial or Provincial; the expression "employed in the Provincial Post Office" shall apply to any person employed in any business of the Provincial Post Office; the term "Post Letter" shall mean any letter transmitted or deposited in any Post Office to be transmitted by the Post, and a letter shall be deemed a Post Letter from the time of its being so deposited or delivered at a Post Office, to the time of its being delivered to the party to whom it is addressed, and a delivery to any Letter Carrier or other person authorized to receive letters for the Post, shall be deemed a delivery at the Post Office; and a delivery at the House or Office of the person to whom the letter is addressed, or to him, or to his Servant or Agent, or other person considered to be authorized to receive the letter, according to the usual manner of delivering that person's letters, shall be a delivery to the person addressed; the term "Post Letter Bag" shall include a Mail Bag or Box, or Packet or Parcel, or other envelope or covering in which Post Letters are conveyed, whether it does or does not actually contain Post Letters; the term "any Post Office" shall mean any building, room or place where Post letters are received or delivered, sorted, made up or despatched; the term "valuable security" shall include the whole or any part of any tally, order or other security or document whatsoever, entitling or evidencing the title of any party to any share or interest in any Public Stock or Fund, whether of this Province, or the United Kingdom, or any British Colony or Possession, or of any Foreign Country, or in any Fund or Stock of any Body Corporate, Company or Society in this Province or elsewhere, or to any Deposit in any Savings' Bank, or the whole of any part of any Debenture, Deed, Bond, Bill, Note, Cheque, Warrant or order or other security for the payment of money, or for the delivery or transfer of any goods, chattels or valuable thing, whether in this Province or elsewhere; and the term "between" when used with reference to the transmission of letters or other things, shall apply equally to such transmission from either place to the other.

Interpretation clause.

CAP. XVIII.

An Act for making one uniform provision respecting certain Official and other Oaths to be taken in this Province, and for other purposes therein mentioned.

[24th July, 1850.]

Preamble.

Act U. C. 3 W. 4, c. 12, cited.

WHEREAS the Oaths required to be taken as a qualification for Office or for other temporal purposes, are in Upper Canada prescribed by an Act of the late Parliament of that part of the Province passed in the third year of the reign of His late Majesty King William the Fourth, chaptered twelve, and intituled, *An Act to dispense with the necessity of taking certain oaths and making certain declarations in the cases therein mentioned; and also to render it unnecessary to receive the Sacrament of the Lord's Supper, as a qualification for offices or for other temporal purposes;* And whereas with a view to making the law uniform in this respect in both sections of the Province, it is expedient to repeal the said Act and to re-enact the provisions thereof, making them applicable to the whole Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, That the said recited Act shall be and the same is hereby repealed.

The said Act repealed.

No other oath but those hereinafter prescribed to be required of certain Officers, &c.

II. And be it enacted, That from and after the passing of this Act, it shall not be necessary for any person appointed or to be appointed to any office in this Province, civil or military, or who is or may be Mayor or other officer or member of any Corporation therein, or for any person admitted, called or received or hereafter to be admitted, called or received as a Barrister, Advocate, Notary Public, Attorney, Solicitor or Proctor, to make any declaration or subscription, or to take or subscribe any other oath than the oath following, that is to say:

The oath of Allegiance.

"I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, (or the reigning Sovereign for the time being,) as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province, dependant on and belonging to the said Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies or attempts whatever which shall be made against Her Person, Crown and Dignity, and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs or Successors, all treasons or traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion or secret reservation, and renouncing all pardons and dispensations from any person or power whatsoever to the contrary; So help me God."

Oath for faithful performance of duties.

And also such oath for the faithful performance of the duties of his office or for the due exercise of his profession or calling as hath been heretofore required, or shall be hereafter required in any Act to be passed in that behalf.

The said form and no other to be that to be used in all cases in this Province.

III. And be it enacted, That the form hereinbefore set forth, and no other, shall be that of the Oath of Allegiance to be administered to and taken by all persons in this Province who, either of their own accord or in compliance with any lawful requirement made on them to take the Oath of Allegiance to Her Majesty, Her Heirs or Successors, or in obedience to the directions of any Statute either of the Imperial or Provincial Parliament therefor, shall be willing or desirous to take the same to Her Majesty, Her Heirs or Successors in this Province; and the power to tender and administer such Oath is hereby declared to be vested in all Magistrates and other Officers now lawfully authorized or hereafter to be lawfully authorized, either by virtue of their Office or by Special Commission from the Crown for that purpose, to administer the Oath of Allegiance in this Province or any part thereof.

Who may administer it.

IV. And be it enacted, That the said Oath of Allegiance ^{herein prescribed} ~~hereinbefore~~ set forth, together with the Oath of Office or Oath for the due exercise of any profession or calling, respectively, shall be and is hereby required to be taken within the same period and in the same manner, and subject to the like disabilities and penalties for the omission thereof, as is now by law provided with respect to the Oaths heretofore required to be taken in any case respectively.

Oath to be taken within the time now by law provided, set forth, &c.

V. And be it enacted, That all such persons as are or shall be allowed by law to affirm instead of swear in civil cases in this Province or any part thereof, shall be received to take an affirmation of Allegiance in the like terms *mutatis mutandis*, as those herein and hereby prescribed for the said Oath of Allegiance, which affirmation of Allegiance shall in all cases be received and accepted from such persons in lieu of such oath, and the taking of such affirmation of Allegiance before the proper officer shall in the case of all such persons have the like effect to all intents and purposes whatsoever, as if the same had been the said Oath of Allegiance herein and hereby prescribed as aforesaid; and the power to tender and administer such affirmation to all such persons so entitled to take the same, is hereby declared to be vested in all Magistrates and other Officers now lawfully authorized or hereafter to be lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, to administer the Oath of Allegiance in this Province or any part thereof.

Affirmation instead of oath, in certain cases.

Its effect.

By whom it may be administered.

VI. And be it enacted, That it shall not be necessary for any person for the purpose of qualifying himself to hold office in this Province or any part thereof, or for any other temporal purpose, privilege or advantage whatsoever within the same or any part thereof, to take or receive the Sacrament of the Lord's Supper according to the Rites or Usages of the Church of England, or to deliver a Certificate or make proof of his having received the said Sacrament in manner aforesaid; and that no person shall hereafter within this Province or any part thereof, be subject to any penalty, forfeiture, incapacity or disability whatsoever, for or by reason of his not having so taken or received the said Sacrament.

No person need take the Sacrament as a qualification for any office.

No penalty incurred for not taking it.

C A P. X I X.

An Act to facilitate the admission of evidence of foreign Judgments, and certain official and other documents.

[24th July, 1850.]

WHEREAS it would greatly diminish the expense of legal proceedings, and prove highly beneficial to the advancement of justice, if certain foreign judgments, official and public documents, and documents, by-laws, rules, regulations and proceedings, and entries in Registers and other books of Corporations, were admitted in evidence without the particularity now required by law: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, any judgment, decree or other judicial proceeding, recovered, made, had or taken in any of the Superior Courts of Law, Equity or Bankruptcy in England, Ireland or Scotland, or in any Court of Record in Lower Canada, or in any Court of Record of the United States, or of any State of the United States of America, shall and may be proved in any suit, action or proceeding, either at Law or Equity in Upper Canada, in which proof of any such judgment, decree or judicial proceeding shall be necessary or required, by an exemplification of the same under the Seal of the said Courts respectively, without any proof of the authenticity of such Seal, or other proof whatever, in the same manner as any judgment, decree, or similar

Preamble.

Judgments, &c., of certain Courts out of U. C. may be proved by exemplification.

similar judicial proceeding of any of the Superior Courts of Common Law or Equity in Upper Canada is proved by an exemplification thereof in any judicial or other proceeding in the said last mentioned Courts respectively.

II. And be it enacted, That any Notarial copy of any Notarial Act or Instrument in writing made in Lower Canada, before a Notary or Notaries, and filed, enrolled or enregistered by such Notary or Notaries, shall be receivable in evidence in any judicial or other proceeding either at law or equity in Upper Canada, in the place and stead of the original, and shall have the same force and effect as the original would have if produced and proved in any such proceeding: Provided always, that such Notarial copy may be rebutted or set aside by proof that there is no such original, or that the Notarial copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may by the law of Lower Canada be taken before a Notary or Notaries, or be filed, enrolled or enregistered by a Notary or Notaries in Lower Canada.

III. And be it enacted, That any judgment, decree, or other judicial proceeding of any Court of Record in Upper Canada, shall and may be proved in any suit, action or proceeding, in any Court in Lower Canada, by the production of an exemplification of such judgment, decree or other judicial proceeding, under the Seal of any such Court of Record, without any proof of the authenticity of such Seal, or other proof whatever.

IV. And be it enacted, That a copy of any official or public document in this Province, purporting to be certified under the hand of the proper officer or person in whose custody such official or public document shall or may be placed, or a copy of any document, by-law, rule, regulation or proceeding, or a copy of any entry in any Register or other book of any Corporation, created or to be created by charter or statute in this Province, purporting to be certified under the Seal of such Corporation, and the hand of the Presiding Officer or Secretary thereof, shall be receivable in evidence of any particular, in any court of justice, or before any legal tribunal, or the Legislative Council or Assembly, or any Committee thereof respectively, or in any judicial proceeding, without any proof of the Seal of such Corporation, or of the signature or of the official character of the person or persons appearing to have signed the same, and without any further proof thereof in every case in which the original record could have been received in evidence.

V. And be it enacted, That all Courts, Judges, Justices, Masters in Chancery, Masters of Courts, Clerks of Courts, Prothonotaries, Commissioners judicially acting, and other judicial officers in this Province, shall henceforth take judicial notice of the signature of any of the Judges of the Superior, Circuit, or County Courts of Law or Equity in Upper or Lower Canada, provided such signature be appended or attached to any decree, order, certificate, affidavit or other judicial or official document.

VI. And be it enacted, That if any person shall forge the Seal or Signature to any such certified copy as is hereinbefore mentioned, or shall tender in evidence any such certified copy with false or counterfeit Seal or Signature thereto, knowing the same to be false or counterfeit, whether the Seal or Signature be that relating to any corporation or office already created or established, or to be hereafter created or established; or if any person shall forge the Signature of any such Judge as aforesaid to any decree, order, certificate, affidavit, or other judicial or official document, or shall tender in evidence any order, decree, certificate, affidavit, or other judicial or official document, with a false or counterfeit Signature of any such Judge as aforesaid thereto, knowing the same to be false or counterfeit, every such person shall be guilty of felony, and shall, upon conviction, be liable to imprisonment in the Provincial Penitentiary for any term not less than two nor more than five years: Provided also, that whenever any of the said documents hereinbefore mentioned shall be received in evidence by virtue of this Act, the Court, Judge, Commissioner or other person acting or officiating judicially, who shall have admitted the same, shall, on the request of any party against whom the same is so received, be authorized, at its or his own discretion, to direct that the same shall be impounded, and kept in the custody of the master or other officer of the Court or

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Instruments passed before Notaries in Lower Canada may be proved by Notarial copy.

Proviso: such proof liable to be rebutted.

Judgments, &c., of certain Courts in U. C. how proved in L. C.

Attested copies of Official Documents, By-laws, &c., receivable in evidence.

Judicial notice of the signature of the Judges and Officers of certain Courts.

Punishment of persons forging any such seal, signature, &c.

Proviso. Any such Document as aforesaid may be impounded by order of the Court, &c.

some other proper person, until further order touching the same shall be given, either by such Court or the Court to which such Master or other officer belonged, or by the person or persons who constituted such Court, or by some one of the Judges of the Superior, Circuit, or County Courts of Law or Equity, on application being made for that purpose.

CAP. XX.

An Act to afford relief to Bankrupts in certain cases. —

[10th August, 1850.]

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WHEREAS great hardship and injustice have been suffered by persons against whom Commissions of Bankruptcy have heretofore issued in this Province from the refusal of their Certificates; And whereas it is expedient that the power of granting such Certificates should be solely vested in the Commissioners of Bankrupts, who should have power to grant the same in all cases where no fraud exists: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall and may be lawful to and for any person against whom a Commission of Bankruptcy has heretofore issued in Upper Canada, and who has not yet received his Certificate, to apply by Petition to the Judge or Commissioner of Bankrupts who shall have issued the Commission against such person, or to the Judge of the County Court, or Commissioner of Bankrupts in the County or United Counties where the said person shall now or at the time of such application reside, for the allowance of his Certificate, and it shall in like manner be lawful to and for such person against whom a Commission of Bankruptcy has heretofore issued in Lower Canada, to apply for the allowance of his Certificate by Petition to the Judge of the Superior Court in the district where such person shall reside, in and to whom the powers and duties of a Commissioner of Bankrupts shall have been vested and assigned for the time being.

Preamble.

Uncertificated Bankrupts may apply to a Judge or Commissioner for a certificate.

II. And be it enacted, That it shall be lawful for such Judge or Commissioner to appoint a public sitting for the allowance of such Certificate to such person (whereof, and of the purport whereof, twenty-one days' notice shall be given in manner to be directed by such Judge or Commissioner, and a copy of such notice shall be served on one of the Assignees or their Solicitor,) and at such sitting, any of the Creditors of such Bankrupt may be heard against the allowance of the Certificate, and the Judge or Commissioner shall consider any objection against allowing such Certificate, and either find the Bankrupt entitled thereto, and allow the same, or refuse or suspend the allowance thereof, or annex such conditions thereto as the justice of the case may require: Provided always, that the written consent of the creditors or of any of them as required by the Acts or either of them relating to Bankrupts heretofore in force in this Province, and specially continued by this Act, shall not be necessary for the allowance of the said Certificate, nor shall the omission or neglect by a Bankrupt to keep or produce the proper Books of Account mentioned in either of the said Acts, prevent his being deemed to have made a full discovery of his estate and effects, nor shall the want or non-production of such Books of Account prevent the allowance or justify the disallowance or non-confirmation of such Certificate: Provided also, that no Certificate shall be a Discharge, unless such Judge or Commissioner shall, in writing under his hand and seal, certify to the proper Court of Review, that such Bankrupt has made a full discovery of his estate and effects, and in all things conformed as aforesaid, and that there does not appear any reason to doubt the truth or fullness of such discovery; nor unless the Bankrupt make oath, in writing, that such Certificate was obtained fairly and

Powers of Judge or Commissioner in such case.

Notice to the Assignees.

Proviso: written consent of creditors &c, not to be necessary: as to Books.

Proviso: Judge or Commissioner must certify certain facts.

And certificate must and

be confirmed by Court of Review.
Proviso.

and without fraud, nor unless the allowance of such Certificate shall, after such oath, be confirmed by the Court of Review, against which confirmation any of the Creditors of the Bankrupt may be heard before such Court; Provided always, that no such Certificate shall release or discharge any person who was partner with such Bankrupt at the time of his Bankruptcy, or was then jointly bound, or had made any joint contract with such Bankrupt.

Bankrupt Acts 7 V. c. 10, 9 V. c. 30. continued for certain purposes only.

III. And be it enacted, That the Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to repeal an Ordinance of Lower Canada, intituled 'An Ordinance concerning Bankrupts and the administration and distribution of their estate and effects,' and to make provision for the same object throughout the Province of Canada,* and the Act amending the same, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to continue and amend the Bankrupt Laws now in force in this Province,* shall respectively be and remain in force until the first day of January one thousand eight hundred and fifty-one, and thence until the end of the then next Session of the Provincial Parliament, in so far only as relates to cases in which Commissions of Bankruptcy have issued, and to all rights, claims, liabilities or obligations, proceedings, matters or things arising out of or depending upon the same.

Interpretation Act to apply.

IV. And be it enacted, That the Interpretation Act shall apply to this Act.

CAP. XXI. *4*

From... 14th 15th 16th 17th 18th 19th

An Act to establish freedom of Banking in this Province, and for other purposes relative to Banks and Banking.

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to provide, by one general law, for the establishment of freedom of Banking in this Province, under such regulations as shall effectually protect the holders of the Notes of Banks, and shall provide as far as may be practicable for the safety of all those dealing with them, and for that purpose to repeal the Ordinance and Act hereinafter mentioned, and to make other provision instead thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, That the Ordinance of the Governor and Special Council for Lower Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance to regulate Private Banking, and the Circulation of the Notes of Private Bankers,* and the Act of the Parliament of Upper Canada, passed in the seventh year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to protect the public against injury from Private Banks,* and all other Acts, Ordinances or provisions of law in force either in Upper or in Lower Canada, inconsistent with the provisions of this Act, shall be and are hereby repealed, except only as regards any penalty incurred under either of them before this Act shall come into effect, with regard to which they shall remain in full force.

Ord: L. C. 2 V. (3) c. 57—and

Act U. C. 7 W. 4 c. 13 repealed.

What parties only may make and issue Bank Notes.

II. And be it enacted, That it shall not be lawful for any person or association of persons, body corporate or politic, or party whatsoever, except only Banks now incorporated by Royal Charter or by Act of the Legislature of this Province or of Lower Canada or of Upper Canada, and thereunto expressly authorized, or such as shall be thereunto authorized under the provisions of this Act, to make, issue, sign, draw, indorse, guarantee, or become parties to (any of which Acts shall be making and issuing within the meaning of this Act,) any Bill, Note, Bon, Check, or promise in writing or undertaking, for the payment of money or securities for money, or other evidence of debt of any description or form, in the nature of a Bank Note or Bank Bill, or intended to pass as money, (and such intention shall be presumed in any case,
if

What shall be Bank Notes.

if the same be made for the payment of any sum less than five pounds, and be payable either in form or in fact to the bearer thereof or on demand, or at less than thirty days thereafter, or be overdue, or be in any way calculated or intended for circulation, or as a substitute for money,) all which shall be Bank Notes within the meaning of this Act, and those with regard to which the provisions of this Act shall be contravened, shall be "unlawful Bank Notes" within the meaning of this Act, and the word "Notes," when hereinafter used, shall mean Bank Notes, unless such meaning be inconsistent with the context; Provided that any Check upon any Chartered or other Bank which may legally issue Bank Notes, paid by the maker thereof directly to his immediate creditor, shall not be deemed a Bank Note, if it be not intended to pass or circulate as such: Provided always, that nothing in this Section contained shall extend to any Promissory Note, Bill of Exchange, Check, Note, *Bon* or other undertaking for the payment of money paid or delivered by the Maker thereof to his immediate creditor, and not intended to pass into circulation as money: Provided also, that this Section shall not, during twelve months next after the passing thereof, apply to any Banks or Company not hereinbefore excepted and authorized by Legislative enactment to issue Bank Notes.

Proviso: as to checks.

Proviso: as to certain Bills and Notes.

Proviso: as to certain Banks or companies.

III. And be it enacted, That every Bank Note issued in this Province, and being for a less sum than Five Shillings, or made payable otherwise than on demand in current coin of this Province, and at some certain place within this Province, shall be an unlawful Bank Note, although issued by a party authorized to issue Bank Notes.

No Bank Note to be for less than 5s.

IV. And be it enacted, That for each and every unlawful Bank Note made or issued, circulated or passed, or attempted to be circulated or passed in contravention of this Act, the party issuing, circulating or passing, or attempting to circulate or pass the same, shall incur a penalty of One Hundred Pounds, to be recovered with costs by action in any Court having Civil Jurisdiction to the amount, by any party who will sue for the same as well for himself as for the Queen; and one moiety of such penalty shall belong to the party suing, and the other half to Her Majesty.

Penalty for issuing or circulating, &c., unlawful Bank Notes.

V. And be it enacted, That no Bank incorporated or having its Chief Office or seat in any country out of Her Majesty's Dominions, shall open or keep any office or place of discount or deposit, or for the issue, circulation or redemption of its Bank Notes within this Province, under a penalty of One Hundred Pounds for each day on which such office or place shall be opened or kept open, to be recovered and applied in the same manner as the penalties imposed by the next preceding Section.

Foreign Banks not to keep offices in the Province.

VI. And be it enacted, That all unlawful Bank Notes shall be absolutely null and void; and any mortgage, hypothec, deed, bond, note, bill or other security, promise or undertaking, which shall be taken or given either directly or indirectly, mediately or immediately, for securing any loan or advance made either wholly or in part in unlawful Bank Notes, shall be absolutely null and void, as shall also any receipt or discharge given for any sum of money if the whole or any part of such sum shall have been paid in unlawful Bank Notes.

Unlawful Bank Notes to be void, &c.

VII. And be it enacted, That the business of Banking shall, for the purposes of this Act, mean the making and issuing of Bank Notes, the dealing in gold and silver bullion and exchange, discounting of promissory notes, bills and negotiable securities, and such other trade as belongs legitimately to the business of Banking, but any Company or party who may lawfully exercise the business of Banking under this Act, shall also have power to take and hold any property which shall have been *bona fide* mortgaged, hypothecated or pledged to such Company or party as security for debts previously incurred in the course of their lawful dealings as aforesaid, and sold under any Writ, Order or Process of any Court of Law or Equity, and bought at such sale by the Company or party, and to re-sell or otherwise alienate or dispose of the same; but except as aforesaid, no such Company or party shall deal in the buying, selling or bartering of goods, wares or merchandize, or engage or be engaged in any trade whatever, and the word "Bank" in this Act shall mean and include any Company or party carrying on the business of Banking under this Act, unless such meaning be inconsistent with the context.

What the business of Banking shall be within the meaning of this Act.

Word "Bank" defined.

Individuals or general partnerships may establish Banks.

VIII. And be it enacted, That any individual or co-partnership of individuals may carry on the business of Banking in this Province at some one place being a City, Town or Village therein, provided the requirements of this Act be complied with, but not otherwise; such co-partnership being general and the individual partners being jointly and severally liable as such, and bound by the laws of this Province then in force touching co-partnerships; and any such individual or co-partnership shall be included by the expression "individual Banker" whenever it occurs in this Act.

Joint Stock Companies may be formed for Banking.

IX. And be it enacted, That it shall be lawful for any number of persons, not less than five, to associate themselves together as a Joint Stock Bank, to be conducted at some one place, and no more, in Upper Canada, or at some one place, and no more, in Lower Canada, such place being, in either case, some City, Town or Village; and when such persons shall have executed articles of agreement in notarial form, if such place be in Lower Canada, and in duplicate under their hands and seals if the same be in Upper Canada, and shewing, in either case—

What such articles must show.

The name under which the Bank is to be conducted, which shall be the corporate name of the Company :

The place at which the Bank is to be conducted as aforesaid :

The whole Capital Stock of the Company, which shall not be less than Twenty-five Thousand Pounds :

The number of shares into which it is divided, which shall not be so great as to make each share less than Ten Pounds :

The name and residence of every Shareholder, and the number of shares held by him :

The period at which the Company is to commence and terminate—

Further provisions may be inserted in articles.

And containing such other provision and clauses as may be agreed upon, with regard to the management of the affairs of the Company, the election or appointment of the Directors, Cashier or other Manager and Officers, their powers and their terms of office, the transfer of shares, the division of the profits, the calling in of instalments on the stock, the increasing of the stock by the admission of new Shareholders or otherwise, the making of By-laws and the purposes for which they may be made and the penalties they may impose, the manner in which the affairs of the Company shall be settled, and its property disposed of and distributed when the Association shall terminate, and generally as to the management of the business of the Company and the rights of the Shareholders as between themselves; and when a duplicate or notarial copy (as the case may be) of such articles of agreement shall have been filed in Lower Canada, in the office of the Prothonotary of the Superior Court for the District, and of the Registry Office for the County in which the place of business of the Company shall be, or in Upper Canada in the office of the Clerk of the County Court for the County in which the place of business of the Company shall be, and shall have been recorded or registered at length in such offices respectively, then the said articles of agreement and the By-laws to be lawfully made in pursuance thereof, shall be valid and binding upon all parties thereto, and upon those who shall (by transfer of shares or otherwise) thereafter become Shareholders, and upon all others concerned, except only that in so much of such articles or By-laws as shall be contrary to the laws of the Province, as modified by this Act, shall be void; and the said articles shall not thereafter be altered except only in such manner as shall be therein expressly provided, and no such alteration shall prejudice the rights of any creditor of the Company accrued before such alteration, nor shall any such alteration or any By-law made under such articles be of any force unless nor until the same shall be made and filed, registered or recorded, in the manner herein provided with regard to the articles themselves.

Where the same shall be filed.

They shall then be binding.

As to altering the same.

Company to be a body corporate.

X. And be it enacted, That from and after the filing, registering or recording of any such articles of agreement as aforesaid, the parties thereto shall be a body corporate by the name therein mentioned and taken by them, and shall have all such rights and powers as are by law vested in Corporations generally, and are not inconsistent with the

the provisions of this Act, and also the power of carrying on the business of Banking and such other powers as are hereby vested in such Company and in parties authorized to carry on the business of Banking, but subject always to the provisions herein made; Provided always, that the Shareholders in any such Company shall be liable for the debts of the Corporation to the amount of twice their respective shares, and no more, that is to say, each Shareholder may, in case of the insolvency of the Company, be compelled to pay to the Receiver hereinafter mentioned, not only the amount of any unpaid instalment on his shares, but also a sum equal to the amount of his shares, or such less sum as may be sufficient to enable the said Receiver to pay off all the liabilities of the Association, and such sum may be recovered by the Receiver either from the actual holder of any share, or from any party who shall have held such share within one year next before the appointment of such Receiver, saving the recourse of such prior Shareholder against those who may have held the same shares after him, provided that the liability of the Shareholders may be made greater by the Articles of Agreement, but shall never be less than herein provided.

Proviso: liability of shareholders limited.

XI. And be it enacted, That in addition to such real property as any Joint Stock Bank may acquire under the provisions hereinbefore made, in the course of its dealings in the business of Banking, it may also purchase and permanently hold such other real estate as may be necessary for the convenient carrying on of its lawful business at the place where the same is to be conducted, and may from time to time depart with the same and acquire other real property in its stead at the said place, so as the total value of such property do not at any time exceed the sum of Twelve Thousand Five Hundred Pounds.

Proviso:

Banks may hold permanently lands, &c necessary to their business.

Value limited.

XII. And be it enacted, That any Joint Stock Company formed under this Act, which shall not within twelve months from the filing of the instrument, certificate or articles aforesaid, become qualified to make and issue Bank Notes shall be *ipso facto* dissolved, saving the remedy of any of the parties concerned for breach of contract by any other of such parties.

Company, &c. dissolved if not qualified within a certain time.

XIII. And be it enacted, That no individual Banker shall make or issue Bank Notes, and no Joint Stock Association shall commence the business of Banking until they shall have respectively deposited in the hands of the Receiver General, for the purposes of this Act, Debentures or other securities issued by, or the payment of the principal and interest whereof is guaranteed by the Government of this Province, under the authority of the Legislature thereof, and bearing interest at the rate of six per centum per annum (or if bearing a less rate of interest, then to proportionably greater amounts) to amounts not less than those hereinafter mentioned, that is to say:

Provincial securities to be deposited before the Bank shall commence business.

To what amounts.

Any Joint Stock Association, the amount of not less than Twenty-five Thousand Pounds:

The value of the said Debentures or securities being reckoned at *par*, and the same being held by the Receiver General in pledge for the due redemption of the Bank Notes of the Bank by which they are deposited, and the interest thereon being paid over to such Bank as the same shall accrue, except as hereinafter provided.

Value of securities to be taken at *par*, &c.

XIV. And be it enacted, That whenever any Bank shall have so deposited the required amount of public securities, the Inspector General shall, on the application of such Bank, cause Bank Notes to an amount not exceeding that so deposited, and for such sums respectively not less than Five Shillings, as the Bank shall require, to be struck upon paper to be selected by him and from plates to be furnished by and at the expense of the Bank, but to be approved and kept by him, and after such Notes are numbered and registered and countersigned by him or the Officer or Clerk whom he shall authorize to perform that duty, he shall deliver the same to the Bank, and after being signed by the proper Officer or Officers of the Bank, they shall be and may be issued and circulated as its Notes; and so long as the Bank shall pay such Notes in specie on demand, they shall be receivable in payment of duties and of all sums due to the Provincial Government: Provided always, that all such Bank Notes shall be made payable to bearer on demand at the Office of the Bank, and not elsewhere, and shall be marked on the face thereof as being secured by deposit of Provincial securities.

Inspector General to deliver registered notes to an amount equal to that deposited: which being signed, &c. shall become notes of the Bank.

Proviso:

Securities may be deposited from time to time, and also withdrawn, on certain conditions.

Proviso.

As to Bank Notes returned to Inspector General.

Proceedings if any Bank shall fail to pay its notes in specie.

Notice to Bank.

Closing the Bank.

Receiver to be appointed; his powers in taking possession of the property of the Bank, &c.

XV. And be it enacted, That it shall be lawful for any such Bank, from time to time to deposit a further amount of such Debentures or Securities as aforesaid (so as the amount deposited at any one time shall not be less than Five Thousand Pounds, and so as the total amount deposited by any Joint Stock Association shall not exceed the capital thereof) and from time to time to withdraw the same from deposit, on the certificate of the Inspector General that a like amount of the Notes of such Bank hath been returned to him, so as the amount withdrawn at any one time shall not be less than Five Thousand Pounds, and so as the sum remaining deposited shall never be less than that required to be deposited before the Bank could commence the business of banking, unless when the Bank is to be closed as hereinafter provided: Provided always that the amount deposited or withdrawn at any one time, shall always be a certain number of Hundreds of Pounds.

XVI. And be it enacted, That Bank Notes returned to the Inspector General as herein provided shall be marked as cancelled in a conspicuous manner by the Bank returning the same, but shall not be so marked or mutilated as to prevent the identification thereof by the Inspector General, by whom they shall be kept during one year, after which they shall be destroyed; nor shall any such Bank Notes be re-issued by him, but if the Bank shall afterwards apply for more, those issued on such application shall be new Notes; and new Notes may be issued by him at any time in exchange for worn out and disfigured Notes returned to him, the amount presented for exchange at any one time not being less than One Hundred Pounds.

XVII. And be it enacted, That if any such Bank Note shall not be paid in specie on demand at the Office of the proper Bank, it may be protested for non-payment, and a copy of the Note and protest forwarded to the Inspector General, who shall thereupon by letter to be delivered at the Office of the Bank by some person who shall before a Justice of the Peace make affidavit of the delivery thereof, require the Bank to pay the same, and if it be not paid (with costs of protest and postage and interest, at the rate of six per cent per annum, from the date of the protest,) within ten days after the delivering of such requisition, then the Inspector General, unless he be satisfied that the Bank has a legal defence, shall close the Bank, by giving notice in the Government Gazette, which notice shall continue to be inserted during three consecutive weeks that the same is closed, and that he will redeem its notes out of the funds in his hands so far as the same will suffice, and that a Receiver (naming him) has been appointed for settling the affairs of the Bank, in whom all its property and credits are vested, and to whom all moneys due to the Bank must thereafter be paid on pain of paying the same again to him, and that no contract, act or thing thereafter made or done by the Bank will be valid or binding upon it; and such Receiver shall be appointed by letter from the Secretary of the Province by command of the Governor, and by such appointment the money, property, effects and securities, claims and credits of the Bank shall be transferred to and vested in such Receiver, and shall be delivered over to him by the Bank with all the books, papers, accounts and documents relating to the business and affairs of the Bank, and he shall have full power and authority in the name of the Bank to receive, recover or enforce all moneys, property, rights, claims and Demands which the Bank might otherwise have received, recovered or enforced, and to bring or continue, complete, defend, compromise, discontinue, or otherwise deal with any suit, action or proceeding at law or in equity, as the Bank might have done, and shall be considered as being *ipso facto* substituted for the Bank; and any Banker or any Partner, Associate or Shareholder in the Bank, or any Director, Manager, Officer or Servant of such Banker or Bank, or other person who shall have been entrusted with the same, without having any legal title to or lien thereupon, who shall have any money, property, securities, books, accounts, papers, or documents of the Bank in his possession or under his controul, and shall not forthwith deliver the same to the said Receiver on demand, shall be held to have fraudulently embezzled the same, and shall be punishable accordingly, and the Receiver may recover possession of the same by any means by which any party may recover possession of his property fraudulently embezzled, and any

any other party who shall have possession thereof may be proceeded against for the recovery thereof in the usual course of Law: and it shall be the duty of the said Receiver to examine into and settle the affairs of the Bank, and to report thereon from time to time fully to the Inspector General, who shall cause the public securities deposited as aforesaid by the Bank, to be sold at such time and in such manner as he shall think most to the advantage of the Creditors of the Bank, and no interest thereon shall be paid to the Bank after the closing thereof, and the Receiver General shall deliver them to the purchasers on the order of the Inspector General, and the proceeds of the sale shall be applied with the other Assets of the Bank, and by the Receiver appointed as aforesaid, first to the redemption of its Bank Notes, and then to the payment of the other liabilities thereof; and as soon as the said securities shall have been sold, the said Receiver shall give notice, if the proceeds of the sale either alone or with other funds of the Bank in his hands shall be sufficient to redeem all the outstanding Bank Notes, that he is ready to redeem the same in full, or if such proceeds and funds be insufficient for that purpose, then, that he is ready to pay as much in the pound on such Bank Notes as the funds in his hands will allow, and so from time to time until they be redeemed in full, or the Assets of the Bank are exhausted; and he shall give the holders of any Bank Notes paid in part, a Certificate stating the facts and entitling them to receive as much more as the funds in his hands will admit, and no other creditor of the Bank shall on any account, or on any plea or privilege of any kind, be paid any part of his claim until the holders of the Bank Notes shall have been paid in full, (with interest from the day the Bank was closed,) and if any Bank Notes known to be outstanding be not presented, the Receiver shall reserve sufficient funds for the payment thereof.

XVIII. And be it enacted, That if there be any surplus after paying the holders of Bank Notes, the same shall be distributed among the other creditors of the Bank who shall claim the same, according to their respective privileges and rights; and all claims upon the Bank may be filed with the Receiver at any time within one year from the closing of the Bank with the evidences of such claims, or copies of such evidences, and all the particulars thereof; and the Receiver shall sell and dispose of to the best advantage all the property real and personal and all securities and claims of the Bank which cannot be collected or realized in money within one year from the closing of the Bank, and shall have full power to convey the same to the purchasers; and he shall at some time not less than six months nor more than one year after his appointment make out a schedule showing the Assets which have come into his hands, the expenses incurred and the sums paid for the redemption of Bank Notes, the sum remaining in his hands, and the unpaid liabilities of the Bank, so far as known to him, and showing also the manner and proportion in which, in his opinion, the said remaining sum ought to be distributed among the unsatisfied creditors of the Bank according to their respective rights; and he shall file such schedule in the office of the Circuit or County Court of the Circuit or County in which the business of the Bank shall have been conducted, and shall apply to the Judge or to one of the Judges of the Court to appoint a day, (not being more than twenty nor less than ten days after such application) when the said statement will be taken into consideration; and notice of such day and of the purpose thereof shall be given by the Receiver in such two newspapers, at such intervals, and during such time as the Judge shall appoint, and the said schedule shall lie open to the inspection of all parties interested at the office of the said Court and at the Bank during office hours until the day so appointed; and until within ten clear days of the said day, any party who shall, before the date of the said schedule, have filed his claim with the Receiver, may file in the office of the said Court, and serve upon the Receiver a notice of any objection he may have to make to the said statement or to any part thereof, stating clearly and succinctly in ordinary language, words and figures, the reasons of such objections and the evidence (if any) which he proposes to adduce in support thereof; and on the day so appointed or any day or days to which he may adjourn the matter, the said Judge or any other who may

His duties in settling the affairs of the Bank.

Securities to be sold.

Holders of Bank Notes to be first paid.

Surplus after paying Note holders to be distributed among the other Creditors.

Disposal of Bank property, &c.

Schedule to be made by Receiver.

To be filed for allowance by a County or Circuit Judge.

Objections may be filed.

Objections to be heard and determined upon.

sit in the said Court shall in a summary manner hear the parties objecting and the Receiver, and determine upon the merits of the objections, and confirm or amend the said schedule in such manner as he may deem most consistent with the rights of the parties respectively ; and during the six clear juridical days next after the said schedule shall have been so confirmed or amended, any of the parties interested may, if the amount to which he is interested be sufficient, give the security required by law on appeals from the said Court, and may then appeal from the decision of the Judge as to the whole or any item of the said schedule as confirmed and amended, to the Superior Court in Lower Canada, or to the Court of Queen's Bench or Common Pleas in Upper Canada, (as the case may be) in the manner by law provided with regard to appeals from other decisions of the Court appealed from, and the decision of the Court so appealed to shall be final, whatever be the amount in question ; but pending such appeal, the Receiver may pay to the parties mentioned in the said schedule respectively, so much of the sums therein allotted to them as cannot be affected by any such decision in appeal ; and the costs or any portion thereof, may in the discretion of the Judge or Court, be awarded against any party or ordered to be paid by the Receiver out of any other moneys he may then or thereafter have in his hands, or deducted *pro rata* from the sums to be paid to the claimants or any of them, as justice and the circumstances of the case may require ; and like proceedings shall be had and with like effect whenever the Receiver shall have further moneys in his hands requiring distribution ; but no such schedule shall be filed at a less interval than three months from the filing of that next preceding it, nor for the distribution of a less sum than Two Thousand Five Hundred Pounds, unless it be the final one.

Appeal given.

As to costs.

Proceedings repeated in certain cases.

Receiver may invest moneys.

Receiver to obey instructions, give security, &c.

Provision in case of his removal, &c.

Engagements of officers of Bank to terminate at its closing.

XIX. And be it enacted, That it shall always be lawful for the Receiver, if he shall deem it beneficial to the interests of the creditors of the Bank, to invest any Assets of the Bank which will probably remain for more than three months in his hands, in Provincial securities, so as to make interest thereon.

XX. And be it enacted, That every Receiver appointed under this Act shall obey such instructions as he shall receive from the Inspector General, touching the safe keeping and deposit in any Bank or Banks, or with any public officer, of any moneys in his hands as Receiver, until the same shall be required to be used for the purposes of this Act : And every such Receiver shall give security to Her Majesty for the due accounting for and payment of all moneys coming into his hands to all persons lawfully entitled to receive the same, in such sum, manner and form as the Governor shall direct, and such security shall avail and may be enforced according to the tenor thereof : and the allowance to be made to him shall be fixed by the Governor in Council, but any permanent officer of the Government may be appointed a Receiver, and the same person may act as such with regard to more than one Bank, and he may have Assistants and Clerks under him : and any such Receiver shall be removable by the Governor at pleasure, and his successor appointed in case of his death or removal, shall be substituted for him in all his rights and powers, and may continue and complete any suit, proceeding or matter which the former Receiver shall have begun, and may demand from such former Receiver all the moneys, property and effects in his hands, and any Receiver, or his personal representatives failing to pay or deliver over to his successor or to any person lawfully entitled to receive the same, any such moneys, property or effects, shall be held to have embezzled the same, being the property of Her Majesty, and possession thereof may be recovered by his successor, and he, or his representatives, may be dealt with accordingly, without prejudice to any remedy of a civil nature by the Crown or any other party against him or his sureties.

XXI. And be it enacted, That the engagement and salary of every clerk or officer of a Bank shall terminate on the closing thereof, but any of them may be employed by the Receiver with the consent of the Inspector General to assist him in his duty : and during three months after the closing of any Bank, the office of the Receiver shall be kept in the office of the Bank, but after that time it may be kept in such other place as he may appoint with the approval of the Governor.

XXII. And be it enacted, That any such Bank may be closed, a Receiver appointed and other proceedings had as provided in the preceding sections, if any judgment against such Bank shall remain unsatisfied for more than three months after the rendering thereof, no appeal from such judgment being then pending.

Non-satisfaction of judgments to be a ground for closing a Bank.

XXIII. And be it enacted, That whenever either by the lapse of time or by the voluntary act of the individual Banker or by agreement among the partners, or associates, or Shareholders in accordance with their articles of agreement, it is intended that any Bank shall be closed, then after nine-tenths of all the Bank Notes of such Bank shall have been redeemed and returned to the Inspector General, the Bank shall give public notice in such manner and during such time as the Inspector General shall appoint, that its Bank Notes are called in and are to be presented at the office of the Bank for payment on or before a day to be named in the notice, and not being more than one year nor less than six months from the date thereof, and that if not so presented they will after the said day cease to be secured by the deposit of Provincial securities; and after the said day, the Inspector General, upon the delivery to him of all that shall have been so presented, and upon security being given by recognizance to his satisfaction that all such of those then outstanding as shall within two years from the giving of such security be presented for payment at some certain place to be named in the recognizance and being within the limits of the City, Town or Village where the business of the Bank was conducted, will be then and there redeemed in current money, may issue his Certificate to the Receiver General for the delivery to the Bank of the remaining one-tenth of the Provincial securities deposited in his hands; and the holder of any Bank Note so presented as provided in such recognizance, and not paid, may recover the amount thereof with interest from the date of presentation and costs, from the cognizers, by action on such recognizance.

Proceedings in case a Bank shall be voluntarily closed.

XXIV. And be it enacted, That every Bank formed under this Act, shall, whether the partners, associates or shareholders therein be or be not jointly and severally liable, keep constantly and conspicuously exposed and accessible to the public in the office of the Bank, a correct list of all the partners, associates or shareholders therein, with their places of residence, and if the liability of all or any of them be limited, such list shall also shew the amount of the liability of each, and the Bank shall in such case also keep in its office open for public inspection copies of their articles of agreement and of the instrument filed as herein before required, and every such Bank shall on the payment of the sum of seven pence half-penny deliver to any person applying for the same a copy of such list and of such articles or instrument (if any there be) signed and certified as correct by some partner, associate, officer, or person thereunto authorized by the Bank and stated so to be; and any such copy shall on proof of the signature thereto be *prima facie* evidence that the signer was authorized as aforesaid, and of the truth of the contents; and for contravention of this section, on any day, the Bank contravening the same shall incur a penalty of one hundred pounds, the repetition of the contravention on another day constituting a new offence entailing a like penalty.

List of all the partners, &c. to be kept constantly exposed in the Bank.

Copies to be furnished.

XXV. And be it enacted, That the office of every Bank established under this Act, kept at the place where the business of the Bank is to be conducted, shall be *bona fide* an office of discount and deposit as well as the place for issuing and redeeming the Notes of such Bank.

Every Bank to keep an office of discount and deposit.

XXVI. And be it enacted, That the share in any Joint Stock Bank shall be personal property, and every transfer of any such share shall, as to Banks in Upper Canada, be made in duplicate, and one duplicate shall be deposited in the office of the Bank, and the other shall be filed in the office of the County Court, and as to the Banks in Lower Canada, such transfers shall be made in triplicate, and one triplicate shall be deposited in the office of the Bank, one in the office of the Superior Court, and one in the Registry Office of the County, and until they be so deposited and filed such transfer shall not affect any third party: and such shares shall be liable to attachment, seizure and sale, under the provisions of the Act passed in the twelfth year of Her Majesty's Reign, and intituled,

Shares in Joint Stock Banks to be personal property. How transferred.

12 V. c. 23.

Total liabilities of
Joint Stock Bank
limited.Dividends not to im-
pair capital.Unclaimed dividends,
&c., to be advertised.Statements to be sent
in periodically by
Banks under this
Act.Particulars to be con-
tained in such state-
ment.Attestation of such
statements.Statements may be
published.

intituled, *An Act to provide for the Seizure and Sale of Shares in the Capital Stock of Incorporated Companies.*

XXVII. And be it enacted, That the total liabilities of any Joint Stock Bank shall never exceed three times the amount of its capital under a penalty of one hundred pounds for each day such excess shall continue, and the Directors in office at the time such excess shall be incurred shall be jointly and severally liable in their private capacity for all liabilities of the Bank contracted while such excess shall continue, including the day on which it shall have been incurred: and any such excess shall always be sufficient ground for the Inspector General to cause the books of the Bank to be examined as herein provided.

XXVIII. And be it enacted, That no dividend shall be made by any Joint Stock Bank whereby its capital shall be impaired, but out of its clear profits only, after allowing a reasonable sum for bad or doubtful claims.

XXIX. And be it enacted, That every Joint Stock Bank established under this Act, shall advertise any unclaimed dividends or Stock of such Bank in such manner as the Inspector General shall from time to time direct.

XXX. And for the better protection of the public in their dealings with Banks established under this Act, Be it enacted, That each and every such Bank shall, on the first day of January and July in each year, transmit to the Inspector General, a full and clear statement of the Assets and Liabilities of the Bank on the day of the date thereof, shewing as clearly as the same can be shewn, without mentioning individual names and accounts, the true state of the affairs of the Bank, and stating with reference to the sums due to the Bank, how the same are secured, what part thereof is due to the Bank by directors or general partners, or is secured by their being liable therefor by indorsement or in any other way, and what proportion thereof (if any) may be considered bad or doubtful; and such statement shall contain in addition to such other particulars as the Inspector General may require:

First. The amount of Stock invested and secured by deposit of Debentures.

Second. The value of the Real Estate of the Association, specifying what portion thereof is occupied for their business.

Third. The shares of Stock held and the number and value held by each Member.

Fourth. The debts owing to the Association or Banker, and the particulars thereof.

Fifth. The debts owing by the Association or Banker, and the particulars thereof.

Sixth. The amount of claims against the Association or Banker not acknowledged as debts.

Seventh. The amount for which the Association or Banker is bound as surety or contingently liable, whether on policies of insurance or otherwise.

Eighth. The amount of Notes in circulation, of loans and discounts and of specie on hand.

Ninth. The amount of the same on the first of July last preceding.

Tenth. The amount of losses sustained, and whether charged on the capital or profits since last statement, and of the dividends declared and made.

Eleventh. The amount of Debentures deposited with the Receiver General.

And such statement shall be attested by the oath, before some Justice of the Peace, of two persons, one being the Banker or one of the general partners, or the President, Vice-President or other functionary, for the time being, at the head of the Association, and the other the Cashier, Book-keeper, or other chief officer of the Bank for the time being, having charge of the books, papers and money of the Bank, and the ministerial management of its business; each of whom shall swear distinctly that he has such quality or office as aforesaid, that he has had the means of verifying and has verified the statement aforesaid, and found it to be exact and true in every particular, that the property of the Bank has been set down at its true value to the best of his knowledge and belief, and that the allowance made for bad and doubtful claims is, as he verily believes, ample and fair; and such statement shall be published by the Inspector General in such manner as he shall think most conducive to the public good; and for any

any neglect to transmit such statement in due course of post, within five days, after the day to which it is to be made up, the Bank shall incur a penalty of twenty-five pounds *per diem*, and if the same be not transmitted within one month after the said day, or if it shall appear by the statement that the Bank is insolvent, the Inspector General may close the Bank, and proceedings shall then be had in all respects as when a Bank is closed for other causes: and if the Inspector General shall in any case suspect any such statement to be wilfully false, he may depute some competent person to examine the books and enquire into the affairs of the Bank, and to report to him on oath, and if by such report it shall appear that such statement was wilfully false or that the Bank is insolvent, or if the person so deputed shall report on oath that he has been refused such access to the Books or such information as would enable him to make a sufficient report, the Inspector General may close the Bank, and proceedings shall be thereupon had as aforesaid: but if the report be satisfactory, the information obtained by the person so deputed as to the particular account of any party with the Bank, shall not be divulged: but in any of the cases in which discretionary power is given to the Inspector General to close a Bank, he may before so doing give notice to the Bank, and afford the same an opportunity of making any explanation it may be advisable to make.

Inspector General may cause Books of Bank to be inspected in certain cases.

XXXI. And be it enacted, That all the expenses of carrying this Act into effect shall be borne by the Banks to be established under it; and such part of the said expenses as shall be directly incurred for or on account of any particular Bank shall be paid by it, and the remainder shall be yearly apportioned upon the several Banks in proportion to the amount of Bank Notes issued to each: and the share of such expenses payable by any Bank may, if not sooner paid, be deducted from the interest of the Provincial securities deposited by it in the hands of the Receiver General, upon the Certificate of the Inspector General; and in the case of the closing of any Bank by the Inspector General, all such expenses payable by the Bank shall be paid out of the Assets thereof in preference to any other claim whatever.

How expenses of carrying this Act into effect shall be paid.

XXXII. And be it enacted, That the fees to be taken by the Clerk of any Superior or County Court or any Registrar, shall be: for filing and recording or registering any Instrument under this Act, and Certificate thereof, seven shillings and six pence, and six pence per hundred words in such Instrument and Certificate; and for the like services, as to the transfer of any share or shares, two shillings and six pence, and six pence per hundred words.

Fees for certain services under this Act.

XXXIII. And be it enacted, That any of the now Incorporated Banks in this Province may deposit Provincial securities in the hands of the Receiver General, and obtain registered notes to the amount so deposited from the Inspector General, marked as being secured by deposit as aforesaid, which being afterwards signed by the proper functionaries of such Incorporated Bank, shall be Bank Notes thereof and may be circulated, and shall have the same privileges and advantages as other Bank Notes registered under this Act; and the provisions of this Act relative to the preparation and delivery of registered notes by the Inspector General and the payment of the expenses attending the same, shall apply to those delivered by him under this Section, but the other provisions of this Act shall not be thereby extended or deemed applicable to any now Incorporated Bank; Provided always, that in case of the failure of any such now Incorporated Bank, the holders of the registered notes thereof shall be paid out of the proceeds of the debentures by the deposit whereof the same are secured and of any dividend or interest accruing thereon after such failure, in preference to any other creditor whatever of such Bank.

Existing Banks may avail themselves of certain provisions of this Act.

Proviso.

XXXIV. And be it enacted, That for and notwithstanding anything in the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act for levying a certain rate or duty on Bank Notes issued and in circulation in this Province*, no duty shall be payable on Bank Notes secured by the deposit of Provincial securities in the manner hereinbefore provided.

No duty to be paid on registered Notes.

4 & 5 V. c. 29.

XXXV. And be it enacted, That the Interpretation Act shall apply to this Act, and that if any case not expressly provided for by this Act shall arise, it shall be decided in such

Interpretation and reservation of right to amend this Act.

such manner as shall be most consonant to the general spirit of the provisions of this Act to which reference shall always be had in applying the law to such case; and no amendment of this Act, or declaratory enactment applying indiscriminately to all similar cases, which may be made as to the intent and meaning of this Act, nor any enactment which shall be made for giving full effect to its provisions or any of them, shall be deemed an infringement of the rights of any party, although the same may incidentally affect pending cases, or Banks established before the passing of the amending or declaratory Act; and the Governor in Council shall have full power from time to time to make regulations for the governance of the Inspector General and all Receivers or Officers to be appointed under this Act, in the performance of the duties assigned to them; and all Courts to whom any jurisdiction is assigned by this Act shall have full power to make rules of practice and tariffs of fees with regard to all proceedings to be adopted in carrying such jurisdiction into effect.

Statements to be laid before the Legislature.

XXXVI. And be it enacted, That a general statement of the Banks established under this Act, their capital, circulation, liabilities, and such other particulars respecting them as may be required to shew the operation of this Act, and an account of the expenses incurred in carrying it into effect, shall be laid before the Legislature within thirty days after the opening of each Session thereof.

C A P . X X I I .

An Act to confer certain rights upon the Chartered Banks of this Province, and to declare the rights already possessed by them in certain cases.

[10th August, 1850.]

Preamble.

WHEREAS it is desirable to extend certain rights to the Chartered Banks of this Province, and to make plain the rights already held by them in certain cases: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That notwithstanding anything in any former Act contained, it shall and may be lawful, to and for any Bank Incorporated or holding a Charter under Act of Parliament of this Province, or of any former Parliament of Upper or Lower Canada, to take, hold, and dispose of mortgages and *hypothèques* upon personal as well as real property, by way of additional security for debts contracted to any such Bank in the course of its business; and that the rights, powers and privileges which the said Banks have or are hereby declared to have or to have had in respect of real estate mortgaged to them, shall be held and possessed by them, in respect of any personal estate which may be mortgaged to them.

Banks may hold mortgages on real or personal property in certain cases.

Banks may purchase property mortgaged to them.

II. And be it enacted, That notwithstanding anything in any former Act contained, it shall and may be lawful to and for any such Chartered Bank to purchase any lands or real estate which may be offered for sale under execution at the suit of any Bank so purchasing, or may be exposed to sale by any such Bank under a power of sale given to it for that purpose, in cases where, under similar circumstances, an individual could so purchase, without any restriction as to the value of the lands which it may so purchase, and to acquire a title thereto as any individual purchasing at Sheriff's sale or under a power of sale, in like circumstances, may and can do, and the same to take, have and hold and dispose of at pleasure.

Doubts. Recital.

III. And whereas doubts have arisen as to the right and competency of any such Bank under its existing Charter to acquire and hold an absolute title in or to land which had been mortgaged to any such Bank in security for a debt due or owing to it, either by obtaining a release to such Bank of the equity of redemption in the said mortgaged premises, or by procuring a foreclosure thereof in the Court of Chancery, or by other means

means whereby, as between individuals, an equity of redemption, can or may by law be shut out or barred; And whereas it is expedient to quiet such doubts, It is hereby declared and enacted, That nothing in any former Act of the Parliament of this Province, or of any former Parliament of Upper or Lower Canada, did or does prevent or prohibit any such Bank from acquiring in the manner above in this Section referred to, and holding at its disposal, an absolute title to and in any such mortgaged lands, whatever the value thereof may be, or from exercising or acting upon any power of sale contained in any mortgage given to it or held by it, authorizing or enabling it to sell, dispose of or convey away any lands so mortgaged.

They may obtain a title by foreclosure, &c.

CAP. XXIII.

An Act to amend and explain the Acts therein mentioned relative to Promissory Notes and Bills of Exchange, and to limit the sum to be allowed for the expenses of noting and protesting Bills and Notes, in certain cases, under the Act to regulate the damages on protested Bills of Exchange within this Province.

[10th August, 1850.]

WHEREAS the expenses now attending the protesting of Bills, Drafts, or Orders drawn by persons in this Province, or of Promissory Notes made or negotiated in Canada, have, in many cases, been found to be oppressive; and whereas inconvenience has resulted from the interpretation put upon the provision hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in Upper Canada, the sum to be allowed to any Notary, under the fifth section of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to regulate the rates of damages on Protested Bills of Exchange in Upper Canada*, for the expenses of noting and protesting any such Bill, Draft, Order, or Promissory Note, as is mentioned in the fourth section of the said Act, shall hereafter be two shillings and six pence, currency, with a further sum of one shilling and three pence, currency, and no more, for each notice, in addition to postages actually paid; any law, usage, or custom to the contrary notwithstanding.

Preamble.

II. And be it enacted, That in Lower Canada, the sum to be allowed to any Notary for noting and protesting any Bill of Exchange, Draft, Order, or Promissory Note, shall hereafter be five shillings, currency, with a further sum of two shillings and six pence, currency, and no more, for each notice, in addition to postages actually paid; any law, usage, or custom to the contrary notwithstanding.

Fees on protesting Notes, &c. in U. C. 12 V. c. 76.

III. And be it enacted, That no Clerk, Teller, or Agent of any Bank, shall act as a Notary in the protesting of any Bill or Promissory Note, payable at the Bank, or any of its Agencies, in which such Clerk, Teller, or Agent is employed.

Fees on the same in L. C.

IV. And for the avoidance of doubts as to the true intent and meaning of the seventh section of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the Law regulating Inland Bills of Exchange and Promissory Notes, and the protesting thereof, and Foreign Bills in certain cases*, Be it declared and enacted, That it is not and shall not be necessary under the said section that the words "only, and not otherwise or elsewhere," or words of like import, be inserted in the body of the Bill or Note, or in any acceptance of a Bill, or Note, in order to prevent the same from being payable generally, or the acceptance from being general; but if in any Bill or Note, or in the acceptance thereof, the same be made payable at any stated place, it shall be understood to be made payable at such place only, and not otherwise or elsewhere, and the promise or acceptance shall be held to be qualified accordingly: Provided always, that this section shall not extend to Upper Canada.

Officers of Banks not to act as Notaries.

Recital.

12 V. c. 22.

Section 7 of the said Act interpreted.

Provido.

As to Holidays in
Upper Canada.

V. And be it enacted, That in Upper Canada, the Birth-day of the Sovereign, Christmas Day, New Year's Day and Good Friday, shall be holidays, and any Promissory Note or Bill of Exchange falling due on any one of these days, shall be deemed and taken to be due on the day preceding any of such days, unless such preceding day shall be a Sunday, and then such Promissory Note or Bill of Exchange shall be deemed and taken to be due on the Saturday next preceding such Sunday.

VI. And be it enacted, That from and after the passing of this Act, all Protests of Bills of Exchange and Promissory Notes shall be taken and received in all the Courts of Law and Equity in this Province to be *prima facie* evidence of the allegations and facts therein set forth and contained.

C A P . X X I V .

An Act to amend an Act to secure the right of property in British Plantation Vessels navigating the inland waters of this Province, and not registered under the Act of the Imperial Parliament of the United Kingdom, passed in the third and fourth years of the Reign of His late Majesty King William the Fourth, intituled, *An Act for the Registering of British Vessels, and to facilitate transfers of the same, and to prevent the fraudulent assignment of any property in such Vessels.*

[10th August, 1850.]

Preamble.
8 Vict. c. 5:

WHEREAS it is desirable to amend the Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act to secure the right of Property in British Plantation Vessels navigating the Inland Waters of this Province, and not registered under the Act of the Imperial Parliament of the United Kingdom passed in the third and fourth years of the Reign of His late Majesty King William the Fourth, intituled, 'An Act for the registering of British Vessels,' and to facilitate transfers of the same, and to prevent the fraudulent assignment of any property in such Vessels:* Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, That whenever it shall become necessary to register any ship or vessel belonging to a corporate body or limited partnership, the following declaration, in lieu of the declaration in the said recited Act mentioned, shall be taken and subscribed by the Secretary or any Director or Manager of such corporate body, or any general partner of such limited partnership:

New form of declaration to be used in certain cases.

The form.

" I, A. B., Secretary (or as the case may be) of (name of corporation or limited partnership) do hereby declare, that the Ship or Vessel (name) of (port) whereof (master's name) is at present master, being (kind of build, burden, &c., as described in the certificate of the surveying officer) was (when and where built) and that the same doth wholly and truly belong to (name of company, corporation, or limited partnership, describing in the case of a limited partnership, the time when and the county in which the certificate of partnership was made and registered.)"

C A P . X X V .

An Act to extend certain Provincial Acts to Foreign Merchant Vessels, when within this Province.

[24th July, 1850.]

Preamble.

WHEREAS it is expedient that the Acts hereinafter mentioned should extend to Foreign Merchant Ships: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue

virtue of and under the authority of An Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in so far as may be consistent with the provisions of any Act of the Imperial Parliament in force in this Province, and with the terms of existing Treaties between Her Majesty and Foreign Powers respectively, and the rights, privileges, and immunities secured to the Consuls, Vice-Consuls, Commercial and other duly accredited Agents, subjects and citizens of such Foreign Powers respectively, all the provisions and enactments of the Act of the Parliament of Lower Canada, passed in the forty-seventh year of the Reign of King George the Third, and intituled, *An Act to prevent the desertion of Seamen and others in the sea service, to punish persons encouraging such Seamen and others to desert, or harbouring or concealing them thereafter, and to repeal certain Acts therein mentioned*, as amended by the Act of the Parliament of this Province, passed in the sixth year of Her Majesty's Reign, intituled, *An Act to amend the Act therein mentioned relative to the desertion of Seamen and others in the sea service*, and of the Act of the Parliament of this Province, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act for regulating the shipping of Seamen*, shall extend and are hereby extended, and shall apply to Ships and Vessels in the Merchant Service of Foreign Countries, and to all persons in relation to such Ships and Vessels, in the same manner as the same have heretofore extended and applied to Ships and Vessels in the British Merchant Service, and to similar persons, in relation to such last mentioned Ships and Vessels. Provided always, that the oath of the Master of any such Foreign Merchant Ship or Vessel, or of any officer or person employed on board thereof, or on board any other Ship or Vessel of the same country, that to the best of his belief and understanding, any Seaman or other person is bound or engaged to serve on board such Ship or Vessel, according to the law of the country to which such Ship or Vessel shall belong, or of the place where such Seaman or other person shall have been hired, shall be *prima facie* evidence that he is legally bound or engaged to serve on board such Ship or Vessel, within the meaning of the said Act, although he may not have regularly entered into or signed Articles of Agreement, or be bound by Articles of Indenture, in the manner required by law with regard to Seamen and others engaged or bound to serve on board British ships. And provided also, that no Justice of the Peace shall entertain or act upon any complaint or information under the said Acts, or either of them, by or against any person belonging to or connected with any such Foreign Merchant Ship or Vessel, and not being a subject of Her Majesty, or exercise jurisdiction under the said Acts, or either of them, over or at the instance of any such person, without the consent of both parties to such complaint or information, or the consent in writing of the Consul, Vice-Consul, or Commercial or other duly accredited Agent of the country to which such ship or vessel belongs, first had and obtained, unless the parties to such complaint or information be subjects or citizens of a country or countries, by the terms of Treaties in force between Her Majesty's Government and the Government or Governments of which country or countries it be stipulated that the assistance of British Courts and Magistrates shall be granted to the subjects or citizens of such country or countries, or one of such parties be a subject or citizen of any such country and the other a subject of Her Majesty.

II. And be it enacted, That this Act, and the said above cited Act passed in the sixth year of Her Majesty's Reign, shall be once in each year publicly read on the first day of the term of the Courts of Quarter Sessions for the month of April in and during the sittings of the said Courts for the Districts of Quebec, Montreal and Three-Rivers respectively, by the Clerks of the Peace for the said Districts, who shall make an entry in the Register of the said Courts, that this Act and the said Act were so read publicly.

Act of L. C. 47 Geo. 3. c. 9 extended to foreign ships.

As amended by 6 V. c. 4.

10 & 11 V. c. 25.

Proviso as to proof of engagement.

Proviso as to consent of parties or Consuls except in certain cases.

This Act and 6 Vic. c. 4, to be read at Quarter Sessions as 47 Geo. 4. c. 9.

CAP. XXVI.

An Act to facilitate and encourage the study of the Law in this Province.

[10th August, 1850.]

Preamble.

WHEREAS it is highly desirable that duly qualified persons should be admitted to the practice of the Law in all parts of this Province, without any unnecessary restrictions, and in that view it is expedient to enable persons who have complied with the formal or probationary conditions for that purpose in one section thereof, to obtain such admission in either or both, after due examination: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any person having been duly authorized to practice as an Advocate, Barrister, Attorney, Solicitor and Proctor at Law, in all Courts of Justice in Lower Canada, or having been found capable and qualified, and being entitled to receive a Diploma for that purpose under the provisions of the Act of the Parliament of this Province, passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to incorporate the Bar of Lower Canada*, or having been duly registered as a clerk and studied during the periods for study respectively required under the provisions of the said Act, on producing sufficient evidence thereof, and also on producing testimonials of good character, and undergoing an examination in the Law of Upper Canada to the satisfaction of the Law Society of Upper Canada, to be called by the said Society to the degree of a Barrister, upon his entering himself of the said Society, and conforming to all the rules and regulations thereof.

Admission of lawyers or Students from L. C. to the Bar in U. C.

Admission of lawyers or Students from L. C. as Attornies or Solicitors in U. C.

II. And be it enacted, That it shall be lawful for the Courts of Queen's Bench, Chancery and Common Pleas in Upper Canada respectively, in their discretion, to admit as Attornies or Solicitors of the said Courts respectively, any such person as aforesaid, so called to the degree of a Barrister as aforesaid, on producing such sufficient evidence and testimonials, and undergoing such examination as aforesaid, to the satisfaction of such Courts respectively.

Admission of Barristers or Students from U. C. to the Bar in L. C.

III. And be it enacted, That it shall be lawful for any person having been duly called and admitted to the practice of the Law as a Barrister in Upper Canada, according to the constitution and establishment of the Law Society of Upper Canada, or being duly qualified and entitled to be so called and admitted, on producing sufficient evidence thereof, and also on producing testimonials of good character, and undergoing an examination in the Law of Lower Canada to the satisfaction of the proper Committee of the Council of any Section of the Bar of Lower Canada, to apply for and obtain from the *Bâtonnier* of such Section a Diploma in the form of the Schedule hereunto annexed, authorizing him to practice as an Advocate, Barrister, Attorney, Solicitor and Proctor at Law, in all Courts of Justice in Lower Canada.

SCHEDULE.

PROVINCE OF CANADA, }
District of }

To all whom these presents shall concern—GREETING:

We, the undersigned, *Bâtonnier* of the Bar of Lower Canada, Section of the District of
in conformity with the provisions of the Act of the Parliament of this Province, passed in the twelfth year of the Reign of Her Majesty Queen Victoria, intituled, *An Act to incorporate the Bar of Lower Canada*, and of the Act of the same Parliament, passed in the session held in the thirteenth and fourteenth years of the Reign of Her said Majesty, intituled, *An Act to facilitate and encourage the study of the Law in this Province*,

Province, and in pursuance of the Certificate to us delivered by three (or several, as the case may be,) of the Examiners of the said Section, dated the _____ of _____ to the effect that _____ of _____ has produced the evidence and testimonials, and undergone the examination necessary to his admission to the order of Advocate, under the provisions of the Act last above cited, and that from such evidence, testimonials and examination, they are satisfied that he is in all respects worthy and qualified to be so admitted, have given and granted to him, and by these presents do give and grant to him, according to the provisions of the said Acts, the present Diploma, conferring on him the right of practising as an Advocate, Barrister, Attorney, Solicitor and Proctor at Law, in all Courts of Law in Lower Canada.

Given at the City (or Town) of _____ under our signature and the Seal of our Section, and countersigned by the Secretary thereof, this _____ day of _____ in the year of our Lord one thousand eight hundred and _____

[Signed]

A. B.,
Bâtonnier.
C. D.,
Secretary.

[L. S.]

CAP. XXVII.

An Act for the more effectual suppression of Intemperance.

Amended by 14th Dec 1850
Vic cap 26-27

[10th August, 1850.]

WHEREAS experience hath shewn that the laws now in force are insufficient to suppress the great evils arising out of the abuse of spirituous liquors: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the Act passed in the Parliament of Lower Canada, in the thirty-fifth year of the Reign of His Majesty King George the Third, and intituled, *An Act for granting to His Majesty Duties on Licenses to Hawkers, Pedlars and Petty Chapmen, and for regulating their trade; and for granting additional Duties on Licenses to persons for keeping houses of public entertainment, or for retailing Wine, Brandy, Rum or other spirituous liquors in this Province, and for regulating the same; and for repealing the Act or Ordinance therein mentioned*, as relates to the selling of spirituous liquors and the granting of Tavern Licenses; and the Ordinance of the Special Council of the said Province, passed in the third Session of the said Council held in the second year of Her Majesty's Reign, and intituled, *An Ordinance to amend a certain Act therein mentioned, and to provide for the better regulation of Taverns and Tavern-keepers*; and the Ordinance of the said Special Council, passed in the Session held in the third and fourth years of the same Reign, and intituled, *An Ordinance to repeal in part, and to amend and to render permanent as amended, a certain Ordinance therein mentioned, relative to Taverns and Tavern-keepers, and to make further provision relative to the same subjects*; and the Ordinance of the said Special Council, passed in the fourth year of the same Reign, and intituled, *An Ordinance to amend the Law relative to the granting of Licenses to keep houses of public entertainment, and to enable the Magistrates resident in the City of Montreal, to hold another Special Session for granting Certificates on which Licenses may be granted during the present year*; and all Acts, or provisions of Law in force in either section of this Province inconsistent with this Act, shall be and the same are hereby repealed, except as to penalties already incurred; but no Act thereby repealed shall revive.

Preamble.

L. C. 35 Geo. 3, c. 8,
2 Vic. (3,) c. 14, 3
and 4 Vic. c. 42, 4
Vic. c. 28, and part of
U. C. 59 Geo. 3. c. 2,
repealed.

II. And be it enacted, That the following authorities shall alone be entitled in Lower Canada to grant certificates for obtaining licenses for the sale of spirituous or malt

What authorities shall grant certificates

for tavern licenses in L. C. & U. C.

malt liquors, that is to say, the senior Magistrate of the Township, Parish or Locality in which the party applying for such certificate shall reside ; the Senior Officer of Militia of the Battalion within the limits whereof such Township, Parish or Locality shall be, and resident in such Parish or locality ; and the Churchwarden in office, (*Marguillier en charge*) of such Parish ; and certificates shall only be granted by the said authorities at a special meeting which shall take place between the tenth and twentieth days of April inclusively, in every year, at such place as may be determined upon by the said authorities ; and due notice of the time and place of such meeting shall be given at the Church doors after Divine Service or at some other public place within the said Township, Parish or locality at least fifteen days before the day so appointed : Provided that if the said authorities may deem expedient they may appoint any other special meeting for granting such license, and in case there shall be a difference of opinion between any of the said authorities on any question relative to such certificates, the signature of any two of them to any such certificate shall be sufficient ; and none but persons obtaining such certificates shall receive licenses.

No certificate granted without a requisition, &c.

III. And be it enacted, That no certificate for a tavern license shall be granted in Lower Canada, unless the party applying for the same shall prove by a requisition, signed by the majority of the municipal electors in his Municipality, that a tavern is necessary at the place where he asks for license to keep one.

Party claiming certificate, to prove that he has certain real estates.

IV. And be it enacted, That the authorities hereby empowered to grant certificates for tavern licenses, shall not grant any such certificate, unless the party applying for the same shall prove to their satisfaction that he holds, at the place at which his intention is to keep a Tavern, property either real or personal, of the value of at least One Hundred Pounds currency, and shall furnish two good and sufficient sureties in the sum of Fifty Pounds each, and himself in One Hundred Pounds, for his good behaviour ; nor unless he shall also produce a certificate from two Justices of the Peace or ten Municipal Electors in his Municipality, to the effect that he enjoys an unblemished reputation and is not addicted to drink ; and such certificate shall be published and posted up at the most public place in such Municipality, at least eight days before his application for a certificate, with the names of the signers thereof thereunto attached.

Governor may grant license.

V. And be it enacted, That on production of such certificate, it shall be lawful for the Governor of this Province, or any other person whom he shall authorize for that purpose, to grant a Tavern License to the party producing the same, on payment by the said party of the sum of Ten Pounds currency, over and above the duty imposed by Act of the Imperial Parliament ; provided that all such licenses shall be in force until the first day of June in the year next after the granting thereof.

Taverns Keepers subjected to imprisonment and fine for accidents to intoxicated persons.

VI. And be it enacted, That whenever any person shall have drunk spirituous liquors in any Inn or Tavern with the permission or sufferance of the keeper thereof, and shall, while in a state of intoxication or drunkenness arising out of the use of such spirituous liquors, come to his death by committing suicide, or by drowning or perishing from cold, or any other accident, such Keeper of any such Inn or Tavern shall be guilty of a misdemeanor, and being convicted thereof, after having been indicted and tried for such offence in due course of law, shall be liable to be imprisoned in the Common Gaol of the District in Lower Canada, or County in Upper Canada, in which such offence shall have been committed, for a period of time not less than two and not more than six months, and to pay a penalty of not less than Twenty-five Pounds nor more than One Hundred Pounds ; the amount of which penalty shall by the Court before which such conviction shall take place, be ordered to be paid to such one or more of the heirs, legal representatives or surviving relatives of the deceased, as the said Court may consider to be most in need or deserving of the same.

Fine to be paid to Heirs.

Licenses for Temperance Houses.

VII. And be it enacted, That whenever any person shall adduce proof of his honesty and good moral character by a certificate under the hand of four Municipal Electors of his locality, and shall be seized of real or personal property to the value of One Hundred Pounds, such person shall be entitled to receive from the Municipal Council for his locality, a License to keep a Temperance Hotel for the reception of travellers ; and

and for such License, such person shall pay to the said Municipal Council, a sum not exceeding at any time Seventy-five Shillings, nor being less than Twenty Shillings currency: Provided always, that no person who shall be licensed to keep a Temperance Hotel, shall sell nor give nor cause to be sold or given to drink any spirituous or malt liquor, under a penalty of Ten Pounds for every such offence; and any person who shall be convicted of retailing intoxicating liquors without license, or of keeping a disorderly house, or of selling intoxicating liquors on Sundays and Holidays, shall for every such offence incur a penalty of Ten Pounds currency.

VIII. And be it enacted, That except as otherwise provided by this Act, all complaints against parties contravening the Provisions of this Act, shall be summarily disposed of by one or more Justices of the Peace on the evidence of one credible witness; and any party who shall be found guilty of any offence under this Act shall, in default of immediate payment of the fine to which he shall be condemned for such offence, be imprisoned under Warrant of such Justice until payment of such fine and of the costs incurred for the recovery thereof.

Complaints to be disposed of by Justices of the Peace.

J.P.

IX. And be it enacted, That in Lower Canada all Taverns for the sale of intoxicating liquors, and all Temperance Hotels, shall contain at least three rooms with the same number of beds for travellers, over and above those used by the family, and in the country parts, at least three stalls for horses, with hay and provender, to the satisfaction of the Revenue Inspector who will certify the same in his semi-annual visits; and if the Keeper of any Tavern or Temperance Hotel shall not provide such accommodation, it shall be lawful for the Governor of this Province, on a representation being made to that effect by the authorities who shall have granted the certificate, to revoke his License after the said authorities shall have given him fifteen days' notice of their intending to make such representation in default of his providing such accommodation.

Taverns and Temperance Hotels to contain at least 3 rooms, &c.

J.P.

X. And be it enacted, That no person who shall not be licensed to keep a temperance hotel or as an apothecary, shall vend or retail any description of liquor known as a temperance drink, such as spruce beer, sarsaparilla, raspberry vinegar, ginger beer, essence or juice of lemons or of oranges or lemonade, under a penalty of Ten Pounds for every contravention of the provisions of this Section.

No persons not licensed as Apothecaries or Temperance Hotel-keepers, to sell temperance drinks.

J.P.

XI. And be it enacted, That a list of the licensed Taverns and temperance hotels shall be transmitted in every year by the officer or other person by whom the licenses have been issued to the Clerk of the Peace for the District or County in which the same shall be, and which shall be published in at least one newspaper of the County or District, and in Lower Canada a proper sign shall be hung up at each of the said taverns or temperance houses for the information of travellers; and any person not licensed who shall hang up or place near his house any sign which may induce travellers to think that he has a license, shall thereby incur a penalty of Five Pounds; and in Lower Canada, all persons licensed as Tavern or Temperance Hotel Keepers shall be bound, under a penalty of Ten Pounds currency, to keep their license constantly exposed to public view, hung up in a frame, with a glass facing, in the most conspicuous part of their bar room or store.

Clerks of the Peace to be furnished with lists of taverns, &c.

J.P.

XII. And be it enacted, That any person may be a competent witness under this Act, although he be related, allied or of kin to, or in the service of any party who may bring a complaint or who may be complained against for any infringement of the provisions of this Act, and if any witness legally summoned to appear on any such complaint shall refuse or neglect so to do, without reasonable cause, he shall incur a penalty of Five Pounds, and if any person shall be convicted of endeavouring to prevent any witness from appearing to give evidence, such person shall incur a penalty of Twenty Pounds.

Relatives competent witnesses.

J.P.

XIII. And be it enacted, That if it be within the personal knowledge of any Magistrate, or on a complaint upon oath made by any one before such Magistrate, that any person shall have been seen in a state of intoxication in any public place whatsoever or in any place in which such intoxicated person shall be exposed to public view, such Magistrate shall cause such person to be brought before him, and place him in custody

Parties found drunk may be brought before Magistrates, &c.

J.P.

custody until he shall have recovered his reason; and the person so found intoxicated shall incur and pay a penalty of not less than Five Shillings nor more than Twenty-five Shillings for his said offence, together with the cost of suit, the expenses of arresting the person so found intoxicated, and in keeping him in safe custody; and in default of payment shall be imprisoned in the house of correction or other place of confinement for a space of time not exceeding one month.

Merchants not to sell less quantity of liquor than 1 gallon.

Proviso.

Vendors of fruits, &c, not to sell liquors or temperance drinks.

Penalty on Tavern-keepers refusing to receive travellers.

Inspectors of Revenue to visit Breweries, &c.

Justices presiding to take down minutes.

How penalty shall be disposed of.

XIV. And be it enacted, That it shall not be lawful for any distiller, merchant or trader who shall not have a Tavern license, to sell intoxicating liquors in less quantities than one gallon, except wine which may be sold by the bottle; and such liquor when sold shall be taken away from the premises of such merchant or trader within twenty-four hours after the purchase thereof: Provided always, that when any person shall produce a certificate from a Physician, a Priest or a Minister of Religion, stating that such person really requires it as a remedy, then in such case only, it shall be lawful for such merchant or trader, to sell to such person any quantity he shall require.

XV. And be it enacted, That it shall not be lawful for any person in Lower Canada who shall be in the habit of vending fruits, creams, cakes, biscuits and other pastry, and who shall not have a Tavern license nor a license to keep a Temperance Hotel, to sell any intoxicating liquors whatsoever, nor any of the beverages known as Temperance drinks, such as spruce beer, ginger beer, the juice of oranges, lemons or limes, lemonade, raspberry vinegar or sarsaparilla, under a penalty of Five Pounds currency.

XVI. And be it enacted, That if any Tavern-keeper or keeper of a Temperance Hotel in Lower Canada shall refuse to receive and make suitable provision for any stranger or traveller, without just cause, he shall on conviction thereof, incur a penalty not exceeding Five Pounds currency.

XVII. And be it enacted, That the Inspector of Revenue, or his Deputy, in every Revenue District, shall visit twice in every year, all breweries, distilleries, and stores in which intoxicating liquors are sold in their respective Revenue Districts, in order to examine whether the said liquors are adulterated, and on information by any such Revenue Inspector or his Deputy before any Justice of the Peace, that any such liquor is adulterated, the party in whose possession such adulterated liquor shall be found, shall be condemned to pay a penalty of not less than Ten Pounds, and the said Inspector or his Deputy shall spill the said liquor; the said Inspector or his Deputy shall also, twice in every year, visit the Taverns and Temperance Hotels, within their respective Revenue Districts, in order to ascertain whether every thing is carried on according to law in such Taverns and Temperance Hotels, and the proprietors and keepers of such Breweries, Distilleries, Taverns, Stores and Temperance Hotels, refusing admission to the Revenue Inspector, or his Deputy into their Breweries, Distilleries, Taverns, Stores and Temperance Hotels, shall be liable on conviction, on the Oath of the Inspector or his Deputy, to a penalty of Five Pounds currency, and shall make a report thereof to the Municipal Council of the City, Town, Township, Village or County in which such Tavern or Temperance Hotel shall be, and the said Inspector or his Deputy shall be entitled to receive from the owner of any such Distillery, Brewery, Store, Tavern or Temperance Hotel, the sum of Five Shillings, for every such certificate, and it shall also be lawful for the said Inspector or his Deputy, to visit any house in which it shall be suspected that spirituous liquors are retailed without a license; and if they find any adulterated liquors therein, they shall spill the same, and on the information of any such Inspector or his Deputy, any such person in whose possession such adulterated liquors shall be found, shall be condemned to pay a penalty of Five Pounds current money.

XVIII. And be it enacted, That all Justices of the Peace before whom any trial shall be had under this Act, shall take down minutes in writing of the proceedings and evidence at such trial, in case an appeal shall be brought from any judgment rendered by them.

XIX. And be it enacted, That one half of any penalty imposed under this Act shall go to the prosecutor, and the other half to the Municipality, who shall not be authorized to

to remit the same; and if there be no Municipality, the same shall be paid over to the Treasurer of the School Trustees or School Commissioners of the locality, to be expended for the support of Common Schools and the purchase of books for them.

XX. And be it enacted, That no person shall, in any City or Town in Lower Canada, obtain a certificate for a Tavern license, unless he shall produce a memorial signed by Twenty-five Municipal Electors of such City or Town, or by at least Six Magistrates in a special meeting and residing therein, stating that such Tavern is necessary, provided that none of the said Magistrates shall be the proprietor or holder of any house in such City or Town, in which spirituous liquors are sold or retailed; and if any Magistrate, so disqualified, shall sign such memorial, he shall forfeit and pay a sum not exceeding Ten Pounds.

What shall be required before a person obtain a license.

C.P.

XXI And be it enacted, That no Tavern Keeper or Keeper of a Temperance Hotel in Lower Canada shall suffer any person resorting to his house to play any game whatsoever, at which money may be lost, on pain of forfeiting Ten Pounds for every such offence.

Gambling forbidden in taverns, &c.

C.E.

XXII. And be it enacted, That this Act shall take effect upon, and after the Fifth day of April next.

Public Act.

CAP. XXVIII.

An Act to provide for the formation of Incorporated Joint Stock Companies, for Manufacturing, Mining, Mechanical or Chemical purposes.

[10th August, 1850.]

WHEREAS it is expedient to make provision for the Registration of Joint Stock Companies during the formation thereof, and also after such registration to invest such Joint Stock Companies with some of the qualities and incidents of Corporations, subject to certain conditions and regulations: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That any five or more persons who may desire to form a Company for the purpose of carrying on any kind of Manufacturing, Ship Building, Mining, Mechanical or Chemical Business, may make and sign a statement or declaration in writing, in which shall be set forth the Corporate name of the said Company, and the object or objects for which the same shall be formed, the amount of the Capital Stock of the said Company, the term of its proposed existence, (which shall not exceed fifty years) the number of shares of which the said stock shall consist, the number and names of the Trustees who shall manage the concerns of the said Company for the first year, and the names of the City, Town or Village, Parish, Township or Extra-parochial Place and County in which the operations of the said Company are to be carried on, and shall acknowledge such statement or declaration in duplicate before the Registrar or Register of such County or his Deputy, who are hereby authorized to receive such acknowledgment, and grant a certificate thereof; and one of the duplicates of every such statement or declaration shall be filed by such Registrar or Register, or his Deputy, and an entry thereof shall be made by him in a book to be kept for that purpose, and the other of the said duplicates, with a proper certificate of the acknowledgment, filing and registration thereof as aforesaid endorsed thereon, shall forthwith be transmitted to and filed in the Office of the Secretary of this Province.

Preamble.

Amended by Act of 14th Victoria 172 (1853) Page 1493

Statement or Declaration of formation and purposes of Joint Stock Company to be registered, and where.

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II. And be it enacted, That when the formalities prescribed in the foregoing section of this Act shall have been complied with, the persons who shall have signed the said statement or declaration, and their successors, shall be a body politic and corporate in fact and in name by the name mentioned in such statement or declaration; and by that name

After such registration Company to be incorporated.

name shall have succession, and shall be capable of suing and being sued in any Court of Law or Equity in this Province, and may have a common seal, and may from time to time break, alter and make new the same at pleasure; and they shall by their said corporate name be able and capable in law to purchase, hold and convey any real and personal estate, or moveable and immoveable property whatsoever which may be necessary to enable the said Company to carry on the operations mentioned in such statement or declaration, but shall not mortgage the same nor give any lien thereon.

Company not to grant mortgages.

Certified Copy of Statement to be *prima facie* evidence of its contents.

III. And be it enacted, That a copy of any such statement or declaration as aforesaid, registered in pursuance of this Act, certified by the County Registrar or Register or his Deputy to be a true copy, and of the whole of such statement or declaration shall be received in all Courts and places as *prima facie* evidence of the facts therein stated; and the compliance with the formalities prescribed in the first section of this Act shall be conclusively established by the insertion in the *Canada Gazette*, of a notice to that effect, proceeding from the office of the Secretary of the Province.

Election of Trustees after the first year provided for.

IV. And be it enacted, That the Stock, property and concern of every such Company as aforesaid, shall be managed by not less than three or more than nine Trustees, who shall respectively be Stockholders in such Company, and subjects of Her Majesty, either by birth or naturalization, and who shall, except the first year, be annually elected by the Stockholders at such time and place as shall be directed by the By-laws of the Company; and notice of the time and place of holding such election shall be published not less than ten days previous thereto, in the newspaper printed nearest to the place where the operations of the said Company shall be carried on; and the election shall be made by such of the Stockholders as shall attend for that purpose either in person or by proxy.

All Elections to be by ballot.

V. And be it enacted, That all elections shall be by ballot, and each Stockholder shall be entitled to as many votes as he owns shares of stock in the said Company; and the persons receiving the greatest number of votes shall be Trustees; and when any vacancy shall happen among the Trustees, by death, resignation or otherwise, it shall be filled for the remainder of the year in such manner as may be provided for by the By-laws of the said Company.

Corporation not to be dissolved by failure to elect Trustees on stated day.

VI. And be it enacted, That if it shall happen at any time that an election of Trustees of any such Company as aforesaid shall not be made on the day when, according to the By-laws of such Company, it ought to be made, such Company shall not for that reason be dissolved; but it shall be lawful for the Stockholders of such Company to hold an election of Trustees on any other day in such manner as shall be provided for by such By-laws, and all acts of Trustees of any such Company as aforesaid shall be valid and binding as against such Company until their successors shall be elected.

Every Company to have Chairman and Officers.

VII. And be it enacted, That every such Company as aforesaid shall have a Chairman or President, who shall be elected by the Trustees from among themselves, and also such subordinate officers as the Company by its By-laws may require, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their respective offices as the Company by its By-laws may provide.

Trustees may call in Stock subscribed by instalments.

VIII. And be it enacted, That it shall be lawful for the Trustees of any such Company to call in and demand from the Stockholders thereof respectively, all sums of money by them subscribed, at such times and in such payments or instalments as such Trustees shall deem proper, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the Stockholders respectively within sixty days after a personal demand, or after notice requiring such payment shall have been published for six successive weeks in the newspaper nearest the place where the business of the Company shall be carried on as aforesaid.

Trustees may make By-laws.

IX. And be it enacted, That the Trustees of every such Company as aforesaid shall have power to make such By-laws as they shall deem proper for the management and disposition

disposition of the stock and business affairs of such Company, for the appointment of officers, and for prescribing their duties and those of all artificers and servants that may be employed, and for carrying on all kinds of business within the objects and purposes of such Company; and any copy of the said By-laws or any of them purporting to be under the hand of the Clerk, Secretary or other officer of the said Company, and having the corporate seal of such Company affixed to it, shall be received as *prima facie* evidence of such By-law or By-laws in all Courts of Law or Equity in this Province.

X. And be it enacted, That the Stock of every such Company shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the By-laws of the Company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or shall have been declared forfeited for the non-payment of calls thereon; and it shall not be lawful for any such Company to use any of its funds in the purchase of any Stock in any other Corporation.

Stock to be deemed Personal Estate, and how transferable.

XI. And be it enacted, That all the Stockholders of any Company that shall be incorporated under this Act shall be jointly and severally liable for all debts and contracts made by such Company, until the whole amount of the capital stock of such Company, fixed and limited in manner aforesaid, shall have been paid in, and a certificate to that effect shall have been made and registered as prescribed in the next section of this Act, after which no Stockholder of such Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by such Company, beyond the amount of his share or shares in the capital stock of such Company so fixed and limited and paid in as aforesaid, save and except as hereinafter mentioned: Provided always that for the greater security of persons dealing with any such Company as aforesaid, every such Company shall, in some conspicuous part of every building or place whereat the business of such Company or any part thereof shall be carried on, cause to be constantly inscribed in plain and distinct letters and figures of at least one half-inch in length and of proportionate breadth, as well the name and style of the Company as the amount of the Capital Stock thereof, and that such name, style and Capital shall also be written or printed in letters at least as large and distinct as any other used in the same document at the head of every Promissory Note, Draft, Check, Order, Bond, Contract, Agreement, Bill of Parcels or other document purporting to be made or signed by any Trustee or Officer of the Company, or in any way to bind or oblige the said Company; and the Trustees of any such Company shall be personally and jointly and severally liable for every contract, promise or engagement made in the name of the Company at any time when such name, style and amount of Capital Stock shall not be so inscribed as aforesaid at any such place as aforesaid, or by virtue of any such document as aforesaid, at the head of which the same shall not be written or printed in the manner hereby required.

Liability of Stockholders before and after payment of Capital.

Proviso: name, style and Capital of the Company to appear in all Bills, Notes, &c., of the Company.

XII. And be it enacted, That within thirty days after the payment of the last instalment of the Capital Stock of any such Company so fixed and limited as aforesaid, there shall be made and drawn up a Certificate to that effect, which Certificate shall be signed and sworn to by a majority of the Trustees of such Company, including the Chairman or President, and shall be registered within the said thirty days in the Registry Office of the County wherein the business of the said Company is carried on, and the Registrar or Register of such County or his Deputy is hereby authorized to administer the said oath, and to enter and register the said Certificate in the book to be kept by him for the purposes of this Act as already mentioned; and such Capital Stock so fixed and limited, shall be paid in, one half thereof within one year, and the other half thereof within two years from the incorporation of the said Company, or such Corporation shall be dissolved.

Certificate of payment of Capital Stock to be registered within thirty days after the payment of the last instalment.

XIII. And be it enacted, That every such Company shall annually, within twenty days from the first of January, make a report which shall be inserted in some newspaper published nearest to the place where the business of such Company shall be carried on, stating the amount of the Capital of such Company and the proportion thereof then actually

Annual Report of Affairs of each Company to be published.

actually paid in, together with the amount of the existing debts of such Company; which report shall be signed by the Chairman or President and a majority of the Trustees of such Company, and shall be verified by the oath of the said Chairman or President or of the Secretary of the said Company, and shall be entered and registered as aforesaid in the Registry Office of the County where the business of the Company shall be carried on; and all the Trustees of any Company failing to comply with the requirements of this section shall be jointly and severally liable for all the debts of the Company then existing, and for all that shall be contracted until such report shall be made.

Liability of Trustees paying dividend under certain circumstances.

Proviso.

Loans of money by Company to its Stockholders prohibited.

Officers liable jointly and severally for debts of Company in certain cases.

Stockholders to be liable individually for debts to servants, labourers, &c.

Proviso: limitation of actions on such liability.

Executors, &c., not to be subject to any personal liability as Stockholders.

XIV. And be it enacted, That if the Trustees of any such Company shall declare and pay any dividend when the Company is insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they shall be jointly and severally liable for all the debts of the Company then existing and for all that shall be thereafter contracted, while they shall respectively continue in office: Provided always, that if any of such Trustees shall object to the declaring of such dividend or to the payment of the same, and shall at any time before the time fixed for the payment thereof, file a written statement of such objection in the office of the Secretary of the Company, and also in the Registry Office of the County, such Trustee or Trustees shall be exempt from such liability.

XV. And be it enacted, That no loan of money shall be made by any such Company to any Stockholder therein; and if any such loan shall be made to a Stockholder, the officer or officers who shall make it or who shall assent thereto, shall be jointly and severally liable to the extent of such loan, with legal interest thereon, for all the debts of the Company that may be contracted before the repayment of the sum so loaned.

XVI. And be it enacted, That if any certificate or report made, or public notice given by the officers of any such Company in pursuance of the provisions of this Act, shall be false in any material representation, all the officers who shall have signed the same shall be jointly and severally liable for all the debts of the Company contracted while they are officers or Stockholders thereof, respectively: and if the indebtedness of any such Company shall at any time exceed the amount of its capital stock, the Trustees of such Company assenting thereto shall be personally and individually liable for such excess to the creditors of such Company.

XVII. And be it enacted, That the Stockholders of every such Company shall be jointly and severally individually liable for all debts that may be due and owing to all or any of the laborers, servants and apprentices thereof, for services performed for such Company; Provided always, that no Stockholder shall be personally liable in this or any other of the cases in which personal liability is imposed by the provisions of this Act, for the payment of any debt contracted by any such Company which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debt shall be brought against such Company within one year after the debt shall become due; and no suit shall be brought against any Stockholder who shall cease to be a Stockholder in any such Company for any debt so contracted, unless the same shall be commenced within two years from the time he shall have ceased to be a Stockholder in such Company, nor until an execution against the Company shall have been returned unsatisfied in whole or in part.

XVIII. And be it enacted, That no person holding Stock in any such Company as Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be personally subject to any liability as Stockholder of such Company; but the estates and funds in the hands of such Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be liable in like manner and to the same extent as the Testator or Intestate, or the Minor, Ward or interdicted person, or the person interested in such trust fund would be if he were living and competent to act, and held the same stock in his own name; and that no person holding such stock as collateral security shall be personally subject to any liability as Stockholder of such Company, but the person pledging such stock

stock shall be considered as holding the same, and shall be liable as a Shareholder accordingly.

XIX. And be it enacted, That every such Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall represent the shares of stock in his hands at all meetings of the Company, and may vote accordingly as a Stockholder; and every person who shall pledge his stock as aforesaid may nevertheless represent the same at all such meetings, and may vote accordingly as a Stockholder; but no person holding stock as Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be a Trustee or hold any office in the service of such Company; and all votes given to them or either of them shall be void.

Executors, &c., allowed to represent Stock in their hands, and vote at Elections, but not to be elected.

XX. And be it enacted, That it shall be the duty of the Trustees of every such Company to cause a book to be kept by the Treasurer or Clerk thereof containing in alphabetical order the names of all persons who are or have been Stockholders of such Company, and showing their places of residence, the number of shares of stock held by them respectively, and the time when they respectively became the owners of such shares; and also a statement of all the existing debts and liabilities of such Company, and of the amount of its stock actually paid in; which books shall, during the usual business hours of the day, on every day except Sundays and obligatory holidays (*fêtes d'obligation*), be open for the inspection of Stockholders and creditors of the Company and their personal representatives, at the office or principal place of business of such Company, in the County where the operations of such Company are carried on as aforesaid: and any and every such Stockholder, Creditor or Representative, shall have a right to make extracts from such book; and no transfer of stock shall be valid for any purpose whatever, except to render the person to whom it shall be transferred liable for the debts of the Company according to the provisions of this Act, until it shall have been entered therein as required by this section by an entry showing to and from whom such stock shall have been transferred.

Trustees to keep a book containing names of Stockholders, &c., for inspection.

XXI. And be it enacted, That such book shall be *prima facie* evidence of the facts therein stated in favour of the Plaintiff in any suit or proceeding against such Company or against any one or more Stockholders; and that every Officer or Agent of any such Company who shall refuse or neglect to make any proper entry in such book, or to exhibit the same or allow the same to be inspected, and extracts to be taken therefrom as aforesaid, shall be guilty of a misdemeanor, and being convicted thereof shall be punished accordingly; and every Company that shall neglect to keep such book open for inspection as aforesaid, shall forfeit the corporate rights, character and privileges acquired by it in pursuance of this Act.

Such book to be *prima facie* evidence of the facts therein stated.

XXII. And be it enacted, That the word "Company," wherever it occurs in this Act, shall be construed to mean a Joint Stock Company incorporated by registration under the provisions of this Act; and all words importing the singular number or the masculine gender only shall be construed to extend to the plural number, and to females as well as males, unless there be something in the context inconsistent with such construction.

Interpretation of certain words.

XXIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this or any other Session of the Parliament of this Province; but such amendment or repeal shall not, nor shall the consequent dissolution of any Corporation formed or created under this Act, take away or impair any remedy given against any such Corporation, its Stockholders or officers for any liability which shall have been previously incurred.

Right to repeal or amend Act reserved.

CAP. XXIX.

An Act to amend and to continue as amended the Laws regulating the Inspection of Flour and Meal.

[24th July, 1850.]

Preamble.

WHEREAS it is expedient to amend the Acts relative to the Inspection of Flour and Meal and of Oatmeal, and further to continue the same as amended : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the twelfth section of the Act passed in the session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to regulate the Inspection of Flour and Meal*, as is in the words following : " And in all cases where the quality of the Flour or Meal inspected may appear to be inferior to the brand or other mark of the manufacturer, and not to be properly designated by the brand or mark, it shall be the duty of the Inspector or Assistant Inspector, and he is hereby authorized and required, to erase and correct the same ; " and so much of the said section as is in the words following : " Provided always, That no Flour or Meal which shall have been so branded, marked or inspected in one month or year, and re-inspected and examined in another, shall bear any other brand or mark of the year and month than that originally affixed to it," shall be and is hereby repealed.

Part of Sect. 12 of 4 and 5 Vic. c. 89, repealed.

Sect. 14 amended.

II. And be it enacted, That the fourteenth section of the said Act shall be construed and have effect as if the words "branded or marked otherwise than is required by this Act" were inserted at the end of the said section, instead of the words "not branded or inspected, and marked otherwise than is required by this Act."

Sect. 21 of the said Act and Sect. 5 and 6 of 11 Vic. c. 6, repealed.

III. And be it enacted, That the twenty-first section of the said Act, and the fifth and sixth sections of the Act passed in the eleventh year of Her Majesty's Reign, and intituled, *An Act to continue and amend the Act for the Inspection of Flour and Meal, and to provide for the Inspection of Oatmeal*, shall be, and are hereby repealed ; and instead thereof—Be it enacted, That in branding or marking the different qualities or descriptions of Flour, the same shall be designated as follows, that is to say : That of a very superior quality, by the words *Extra Superfine* ; that of the second quality, by the word *Superfine* ; that of the third quality, by the words *Superfine No. 2* ; that of the fourth quality, by the word *Fine* ; that of the fifth quality, by the words *Fine Middlings* ; that of the sixth quality, by the word *Middlings* ; that of the seventh quality, by the word *Pollards* ; and the quality called *Farine Entière*, by the letters E. N. T., by which latter description of Flour shall be understood the whole produce of the wheat when ground, excepting the coarse bran and pollards ; and all Flour so branded or marked, shall be equal in quality to Flour inspected at the City of New York, in the United States of America, and bearing the like brand or mark of quality ; and it shall be the duty of each Inspector of Flour and Meal in this Province to procure proper and certified samples of the several qualities of Flour, certified as being the correct standard by the Head Inspector of Flour in New York, and to guide himself by such samples ; and in the event of any change in the number of grades or qualities of Flour being adopted in New York during the continuance of this Act, it shall be the duty of the several Inspectors in this Province to conform to such change ; and in branding or marking the different qualities of Rye Flour, Indian Meal and Oatmeal, the words *Rye Flour*, *Indian Meal*, or *Oatmeal*, shall be plainly branded or marked on each and every barrel or half barrel, to designate the grain from which the same is made, and the qualities shall be designated as follows, that is to say : That of very superior quality, by the word "*First*," that of the next inferior quality, by the word "*Second*," that of the next inferior quality, by the word "*Third*," and that of the lowest quality, by the word "*Unbrandable* ;"

Standard of quality established.

“Unbrandable ;” and when the grain from which Flour and Meal of any description is manufactured, had been previously kiln dried, the same shall be branded and marked by the Packer on each and every barrel or half barrel, either at length or by the word and letter “*Kiln D.*”

IV. And be it enacted, That the twenty-second and twenty-third sections of the Act first above cited shall be, and are hereby repealed.

Sect. 22 and 23, of the said Act repealed.

V. And be it enacted, That every half barrel of Flour shall contain ninety-eight pounds net, and every barrel of Flour shall contain one hundred and ninety-six pounds net; every half barrel Rye Flour shall contain ninety-eight pounds net, and every barrel of Rye Flour shall contain one hundred and ninety-six pounds net; every half barrel Indian Meal shall contain eighty-four pounds or ninety-eight pounds net, and every barrel of Indian Meal shall contain one hundred and sixty-eight pounds, or one hundred and ninety-six pounds net; every half barrel of Oatmeal shall contain one hundred and twelve pounds net, and every barrel of Oatmeal shall contain two hundred and twenty-four pounds net; and it shall be the duty of the Packer or Manufacturer, to brand, paint or mark the initials of his Christian name, and also brand, paint or mark his surname at full length, and the name of his mill or place of packing, the quality and weight of the Flour or Meal therein contained, and the tare of the cask, on one end of each and every barrel or half barrel of Flour or Meal packed for sale, in a plain and distinguishable manner, under a penalty of Two Shillings currency, for each and every barrel or half barrel offered for sale or Inspection, with regard to which the requirements of this section have not been complied with.

Weights of barrels and half-barrels of Flour and Meal.

VI. Provided also, and be it enacted, That nothing in this Act shall invalidate, or in any way alter, the true intent and meaning of any existing contract for the purchase or sale of Flour, based on the standard of Inspection heretofore established and in use in Quebec, Montreal and Toronto, and that the quality of all and any Flour so contracted for, purchased or sold, shall, on the requisition of any party interested in such contract, purchase, or sale, be ascertained and tested by the Inspector according to the standard of Inspection in use by him, immediately previous to this Act taking effect, and the said Inspector shall give a Certificate of the quality of the said Flour according to the said standard, but shall nevertheless, if required, brand on the barrels the quality of the Flour according to the standard of Inspection now by this Act established.

Proviso: as to existing contracts.

CAP. XXX.

An Act to amend, and render permanent as amended, the Act to regulate the Inspection of Beef and Pork.

[10th August, 1850.]

WHEREAS it is expedient to amend, and to make permanent as amended, the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to regulate the Inspection of Beef and Pork*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall not be lawful for any person other than an Inspector or Assistant Inspector duly appointed under the said Act, and having previously complied with all the requirements thereof, or the actual owner of the Beef or Pork inspected, to inspect any Beef or Pork, or to brand or mark any barrel or half barrel, tierce or half tierce, or cask or vessel of any kind, containing such Beef or Pork, or to give any Certificate of Inspection, under a penalty of ten pounds for each barrel, half barrel, tierce or half tierce, cask or vessel of Beef or Pork so inspected or branded, or with regard to which such Certificate shall have been given, to be recovered and applied in the manner provided by the said Act with regard

Preamble.

4 and 5 Vict. c. 88.

None but Inspectors or their Assistants or Owners shall inspect Beef or Pork.

Penalty:

regard to penalties thereby imposed ; And that if any owner of any Beef or Pork shall brand any such vessel as aforesaid containing any Beef or Pork, without affixing to his name and the initial of his Christian name, the date at which the same was branded, and the word " owner " or " owners," he shall be held to have inspected and branded the same contrary to the provisions of this Act, and shall incur the penalty aforesaid.

As to Beef and Pork,
&c., re-inspected.

II. And be it enacted, That for and notwithstanding any thing in the eleventh section, or in any other part of the said Act, it shall be lawful to brand on the vessel containing any Beef and Pork re-inspected, the date of such re-inspection, with the other particulars required in case of inspection, but no preceding inspection brand or any part thereof shall be effaced ; and every re-inspection which shall be made without complying with the requirements of this section, shall be held to be an inspection made contrary to this Act, and the person making it shall thereby incur the penalty aforesaid.

In what case only
storage may be
charged.

III. And be it enacted, That for and notwithstanding any thing in the thirteenth section, or in any other part of the said Act, no Inspector shall charge storage on Beef or Pork inspected by him, unless the same shall have been left in his store more than ten days after he shall have delivered to the proprietor or consignee thereof, a notice of the same having been inspected, or shall have delivered an Inspection Bill thereof to such proprietor or consignee.

4 and 5 Vict. c. 88,
made permanent as
amended.

IV. And be it enacted, That the said Act as amended by this Act, shall be and is hereby continued and made permanent, and shall remain in force until repealed by Act of the Provincial Parliament.

C A P . XXXI.

An Act to protect from injury Electro-Magnetic Telegraphs in this Province.

[10th August, 1850.]

Preamble.

WHEREAS it is necessary to protect from injury Electro-Magnetic Telegraph Lines in this Province : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That if any person shall wilfully or maliciously cut, break, destroy, or injure any instrument, cap, wire, post or other erection, used for or by any Line of Electro-Magnetic Telegraph now or hereafter to be in operation in this Province, under any Act in force therein, or that may be passed by the Legislature thereof, or in any manner by any means impede or obstruct the action and operation of such Line, such person shall be punishable by imprisonment for not less than five days nor more than thirty days, or by fine not exceeding ten pounds, or by both, according to the discretion of the Magistrate before whom the offence shall be charged : That the jurisdiction over all offences against this Act shall be in any Justice of the Peace in any Parish, Village, City, Town or County where the offence was committed, or in which the offender may be found, and the proceedings thereon shall be summary ; That the fine imposed may, if not forthwith paid, be levied, with all costs of the prosecution by Warrant of Distress against and by sale of the goods and chattels of the offender, or such offender may, (in the discretion of the Magistrate) whether imprisonment be or be not part of the sentence, be imprisoned for a period not exceeding thirty days, in addition to and after the expiration of any other imprisonment making part of his sentence, unless such fine and all expenses incurred in the prosecution be sooner paid ; and all such fines, when collected, shall belong to the party aggrieved by and complaining of the offence, and be paid over to such party.

Punishment of parties
damaging Telegraph
wires, &c.

Who shall have
jurisdiction.

How penalties shall
be enforced, if not
paid.

CAP. XXXII.

An Act for incorporating certain Charitable Philanthropic and Provident Associations, and for the effectual protection from fraud and misappropriation of the funds of the same.

[10th August, 1850.]

WHEREAS large and increasing numbers of all classes of the community have for some time past associated themselves together for the purpose of making provision for themselves and families, by contributing subscriptions or otherwise, against sickness, misfortune and death, and for the relief of the widows and orphan children of deceased members; And whereas the accumulated funds of such Associations (owing to the absence of legal protection,) have been subjected to great and serious losses from frauds and defalcations; And whereas it is expedient to encourage habits of providence and forethought amongst all Her Majesty's subjects: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any number of persons to unite for the purpose of making provision, by means of contributions, subscriptions, donations or otherwise, against the several contingencies of sickness, unavoidable misfortune or death, and for relieving the widows and orphan children of members deceased; and it shall and may be lawful for the members and officers of such associated body or Society, from time to time, to establish and maintain branches thereof, for and at the convenience of the respective members, but for so long only as the business transacted at the meetings of such Society, or any of the branches thereof, shall be confined exclusively to the objects herein set forth.

Preamble.

Any number of persons may associate for the purpose of mutual assistance in case of death, sickness, &c.

II. And be it enacted, That it shall and may be lawful for the Members of such Societies so constituted as aforesaid, to nominate, choose and appoint proper persons as Trustees, Treasurers, Secretaries or other officers, for conducting the business, discipline and management of such Societies, and to meet together from time to time to make, alter, rescind or frame by-laws, rules or regulations for the necessary government of, and for conducting the business of such Societies or any branches thereof, provided that such by-laws, rules and regulations, shall not contain any matter or thing contrary, repugnant to, or in violation of the laws, statutes or customs of this Province, or be directed to the furtherance of any political or seditious object whatsoever.

They may elect Officers and make By-laws.

Proviso: as to the objects of the Association.

III. And be it enacted, That it shall and may be lawful for the Members of each of such Societies or bodies in its locality, by whatsoever name, designation, number or description such Society or body may be known, in the name of such Society or body, or in the name of the Presiding, or other Officer or Officers thereof, to acquire and take, by purchase, donation, devise or otherwise, and to hold for the use of the Members of such Societies, and according to the rules and regulations as aforesaid of the said Societies, all and every kind of personal property and also real property in the Province of Canada, not exceeding five acres, and to sell and alienate the same, whether acquired before or after the passing of this Act, and to purchase and acquire in the stead and place thereof any other real estate, not exceeding the quantity before mentioned; and that each of the said Societies shall have a common seal, and may change and alter the same at their will and pleasure, and by whatever name, designation, number or description they may severally be known, shall and may have continued succession, and may contract and be contracted with, sue, and be sued, plead, and be impleaded, answer and be answered unto, in all Courts and places whatsoever, in all actions, suits, complaints, matters and causes whatsoever.

They may acquire property to a certain extent, and alienate the same, &c.

Certain other corporate powers vested in them.

They may take security from their Officers.

IV. And be it enacted, That it may be lawful for such Societies to require, and for the Officers, Secretaries, Treasurers and Trustees to give security for all such sums of money, or other the property of any such Society, as may from time to time be placed in the hands of or under the control of such Officers, Secretaries, Treasurers and Trustees in trust for and on behalf of the objects of such Society, and all such securities being in writing, shall be deemed good and valid security and admissible as evidence in any of Her Majesty's Courts of Civil and Criminal Jurisdiction.

Punishment of Officers and Members embezzling funds, &c.

V. And be it enacted, That if any Officer, Secretary, Treasurer, Trustee or Member of any Society constituted in accordance with this Act, shall obtain undue possession of, misappropriate, embezzle or withhold from the other Members, Officers or other persons entitled to demand and receive the same, the whole or any portion of the funds, moneys, or other property of such Society, and shall continue to withhold such property after due demand shall have been made for the restoration and payment of the same by some one or more of the Members or officers duly appointed by and on behalf of the said Body or Society, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable at the discretion of the Court to be imprisoned at hard labour in the Provincial Penitentiary for any term not exceeding three years, or imprisoned in any other prison or place of confinement for any term not exceeding two years, or to suffer such other punishment by fine or imprisonment, or by both, as the Court shall award.

What shall be evidence in proceedings against Officers or Members of the Association.

VI. And be it enacted, That in any proceedings to be hereafter commenced or taken under the provisions of this Act, in and before any Court of Civil or Criminal Jurisdiction, against any Treasurer, Trustee, Secretary, Officer or other Member of such herein recited Charitable and Benevolent Society, or Provident Association, for obtaining undue possession of, or withholding, embezzling or misappropriating the whole or any portion of the funds, moneys or other property of such Charitable and Benevolent Society, or Provident Association, it shall and may be lawful to receive in evidence the printed or written Rules of such Society, Body or Association, for the time being in force, and the appointment of any Officer, Secretary, Treasurer, Trustee, or enrolment of any Member, certified under the hand of the Presiding Officer for the time being, and the Seal of the said Society, and the Books, Minutes and other document of such Association, relative to any portion of the matter then in question.

VII. And be it enacted, That no Member of any such Society or Body shall in his individual capacity be liable for any debt or liability of such Society or Body.

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

Non-liability of Members.

Public Act.

CAP. XXXIII.

An Act to remove doubts as to the right of the Crown to recover Costs in certain cases in Lower Canada.

[24th July, 1850.]

Preamble.

WHEREAS it hath been doubted whether the Courts of Civil jurisdiction in Lower Canada, have power to award costs to the Crown, in certain cases where it is manifestly fair and right that such costs should be recoverable; and whereas the loss to the public from the want of such power must be considerable, inasmuch as the costs in such cases frequently amount to more than the sum recovered: For remedy thereof, Be it declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That in every suit or proceeding of a civil nature, by or on behalf of the Crown, before any Court, Judge or Tribunal in Lower Canada, the object whereof is or shall be to recover or to prevent the loss of any immoveable

In what civil cases the Crown may recover costs.

or moveable property, rent, duty, toll or sum of money, or to maintain, enforce or preserve any right, privilege or lien to or upon the same, such Court, Judge or Tribunal may award to the Crown, if successful in such suit or proceeding, the same costs which might be awarded to any private party in the like case, and that the Crown hath and shall have the same remedy for recovering such costs as such private party would have: Provided always, that nothing herein contained shall be construed to impair the right of the Crown to recover costs in any case where such right is now given by law.

Proviso.

II. And be it declared and enacted, That if in any case to which the foregoing section is applicable, the Crown be unsuccessful, the Governor in Council may if he shall deem it right, direct the payment to the successful party, of such costs as the said party would in like case have recovered from any other unsuccessful party.

Costs may be paid by the Crown in certain cases.

III. And for the avoidance of doubt as to the interpretation of this Act or of any other Act, passed or to be passed, respecting the judicature or judicial proceedings in Lower Canada, Be it declared and enacted, That whatever would be held to be a Civil suit or proceeding if all the parties thereto were private individuals, shall be held to be so although one of such parties be the Crown, unless it be otherwise provided or such interpretation be inconsistent with the context or intent of the Act.

What shall be deemed a Civil case.

C A P. X X X I V.

An Act to amend the Municipal Law of Lower Canada.

[10th August, 1850.]

WHEREAS it is expedient to amend the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*: Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That the Municipal Councils of Lower Canada have and shall have full power from time to time, as occasion may require, to revise, amend and alter the Assessment Rolls by them already caused to be made or hereafter to be made: Provided always, that such revision, amendment, or alteration, be made previous to the month of July in any or each year.

Preamble.

10 & 11 Vict. c. 7.

II. And be it enacted, That after the passing of this Act, such Municipal Councils, if they see fit, may cause the rateable property in any Parish or Township to be re-valued, if in the opinion of such Council the valuation already made shall be so undervalued as to make such re-valuation necessary.

Municipal Councils may amend their Assessment Rolls.

Proviso.

They may cause rateable property to be re-valued.

III. And be it enacted, That it shall not be necessary that the Assessors or other persons appointed to make any valuation of rateable property, reside in the Parish or Township in which such property is situated, but such Assessors or Valuers may be chosen from amongst the inhabitants residing in any Parish or Township within the limits of the Municipality in which such valuation shall be made.

Assessors, &c., need not reside in places where property to be assessed by them is situate.

IV. And be it enacted, That the Municipal Councils of Lower Canada, shall have power to make and raise a rate in any year for general purposes, of one half-penny in the pound upon the assessed value of all the rateable property lying or situate within the limits of the Municipality, over and above any rate that may be raised for local purposes; any thing in the said first mentioned Act to the contrary notwithstanding.

A rate of one half penny in the pound may be raised yearly for general purposes.

V. And be it enacted, That the Municipal Councils shall have power and authority to impose a special rate upon any Township or Parish for the construction or repair of any public bridge, not being within the limits of such Township or Parish but which may be required for the use or convenience of the inhabitants of such Township or Parish, over and above all other rates: Provided nevertheless, that no such rate shall

Special rates may be imposed for construction of bridges.

Proviso.

be imposed without the consent of the Councillors representing such Township or Parish.

Provision as to roads through unconceded lands.

VI. And be it enacted, That if it become necessary for the convenience of the public to open, make or construct a front road through any unconceded lands in any Seignior, it shall be lawful for the Municipal Council of the Municipality in which such Seignior shall be situate, to cause such unconceded lands, to the extent of thirty arpents in depth, on each side of the line of such projected road, to be assessed, and to impose on such lands, one twelfth portion of the rate which would be imposed upon such lands if the same were conceded; and as the extent of such lands cannot be, in many instances, easily ascertained, the Seignior in possession of any such unconceded lands, shall be required, upon demand by the Secretary-Treasurer, to furnish a plan and description specifying the extent of the unconceded lands held by him in any such Municipality, and the correctness of such plan, description and specification, shall be by him certified under oath, to be taken before any Justice of the Peace; and in the event of any such Seignior refusing or neglecting to furnish such plan, description and specification to the Secretary-Treasurer within one calendar month from the time the same shall have been demanded, he shall be liable to a penalty of Ten Pounds currency, and to a further penalty of One Pound for each day which shall elapse after the expiration of such month, without such statement having been delivered to such Secretary-Treasurer.

Townships, &c., containing 300 souls, entitled to Municipal rights.

VII. And be it enacted, That any Township or extra-parochial place containing three hundred Souls shall hereafter be entitled to elect Councillors in the manner provided by law, and shall be considered a Township or Parish for all Municipal purposes, although such Township or extra-parochial place may have been hitherto attached for such purposes to some other Township or Parish: and any such Township or extra-parochial place may proceed to the election of such Councillors at any time which, after the passing of this Act, may be appointed by the senior Justice of the Peace resident therein, or if there be none, then according to the provisions of the above recited Act.

Penalty on Councillors neglecting to take oath required by 10 & 11 Vic. c. 7.

VIII. And be it enacted, That any Councillor, Officer or other functionary who shall neglect to make the oath required by the sixteenth and seventeenth Sections of the said first recited Act in the manner therein specified, within eight days from the notification to him of his election or appointment, shall be liable to pay a penalty of five pounds, currency, and an additional penalty of one pound, currency, for each additional day which he may allow to elapse without taking such oath, except in case of unavoidable absence.

Personal demand not necessary in collection of rates.

IX. And be it enacted, That in the collection of any rate, it shall not be necessary that a personal demand be made upon the respective rate-payers, but only that notices be posted up at such places as the Councils shall appoint, specifying such rate, and the place where and the period within which the same shall be paid—such notice to be signed either by the Collector of the Parish or Township, or by the Secretary-Treasurer; and any rate which shall remain unpaid six months after the period fixed for payment thereof, shall bear interest at the rate of ten per centum per annum, to be reckoned from the expiration of the period so to be fixed for payment thereof: Provided always, that nothing herein contained shall be construed to prevent the enforcing payment of such rate before the expiration of six months.

Proviso.

Justices of the Peace to have concurrent jurisdiction with Commissioners of small causes in certain cases.

X. And be it enacted, That the Justices of the Peace resident in each Municipality, or any one of them, shall have concurrent jurisdiction with the Commissioners for the trial of small causes, in all suits or actions which may be brought for the recovery of any fine or penalty imposed, or any rate or sum of money claimable by any Municipal Council under the authority of this Act or of the Act hereby amended, or any other Act or law relating to the establishment of Municipalities, whether there be any such Court of Commissioners held in the Parish or Township in which any such suit or action shall be brought or not, and whether the Defendant reside in such Municipality, or in any other part of the Judicial District in which such Municipality shall be: Provided always,

Proviso.

that

that nothing herein contained shall affect or be construed to affect the right of appeal which now by law lies from all judgments rendered in such cases to the nearest Circuit Court.

XI. And be it enacted, That for and notwithstanding any thing contained in the seventy-first Section of the said first recited Act, any suit or action brought for the recovery of any penalty or forfeiture imposed, or of any rate or sum of money due under the authority of this or the above recited Act, or of any other Act or law relating to the establishment or management of Municipalities in Lower Canada, may be determined upon the oath of the Inspector or any one of the Councillors of such Municipality, or upon the oath of any other credible witness.

Suits for recovery of penalties may be determined on oath of Inspector or Councillors, &c.

XII. And be it enacted, That the Justice or Justices of the Peace, as well as the Commissioners for the trial of small causes, before whom any such judgment may have been recovered, shall have power to issue Writs of *Saisie Arrêt* in the hands of third persons, as in other civil matters in Lower Canada.

Justices of the Peace, &c., may issue *saisie-arrêt*.

XIII. And be it enacted, That when the proprietor of any lands liable to rate, and upon which any rate or rates, sum or sums of money is or are in arrears, shall reside out of the Judicial District in which such lands may be situate, then and in that case, service of the Writ of Summons in any suit or action brought for the recovery of any such rates or sums of money, may be made upon the known or reputed agent of such proprietor, if such agent be resident within such Judicial District, or at his office or domicile; and if the proprietor of any lands upon which any such rates or sums of money are or shall become due, have no agent resident within such Judicial District, a copy of such Writ of Summons shall be inserted in the *Canada Gazette*, and one other public newspaper, published within such Judicial District, in both the English and French languages, at least two months before the day appointed in such Writ for the appearance of the Defendant; and the production of the numbers of the *Gazette* and newspaper respectively, containing such copy of such Writ of Summons, shall be taken and considered as proof of the due service of the same.

As to non-resident proprietors in arrear of rates.

XIV. And be it enacted, That where by any law of this Province in force in Lower Canada, a qualification in real property shall be necessary to enable any person or persons to hold any office in Lower Canada, the Assessment Roll of the locality in which such property may be situate, shall be the criterion of the value of such property.

Assessment Roll to be criterion of property qualification.

XV. And be it enacted, That whenever any Inspector of Fences and Ditches, or any Surveyor or Overseer of roads, shall, after having been appointed by the Municipal Council of any Municipality in any Parish or Township therein, under and by virtue of the Act above cited, be disqualified in any manner whatsoever, either at the time of such appointment or at any period between two consecutive Sessions of the said Municipal Council, then it shall be the duty of the Councillor of such Parish or Township, who shall be the oldest in office, to appoint a fit and proper person to fill the vacancy caused by such disqualification, and the name of such person shall be submitted by him to the said Municipal Council at their next ensuing Session, for their approval of such appointment; and any person so appointed shall fulfil the duties and obligations of such office in the same manner as if he had been appointed by the said Municipal Council, and shall be subject to the same penalties for the non-fulfilment of the duties and obligations of such office, as are in such case provided by the above cited Act.

Provision in case of disqualification, &c., of an Inspector.

XVI. And be it enacted, That any person who, not having paid his rates, shall vote at any election of a Councillor, shall incur a penalty of not less than twenty-five shillings, nor more than fifty shillings, for every such offence, and if such election shall be afterwards contested, such vote or votes shall be struck off the Poll Lists, whether such vote or votes was or were objected to at the time of voting or not.

Penalty on persons voting without having paid their rates.

XVII. And be it enacted, That the seventeenth, eighteenth and nineteenth Sections of the said first recited Act shall be and the same are hereby repealed.

17, 18 & 19 secs. of 10 & 11 Vic. c. 7, repealed.

XVIII. And be it enacted, That all rates imposed by any Municipal Council upon any lot of land under the authority of this Act or of the Act herein above recited, or of any other Act, shall be payable by and recoverable from the owner of such land, or from the

Rates recoverable from owner, or from occupier.

the occupant or possessor thereof; and shall without registration be a special charge bearing the first *hypothèque* thereon.

Land may be sold in default of goods and chattels.

XIX. And be it enacted, That in default of sufficient goods and chattels belonging either to the owner or to the occupant or possessor of such land, or to both, being found within the Judicial District in which such land is situate, the said land or such portion thereof as may be required, shall after the expiration of six months from the period appointed for the payment of such rate or rates, be liable to be sold for the satisfaction of the amount due for such rate or rates, including all costs and expenses attendant upon the recovery thereof.

Duty of Secretary-Treasurer with respect to advertising sale of lands.

XX. And be it enacted, That it shall be the duty of the Secretary-Treasurer of each Municipal Council, to cause to be inserted, at least twice during the month of December of each year, in the Official Gazette, and in one other public Newspaper published within the Judicial District in which such Municipal Council shall hold its sittings, a notice in the English and French languages, containing a list of all the lots of land which shall be liable to sale for arrears of rates, and announcing to all whom it may concern, that all such lots of land will be sold at the place of the sittings of such Council, on the first Monday in the month of February then next ensuing for the payment of the arrears of rates due thereon, the amount of which arrears, including all costs and expenses, shall be mentioned opposite the number or designation of each such lot of land, which, if situate in a Township, shall be described by its number and range, and if in a Seignior, by its metes and boundaries; and the said Secretary-Treasurer shall also in the same month of December, cause a copy of such notice to be affixed at the door of the Church or other place of public worship in each of the Parishes or Townships in which any of the lands so liable to be sold, as aforesaid, shall be situate, and if there be no Church or other place of public worship in such Parish or Township, such notice shall be affixed at two of the most public and conspicuous places in such Parish or Township.

Mode of sale.

XXI. And be it enacted, That the mode of selling such lots of land shall be by public auction as follows, that is to say:

The Secretary-Treasurer, or, in his unavoidable absence, the Mayor, or any one of the Municipal Councillors, shall, on the day and at the hour and place appointed for such sale, declare the amount due for rates upon the lots of land respectively, and for the costs and expenses attending the recovery thereof, and the person who shall offer to pay the amount of such rates, costs and expenses for the least quantity or portion of the land on which they are charged, shall be considered the purchaser thereof, and to such person shall such quantity or portion thereof be adjudged; Provided always, that the quantity so sold, unless it form the whole of such lot of land, if situate in a Seignior, shall not contain in its front line more than one-sixth of its depth, and if situate in a Township, shall not contain more frontage than one-third of its depth; and provided also that it shall be measured off from one or other of the front angles of the entire lot of land; and that at every subsequent sale under this Act, the proper Officer shall, in selling any further portion of any such lot, begin with a tract of equal width to the former, measuring backward from the rear line of the tract previously sold.

Proviso:

XXII. And be it enacted, That in every case in which from the position or description of the lot of land so to be sold, the mode herein described cannot be pursued, then it shall be in the discretion of the Secretary-Treasurer, or other proper Officer, to sell such portion of such lot of land as shall appear to him best for the interest of the original proprietor thereof.

A portion of the land may be sold in certain cases.

Sale may be adjourned if purchaser do not pay amount declared on day of sale.

XXIII. And be it enacted, That if any purchaser or purchasers shall fail to pay the amount declared on the day of the sale, it shall be lawful for the Secretary-Treasurer, or other proper Officer, to adjourn the sale to any day not more than eight days distant, by giving to all persons present notice of such adjourned sale, in an audible and intelligible voice in both the English and French languages; and on the day of such adjourned sale it shall be lawful for the Secretary-Treasurer, or other proper Officer, once more to put up such lot of land to auction, and to sell the same or any additional portion

portion thereof, unless the first purchaser shall have paid in the meantime the full amount of all rates and charges due thereon.

XXIV. And be it enacted, That on payment by any purchaser under this Act of the sum declared to be demanded in respect of any lot or parcel of land so sold as aforesaid, the Secretary-Treasurer shall give him a Certificate under his hand specifying the particulars of such sale, and the purchaser may forthwith enter upon and take possession of such lot or parcel of land; but if within twelve calendar months from the time of such sale the proprietor of the lot, or any one on his behalf, shall pay to the Secretary-Treasurer the amount levied, together with twenty per centum in addition to the same, then he shall be entitled to receive possession of the lot or parcel of land so sold, and the Secretary-Treasurer shall on demand pay to the purchaser thereof, his heirs, assigns or representatives, the full amount received by him from the original proprietor, and the right acquired by such purchaser shall thenceforth wholly cease and determine.

Proprietor may take possession within 12 months of his land sold, on certain conditions.

XXV. And be it enacted, That if, at the expiration of twelve calendar months from the time of such adjudication, the land so adjudged shall not be redeemed as aforesaid, then the Secretary-Treasurer for the time being shall, on demand by the purchaser, his heirs, assigns or representatives, and on receiving from him or them the arrears of any other rates which may have become due thereon in the mean time, if not previously paid, execute a deed of sale in due form of law, to such purchaser, his heirs or legal representatives; and such deed of sale shall be a legal title, and shall confer on such purchaser, his heirs or legal representatives, the same rights in regard to such lot or parcel of land as a title ratified and confirmed by a Court of Law.

If land is not redeemed after 12 months.

XXVI. And be it enacted, That for the collection of all such rates, the Secretary-Treasurer shall be held and considered to be the owner and occupant of all lands upon which such rates shall be due, from the time when the same shall be advertised for sale until such rates shall be paid by the original proprietor, or until such lands or a portion thereof shall be sold for the payment of such rates, in the manner hereinbefore provided.

Secretary-Treasurer to be considered owner, &c., of lands, for collection of rates, &c.

XXVII. And be it enacted, That the fifty-second and the fifty-third Sections of the said Act hereinbefore recited, shall be and are hereby repealed.

Sections 52 & 53 of 10 & 11 Vic. c. 7, repealed.

XXVIII. And be it enacted, That all parties who before the passing of the Act first above cited, were bound by any *Procès Verbal* or By-law to perform labour on any Public Road, Bridge or Water Course out of their respective Municipalities, shall be and continue to be bound to perform such labour according to the terms of such *Procès Verbal* or By-law, and to keep up, maintain, repair and construct anew such Public Road, Bridge or Water Course in such manner, and during such time, (or for ever, as the case may be,) as is directed in such *Procès Verbal* or By-law; and that for this purpose, the Council of the Municipality wherein the Public Road, Bridge or water Course on which such non-resident parties may be obliged by such *Procès Verbal* or By-law to perform labour, may be situate, shall have jurisdiction over such non-resident parties, and is hereby authorized to oblige them by all lawful means to perform their respective portions of labour, as if they were resident inhabitants of such Municipality; and for the purposes aforesaid, all such *Procès Verbaux* and By-laws as aforesaid, which under the provisions of the said fifty-second and fifty-third Sections had ceased to be in force, shall be and are hereby revived and shall continue in force until it be otherwise ordered by competent authority: Provided always, that the Council of any Municipality may make a Turnpike or Toll-road, or a Toll bridge of any Road or Bridge which would otherwise be made or kept in repair under any *Procès Verbal*, By-law or Law, by the inhabitants of some other Municipality; and that any Road or Bridge which before the passing of this Act, shall have been so made a Turnpike or Toll-road or Toll-bridge, shall remain such according to the provisions of the By-law in that behalf, notwithstanding the repeal of the sections aforesaid: Provided always, that nothing in this Section contained shall be construed to affect the Counties of St. Hyacinthe and Huntingdon.

Certain By-laws and *procès-verbaux* to revive and to be enforced.

Proviso as to Roads, Toll-Bridges, &c.

Proprietors of Bridges,
&c., to maintain
Roads leading thereto.

XXIX. And whereas accidents frequently occur on the roads leading from the main road to Bridges and Ferries, in consequence of the bad state in which such thoroughfares are kept: Be it enacted, That all proprietors or possessors of Bridges or Ferries shall be bound to keep in repair, and maintain all roads leading from the main roads to any such bridge or ferry, and which it shall be necessary to use in order to reach any such bridge or ferry; Provided always, that the most direct road leading from any such road to any city or market-town, and used as a post road or otherwise, shall be kept in repair and maintained by such parties resident within the Municipality within which the same shall be situate, as the Municipal Council of such Municipality shall deem proper to order.

Proviso.

Fences may be taken
down by Overseers
for the purpose of
winter roads.

XXX. And be it enacted, That it shall be lawful for the Overseers in each Parish or Township, or the majority of them, at their annual meeting for determining upon and fixing the winter roads, to order the fences to be taken down along the by-roads where it may be necessary, for the said winter roads, and to cause them to be put up again as soon as possible after the winter season, in as good a state as they were previous to their being taken down; and such fences shall be taken down and put up again by the parties interested in the said Roads; Provided always, that it shall not be lawful for the said Overseers, or the majority of them, to cause to be taken down any palisade, whether made with rails or of stone, nor any quickset hedge.

Proviso.

Provisions respecting
ferry licenses, and
regulations respecting
the same.

XXXI. And be it enacted, That licenses to ferry over any river or lake not being within the limits of any Municipality shall be granted by the Governor of this Province for the time being; and the Justices of the Peace, in General or Quarter Sessions, shall alone have power to grant Certificates and to make regulations relative to such ferries.

Doubts as to By-laws
of former Parish
Councils removed.

XXXII. And whereas doubts have arisen as to certain By-laws of the former Parish or Township Councils: Be it declared and enacted that all By-laws made by the said Parish or Township Councils, or by any Committee of any Parish or Township Council, which shall not have been repealed nor amended by the Councils of Counties or of Divisions of Counties, have and shall have full force and effect and continue to have full force and effect until the same shall be repealed or amended by competent authority: Provided always, that nothing herein contained shall be construed in such manner as to give force and effect to any By-law which may have been informally or illegally made, passed or enacted by any such Council.

How penalties shall
be recovered.

XXXIII. And be it enacted, That all penalties imposed by this Act, shall be recovered in the manner provided by the Act first above recited.

Provisions respecting
County of Megantic.

XXXIV. And be it enacted, That for all and every the purposes of the said first recited Act and of this Act, the County of Megantic shall be divided into two Municipalities, subject to all the provisions of law in that behalf; and that to this end, it shall be lawful for the Governor in Council, in and by a Proclamation to be issued after the passing of this Act, to declare that the said Municipality of the said County of Megantic shall be dissolved from and after a day to be therein named, and the said Municipality, from and after such day, shall be dissolved and annulled: And it shall be lawful further for the Governor in Council, in the said Proclamation, to define the limits of the new Municipal Divisions of the said County of Megantic,—to designate the several Townships which shall form part thereof respectively, and the number to be assigned to each such Municipal Division,—to determine the places where the Municipal Councils of the said Municipalities respectively shall hold their meetings, and the days for the first election of Councillors,—and to confirm or annul any By-law or By-laws now in force in the said Municipality of the said County of Megantic, and to make the same binding on both or either of the said two new Municipal Divisions,—and generally, in and by the said Proclamation, to make such other and further regulations and provisions as may by the Governor in Council be deemed necessary fully to carry into effect the said dissolution of the said Municipality of Megantic and the division thereof into two Municipalities as aforesaid.

Parts of Act repug-
nant to this, repealed.

XXXV. And be it enacted, That every part of any Act or law repugnant to or inconsistent with the provisions of this Act shall be and the same are hereby repealed.

Interpretation Act to
apply.

XXXVI. And be it enacted, That the Interpretation Act shall apply to this Act.

CAP. XXXV.

An Act to facilitate the holding of Courts of General or Quarter Sessions of the Peace in Lower Canada.

[10th August, 1850.]

WHEREAS difficulty is frequently experienced in procuring the attendance of Magistrates at the General or Quarter Sessions of the Peace in Lower Canada at seasons when, from the pressure of business or other causes, such attendance would subject them to serious loss or inconvenience; For remedy thereof, Be it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing to the contrary in any Act or Law, any Court of General or Quarter Sessions of the Peace in Lower Canada, may be holden by any one Circuit Judge, or by any two Justices of the Peace of whom a Circuit Judge shall be one; but nothing herein contained shall be construed to impair or diminish the rights or powers of any Justice or Justices of the Peace, who may choose to sit or act in such Court, or his or their powers when so sitting and acting; or to prevent the said Court from being held by any two or more Justices of the Peace in the absence of a Circuit Judge.

Preamble.

One Circuit Judge may hold the Court.

Saving of rights of Justices.

II. And be it enacted, That the General or Quarter Sessions of the Peace shall henceforward commence in the Cities of Quebec, Montreal and the Town of Three-Rivers, respectively, on the eighth day of January, on the fourth day of April, on the fourth day of July, and on the fourth day of October, of each year, and at no other time or times: Provided nevertheless, that if any of the said days be a Sunday or Holiday, the said Sessions shall commence on the next juridical day thereafter.

Periods for holding Quarter Sessions, at Quebec, Montreal and Three-Rivers.

Proviso.

III. And be it enacted, That the terms of the General Sessions of the Peace for the District of Saint Francis shall hence forward commence at Sherbrooke, on the first day of February, and on the first day of October in each year, and not at any other time or times: Provided nevertheless, that if any of the said days be a Sunday or a Holiday the said Sessions shall commence on the next juridical day thereafter.

Period for holding the same at Sherbrooke.

Proviso.

IV. And be it enacted, That the said Sessions shall respectively continue and be holden until the said Court shall declare the same closed, which shall not be done until the Court shall be of opinion that there remains no trial, matter or proceeding to be had or done by or before it, which cannot more conveniently remain over until the then next Sessions.

Duration of such Sessions.

V. And be it enacted, That every writ, process, recognizance, or other document which is or shall be returnable into any of the said Courts of General or Quarter Sessions of the Peace, or by which any party shall be bound to appear or attend at any such Court, or any thing shall have been ordered to be done in or before any such Court on any day subsequent to the time when this Act shall come into effect, shall be returned into such Court, and shall be held and considered to be returnable or such party shall be held to appear or attend, or such thing shall be done in or before such Court on that juridical day of the Sessions of such Court, which shall be next after the day on which such writ, process, recognizance or document shall have been made returnable, or on which such person shall have been bound to appear or attend, or on which such thing shall have been ordered to be done.

As to return Writs, proceedings, &c, issued before this Act shall be in force.

VI. And be it enacted, That the several Courts of Quarter or General Sessions of the Peace in Lower Canada may and shall make and establish a tariff of fees for the Officers of the said Court, and the Counsel, Advocates and Attorneys practising before such Courts respectively; and also such rules of practice as shall be requisite for regulating the conduct of the causes, matters and business before such Courts respectively; and all process and proceedings therein or relating thereto; which Tariff of Fees and

Courts of Q. S. may make Tariffs and rules of practice.

Rules

Rules of Practice, as well as any other Tariff of Fees or Rules of Practice which may have been established by any such Courts before the passing of this Act, the said Courts respectively shall have full power and authority to repeal, alter and amend from time to time : Provided always that no such Tariff of Fees or Rules of Practice shall be contrary to any Act or law in force in Lower Canada, otherwise the same shall be null and void.

Proviso.

Courts of Q. S. may award costs by judgments on appeals.

VII. And be it enacted, That it shall be lawful for any such Court of Quarter or General Sessions of the Peace, in pronouncing judgment upon any appeal from any inferior tribunal, to condemn the losing party to pay the costs of such appeal ; which costs may be levied by warrant of distress out of the goods and chattels of such party.

Process of Q. S. may be served in any part of L. C.

VIII. And be it enacted, That all and every summons, warrant or other process issued out of any such Court of Quarter or General Sessions, may be served or executed in any part of Lower Canada, whether in or beyond the District wherein the same shall have issued.

President of Q. S. may be appointed for Three-Rivers and St. Francis.

IX. And be it enacted, That for each of the Districts of Three-Rivers and Saint Francis, it shall be lawful for the Governor to appoint a fit and proper person to preside at or hold the Court of General or Quarter Sessions of the Peace in such District, and to assign to each person so appointed a salary not exceeding the rate of seventy-five pounds per annum : Provided always, that each person so appointed shall be a Barrister of at least five years standing, and each such person shall be a Justice of the Peace for the District for which he is appointed without its being necessary that he possess any property qualification whatever ; any law to the contrary notwithstanding.

Salary.

Proviso.

Powers of such Presidents.

X. And be it enacted, That each person so appointed as aforesaid, shall, in the District for which he is appointed, have in all respects as regards the holding of the Courts aforesaid, the same powers as are vested in the Circuit Judges in the other Districts of Lower Canada, and may alone, or with the assistance of one or more other Justices of the Peace, hold any such Court of General or Quarter Sessions of the Peace.

Courts may punish persons refusing to appear and give evidence.

XI. And be it enacted, That it shall be lawful for any such Court of General or Quarter Sessions of the Peace in Lower Canada, to punish by fine or imprisonment or both, any person who after having been duly summoned to appear and give evidence before any of the said Courts, shall refuse or neglect to comply with the order of the Court in that behalf, or any person who shall disobey or refuse or neglect to comply with any order or judgment legally made or pronounced by any such Court : Provided that no such fine shall in any case exceed the sum of twenty pounds, and that no person so offending shall, in consequence of such offence, be imprisoned for any time exceeding two calendar months.

Proviso.

Circuit Judges and Presidents only to tax costs, &c.

XII. Provided always, and be it enacted, That the Circuit Judges and the Presidents of the General or Quarter Sessions of the Peace to be appointed as aforesaid, shall alone have the power of taxing the accounts of witnesses attending at the Courts aforesaid, and who are to be paid by the Crown ; and of swearing such witnesses to the correctness of their accounts.

Inconsistent enactments, &c., repealed.

XIII. And be it enacted, That all such parts of any Act, Ordinance or Law as are inconsistent with or repugnant to this Act shall be and the same are hereby repealed.

Interpretation Act to apply.

XIV. And be it enacted, That the Interpretation Act shall apply to this Act.

C A P. XXXVI.

An Act to amend the Act to define the mode of proceeding before Courts of Justice in Lower Canada, in matters relating to the protection and regulation of Corporate Rights and to Writs of Prerogative.

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to amend in certain particulars the Act passed in the Twelfth year of Her Majesty's Reign, and intituled, *An Act to define the mode of proceeding before the Courts of Justice in Lower Canada in matters relating to the protection and regulation of Corporate Rights and to Writs of Prerogative, and for other purposes therein*

therein mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all the powers vested by the first, eleventh, twelfth and fourteenth sections of the Act mentioned in the preamble to this Act, in any two or more Judges of the Superior Court in vacation, shall and may, in each of the Districts in Lower Canada, except the Districts of Quebec and Montreal, be exercised by any one of the Judges of the said Court in vacation; and all the provisions and enactments of the said Act having reference to the said powers, shall be construed and have effect accordingly.

Powers vested by sec. 1, 11, 12 and 14, of 12 Vic cap. 41, in two Judges, may be exercised by one, except in certain cases.

II. And be it enacted, That so much of the sixteenth section or of any other part of the said Act, as directs in what manner Writs of *Certiorari* shall be applied for and issued, and what proceedings shall be had thereon or with regard thereto, shall be and is hereby repealed; and the law with regard to applications for Writs of *Certiorari*, the proceedings thereon, and all matters incident thereto, shall be as it would have been if the said Act had not been passed: Provided always, that no part of the said section which exempts parties suing out such Writs of *Certiorari* from the necessity of giving security, or which does away with the necessity of issuing *Alias Writs*, or which provides for the manner of making orders subsequent to the issuing of the first writ, or of making services and returns, is or shall be repealed: and provided also, that costs shall be awarded to the party in whose favor judgment shall be given.

Provisions as to *certiorari* repealed.

Proviso.

III. Provided always, and be it enacted, That with regard to all Writs of *Certiorari* issued between the time when the said Act came into force and effect and the passing of this Act, and to all proceedings thereupon and matters incident thereto, the provisions of the said Act shall apply as if this Act had not been passed.

Exception as to writs issued before the passing of this Act.

C A P . X X X V I I .

An Act to assign fixed Annual Salaries to certain Officers of Justice in Lower Canada, and to form a Special Fund out of the Salaries, Fees, Emoluments and Pecuniary Profits attached to their Offices.

[10th August, 1850.]

WHEREAS it is just and proper to form a Special Fund out of all the Salaries, Fees, Emoluments and Pecuniary Profits attached to certain Offices connected with the administration of Justice in Lower Canada, and to assign Annual and Fixed Salaries to the Officers holding and filling such Offices: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That this Act shall commence and be in force at and after the expiration of one month from the day of its passing.

Preamble.

II. And be it enacted, That upon, from and after the day on which this Act shall commence, the Public Officers hereinafter mentioned shall respectively cease to have the right of demanding and receiving for their own use and benefit, the Salaries, Fees, Emoluments and Pecuniary Profits whatsoever, which are now or may hereafter be attached to their respective Offices, that is to say:

Commencement of this Act.

Public Officers who shall cease to receive fees on their own account.

First.—The Sheriffs of the Districts of Montreal, Quebec, Three-Rivers and Saint Francis;

Second.—The Prothonotaries or Clerks of the Superior Court in the said Districts;

Third.—The Clerks of the Circuit Courts in the Circuits respectively called the Circuits of Quebec, Montreal, Three-Rivers and Sherbrooke;

Fourth.—The Clerks of the Crown in the Districts aforesaid ;

Fifth.—The Clerks of the Peace in the Districts aforesaid ;

Sixth.—The Clerk of the Court of Queen's Bench, called "The Clerk of Appeals."

Special fund created
out of fees, &c.

III. And be it enacted, That upon, from and after the said day, all Salaries, Fees, Emoluments and Pecuniary Profits whatsoever, which are now or may hereafter be attached to the said Offices respectively, under any authority whatsoever, shall form a Special Fund to be employed as hereinafter appointed, and shall for this purpose be paid over by the proper Officers to the Receiver General of the Province, in the manner hereinafter mentioned ; they shall continue to be and shall be demanded and collected as heretofore by the Officers aforesaid respectively, in their respective Districts or Circuits ; the said Officers shall render a faithful and detailed account thereof, every three months, to the Inspector General of Public Accounts for the Province, in such form and in conformity with such instructions as shall from time to time be prescribed by or by order of the said Inspector General ; and the said Officers shall respectively pay over the balance of such Accounts to the Receiver General within the fifteen days immediately following the rendering thereof.

Officers to render
accounts.

Annual and fixed
salaries allotted in
place of fees, &c.

IV. And be it enacted, That from and out of the amount collected in every year of such Salaries, Fees, Emoluments and Pecuniary Profits of what kind soever, attached to each of the aforesaid Offices, it shall be lawful for the Governor from time to time to assign to the said Officers respectively, the annual and fixed Salaries hereinafter mentioned ; which Salaries it shall also be lawful for the Governor to modify from time to time as he shall judge expedient, that is to say :

IN THE DISTRICT OF QUEBEC :

First.—To the Sheriff, a sum not exceeding Five hundred pounds currency ;

Second.—To the Prothonotary or Clerk of the Superior Court, a sum not exceeding Five hundred pounds currency ;

Third.—To the Clerk of the Circuit Court for the Circuit called "The Quebec Circuit," a sum not exceeding Two hundred and fifty pounds currency ;

Fourth.—To the Clerk of the Crown, a sum not exceeding Two hundred and fifty pounds currency ;

Fifth.—To the Clerk of the Peace, a sum not exceeding Three hundred and fifty pounds currency—

IN THE DISTRICT OF MONTREAL :

First.—To the Sheriff, a sum not exceeding Five hundred pounds currency ;

Second.—To the Prothonotary or Clerk of the Superior Court, a sum not exceeding Five hundred pounds currency ;

Third.—To the Clerk of the Circuit Court for the Circuit called "The Montreal Circuit," a sum not exceeding Two hundred and fifty pounds currency ;

Fourth.—To the Clerk of the Crown, a sum not exceeding Two hundred and fifty pounds currency ;

Fifth.—To the Clerk of the Peace, a sum not exceeding Three hundred and fifty pounds currency—

IN THE DISTRICT OF THREE-RIVERS :

First.—To the Sheriff, a sum not exceeding Three hundred pounds currency ;

Second.—To the Prothonotary or Clerk of the Superior Court, a sum not exceeding Three hundred pounds currency ;

Third.—To the Clerk of the Circuit Court for the Circuit called "The Three-Rivers Circuit," a sum not exceeding One hundred and fifty pounds currency ;

Fourth.—To the Clerk of the Crown, a sum not exceeding Fifty pounds currency ;

Fifth.—To the Clerk of the Peace, a sum not exceeding Two hundred pounds currency—

IN THE DISTRICT OF ST. FRANCIS :

First.—To the Sheriff, a sum not exceeding one hundred and fifty pounds currency ;

Second.—To the Prothonotary or Clerk of the Superior Court, a sum not exceeding one hundred and fifty pounds currency ;

Third.—

Third.—To the Clerk of the Circuit Court for the Circuit called “The Sherbrooke Circuit,” a sum not exceeding fifty pounds currency ;

Fourth.—To the Clerk of the Crown, a sum not exceeding fifty pounds currency ;

Fifth.—To the Clerk of the Peace, a sum not exceeding fifty pounds currency—

COURT OF QUEEN'S BENCH :

To the Clerk of this Court, called “The Clerk of Appeals,” a sum not exceeding two hundred and fifty pounds currency.

Which salary so assigned in every year to each of the above named officers, shall be paid to him every three months, but solely out of the amount of the said salaries, fees, emoluments and pecuniary profits attached to his office and collected as aforesaid by him during such year : Provided always, that the amount so collected by him during such year, be sufficient to cover his salary after deducting therefrom the pecuniary remuneration to be paid by him to his Deputy and Clerks, as hereinafter directed ; otherwise his salary for such year shall not in any such case exceed such net amount.

How such salaries shall be paid provided the amount collected be sufficient.

V. And for the avoidance of all doubt in this behalf, Be it enacted, That the words “Salaries, Fees, Emoluments and Pecuniary Profits,” in the foregoing sections, shall include and be held to include for the purposes of this Act, the commission or remuneration of two and a half per cent or any other commission or remuneration which, under the laws now or then in force, the said Sheriffs are or may hereafter be authorized to charge upon and retain out of moneys levied by execution or otherwise, and also all other sums of money which the public officers aforesaid receive or may be entitled to receive for their use and benefit by virtue of their said respective offices, and under any authority whatsoever.

Interpretation of the words, salaries, fees, &c.

VI. And be it enacted, That whenever any two or more of the offices hereinbefore mentioned, shall at any time be held and filled by the same person, then it shall be lawful for the Governor to reduce and fix at such sum as he shall deem expedient, the united Salaries of the said offices, and in such case; the sum so established shall form the whole of the Salary which such person shall be entitled to receive by reason of the said offices so held and filled by him ; and the remainder of the Salaries assigned to the said offices, respectively, shall then form part of the Special Fund hereinbefore mentioned.

Case where two offices shall be held by the same person.

VII. And be it enacted, That each of the Public Officers above mentioned, who is not now by law obliged to have and appoint a Deputy, shall hereafter be obliged to have and appoint one to assist him in discharging the duties of his office, and shall appoint such Deputy by an Instrument under his hand and seal ; and such Deputy is hereby authorized to perform the duties of the Public Officer who shall have so appointed him as his Deputy, and shall continue to perform the said duties in the event of the decease, dismissal, suspension or resignation of the said Officer, until a person shall have been appointed to succeed such Officer in his said office ; and the Instrument appointing such Deputy shall be entered at full length in the Register of the Court ; but it shall be lawful at all times for any such Officer to remove his Deputy and appoint another in his stead : Provided always, that all the above mentioned Officers, may, if they think proper, respectively appoint in the manner and with the formalities prescribed in relation to the appointment of their first Deputy (and with like power of removal) other Deputies to assist them in that capacity, in the performance of any particular portion whatsoever of the duties of their office, such portion being specially and clearly described in the Instrument appointing any such Deputy ; and every such Deputy is hereby authorized to perform the duties so specially assigned to him in like manner as the Public Officer who shall have appointed him : Provided always and it is hereby declared that the said Public Officers shall be and continue to be responsible to all intents and purposes, for the conduct of each of their Deputies respectively.

Appointment of deputies and their powers.

Proviso : Deputies for special purposes.

Proviso :

VIII. And be it enacted, That upon, from and after the day of the commencement of this Act, the Criers, including the Tipstuffs attached to the Court of Queen's Bench and to the Superior Court in each of the Districts above mentioned, and to the Circuit Court in the

Criers to cease to receive fees, &c.

the Circuits above mentioned, or such persons as shall be acting in that capacity in the said Courts respectively, shall cease to be entitled to demand and receive for their own use and benefit, the Salaries, Fees, Emoluments and Pecuniary Profits, which now are or hereafter may be allowed to or for the services of such Criers respectively ; and that upon, from and after the said day, the said Salaries, Fees, Emoluments and Pecuniary Profits shall form part of the Special Fund above mentioned, and shall not be demanded and collected by the said Criers, but by the Prothonotaries or Clerks of the said Courts, respectively, in the respective Districts and Circuits above mentioned ; and it shall be the duty of the said Prothonotaries or Clerks to account therefor to the Inspector General and to pay over the amount thereof to the Receiver General, in like manner and at the same time as they are required to account for and pay over the Fees, Emoluments and Pecuniary Profits attached to their own offices respectively.

Prothonotaries to collect them as part of the special fund.

Salary allotted to criers.

IX. And be it enacted, That from and out of the amount annually collected as aforesaid, of the said Fees, Emoluments and Pecuniary Profits so allowed for the said Criers including the Tipstiffs, it shall be lawful for the Governor from time to time to assign an annual and fixed Salary to each of the said Criers, and also from time to time to modify the same as he shall deem expedient, which Salary shall in no case exceed the sum of one hundred and fifty pounds currency, and shall be paid to the said Criers every three months by the Prothonotaries or Clerks of the said Courts respectively, but only out of the amount of the Fees, Emoluments and Pecuniary Profits, which without this Act the Crier himself would have been entitled to demand and collect during the year, and which shall have been collected by the said Prothonotaries or Clerks as aforesaid : Provided always, that the amount so collected during such year, shall be sufficient to cover the Salary of the Crier, otherwise his Salary for such year shall not in such case exceed such amount.

Proviso.

Necessary clerks and Deputies allowed.

X. And be it enacted, That each of the Public Officers mentioned in the first section of this Act, shall have a sufficient number of Clerks for the due performance of the duties of his office ; to each of whom, as well as to the Deputies of such Officer, a reasonable remuneration may be granted, subject to the previous approval of the Governor ; and for this purpose, the said Officer shall furnish every year to the Provincial Secretary, and oftener if thereunto required, a list of the Deputies and Clerks employed by him as aforesaid ; and as regards their number and remuneration, he shall conform to such instructions as shall from time to time be transmitted to him in that behalf by the Provincial Secretary ; the amount of which remuneration shall be paid by such Officer and by him entered under the head of expenses in the accounts rendered by him to the Inspector General as aforesaid.

Officers to take credit for salaries.

XI. And be it enacted, That the said Public Officers shall, in all accounts rendered by them as aforesaid to the Inspector General, be entitled respectively to retain and enter under the head of expenses, such portion of the annual and fixed Salary to them assigned by the Governor as aforesaid, as shall correspond with the period comprised in the account so rendered ; and that after deducting therefrom their fixed Salary, the remuneration of their Deputies and Clerks, and the Salary of the said Criers by them paid as aforesaid, the said Public Officers shall respectively be entitled for their own use and benefit, to a Commission of ten per cent on the balance of the sums acknowledged by them in such account as remaining in their hands ; and after the Inspector General shall have examined and approved such account, it shall be lawful for the said Officers to retain the amount of the said Commission to which they are entitled on the balance of such account, and to enter the same under the head of expenses in their next account.

Commission on the balance.

Distinct accounts to be kept for each District.

XII. And be it enacted, That the Inspector General shall keep separate and distinct accounts for each of the Districts above mentioned, of the portion of the said Special Fund created by this Act which shall be collected in such District.

Compilation of reports and judicial decisions.

XIII. And be it enacted, That from and out of the whole of the said Special Fund, or any part thereof collected in any of the Districts aforesaid and paid into the hands of the Receiver General, a reasonable sum may from time to time be taken and applied (according

(according to such regulations as shall be from time to time made by the Governor) to defray the expense of compiling and publishing the decisions of the Tribunals of Lower Canada, and to the payment of a fit Salary to such person or persons as the Governor may from time to time entrust with the said compilation and publication, which persons shall conform to such instructions as may from time to time be given to them by order of the Governor.

XIV. And be it enacted, That the amount of each of the said portions of the said Special Fund, or the balance of each portion remaining after the deduction (if any) of the sum necessary to meet the expenses authorized by the foregoing section, may be employed in such manner as shall be directed and ordered from time to time by the Governor, in repairing the Court Houses, or for other purposes connected with the administration of Justice, in the District wherein such portion shall have been collected.

XV. And be it enacted, That in aid of the compilation and publication of the decisions of the Tribunals in Lower Canada as authorized by the thirteenth section of this Act, each of the persons hereinafter designated and residing in any of the Districts above mentioned, shall pay in each year, between the first of October and the thirty-first of December, to the Prothonotary or Clerk of the Superior Court in the District in which he shall reside, the sum of One pound five shillings currency, to wit :

First.—The Judges and Prothonotaries or Clerks of the Court of Queen's Bench, the Superior Court, and the Circuit Court ;

Second.—The Advocates and Attorneys ;

Third.—The Sheriffs ;

Fourth.—The Clerks of the Peace.

And whenever the said office of Sheriff, or of Prothonotary or Clerk shall be held by more than one person, each such person individually shall pay the said sum of One pound five shillings currency ; and in default of payment within the time above directed, the Prothonotary or Clerk to whom such payment ought to be made, shall in his said quality, have the right and shall be bound to sue by personal action in the Circuit Court, for the recovery of the said sum of One pound five shillings currency, each of the persons above mentioned who shall have neglected to pay the said sum in manner aforesaid ; and when judgment shall be rendered in favor of the said Prothonotary or Clerk, it shall be rendered with Costs ; and such judgment shall be executory in the same manner as any other judgment of the said Circuit Court : Provided always, that when any such judgment shall have been rendered against any Advocate and Attorney, then in default of payment by him of the amount of the principal sum and costs of the action, within two months after judgment shall have been rendered therein, he shall after the said two months shall have expired, cease to enjoy the right of practising the said profession of Advocate and Attorney in any of the Courts of Law in Lower Canada, until he shall have satisfied the whole amount of the said judgment.

XVI. And be it enacted, That the said sum of One pound five shillings currency, shall be payable for the present year one thousand eight hundred and fifty, at the time above mentioned, as well as for subsequent years—it shall form part of the Special Fund created by this Act—but shall be solely applied to the purpose mentioned in the thirteenth section ; and the provisions of this Act relating to the responsibility of the said Prothonotaries or Clerks, to the payment over by them of the amount received by them, and to their commission of ten per cent. shall apply to this portion of the said Special Fund as well as to the other portions thereof.

XVII. And be it enacted, That none of the foregoing provisions shall extend or be construed to extend to deprive the above mentioned Courts of Justice or the Judges thereof, of the power now possessed by them, or to relieve them from the obligation imposed on them by the now existing laws of Lower Canada, to make and establish, from time to time, tariffs of fees for the officers of the said Courts respectively, and for the Counsel, Advocates and Attorneys practising therein, and from time to time as need shall be, to revoke or amend such tariffs.

XVIII. And whereas several of the offices before mentioned, are now held by two or more persons conjointly, to wit :

Application of balances.

Judges, advocates, &c. to contribute yearly to the expense of publishing decisions.

As to offices held by more than one person.

Prothonotary to sue defaulters.

Proviso as to advocates and attorney..

The said sum to be payable for the present year, and to form part of the special fund.

The courts and judges to continue to make tariffs of fees.

Case where one office is held by two or more persons.

IN THE DISTRICT OF MONTREAL :

The offices of Sheriff, of Prothonotary or Clerk of the Superior Court, and of Clerk of the Peace ;

IN THE DISTRICT OF QUEBEC :

Those of Prothonotary or Clerk of the Superior Court and of Clerk of the Peace :

Governor may add to the fixed salary.

Be it enacted, That it shall be lawful for the Governor to add to the annual and fixed Salary which under the foregoing provisions he is authorized to assign to each of the said Offices respectively, the sums hereinafter mentioned, to wit :

IN THE DISTRICT OF MONTREAL :

First.—To the Office of Sheriff, a sum not exceeding five hundred pounds, currency, yearly ;

Second.—To the Office of Prothonotary or Clerk of the Superior Court, a sum not exceeding seven hundred pounds, currency, yearly ;

Third.—To the Office of Clerk of the Peace, a sum not exceeding three hundred and fifty pounds, currency, yearly ;

IN THE DISTRICT OF QUEBEC :

First.—To the Office of Prothonotary or Clerk of the Superior Court, a sum not exceeding six hundred pounds, currency, yearly ;

Second.—To the Office of Clerk of the Peace, a sum not exceeding three hundred and fifty pounds, currency, yearly ;

Out of what portion of the special fund such sum shall be taken.

Each of which said sums shall only form part of the salary attached to the office to which it shall be so granted, so long as such office shall so continue to be held by more than one person as aforesaid ; and provided always, that such sum as aforesaid shall be taken solely out of the amount of the portion of the special fund created by this Act, which shall have actually been paid into the hands of the Receiver General as arising from such office for the year during which such increase of salary shall be assigned to such office ; and if the said amount be not sufficient to cover the increase of salary so assigned to such office, then such increase of salary shall not for that year exceed such amount ; and provided also, that it shall be lawful for the Governor to apportion such increase of salary among the persons conjointly holding and filling such office, in such manner as he shall deem expedient, having a due regard to the length of service of each of the persons in the performance of the duties of such office, or of a similar office in any other Court of any other District.

Proviso : Governor to apportion such increase.

Accounts to be sworn to.

XIX. And be it enacted, That the accounts which shall be rendered to the Inspector General under this Act by each of the above mentioned Public Officers, shall be by such Officer sworn to as true and faithful, on oath to be taken before one of the Judges of any of the Courts aforesaid.

Lower Canada.

XX. And be it enacted, That this Act shall apply to Lower Canada only.

CAP. XXXVIII.

An Act to facilitate the swearing of *Experts* and Arbitrators appointed by the Courts of Justice in Lower Canada, and of Witnesses and others to be heard before them.

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to facilitate the swearing of *Experts*, Arbiters and Arbitrators appointed, either by the Courts of Justice in Lower Canada, or by consent of the parties in causes pending before the said Courts, and of the witnesses to be examined before such *Experts*, Arbiters or Arbitrators : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Courts of Justice in Lower Canada, to authorize all such *Experts*, Arbiters or Arbitrators, without regard

Courts may authorize the oath of office to be taken before Commis-

regard to the distance between their residence or the place where the duty assigned to them is to be performed, and the place where the Court is held, to take the oath required of them before proceeding to perform the duties of their office, before any Commissioner appointed for receiving affidavits to be used in the Superior Court, or before any other person whom the Court in which the case is pending may think proper to appoint for the purpose.

sioners, &c., in any case.

II. And be it enacted, That the said *Experts*, Arbiters and Arbitrators shall have full power to administer the necessary oaths to the witnesses produced before them touching the matters referred to them, without regard to the distance of the residences of such witnesses or of the place where they may be so required to attend, from the place where the Court is held.

How witnesses may be sworn.

III. And be it enacted, That so much of the Act of the Legislature of Lower Canada, passed in the forty-eighth year of the Reign of King George the Third, and intituled, *An Act to authorize the Judges in Civil Causes, in this Province, to delegate the power of administering oaths in certain cases therein mentioned*, or of any other Act or Law as may be inconsistent with this Act, shall be and is hereby repealed.

Part of 48 G 3, c. 22, (L. C.) repealed.

C A P. XXXIX.

An Act to amend and consolidate the Act providing for the organization of the Notarial Profession in Lower Canada.

[10th August, 1850.]

WHEREAS it is expedient to amend in the manner hereinafter mentioned, the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act for the organization of the Notarial Profession in that part of this Province called Lower Canada*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the third, fifth, tenth, eleventh, twelfth, thirteenth, twentieth, twenty-first, twenty-fourth and twenty-fifth sections of the said Act, shall be and are hereby repealed; and each of the Boards of Notaries created and established by the said Act, shall be a Corporate Body in itself, and as such be entitled to all the privileges vested by law in Corporate Bodies generally; and shall each have power to acquire, hold, possess and enjoy real and personal estate not exceeding in value five thousand pounds currency; and in all actions instituted against any of the said Boards, service of process at the office or domicile of the Secretaries of the respective Boards shall be good and sufficient.

Preamble.

3rd, 5th, 10th, 11th, 12th, 13th, 20th, 21st, 24th and 25th sections of 10 and 11 Vic. c. 21, repealed.

Boards of Notaries incorporated.

II. And be it enacted, That the members of each Board shall elect at the first annual general meeting of the said Boards which shall take place after the passing of this Act:

Officers and their functions.

First.—A President, who shall only vote when the votes are equally divided, shall call special meetings of the Board when he shall deem it expedient, or on the requisition of two members, stating the purpose of the meeting, or on that of the Syndic hereinafter mentioned, and shall preserve order at all meetings.

President.

Secondly.—A Secretary, who shall draw up and enregister the proceedings of the Board, shall have custody of all Records and deliver copies thereof, shall collect the facts relative to any charge brought against a Notary, and report the same to the Board; and who shall be authorized to appoint a Deputy to represent him in case of illness or of absence, with the approbation of the Board of Notaries for his District; and the said Deputy shall be appointed by a written instrument under the hand of the Secretary, which instrument shall be entered in the book of proceedings of the said Board.

Secretary.

Treasurer.

Thirdly.—A Treasurer, who shall have charge of the common fund hereinafter mentioned, shall receive and pay moneys upon the order of the Board, and shall account for the same as the Board shall direct.

Syndic.

Proviso.

Fourthly.—A Syndic, who shall be the prosecutor on any charge brought against a Notary; Provided always, that in addition to the special powers hereby assigned to the officers aforesaid, each of them shall, if he be a member of the Board, vote as such in the same manner as the other members, at all meetings of the Board, except that with regard to any matter relating to any charge against a Notary, the Syndic conducting the prosecution shall not vote: And provided also, that in case any of the officers aforesaid shall be absent or prevented from acting, his place may be supplied by the appointment of another *pro tempore* by the majority of the members present at any meeting at which there shall be a quorum: Provided also, that the present officers of the Boards of Notaries shall continue in office until the said elections of officers of the said Boards shall take place as prescribed by this Act.

Proviso.

Proviso.

Power of Boards:

III. And be it enacted, That each of the said Boards of Notaries shall have power and authority:

To maintain discipline.

First.—To maintain internal discipline among the Notaries within their jurisdiction, to award, censure and enforce such discipline.

Reconcile differences.

Secondly.—To prevent or reconcile all differences between Notaries and all complaints and claims by third persons against Notaries concerning their functions, to express their opinion respecting the damages thence arising, and to repress by censure or other means of discipline, whatever offence may be the subject thereof, without prejudice to any right of action, if any such doth accrue.

Grant certificates.

Thirdly.—To grant or refuse, after public examination, all certificates of qualification required by applicants for admission, either as Students or Notaries, and to deliberate thereon as they shall think proper.

Receive Records.

Fourthly.—To receive and keep the records of Notaries, deceased, absent or removed from office or interdicted.

Summon Notaries.

Fifthly.—To summon before it, when need shall be, any Notaries within its jurisdiction.

Alter quorum.

Sixthly.—To alter from time to time, if any such Board shall think proper, the quorum for the examination of candidates for the study of or admission to the profession, and the granting or refusal of the necessary certificates for the said purpose, and also for receiving complaints, claims and petitions from Notaries and third parties, on the various subjects within the powers of the Boards of Notaries, and for the despatch of other routine business of a similar nature: Provided that such quorum shall not be less than five for the Quebec and Montreal Boards of Notaries respectively, nor less than three for the Three Rivers Board of Notaries; but whenever any decision shall be required to be taken on any matter so brought before the Board, the quorum shall be the same as provided in the second section of the Act above cited.

Proviso.

Punishing Notaries according to the nature of their offences.

Seventhly.—To cause any such Notary to be punished according to the nature of his offence, by removal or suspension from office, or by depriving him of his vote at General Meetings, or by excluding him from the Board for a time not exceeding three years for the first offence, nor more than six years for a second or subsequent offence: Provided always that if the charge brought before the Board against any Notary shall appear sufficiently serious to call for his suspension from the exercise of his functions or his removal from office in cases of fraud or corruption, the Board shall associate with it by lot, a number of Notaries equal to the number of Members of the Board, from among those within its jurisdiction, who shall be bound to serve, under a penalty of five pounds currency; and the Board thus composed may, by a majority of the whole, pronounce its opinion as to such suspension and the duration thereof, or as to such removal from office; but no opinion shall be pronounced unless two thirds at least of all those summoned to attend the meeting be present; and in any such case the opinion so pronounced shall be submitted to the Superior Court for judgment thereon

Proviso as to cases of a serious nature.

thereon in the manner provided by the twenty-second section of the Act above cited; Provided also, that nothing in this section shall deprive the party injured of any remedy which he may have against the Notary.

Eighthly.—To fix the time of the General Meetings of Notaries either for the appointment of the Officers mentioned in the second section of this Act, and all other meetings to be held under the eighth section of the said above mentioned Act.

Fixing periods for general meetings.

Ninthly.—To make such By-laws and orders as from time to time shall be found requisite for the administration of all matters under their control, and for the due putting into execution of this Act and the Act above mentioned; but no such By-law or order shall have any force or effect unless the same shall have been adopted at a General Meeting of the Notaries interested.

Making orders and by-laws.

IV. And be it enacted, That the Members of each Board of Notaries shall elect in the manner hereinbefore prescribed, the President and other officers above mentioned, and such election shall be renewed every three years, (the same persons being nevertheless capable of being re-elected, and the senior in age having the preference in any case of equality of votes,) and any Notary who shall refuse to accept the office of Member of a Board or to perform the duties of President, Secretary, Syndic or Treasurer, shall thereby incur a penalty of five pounds currency, unless he shall have already filled one of the said offices; and any Notary appointed a member or elected as an officer of the Board, who shall not attend regularly at the meetings of the Board, or who shall neglect to fulfil the duties of his office, shall incur a penalty not exceeding two pounds ten shillings currency, unless he shall have been prevented from attending through illness or other serious causes, touching which a quorum of the said Board shall decide; and any member or officer of a Board who shall be guilty of such refusal or neglect after having been elected and after having accepted office, shall also incur a penalty of two pounds ten shillings currency; and the Board may by a By-law to be previously passed for that purpose, determine what shall be considered neglect or refusal to fulfil the duties of members or officers of the Board.

Election of President and other officers of Board.

Penalty for not acting if elected.

V. And be it enacted, That the Secretary of each Board of Notaries or his deputy shall be entitled to receive and demand the sum of ten shillings for the certificate of capacity and qualification which he shall deliver to any candidate, besides the expenses of advertising; two shillings and six pence currency on the entry of every declaration in the cases provided for by the said Act; and moreover for every summons, one shilling and three pence currency, and six pence for each copy thereof, and also at the rate of six pence currency per hundred words, and two shillings and six pence currency, for the certificate of any copy delivered by him of any deed in his custody; and one shilling currency, for searching for any deed or other document provided the year in which the same shall have been executed, be furnished to the Notary; and if the year be not given, one shilling currency for every year over which the search extends.

Fees of Secretary.

VI. And be it enacted, That it shall be lawful for each Board of Notaries to establish a common fund, which shall not exceed however the expenses established and approved of as necessary at any general meeting, and apportioned among the several Notaries of the district; and in order to assist in forming the said fund and to meet the expenses of each Board, there shall be paid in each year by each practising Notary, to the Treasurer of the Board for his district within one month after the appointment of the said Treasurer, a fixed contribution of ten shillings currency, for the recovery of which, in default of payment, the Syndic may bring an action before any Court having jurisdiction to that amount; and any Notary who shall refuse or neglect to pay his contribution, shall be liable to be censured, reprimanded, or called to order, or to be suspended from the exercise of his functions until he shall have discharged the said debt, the whole according to circumstances and after the notices prescribed and given by the Board; and if the Board shall think proper to suspend any Notary for contravening the provisions of this section, such Board shall add to its number any other Notaries within its jurisdiction as prescribed by the third section of this Act; the fixed contribution shall not prevent any Board of Notaries from submitting to the vote of the general

Common Fund established.

Contribution fixed.

Additional contribution.

and annual meeting of the Notaries an additional contribution to meet the expected or unforeseen expenses during the year, which contribution shall be paid by each Notary, in the same manner and under the same penalties as the fixed contribution; and a statement of the receipts and expenditure of each Board of Notaries shall be submitted in each year to the Board by the Treasurer thereof.

VII. And be it enacted, That from and after the passing of this Act, it shall be the duty of each and every Notary in Lower Canada, to continue to number consecutively all deeds, contracts or instruments which may be executed before him, and remain of record in his office (*étude*), and to note the number of each and every such deed, contract or instrument, in the margin of his repertory, opposite to the entry of such deed, contract or instrument, as well as in every copy thereof: Provided always, that all discharges, ratifications, and other accessory instruments, executed and entered at the end of the principal deed, as being relative thereto and forming part thereof, shall be entered in the repertory according to their dates, with the other minutes, merely referring to the number of the principal deed after the entry of such accessory instruments; and it shall also be the duty hereafter of each and every Notary, to keep, besides the repertory required by law, an index to all minutes of his deeds, both principal and accessory, under a penalty not exceeding five pounds currency.

VIII. And be it enacted, That any Notary who shall be convicted of having passed any deed, contract or instrument, without entering therein the number thereof, and the day, year and place on and at which it was passed, and the christian and surnames, additions and places of residence of the parties and witnesses thereto, or shall use abbreviations not allowed by law, or shall neglect to insert all sums and dates in words at length, or to read over the instruments to the parties, and to make mention of his having done so, and also of their having signed the same, or declared themselves unable to sign, or to cause all marginal notes and additions to be approved and authenticated, or to state the number of words struck out or marginal notes added, or shall make any interlineation, erasures or additions in the body of the instrument, or shall contravene or fail to observe any of the other forms prescribed by law, with regard to Notarial instruments, or shall neglect to keep his minutes, repertory and index in proper order and in a good state of preservation, and shall pass any instrument to which an interdicted person shall be a party without the assistance of the Curator or Counsel of such interdicted party when the interdiction shall have been duly notified, shall for each such offence incur a penalty not less than two pounds nor exceeding five pounds currency, over and above all damages which may be recovered by any party interested, and as the case may be, may be suspended for a space of time not exceeding three months, and any Notary who shall (except when authorized by law or under the order of a Judge or some other competent authority) allow any minute to go out of his possession, or shall neglect to sign any minute or complete the same, shall thereby incur a penalty of not less than Five Pounds nor exceeding Twenty-five Pounds currency, or may be suspended for any space not less than three months nor more than a year, according to circumstances, and may even be removed from office in case of forgery, fraud or corruption, over and above all damages, if there be any, which may be incurred by the parties.

IX. And whereas it is necessary to make more safe and effective legislative provision for the keeping, transmission and preservation of Notarial minutes, records and repertories: Be it enacted;

First.—That the minutes, repertory and index of any Notary who shall die, or shall become incapable of acting as such, or shall refuse to practice and to deliver copies of his notarial deeds, or shall have been interdicted or removed from office, or shall have left his domicile in Lower Canada, shall be deposited by him or by the party in whose custody he shall have deposited them, or by his heirs or legal representatives, with the Board of Notaries for the District wherein such Notary shall have resided; and on the refusal or neglect of any such Notary or of the party in whose custody such notarial documents shall be, to deposit the same, the Secretary of such Board of Notaries or his Deputy,

Notaries to number deeds.

Proviso as to accessory instruments.

An index to be kept.

Penalty.

Penalty on Notaries allowing certain irregularities in deeds, &c.

Or allowing minutes out of his possession without authority.

Provision respecting keeping and preservation of Notarial minutes, &c.

Minutes of a Notary, deceased, absent, &c.

Deputy,

Deputy, may, in the name of the said Board, sue for the recovery and possession of the said minutes and repertories by an action of *revendication*, before the Superior Court in the said District, either in Term or in Vacation, before any one Judge of the said Court who shall be invested with the same power and authority as the said Court, for the hearing, trying and determining the said action, and all proceedings incident and relative thereto, and for the enforcing of his orders and judgments, and condemning to costs, and inflicting and imposing the same fines and penalties as the said Court can inflict and impose on parties refusing to obey the said judgments or opposing the execution thereof.

Case of refusal to deposit provided for.

Secondly.—That it shall be lawful for any Notary desirous of withdrawing from practice, to deposit in the same manner his minutes and repertory with the Board of Notaries for the District wherein such Notary shall reside.

Notary withdrawing from practice.

Thirdly.—That the heirs or legal representatives of any Notary deceased, interdicted or absent from Lower Canada, who shall neglect to comply with the foregoing requirements, shall incur a penalty of Ten Pounds currency for each month during which such neglect shall continue, reckoning from the day on which they shall have been called upon to make such deposit as aforesaid; without prejudice to the right of any party to recover damages for any injury by him sustained by reason of such neglect: Provided that, whenever any Notary so interdicted or absent shall again be admitted to practice, he shall be entitled again to obtain possession of his minutes and papers, as shall also any Notary who shall have voluntarily ceased to practice, and shall have deposited his minutes and repertory as aforesaid, and shall afterwards wish again to commence practising: Provided also, that any Notary who shall have been absent from Lower Canada for ten years, without having, during that time, resided, at least, two years therein, shall not again practice on his return until he shall have passed an examination as to his moral character and ability, to the satisfaction of the Board of Notaries for the District in which he intends to reside.

Penalties on legal representatives not complying with this section.

Proviso: Notary returning to practice.

Proviso: re-examination in certain cases.

Fourthly.—That in all cases where by this Act or by the Laws in force in Lower Canada, the minutes, repertory and index of the Acts and instruments passed by any Notary are required to be deposited as aforesaid, it shall be the duty of the Secretary to the Board of Notaries with whom the same ought to be deposited, or his Deputy, to prosecute the deposit thereof; and the widow of a deceased Notary during her lifetime, or the legal representatives of such deceased Notary during the ten years next after the decease of such Notary, if his widow should die before the expiration of the said ten years, or the representatives and assigns of any absent Notary, or the Notary who cannot practice or who shall have refused to practice and to deliver copies of his Acts or who shall have been interdicted, removed or dismissed, shall every six months receive from the Board of Notaries with which such deposit shall have been made, one-half of the fees and emoluments received by the Secretary for searching and delivering copies of any deed deposited in his custody.

Duty of Secretary: rights of Notary's widow, &c.

Fifthly.—That all copies of minutes so deposited, certified as such and signed by the Secretary or his Deputy having the custody thereof, shall be deemed authentic and shall be received in evidence in the same manner as copies signed by the Notary who shall have passed the minutes.

What shall be authentic copies.

X. And be it enacted, That after the passing of this Act, Notaries may when thereunto required, deliver extracts duly certified by them from their minutes, and the Secretaries of the Boards of Notaries may deliver extracts from the minutes which shall be lawfully in their custody and possession, which extracts shall be authentic and shall be evidence of their contents until inscribed *en faux*; but the said extracts shall contain the date and nature of the deed, the christian and surnames, additions and place of residence of the parties, the place where the deed shall have been passed, the name of the Notary who shall have received the same, and shall contain at full length the clauses or parts of clauses required by the person demanding such extracts for the purpose of ascertaining and preserving his rights, and lastly the day on which such extract shall be delivered, mention whereof shall be made on the minute.

Notaries to deliver extracts of deeds.

Particulars necessary.

Notifications, protests,
&c, to be *prima facie*
evidence of their
contents.

Notaries may sign
Petitions for certain
parties.

Appointment of
Censors, and their
functions.

Proviso.

Proviso.

Declaration of Notaries
not to be made in
Superior Court.

What shall be a
classical education
under the Act.

XI. And be it enacted, That all notifications, protests and services thereof, made by any Notary at the request of a party who shall not have accompanied such Notary nor signed the deed, shall be authentic and be evidence in themselves of their contents until called into question or disavowed by the person (or any other to whom it shall appertain) in whose name such notification, protests and services shall have been made; and that notwithstanding any law or judicial decision to the contrary, Notaries shall continue in the same manner as advocates and attorneys, to sign in the name of petitioning parties, and without any other special power, memorials or petitions required for the calling together of meetings of relatives and friends, (*assemblées de parents*) in cases of tutelage, curatorship, (*tutelle, curatelle,*) sale of real property of minors and interdicted persons, divisions or licitations (*partages ou licitations*) and other like matters concerning family affairs and successions.

XII. And be it enacted, That every Board of Notaries may, from time to time, and as often as they shall think proper, elect from among the members thereof, or from the other Notaries of the District, one or more Notaries not exceeding three: who after having received sufficient notice of their appointment, and after they shall have been sworn at some sitting of a Court of civil jurisdiction, to the faithful and impartial discharge of the duties imposed on them by this Act, and which they shall be bound to perform under a penalty of five pounds currency, shall visit the offices, records, minutes, repertory and index of inculpatated Notaries, when such inculpatation shall appear so serious as to deserve to be punished by fine or by suspension or dismissal in cases of forgery, fraud or corruption; to establish whether such inculpatated Notaries have conformed to the laws of this Province, and the requirements of this Act, and to obtain information on all matters and things mentioned in the instructions which they shall receive from the Board of Notaries, to whom they shall make a faithful and circumstantial report; and every Notary who shall refuse either to permit the visit of the Notary so delegated by the Board of Notaries for his district, or to grant him access to his papers, shall for every refusal incur a penalty of ten pounds currency, to be recovered in a summary manner before the nearest Justice of the Peace: Provided always, that no Notary so delegated to make any such visit shall be required to make more than one visit in three years; and that he shall be entitled to receive, out of the common fund of the Board of Notaries in whose jurisdiction he shall be, such sum as the said Board shall think proper: Provided that such sums shall not exceed One pound five shillings for every day usefully employed in making the said visit, including daily expenses and disbursements, and including also the said report.

XIII. And be it enacted, That the enregistration of the Declarations of Notaries and of certificates of admission to the profession shall not hereafter be made in the office of the Prothonotaries of the Superior Court, any provision relating thereto in the Act above cited to the contrary notwithstanding.

XIV. And be it enacted, That the regular classical education mentioned in the seventeenth section of the Act above cited, shall comprise the same branches as are taught during five years in the Seminaries or Colleges mentioned in the fourteenth section of the said Act.

C A P. XL.

An Act to repeal two certain Acts therein mentioned relating to Agriculture, and to provide for the remedy of abuses prejudicial to Agriculture.

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to repeal the Act and Ordinance hereinafter mentioned, and to provide more effectually for the prevention of certain trespasses, abuses and evil practices which prevail in Lower Canada, and retard the progress of Agriculture therein: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the

the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Legislature of Lower Canada, passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to repeal a certain Act therein mentioned, and more effectually to remedy divers abuses prejudicial to Agriculture*, and the Ordinance of the Province of Quebec, passed in the thirtieth year of the Reign of King George the Third, intituled, *An Act or Ordinance for preventing Cattle from going at large*, be, and the same are hereby repealed, but no Act or Law thereby repealed shall revive, but shall be and remain repealed; this Act being substituted for all other Acts heretofore passed on the subject to which it relates.

Repeal of 6 Wm. 4 c. 56 and 30 Geo. 3, c. 4.

Repealed Acts not to revive.

II. And be it enacted, That from and after the passing of this Act, no person shall enter into or pass through any field, whether it be sown or unsown, nor along the banks of any river or rivulet, nor into, nor through any garden, coppice or other property whatsoever, without the permission of the proprietor, or some person duly authorized by him to grant such permission, under a penalty of not less than five shillings nor more than thirty shillings currency, for every such offence, and over and above the amount of all damages occasioned thereby, any law usage or custom to the contrary notwithstanding; which penalty or damages, or both, may be recovered before any one Justice of the Peace, who shall decide the matter in a summary way, either on view or on confession of the party complained against, or on the oath of one credible witness: Provided always, that it shall be lawful for any landholder, or for his representative or servant, to arrest without warrant any person taken in the act or contravening this section, and to carry him or cause him to be carried forthwith before one of the nearest Justices of the Peace, in order that such Justice of the Peace may decide summarily on the complaint.

Penalty for trespassing on the lands of another.

Proviso.

III. And be it enacted, That any person who shall leave open any gate, or pull down, cut, break, remove or injure any fence or part of any fence, or cut or destroy any hedge, or shall cut, bark, fell or remove any tree, shrub or plant, or fell or cut or remove any tree, or any part of a tree on the land of any other person, or take any skiff, scow, batteau or canoe belonging to any other person from the banks of any river, for any purpose whatsoever, or shall burn any wood on any such land for any purpose whatsoever, without leave from the proprietor or his representative, every such person shall, for every such offence committed in the day time, incur a penalty which shall not be less than five shillings nor more than thirty shillings currency, and shall be double the said sums if the offence be committed in the night time, over and above all damages; which damages or penalty not exceeding six pounds five shillings, or both, may be recoverable before one Justice of the Peace; and that any person who shall have thrown down or carried away any part of any fence, or shall be found on any land, highway or by-road, with any portion of the materials of any fence in his possession, may be detained by any landholder of the vicinage, or any person in the service of such landholder, and carried before one of the nearest Justices of the Peace, who may cause the person so accused to be detained until more ample enquiry can be made, for any time not exceeding twenty-four hours, and who may deal with such person according to the circumstances of the case and according to the requirements of this Act.

Penalty for destroying fences, hedges, trees, &c.

How recoverable.

Detention of offender:

IV. And be it enacted, That any Justice of the Peace, upon complaint on oath before him of any infringement of the provisions in this Act contained, shall issue his warrant, directed to a bailiff, constable or sergeant of militia, for the apprehension of any person charged with any offence against any of the provisions of this Act, or his summons for the appearance before him or any other Justice of the Peace, of any such person, and shall summarily hear and determine upon the complaint, on the evidence of one credible witness other than the prosecutor, and pronounce a judgment according to the requirements of this Act: Provided always, that the penalties hereby imposed or authorized to be imposed, shall be levied forthwith by warrant of distress and sale of the goods and

Justice to summon before him parties infringing this Act.

Proviso: how penalties shall be enforced:

and chattels of the offender, and if sufficient goods and chattels cannot be found, or if the penalties shall remain unpaid for the space of eight days after such conviction, such Justice shall commit the offender to the Common Gaol until such penalty with the costs of prosecution shall be paid; Provided always, that no person shall remain so committed for a longer time upon any one conviction for the cause aforesaid than thirty days.

When offender is a squatter, &c., he may be committed.

V. And be it enacted, That whenever it shall appear to such Justice of the Peace, by the oath of the prosecutor, or that of one witness, that an offender against any of the provisions of this Act, is a squatter, or a stranger or person without real property in the Parish or Township, or other means to secure the payment of such penalty and costs imposed under authority of this Act, such Justice of the Peace shall commit him to the Common Gaol for a time not exceeding sixty days.

Complaint for damages by trespass of animals how to be laid.

VI. And be it enacted, That for damages sustained by the trespassing of horses, mules, cattle, or other domestic animals, or poultry, any person may lay his complaint before one of the nearest Justices of the Peace, who shall immediately command the Road Surveyor for the division of the Parish or Township in which the offence is committed, forthwith to give notice to the complainant, as well as to the person or persons complained of, and immediately thereafter to proceed to assess the damages in the presence of the parties, or in their absence when duly notified; and thereupon, the said Road Surveyor shall report the same in writing to such Justice of the Peace, who shall hear the parties, and if good cause be not shown to the contrary, thereupon, allow the prosecutor the amount thereof, with the costs and charges of the view and report, and of prosecution, and shall cause the same to be levied in the manner prescribed by this Act: Provided always, that if on hearing the parties the Justice of the Peace shall see fit to acquit the defendants, then the complainant shall be condemned to pay the costs; And provided also, that the said Justice of the Peace shall allow to the Road Surveyor a reasonable remuneration for his trouble, and in case of the Road Surveyor being sick, absent, interested or otherwise unable to act, the Justice of the Peace shall name another respectable and competent person.

Proviso.

Proviso.

Witnesses may be summoned.

VII. And be it enacted, That every such Justice of the Peace may, on the application of either party, issue subpœnas to compel the attendance of witnesses before him or before the said Road Surveyor or other person named as aforesaid, and may swear them in the usual manner, to give true evidence, and may enforce obedience to every such subpœna, and punish or cause to be punished any disobedience thereto, by the usual course of law: Provided that the Road Surveyor, or other person named as aforesaid, shall also have the power to swear such witnesses as may appear before him to give evidence.

Proviso.

Abandon of animals forbidden.

VIII. And be it enacted, That it shall not be lawful for any person whomsoever, at any season of the year, to allow his horses, mules, neat cattle, sheep, goats, hogs or any other animal whatever, or poultry, to stray upon any land which does not belong to him, without the permission of the owner thereof, or of his representative, or upon any beach, highway or public place; and whenever any horse, mule, neat cattle, sheep, goat or hog, or any other animal whatever, or poultry, shall be found straying in any such place, the owner of any such horse, mule, neat cattle, sheep, goats, hogs, or any other animal whatever, or poultry, shall (over and above the damages which he may be condemned to pay to the person complaining) incur the following penalties, that is to say: for each mare, gelding, colt or filly, One Shilling and Three Pence currency; for each ox, cow or calf, One Shilling currency; for each sheep or goat, Three Pence currency; for each hog, Two Shillings and Six Pence currency; for each bull or boar or ram, Twenty Shillings currency; for each stallion, Fifty Shillings currency; for each goose, duck, turkey or head of other poultry of any kind, Three Pence currency; and double the said sum for the second time, treble for the third time, quadruple the fourth time, and in that proportion on every subsequent occasion that such animals or poultry shall respectively be seen or found straying upon any lands or fields

Penalties for contravention.

without

without the permission of the proprietor thereof or his representative, or on any highway, beach or public place.

IX. And whereas it is expedient to give proprietors or occupiers of lands, who take animals or poultry straying on their lands or in their fields, the right of detaining and keeping them until the penalty and damages by this Act attached to the offence committed, shall have been paid, Be it enacted, That any proprietor or occupier of land, or his servants or representatives, may seize and send to the Pound, or may take and detain any animal or poultry which he or they shall find straying on his land, or in his fields without his permission, and may detain the same until the owner thereof shall have paid the penalty and damages hereby attached to the offence committed; and that when any animal shall be seen straying on any beach, road or public place, it shall be lawful for the Road Surveyor, or any Overseer under him, or for any freeholder whomsoever of the Parish or Township, to take and send to the Pound, or to detain such animal until the proprietor thereof shall have paid the fine hereby attached to the offence committed: Provided always, that the person who shall have so taken any animal, shall give notice thereof as early as possible to the owner, if known to him, and to the nearest Pound-Keeper in the Parish or Township, if there be a Pound established therein; and if the owner of such animal shall not, within twenty-four hours, come forward and claim the same, and pay to the persons seizing or detaining them, the penalty incurred, with the cost of keeping such animal, or if the person detaining it shall not know the owner thereof, he shall cause public notice to be given that such animal has been so taken and detained, with a description thereof, at the doors of the churches of the Parish or Township on two consecutive Sundays immediately after divine service in the forenoon, and in the same manner on the second Sunday at the doors of the churches in the nearest Parish or Township to the spot where the animal is found, if before that time the owner shall not claim the said animal, and pay the penalty and costs of keeping the same, in which notice the time and place of sale shall be specified; or if there should be no church in the place, he shall give such other public notice as may be considered sufficient, according to the custom of the Parish or Township or Settlement in which such animal shall be so detained: Provided always, that when notice shall have been given in the manner aforesaid, on two consecutive Sundays, of the seizure and detention of any horse, mule, neat cattle, sheep, goats, hogs or any other animal whatever, or poultry, then if such animal or poultry is not claimed and the penalty and costs paid as aforesaid, it shall be lawful for the person who shall have such animal or poultry in his possession, to cause the same to be sold on the Monday next after the last notice shall have been given, by public auction, at the hour of noon: Provided always, that the said auction shall take place near some church door or other place of public worship in the locality, or at the most public and frequented place: Provided the persons intending to sell such animal shall give at least two days' notice of such sale to the Road Surveyor, who shall be bound to attend at such sale, or in case of his absence, through sickness or otherwise, one of the Overseers under him shall, upon being notified of such sickness or absence, act for him, and who shall sell the animal in the capacity of auctioneer and receive the proceeds of the sale, and out of the proceeds of the sale, which shall be paid to the Road Surveyor or the person acting for him, by the purchaser, the person having detained the animal shall be entitled to receive from the Road Surveyor the penalty incurred and the reasonable costs of keeping the animal while detained, (which shall be estimated by any Justice of the Peace) with all damages sustained by such detainer; and the balance shall be paid into the hands of the Secretary-Treasurer of the Municipality, who shall pay it over to the owner of the animal as soon as he shall be known; or if such owner shall not become known to him within a year, it shall become the property of the Parish or Township and be applied to the improvement of the bridges and highways therein, under the supervision of the Municipality; and such Surveyor or Overseer of Roads shall report to the nearest Justice of the Peace the due application of the proceeds of the sale of any such animal, within eight days after the sale, under a penalty of Ten Shillings currency.

Proprietors &c. of land may seize and impound animals straying on their land.

Proviso: proceedings in such case.

Proviso: if animal be not claimed.

Proviso:

Proviso: notice of sale: how the proceeds shall be applied.

Biddings of strangers
may be refused.

Proviso.

Proviso.

Parties receiving
cattle to pasture, re-
sponsible for damage
done by them.

Proviso.

Duty of Justice of the
Peace in the case of
rabid dogs.

Penalty.

Proviso: evidence
required.

Provision in case of
dogs strangling sheep.

X. And be it enacted, That the Road Surveyor, or his representative, shall have the right of refusing all biddings at the sale of any such animal or poultry from any person unknown, or a stranger in the Parish or Township, or known to be insolvent, until such person shall have given security to the satisfaction of such Road Surveyor or his representative; and the person becoming surety in such case shall be responsible for the price in the same manner as if he were the purchaser: Provided always, that if the Road Surveyor should see fit the sale shall not be binding unless the price be instantly paid, in which case, at the option of the Road Surveyor, the animal or poultry shall be put up and sold again under the same rules: And provided also, that if any such animal or poultry is sold at any such subsequent sale for a less amount than was bid at the first or any former sale, the Surveyor may sue the party who shall have made such bid at such first or former sale before a Justice of the Peace for the recovery of the difference between the amount bid at such first or former sale and the amount for which such animal or poultry shall be sold at such subsequent sale; and the oath of such Surveyor shall be good and sufficient evidence in the said suit, and shall entitle him to the recovery of the said difference with costs.

XI. And be it enacted, That any proprietor or occupier of land, who shall receive cattle to pasture on his lands or grounds, or shall permit cattle belonging to others to stray or pasture on his lands or grounds, shall be responsible for such cattle as if he were the owner thereof, without its being necessary that the name of the owner should be ascertained: Provided always, that the complainant may in any case cause the summons or complaint to be served on any grown-up person belonging to the family, in any house built on the land whereon the animals committing the damage are at pasture, and that such service shall be sufficient even if the owner or occupant of the land should not have his domicile there or should be absent.

XII. And be it enacted, That it shall be the duty of every Justice of the Peace, on complaint to him made, that any dog belonging to or kept by any person, has bitten any person, horse, cattle or sheep on any spot not included within the property of his owner, or is supposed to be rabid, or has pursued any person or ridden horse, or any horse harnessed to any carriage on the highway, after having heard such complaint in a summary manner, to condemn the person against whom such complaint shall have been made, to pay the costs incurred on such complaint, if proved according to the provisions of this Act, and to order, by a writing under his hand, the owner or keeper of such dog, to keep or cause the same to be shut up for forty days, under a penalty, to be paid by such owner or keeper of such dog, not exceeding Two Shillings currency, for each day that such dog shall be suffered to be at large before the expiration of the said forty days; Provided always, that in all cases wherein it shall be proved before such Justice of the Peace, by two or more witnesses worthy of credit, that the dog concerning which such complaint shall have been made, is vicious both with regard to travellers or ridden or harnessed horses, and is in the habit of pursuing or biting them, then and in such case, such Justice of the Peace may in the manner herein set forth, order the owner or keeper of such dog to kill it or cause it to be killed, and condemn such owner or keeper thereof, to pay, in addition to the costs above mentioned, a penalty of Five Shillings currency, for every day such dog shall be allowed to live after the said order.

XIII. And whereas it frequently happens that great mischief is done in the country parts by dogs which chase and strangle sheep; and whereas it is sometimes very difficult to prove that the mischief has been occasioned by such dogs: Be it therefore enacted, That it shall be lawful for any person to kill any dog which shall be seen at large in any field being the property or in the occupation of such person or his employer, and chasing or known to have chased sheep, or to complain thereof to any Justice of the Peace, who shall on such complaint summon the owner of the dog to appear before him, and may order him to kill such dog, and shall condemn such owner to pay the costs of such complaint, and such owner shall incur a fine of Five Shillings currency, for every day during which such dog shall be suffered to live after such order.

XIV. And be it enacted, That every person who shall allow any hog or pig to be at large without a ring in its nose, shall incur a penalty not exceeding Ten Shillings nor less than Five Shillings currency ; the amount whereof shall go to the informer, and double the said sum for the second time.

Pigs at large without rings.

XV. And be it enacted, That it shall be the duty of every keeper of a Pound, when the fine and expenses incurred as above for the damage caused by or for the impounding of any horse, mule, neatcattle, sheep, goat, hog or any other animal whatever, shall be tendered to him, to deliver the animal so impounded to the owner thereof, or to any other person duly authorized on his part, under pain of incurring a penalty not exceeding Ten Shillings currency, for refusal, and of Five Shillings currency a day, for every day he shall afterwards unjustly detain any such horse, mule, neat cattle, sheep, goat, hog, or any other animal whatever : Provided always, that any person or persons removing or taking away any animal or animals detained for damage done or complained of, or who shall rescue such on the way to the Pound or place of detention, shall forfeit and pay a penalty equal to the whole amount of the damage and penalty to which the owner of the said animals was subject, and also another and further sum of Ten Shillings currency, and eight days' imprisonment, or either ; and provided also that such proprietor shall have his recourse at law for the recovery of the said animal or animals.

When fine, &c., is tendered to pound keeper, he shall deliver the animal to its owner.

Proviso : penalty for rescuing animals impounded.

XVI. And whereas it is expedient to provide cheap and summary means of adjusting the difficulties which may arise in the country parts respecting fences and ditches necessary for the draining of lands or roads, Be it enacted, That it shall be the duty of the Surveyors of Roads, within their respective divisions, to act as Inspectors of fences, ditches and drains, when and so often as they or any of them may be required so to do ; provided no Inspectors of fences or ditches are separately appointed.

Surveyors of roads may act as Inspectors of fences, &c.

XVII. And be it enacted, That every Road Surveyor, and in the event of his being interested, absent or sick, every Overseer of Roads in the same division, or Surveyor of Roads of any other division in the same Parish or Township, shall perform the duty of an Inspector of fences and ditches, and shall before entering on the duties of his office, as Inspector of fences, ditches and drains, take an oath as required by the sixteenth and seventeenth sections of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada.*

Surveyors of roads acting as Inspectors of fences, to take oath required by 10 and 11 Vict. c. 7.

XVIII. And whereas it is expedient to enable the proprietors of cultivated lands to compel the owners or tenants of adjoining lands to make a *découvert* on the said lands, along the line separating their respective lands, of not less than forty-five feet in width from the said line : Be it enacted, That it shall be the duty of every Road Surveyor, when and so often as he shall be thereunto required by the proprietor of any lands in his division, in a fit state of cultivation, to visit and examine the said lands and the adjoining lands (giving previous notice of the day and hour when such examination will take place, either personally or by notice left at the residence of the proprietor or tenant of such adjoining lands, or of his agent or person usually acting in his behalf, and if any lands be not represented by any proprietor, agent or person usually acting in his behalf, within the Parish or Township, then a notice posted on the Church doors of the Parish, or at the most public place of the Township, at least eight days before making such examination, will be sufficient) and the said Road Surveyor shall determine whether the lands of the party requiring the said *découvert* are in the state of cultivation required by law, and if they are, he shall thereupon order the proprietor or tenant of such adjoining lands to make the said *découvert* within a certain time to be fixed by the said Road Surveyor, which time shall not exceed two months, and if the said proprietor or tenant shall neglect to make the said *découvert* within the time so fixed, he shall incur a penalty of Two Shillings and Six Pence currency for each and every arpent in length of such *découvert*, (any fraction being reckoned as a whole arpent ;) Provided always, that no such *découvert* shall extend to any orchard, fruit tree or maple tree.

Provision for *découvert* between neighbours.

Proviso.

Penalty on neglect of duty by Road Surveyors.

XIX. And be it enacted, That every Road Surveyor or Overseer of Roads shall, for every neglect or refusal to perform any of the duties with which he is hereby charged, when thereunto required, incur a penalty of Ten Shillings currency, to be sued for and recovered in the manner herein provided.

Water courses to be cleansed before a certain day in each year: Penalty.

XX. And be it enacted, That on or before the fifteenth day of July of each and every year, every brook, water course, drain or ditch shall be thoroughly opened, cleansed and rendered fit for the flowing and passing through the same of all water that may during any period of the year flow into the same, and that any person or persons failing so to open and cleanse every part of any ditch, drain, water course or brook which may be upon his land or to which he may by law be subjected, shall incur and pay a penalty of Two Shillings and Six Pence currency, for each and every day during which such drain, ditch, water course or brook shall remain unopened and uncleaned.

Road Surveyors to visit fences, &c., when required.

XXI. And be it enacted, That it shall be the duty of every Road Surveyor, when and so often as he shall be thereunto required by any person being proprietor or occupant of lands within his division, to visit and examine the drains or ditches and the line fences separating the lands belonging to the complainant from the lands of any other person, or of the public, (giving previous notice of the day and hour when such examination will take place, either personally, or by notice left at the residence of the person against whom complaint shall have been made, or of his agent, tenant or person usually acting in his behalf, and if any lands be not represented by any proprietor, agent, tenant or person usually acting in his behalf, within the parish, then a notice posted on the church doors of the parish, at least eight days before making such examination, will be sufficient;) and the Road Surveyor shall determine whether the fence belonging to the person against whom such complaint shall have been made be sufficient or the drain insufficient to carry off the water; and if the fence or drain belonging to the said party be declared insufficient, such party shall be ordered to make, repair or deepen or clean out the same within a certain time to be fixed by the said Road Surveyor, which time shall not exceed four days in any case wherein it shall be possible to perform the work required within that time; and in all other cases such Surveyor shall allow such further delay as he shall think necessary; and if the person whose fence or drain shall have been so declared insufficient, shall fail to conform to the order made concerning such fence or drain, such person shall incur a penalty of Two Shillings and Six Pence currency for each and every arpent in length of such fence or drain (any fraction being reckoned as a whole arpent) for each and every day such fence or drain shall remain unrepaired after the expiration of the time so fixed; Provided always, that no fence or drain shall be considered insufficient which shall not be inferior to the fence or drain on the same line or boundary and in a similar position in the same field or enclosure by the party complaining.

Proviso: what shall be a sufficient fence.

Provision if the fence be not repaired within time fixed.

XXII. And be it enacted, That it shall be the duty of every such Road Surveyor, after the expiration of the time he shall have fixed for the making or repairing of such fence or drain, or deepening or clearing of such drain or of making such *découvert* as aforesaid, to authorize the party requiring the same, to make or repair the said fence or *découvert* or drain, to proceed to the place and determine upon the value of the said repairing, or of making the said drain or *découvert*, and as soon as the said work is finished, the Surveyor shall determine the value of the same, and shall give his certificate approving the same and stating the value of the work, and also his expenses for attendance to the party who has performed the work, and such certificate if sworn to by the Surveyor before a Magistrate, shall be received as a sufficient proof in any Court of Justice or before any Judge, of the value and performance of the said work and of the expenses incurred.

As to bridges crossing any water course.

XXIII. And be it enacted, That it shall also be the duty of the said Road Surveyors respectively to determine where and by whom any bridge for the purpose of crossing any water course, ditch or drain shall be made and kept up; and the party by whom they shall determine any such bridge to be made shall make and keep up the same in a good and sufficient manner to the satisfaction of the said Surveyors.

XXIV. And be it enacted, That whenever the matter in question shall relate to the making of a *découvert*, or to the erection of a fence where there shall have been none before, or where although there has been a fence, the old fence shall be in such a state that the labour of repairing it shall be equal to that of making a new one, such Inspector shall not condemn the party against whom complaint shall have been made, unless the party complaining shall prove that the party complained against, or his agent or party usually acting in his behalf, was called upon to make the said *découvert*, or to erect the said fence before the first day of December preceding the time at which such complaint shall have been made: Provided always, that if the party complained against does not reside within the District and has no tenant or known agent, or party usually acting in his interest, the complaining party must prove that a notice has been posted to the foregoing effect on the Church doors of the Parish or Township wherein the property is situated for four consecutive Sundays, during any time of the year immediately preceding the first day of December then last past, or if there be no Church therein, then at one of the most public places therein.

As to cases where a new fence or a *découvert* shall be ordered to be made.

Proviso.

XXV. And be it enacted, That it shall be the duty of every such Road Surveyor, whenever he shall be thereunto required by one or more proprietors or occupants of land, to proceed to inspect all lines dividing their lands from their neighbours', whereon it is proposed to erect a new fence; all ditches opened or to be opened, and all other ditches, drains or water-courses commonly known as work to be jointly performed (*travaux mitoyens* or arising therefrom,) and then and there to order such work as he shall deem necessary, and shall determine the parties by whom the same shall be performed and kept in repair, as well as the manner in which the same shall be done, and the time within which it shall be completed, as he shall deem it just and conformable to the custom and laws of this Province in that behalf; and every proprietor or occupant of land as aforesaid, who shall refuse or neglect to make, repair, take care of and keep in order any line fence, ditch or other ditch as aforesaid according to the order made by such Surveyor, within four days, or within the time fixed by such Surveyor not exceeding six additional days (where he shall have thought fit to grant a longer delay,) after a written or verbal notice to such person given, shall incur a penalty of Two Shillings and Six Pence currency, for every day that such fence or ditch shall remain unmade or unrepaired in the manner aforesaid.

Duty of Road Surveyor as to work to be done by joint labour.

XXVI And be it enacted, That it shall also be the duty of every such Surveyor within his division, so often as he shall be thereunto required, to visit and examine all outlets, water courses and brooks common to several lands or to any number of proprietors or occupants of land, the necessary labour concerning which shall have been regulated by *procès-verbal* duly homologated, or by *procès-verbal* heretofore made by any Inspector of fences and ditches, or by an agreement made by the parties interested, or by direction of the Municipal Council, and to see whether such work has been done conformably to such *procès-verbal* or agreement, and to order that the same be done, repaired and kept in order in the manner stated in such *procès-verbal* or agreement; and every person refusing or neglecting to conform to and obey such order, within four days after written or verbal notice to that effect shall have been given to such person, or within the time fixed by the said Inspector, shall incur a penalty of Two Shillings currency for each and every day such work shall thereafter remain unperformed: Provided always, that in all cases provided for by this and by any section of this Act, it shall be the duty of every such Road Surveyor, after the expiration of the delays therein specified, to authorize the work to be performed by any party or parties interested in having it made, and after it is so made to give his certificate of the cost and value of the work and also of his expenses for attendance, to the party or parties who have performed the same, and such certificate, if sworn to by the Surveyor before a Justice of the Peace, shall be received as a sufficient proof in any Court of Justice or before any Judge or Justice of the Peace, of the value and performance of such work, and such amount and all expenses may be recovered by suit before any Justice of the

As to water courses, &c., where the labour shall have been regulated by *procès-verbal*.

Proviso.

Peace,

Peace, or the land for which such disbursements have been made may be sold, as provided for by this Act.

Where a water course shall be common to the lands of several proprietors.

XXVII. And be it enacted, That in all cases when it shall be necessary to open any outlet or water course, or to enlarge or deepen any brook common to the lands of several persons, the work connected with which shall not have been apportioned and regulated by any *procès-verbal* or agreement, the matter in dispute shall be adjusted, on the requisition of one of the parties interested, by two Road Surveyors, conversant with such matters and in no wise interested, and residing nearest to the place where such work is to be done, and in case there shall be no such Road Surveyors so conversant and not interested in the Parish or Township, then by two Overseers qualified as aforesaid.

Previous notice to be given.

XXVIII. Provided always, and be it enacted, That before any such Surveyors shall proceed to the execution of the duties hereinbefore assigned to them, public notice shall be given by them, either verbally or by advertisement in writing, posted at the doors of the Churches or other places of public worship, in the Parish or Township where the work is to be done, immediately after Divine Service in the morning, and posted thereon on the Sunday immediately preceding the day on which they intend to visit the place, requiring all persons interested to take notice of the same, and to attend at the time and place appointed; and in places where there shall be no Church or place of public worship, then the said notice shall be posted in one of the most public places in the said Parish or Township.

Proceedings on the day fixed by the Surveyor for deciding the matter.

XXIX. And be it enacted, That after having given the notice aforesaid, the said Road Surveyors shall, on the day and at the hour fixed, proceed to the place accompanied by the parties interested if they see fit, and after inspecting the place or places, and becoming competently acquainted therewith, and after being fully informed of the matter in dispute, shall give their decision, and shall draw up a *procès-verbal* of their proceedings, setting forth every thing to be done with respect to such outlet, water course or brooks, for the general advantage of all parties interested, and the time at which it shall be done, with such further particulars as they shall judge necessary or expedient concerning the matter, comprising also the expenses incurred as well for the examination of the place as for the advertisements, and for drawing up the *procès-verbal*; which *procès-verbal* shall be deposited in the office of the nearest Notary or Justice of the Peace, and such Notary or Justice of the Peace shall give a certified copy thereof to any of the parties interested therein who shall require it, on the payment of the expense of such copy, at the rate of six pence currency for every hundred words; Provided always, that each *procès-verbal* so made, whether it concern one or more Parishes, Townships or Settlements, shall be homologated before one or more Justices of the Peace in the manner hereafter prescribed, and the homologation, and a copy or copies of such *procès-verbal* certified by such Justice or Justices of the Peace, shall be deposited with the Secretary-Treasurer of the Municipality or Municipalities having jurisdiction over every Parish or Township containing land thereby affected, and the Secretary-Treasurer of such Municipality shall give a copy thereof certified by him or the Mayor to any party requiring the same on the payment of the expense of such copy at the rate of six pence for every hundred words; and provided always, that whenever the said Surveyors shall differ in opinion as to a decision and the *procès-verbal* to be drawn up, it shall be their duty to call in a third Surveyor of Roads without delay, and after being competently acquainted therewith and fully informed of the matter in dispute, the majority of the said Surveyors shall give their decision, and shall draw up a *procès-verbal* of their proceedings which shall be deposited by them as above provided.

Proviso: homologation of *procès-verbal*.

Proviso: when the Surveyors differ.

Owners of higher lands exempted.

XXX. Provided always, and be it enacted, That the owners of lands which shall be higher than those of their neighbours shall not in any wise be bound or required by any Road Surveyor to make or assist in making the drains or water courses through their lands of any greater depth than may be necessary for draining their own lands; unless so ordered by any *procès-verbal* which shall or may be made to that effect:

Provided

Provided further nevertheless, that it shall in all cases be lawful for the persons owning any adjacent lands or swampy grounds, to make use of such drains or water courses as aforesaid, through higher grounds, to clean out and deepen the same at their own expense, or where there are no such drains already existing, to cause the same to be opened in the manner and after the formalities hereinbefore prescribed by this Act, in such manner as to carry off the water from their own lands, or to prevent the same from coming, lodging or remaining thereon: And whereas it has been the custom in Lower Canada to name a third Inspector of fences and ditches when the two named in conformity with the provisions of the hereby repealed Act could not agree in their decision or *procès-verbal*, although doubts could be entertained of the legality of such proceeding, Be it declared and enacted, That any *procès-verbal* made by or with the assistance of a third Inspector named in the manner aforesaid, and homologated by any Justice or Justices of the Peace under the aforesaid hereby repealed Act, shall not be held or declared to be invalid, but on the contrary shall be and is hereby declared valid to all intents and purposes.

Proviso: as to water courses through such lands.

Declaratory: as to P. V. made by assistance of a third Inspector, &c.

XXXI. Provided always, and be it enacted, That it shall be the duty of all Road Surveyors, who shall draw up any *procès-verbal* as aforesaid, to select and appoint from among the parties interested, and after having consulted with them, one or more Overseers, according to the importance of the work to be done, who shall, after their names shall have been inserted in the said *procès-verbal*, carry the same into effect, and see that the work therein ordered to be done, as well with respect to the immediate performance thereof as to the keeping the same in repair in future, be duly performed for the general advantage of the parties interested therein: Provided further, that the persons so named as overseers shall not be bound to act as such during more than four successive years, if they shall consider the office burthensome and wish to be relieved therefrom, in which case, (or in case of death or infirmity, or absence of one or more of such Overseers,) or in case one or more of such Overseers shall sell or dispose of his property, the persons interested shall when thereunto required by one or more such persons, who shall give notice thereof in the manner hereinbefore set forth respecting the view of the place, meet for the purpose of proceeding to a new election which shall be made by the majority of the persons interested, then and there present, who shall cause a record thereof to be drawn up, and shall deposit the same in the place where the *procès-verbal* to which it has reference, shall have been deposited: Provided always, that it shall be lawful for all the persons interested in any *procès-verbal* of a water course, homologated in any Court of Law, or in any such *procès-verbal* made by any Road Surveyor or Inspector of fences and drains, or made by agreement, to proceed in the manner above mentioned, to an election for the purpose of filling up the place of any Overseer or Overseers deceased, absent, or having sold their lands, or desirous to resign their office after four years of service; and when such water course shall concern two Parishes, Townships or settlements, one or more Overseers from each place shall be appointed to see such *procès-verbal* carried into effect; and any such Overseer who shall neglect or refuse to cause such *procès-verbal* to be carried into effect according to its form and tenor, after having been required so to do by one or more of the parties interested, at least eight days before, shall incur a penalty not exceeding Five Shillings currency, for each day during which such work shall not be done in the manner provided by the *procès-verbal*; allowing four days for performing such work.

Overseers of joint work to be appointed.

Proviso: period of service.

Proviso: parties interested may proceed to an election.

XXXII. And be it enacted, That the Surveyors, after having drawn up their *Procès-Verbal* as aforesaid, shall have a copy thereof prepared, which they shall cause to be posted or read on the following Sunday after Divine Service in the forenoon, at the Church doors or other places of public worship, and when there is none, then at one of the most central or public places of the Parish or Township, for which such *Procès-Verbal* shall be made, and such public notice shall mention the time when such *Procès-Verbal* will be presented for confirmation, and the name of the Justice of the Peace to whom it will be so presented; and that all persons interested therein may appear before such Justice of the Peace for the purpose of stating their reason (if any they have),

Procès-verbal to be publicly read, &c.

Opposition may be heard.

have), why such *Procès-Verbal* should not be confirmed, and a copy of the said *Procès-Verbal*, after it shall have been confirmed, shall be deposited in the keeping of such Overseer or Overseers, to be by them kept as a guide in the direction of the work, and for the information of all persons interested, to whom he or they shall give communication thereof, gratis, whensoever they shall require it; and every such Overseer shall deliver the said *Procès-Verbal*, and all other records and papers relating to his office, to his successor or successors in office; and every such *Procès-Verbal* and certified copies thereof shall be deposited after its homologation with the Secretary-Treasurer of the Municipality in which any Township or Parish having lands affected thereby, shall be.

Custody of P. V.

Recital 10 and 11 G.
4. c. 1, 3 W. 4. c. 31,
6 W. 4. c. 56.

XXXIII. And whereas the erroneous construction put by certain Justices of the Peace upon the obligation of the Inspectors of Fences and Ditches to prosecute the homologation of the *Procès-Verbaux* by them made according to the requirements of the Act, passed in the Session of the Parliament of Lower Canada, held in the tenth and eleventh years of the Reign of His late Majesty King George the Fourth, intituled, *An Act to amend an Act passed in the ninth year of His Majesty's Reign, intituled, 'An Act for the more speedy remedy of divers abuses prejudicial to Agricultural improvement in this Province,' and to make further provision to the same effect, and the Act passed in the Session of the same Parliament, held in the third year of the Reign of His late Majesty King William the Fourth, intituled, An Act to repeal a certain Act therein mentioned and to provide more effectually for the remedy of divers abuses prejudicial to Agriculture, and referred to in the forty-third section of the Act passed in the Session of the same Parliament, held in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled, An Act to repeal a certain Act therein mentioned, and more effectually to remedy divers abuses prejudicial to Agriculture, hereby repealed, has become prejudicial to opposants, and tends to impede the purposes of Justice: Be it therefore enacted, That any *Procès-Verbal* drawn up under the authority of the Acts hereby enacted, and concerning one or more localities, which shall have been homologated before one or before two Justices of the Peace, shall be null and of no effect until it shall have been homologated conformably to the requirements of the Act in that behalf, before the Justice or Justices of the Peace nearest to the locality where the work is to be performed.*

Certain *procès-verbaux* to be null unless homologated.

Time to be fixed within which the work is to be done, under P. V.

XXXIV. And whereas it is necessary to fix the time within which the work ordered in any *Procès-Verbal* shall be done, Be it therefore enacted, That the Overseer or Overseers chosen to superintend the execution thereof, shall give public notice at the doors of the Churches or of any place of public worship, on the two Sundays next preceding the day they shall appoint as hereinafter set forth, after Divine Service in the forenoon, and when there is no place of worship, then at one of the most public places in the Settlement, Parish or Township, of the day and hour when they will repair to the spot to cause the work to be begun and performed, whether it is to be done in common, or severally by the persons interested accordingly, as by the *Procès-Verbal* it may have been appointed; and any person interested who shall refuse or neglect to repair to the spot on the day appointed, and to perform his share of the work within the time appointed by the Overseer or Overseers, shall incur a penalty of Two Shillings currency for each and every day during which he shall have neglected to do and perform his share of the work; and if on the expiration of eight days from the time appointed for beginning the work, any of the persons interested shall have neglected to perform it, the said Overseer may cause it to be done, and may recover the expenses from the parties in default, by prosecution before any Justice of the Peace, with costs: Provided always, that in cases wherein a work is to be performed in common, the Overseer may at once employ one or more men instead of such of the persons interested as shall neglect their duty, and may recover from every such person in default the amount disbursed in paying the men employed, by prosecution before a Justice of the Peace as aforesaid, with costs.

Penalty for neglect.

Provide:

XXXV. And whereas it is just to allow an indemnification to the Road Surveyors for the time they may employ in the execution of the duties hereby assigned them : Be it enacted, That there shall be allowed to every such Road Surveyor, employed by virtue of this Act, and to every *Expert*, and he shall be entitled to recover Six Pence for every hour he may be so necessarily employed, which shall be paid by the party in default or in the wrong, whether such party be that at whose instance he acted, or be the adverse party in cases of *travaux mitoyens* or *en commun*, (joint labour,) and when he shall have been called on for a water-course, outlet, rivulet or other stream whatsoever, then the Six Pence per hour, and all the expenses incurred for carrying into effect the notices and *Procès-Verbal*, the copy and other expenses deemed necessary shall be paid by all the persons interested in such water-course, outlet, rivulet or other stream, and in either case shall be recovered with costs, in a summary manner before a Justice of the Peace.

Allowance to Road Surveyors, *Experts*, &c.

How recoverable.

XXXVI. And be it enacted, That when the inhabitants of any two or more Parishes or Townships, shall be interested in the opening of any such new outlet or water-course, or in the widening or deepening of any old water-course, outlet or brook, the matter in dispute shall be regulated on the requisition of any person interested therein in each of the said Parishes or Townships, by applying to a Road Surveyor of each Parish, Township or settlement, if he be not interested, and if he be interested, to an Overseer of Roads in each such place respectively, who shall act and proceed in the manner prescribed by this Act, and the *procès-verbaux* shall be homologated as provided by this Act for the homologation of one Parish or Township only : Provided always, that where the said Surveyors of Roads are of equal number, and shall disagree, they shall call in another person disinterested in the matter as umpire, and his decision shall be final.

Provision where inhabitants of two or more Townships, &c., are interested in any water course.

XXXVII. And whereas great inconvenience might result from the performing of the work by the persons interested, by reason of their great number, and the difficulty of the work : Be it therefore enacted, That at a public meeting, the majority of the persons interested may cause the said work or any part thereof to be performed by collective labour, by separate shares or by contract, each of them paying his share in money, or performing his share in work, according to an apportionment to be made by one or more persons conversant in the matter, which apportionment, before it shall go into operation, shall be ratified by one Justice of the Peace, after having been first read or posted, during two consecutive Sundays, at the doors of the Churches, or any places of public worship in the Parishes or Townships concerned, making known to the persons interested the day and hour and the place where such Justice of the Peace is to sit to take cognizance of the grounds of opposition if any, to the ratification of such apportionment : Provided also, that in the case of the non-performance of any share of work or of the non-payment of any sum of money imposed by this clause, it shall be the duty of the Overseer or Overseers to apportion such shares and payments amongst the remaining parties interested in such work, and the lands of the defaulting parties shall be subject to the provisions of the forty-first clause, in payment for the same.

Majority of those interested may have the work performed by collective labour, after public notice.

Proviso.

XXXVIII. And be it enacted, That it shall be the duty of the Surveyors appointed, with respect to every such outlet, water-course or brook, to collect such sums of money as each of the parties interested shall be liable to pay by reason of the said apportionment, with all expenses incurred therein, and in case of refusal or negligence on the part of any such person, to compel the payment thereof by suit before any Justice of the Peace, resident in the place, with costs, including an allowance of six pence per hour to the said Surveyor for the time he shall have lost by reason of the said suit, and the disbursements he may have been obliged to make for the payment of a Clerk, if it shall have been necessary for him to employ one.

Surveyors to collect moneys due from parties interested.

XXXIX. Provided always, and be it enacted, That the powers hereby given shall not in any case extend to authorize any Surveyor or Inspector to make any change concerning the work connected with any outlet, water-course or brook which shall have been previously regulated by a *procès-verbal*, lawfully made, whether such outlet

Inspector not to make any change concerning water courses regulated by *procès-verbaux*.

or brook be common to several Parishes or Townships, or only one such place be interested therein, unless two thirds, at least, of the persons interested in such work shall require him to do so, and consent to a departure from the old *procès-verbal*.

XL. And be it enacted, That if any of the parties interested in the decision given or orders made by any Surveyor or Surveyors, by virtue of any of the provisions of this Act, relating to outlets, water-courses and brooks, as well those concerning one Parish, or Township, as those which concern several, shall deem himself aggrieved thereby, and shall be dissatisfied therewith, such party shall, within eight days (reckoning from the day on which the *procès-verbal* shall have been publicly read or posted as aforesaid, at the Church doors or other places of public worship, or public place) lay his complaint before a Justice of the Peace, neither interested therein nor related to any one so interested within the degree prohibited by law in such cases, that is to say, within the third degree, and the said Justice shall, before the expiration of the said term of eight days, summon the Surveyor or Surveyors to appear before him, and the Justice of the Peace before whom the *procès-verbal* is to be presented for homologation on the day and at the place fixed for the said homologation, and to have with them the *procès-verbal*, which, as well as the reasons in favour of or against it (if any there be) alleged by the parties or their witnesses, shall be maturely examined by the said Justices, and if it shall appear to them that the reasons alleged against the same are insufficient, and that the requisite formalities have been observed, and that there has been no partiality or injustice or negligence in the conduct of the Surveyors, then the said *procès-verbal* shall be ratified, and shall be executed according to the form and tenor thereof; and if on the contrary it shall appear to the said Justices, that there has been partiality or a want of exactness and diligence in examining the place, or that the work has not been equitably apportioned according to the custom of the country, then three *experts* shall be appointed, one by the plaintiff or plaintiffs, another by the defendant or defendants, and the third by the said Justices of the Peace, and if either of the parties shall refuse to name an *expert*, the said Justices shall name one instead of such party; and such *experts*, after being duly sworn before a Justice of the Peace (who is hereby authorized to administer the necessary oath) shall proceed to view the place concerning which the dispute shall have arisen, in the presence of the said Surveyors and of the parties interested (who shall be duly notified by the said *expert*, at least eight days before such second view shall take place, by notice given at the doors of the Churches in the Parish or Township wherein the lands of the parties interested are situated, and the decision of the majority of the said *experts*, whether it be to confirm or set aside the decision given by the Surveyors, shall be final and conclusive to all intents and purposes whatsoever; and if the said *experts* shall set aside the decision given by the Surveyors, or if they shall deem it advisable to change the direction of the water-courses, concerning which the dispute shall be, then the said *experts* shall make a fresh *procès-verbal* which shall be confirmed by the Justices of the Peace: Provided always, that in every case of such appeal to the decision of the *experts*, the Surveyors by whom the *procès-verbal* appealed from shall have been made, may cause the parties at whose requisition it was made, to intervene and defend such *procès-verbal*, and to pay the costs attending the same, if it be by the fault of the said parties that it is defective, but if it shall appear that such defect shall have arisen from negligence or partiality of the Surveyors, then the said Surveyors shall pay the costs thereof, and the said Justices of the Peace shall homologate such *procès-verbal*, if it be confirmed by such *experts*, and if it be disallowed, they shall homologate that made by such *experts*.

XLI. And whereas it is expedient to provide a simple mode for the sale of the lands of parties who shall have refused or neglected to make, repair, or keep up the water courses or bridges over the same fences and *découverts* which under any *Procès-Verbal* or any provision of this Act, they are required to make, repair or keep up: Be it enacted, that it shall be lawful for any proprietor who shall have made, repaired or kept up any such water course or bridge over the same fence or *découvert* in the place of the party whose duty it was to make, repair or keep up the same, to apply to the

Appeal given from the decision of Surveyors in certain cases, and proceedings on such appeal.

Proviso: parties may be made to intervene, &c.

Mode of selling lands for defraying expense of making water courses, &c., if the proprietor does not pay the same.

the Secretary-Treasurer of the Municipality within which the lands on or respecting which such water course, bridge, fence or *découvert* ought to have been made, repaired or kept up, shall be to sell the said lands for the payment of the expenses incurred in the making, repairing or keeping up of the said water course, bridge, fence or *découvert*, and a copy or extract of such *Procès-Verbal*, accompanied by the certificate mentioned in the foregoing sections, shall be *prima facie* evidence in support of the said application, and the amount mentioned in the said certificate as being the value of the work performed by such proprietor towards the making and repairing or keeping up of such water course, bridge, fence or *découvert*, shall entitle the said proprietor to a privileged claim upon the said lands in preference to any mortgage, hypothèque, seigniorial dues, and all other debts or demands whatsoever, for or respecting the said lands: and the said Secretary-Treasurer on such application being made in due form as aforesaid, shall proceed to the sale and adjudication of the said lands for the expenses so incurred in the manner and after the advertisements, publications and other formalities provided and required by an Act passed during the present Session of Parliament, and intituled, *An Act to amend the Municipal Laws of Lower Canada*, and the amount of expenses incurred by the proprietor applying for such sale, shall be paid over to him by the Secretary-Treasurer, who shall retain the costs incurred in and about such sale, and in and about the proceedings preparatory thereto and incident thereon, and the said Secretary-Treasurer shall have power and authority to execute a deed or deeds of sale of all lands so sold, and any such deed shall have the same force and effect as a deed executed under the authority of the said last recited Act.

Application of the proceeds of the sale.

XLII. And be it enacted, That a certified copy of every *Procès-Verbal* homologated under this Act, shall be deposited with the Secretary-Treasurer of the Municipality within which any lands thereby affected are situated within ten days after the homologation thereof, by the party applying for the homologation, or by the Surveyors who shall have acted in the premises, and such certified copy shall be received as evidence in all Courts of Justice.

Certified copies of *P. V.* to be deposited with the Secretary-Treasurer of the Municipality.

XLIII. And whereas the seeds of noxious weeds growing on the land or ground of one proprietor, or upon a common, are frequently driven by the winds and otherwise conveyed upon the lands and grounds of the adjoining proprietors, where, to the injury of such proprietors, and their discouragement with respect to agricultural improvement, they grow: Be it enacted, That it shall be lawful for any proprietor or occupier of land, at any time between the twentieth day of June and the first day of the month of August, in each year, by verbal notice in the presence of one witness, or by notice in writing, in the form of Schedule A, left at the domicile of the person to whom it may be addressed, or in case of a common in which several persons have shares or are interested, by notice published at the Church door of the Parish within which such common shall be situate, on a Sunday or Holiday, (*Fête d'Obligation*), immediately after divine service in the forenoon, to require any proprietor or occupier of any adjoining land, or a meadow not being then sown or under crop, or the persons having shares or being interested in common as aforesaid, to destroy or cut down all such noxious weeds, to wit: those commonly called ox-eyed daisies, crowfoot, thistles, wild endive, succory and swallow-wort, and all other noxious weeds whatsoever as may be then growing on such adjoining land or piece of ground, and if the weeds so required to be destroyed or cut down are not entirely destroyed or cut down at the expiration of six days from the date of such notice, then it shall be lawful for any Justice of the Peace, upon complaint duly made before him, on the oath of one credible witness other than the complainant, or on the confession of the party or parties complained of, to order, in writing, the proprietor or occupier, or other person or persons against whom such complaint shall be made, to pay day by day to the party claiming, a penalty of Two Shillings and Six Pence currency, for every day that any such weeds shall remain standing or growing from and after the time at which such notice shall have been served, with the costs and expenses incurred in obtaining such order, according to this Act; Provided always, that such order shall be pronounced in a summary way, and shall be in the form of Schedule B.

Parties may be required to cut down noxious weeds on their lands.

As to seeds of noxious weeds.

XLIV. And be it enacted, That it shall not be lawful to scatter or allow to be scattered, the seeds of any noxious weeds, to the prejudice of any party whatever.

Surveyors to cause weeds growing on highways to be destroyed.

XLV. And be it enacted, That it shall be the duty of the Surveyors and Overseers of highways, within the time limited in the next but one foregoing section, to cause to be destroyed or cut down by the persons or companies bound to make or keep in repair the highways, by-roads, canal banks, rail-road lands, and all public works and places whatever, in their respective divisions, all weeds growing on highways, by-roads, canal banks, rail-road lands, and all public works and places whatever in their whole width, to the fences inclosing such highways or roads, under the same penalties on the said Surveyors or Overseers, and persons bound to make and keep and repair the said highways and by-roads, as are provided in the Acts now in force for neglect or default in keeping such highways and roads in repair, and such penalties shall be recoverable in the same manner.

Persons employed by Companies liable for penalties.

XLVI. And be it enacted, That any person in the employment of Incorporated Companies or of any other party, and receiving moneys on his or their behalf, shall be liable to prosecution for penalties under this Act, and shall be answerable as though he were proprietor of the land.

Dead animals to be buried.

XLVII. And whereas it also frequently happens that animals dying of disease or otherwise, remain exposed in public or private roads, fields and other places, whereby travellers are incommoded and exposed to danger, and dangerous disease may be produced: Be it therefore enacted, That the owners of any such animal of what kind soever, who shall refuse or neglect to bury the same at least three feet under ground, and to cover the same with two feet of earth at least, shall incur a penalty of not more than Ten Shillings currency, nor less than Five Shillings currency.

Penalty for throwing filth into brooks, &c.

XLVIII. And whereas it also frequently happens that animals dying of disease or otherwise are thrown into brooks, rivulets and rivers; and whereas individuals are in the habit of carrying filth in summer, and more particularly in winter, into the brooks, rivulets and rivers, and upon ice of the said brooks, rivulets and rivers: Be it therefore enacted, That every person who shall be convicted, on the oath of a credible witness other than the informer, of having so thrown any such animal, or so carted any such filth (unless in or to a place appointed for that purpose by the competent local authorities) shall incur a penalty of not more than Twenty Shillings currency, nor less than Ten Shillings currency, in addition to all damages: Provided that in all cases where the owners or the offending parties are not known or cannot be reached, then it shall be the duty of the Surveyors and Overseers of roads, within their respective divisions, to bury such animal so found in public or private roads, fields or other places, or in brooks, rivulets or rivers, or to remove such filth within twenty-four hours after he shall have been informed of the existence of such nuisance, and for such service the Municipality within which his division is situated, shall pay him.

Limitation of suits.

XLIX. And be it enacted, That all fines and penalties incurred under this Act, may be sued for and recovered within three months after the offence may have been committed, and not afterwards.

Provision as to lumber carried upon lands by Spring floods.

L. And be it enacted, That whenever any lumber of any kind shall be carried by Spring floods, or otherwise, unto the lands or banks adjoining any floatable river, and shall be there left until the first day of June, or shall from any cause be upon such lands or banks on the said day, it shall be lawful for the proprietor or occupant of such lands or banks, upon, or at any time after the said day, to cause such lumber to be hauled from off his lands or banks to any safe place, at the expense of the owner of such lumber, and to cause notice to be posted up at the Church doors, (or if there be none, at some public place in the Parish or Township,) and to be read aloud by a Bailiff of the Circuit Court at such Church door (if any there be) on two Sundays, immediately after Divine Service, (or if there be no service, at the usual hour of closing Divine Service,) in the forenoon, stating that such lumber (describing it generally) was found on the lands of the proprietor or occupant, and the place where the same then lies, and that if the expenses of hauling it to such place, and of such notice, be not

not paid before a certain day (naming it,) the same will be then sold at the place where it lies, by some Bailiff of the said Court; and if such expenses be not paid before such day, or on such day, and before the sale, such lumber shall be then sold by a Bailiff of the said Court by public auction to the highest and best bidder, and out of the proceeds of the sale, all the expenses aforesaid and those of the sale, (all which expenses shall be those allowed to a Bailiff for like services under a Writ of Execution from the Circuit Court,) shall be first paid, and the remainder shall be paid over to the Treasurer of the Municipality and make part of the funds thereof; any law to the contrary notwithstanding,

LI. And be it enacted, That all fines, penalties and forfeitures imposed or incurred for offences against this Act, and not otherwise provided for, shall be sued and recovered on the oath of one credible witness other than the informer or prosecutor, or by confession of the defendant before any one Justice of the Peace for the District wherein the offence shall have been committed, and shall be levied, as well as the costs, by Warrant under the hand and seal of the Justice of the Peace before whom the conviction of the offender or offenders shall be had, and by seizure and sale of the goods and chattels, and one half of all penalties shall go to the informer or prosecutor, whether he be or be not interested, and the other half shall be paid to the Secretary-Treasurer of the Municipal Council of the Municipality within which the offence shall have been committed.

Fines, &c., how to be sued for, and applied.

LII. And be it enacted, That for the more effectual prosecution of offences committed under this Act, all such offences may be tried, determined and punished in any District of Lower Canada where the party accused may be found; any law to the contrary notwithstanding.

Offences may be tried in District where offender is found.

LIII. And be it enacted, That if there be any Writ of *Certiorari* at any time heretofore issued, or at any time after the passing of this Act to be issued for reviewing any decision of any Justice of the Peace, rendered upon any matter growing out of the Act first above cited and repealed by this Act, or out of this Act, the Court out of which such Writ of *Certiorari* shall have issued shall determine the question according to law and practice, and shall award costs to the successful party.

As to Writs of *Certiorari*.

LIV. And be it enacted, That every person who shall be convicted of having wilfully taken a false oath in a case wherein a Justice of the Peace in the due fulfilment of his duties, pursuant to this Act, may deem it necessary to administer an oath, shall incur the pains and penalties by law provided against wilful and corrupt perjury.

False swearing, perjury.

LV. And be it enacted, That all duties relating to fences and water courses hereby imposed on Surveyors of Roads shall be performed by Inspectors of fences and ditches in all Parishes and Townships where such may be chosen and named by the Municipal Council, and they shall be entitled to the same remuneration and subject to the same penalties as herein provided for Road Surveyors.

Certain duties to be performed by Inspectors, if appointed.

LVI. And be it enacted, That one copy of this Act shall be forwarded to each of the Road Surveyors for his guidance in the performance of the duties hereby required of him; and that every such Surveyor upon retiring from office shall transfer such copy of this Act to his successor in office for his guidance; and that every such Surveyor who shall retire from office and refuse or neglect to transmit such copy to his successor in office, shall incur a penalty of not less than Five Shillings currency, nor more than Ten Shillings currency.

Copies of this Act to be sent to Road Surveyors.

LVII. And be it enacted, That any contravention of this Act, whether by doing any thing hereby forbidden, or leaving undone any thing hereby required to be done, and for which no other penalty is hereby provided, shall be an offence by which the party guilty thereof shall incur a penalty of not more than Fifty Shillings, to be recovered with costs in the manner herein provided for the recovery of other penalties not exceeding that amount, and all parties incurring penalties under this Act, if the same be not paid immediately after judgment, may be punished by imprisonment not exceeding thirty days.

Penalty for contraventions not otherwise provided for.

Justices may convict on view.

LVIII. And be it enacted, That a Justice of the Peace having under this Act cognizance of any offence, may convict a party of such offence on the personal view of such Justice, if the offence be committed in his presence ; any law, custom or usage to the contrary notwithstanding.

Justices, &c., not to determine cases in which parties are related to them.

LIX. And be it enacted, That it shall not be lawful for any Justice of the Peace, Road Surveyor, Overseer or Inspector of fences and ditches, to hear or determine any matter or case brought before them in their respective capacities wherein they may be interested either in the subject matter before them, or in the event of their determination, or in any case in which the parties litigant before them are related to them within the degree prohibited by the Law regarding witnesses in Courts of Law.

Commencement of Act.

LX. And be it enacted, That this Act shall come into force on the First of January one thousand eight hundred and fifty-one.

SCHEDULE A.

To of

Take notice that you are required to cut down, destroy and root out all the noxious weeds on your property, whether the same be oxeyed daisies, crowsfoot, thistles, wild endive, succory, and swallow-wort, or any other noxious weed whatsoever, within four days from this day, and in default of your so doing I do hereby summon and enjoin you to be and appear before

, Esquire, Justice of the Peace, at his house, in at the hour of in the noon, on the day of (being the day immediately following the said fourth day, or) then and there to show cause if any you have, why you should not be condemned to pay me Ten Shillings currency for the said four days, and a further sum of Two Shillings and Six Pence for each succeeding day during which any of the said noxious weeds shall remain on your said property ; the said sum to be levied day by day by distress. ; Herein fail not.

(Date.)

(Signature.)

SCHEDULE B.

Judgment of the Justice of the Peace.

Be it Remembered, that having upon the complaint of heard him and , and examined the witnesses by them produced (or visited the spot and judged upon my own view, *as the case may be*,) (I do hereby acquit the defendant or) I do hereby enjoin and command to pay to the said the sum of Shillings ; and also a further sum of Two Shillings and Six Pence for each succeeding day during which the noxious weeds specified in the annexed complaint shall not be cut down and destroyed ; the said sum of Two Shillings and Six Pence currency to be levied by distress day by day.

And these are to empower and command all Bailiffs and other Peace Officers to make such distress accordingly with costs taxed at the sum of

As witness my hand.

(Signature.)

CAP. XLI.

An Act to remove doubts as to the right of parties to recover the value of Work done on Roads in Lower Canada, under Acts which have since expired.

[10th August, 1850.]

Preamble.

WHEREAS divers persons employed in making or repairing Roads under the requirements and provisions of Acts of the Legislature of Lower Canada now expired, had acquired rights to sums of money secured by *hypothèque*, according to the said Acts, upon the lands through, upon or in front of, or near which, such Roads were laid out, and by reason of the expiration of such Acts, doubts may be entertained whether such persons can maintain suits at law for the recovery of the sums so due to them ; For the removal of such doubts, Be it declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council

Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in all cases in which any such claims as are mentioned in the preamble to this Act, shall be made or submitted for adjudication to any Court of Justice in Lower Canada, the said Acts respectively shall be held and considered to have been and to remain in full force and virtue, in so far as may be necessary to enable any such party as aforesaid to maintain any action for labour performed or material furnished, or money expended, upon any Roads or Highways, whether such person shall make such claim in his own right as having performed the labour, furnished the materials, or expended money, or as Assignee of some Road Commissioner, Road Surveyor, or other Road Officer, or as Assignee of any other party having performed such labour, furnished such materials, or expended such money, or caused the same to be done, in obedience to the said Acts or any of them, or to the directions of some Road Commissioner, Road Surveyor or other Road Officer, or other person who might lawfully require or authorize the performance of the labour, or the furnishing of the materials, or expenditure of the money out of which the said claim has grown, or for the recovery of which the action may have been or may be brought.

Acts to be deemed still in force for certain purposes.

C A P . X L I I .

An Act for the better protection of the Lands and Property of the Indians in Lower Canada.

[10th August, 1850.]

WHEREAS it is expedient to make better provision for preventing encroachments upon and injury to the lands appropriated to the use of the several Tribes and Bodies of Indians in Lower Canada, and for the defence of their rights and privileges: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor to appoint from time to time a Commissioner of Indian Lands for Lower Canada, in whom and in whose successors by the name aforesaid, all lands or property in Lower Canada which are or shall be set apart or appropriated to or for the use of any Tribe or Body of Indians, shall be and are hereby vested, in trust for such Tribe or Body, and who shall be held in law to be in the occupation and possession of any lands in Lower Canada actually occupied or possessed by any such Tribe or Body in common, or by any Chief or Member thereof or other party for the use or benefit of such Tribe or Body, and shall be entitled to receive and recover the rents, issues and profits of such lands and property, and shall and may, in and by the name aforesaid, be subject to the provisions hereinafter made, exercise and defend all or any of the rights lawfully appertaining to the proprietor, possessor or occupant of such land or property: Provided always, that this section shall extend to any lands in Lower Canada now held by the Crown in trust for or for the benefit of any such Tribe or Body of Indians, but shall not extend to any lands now vested in any Corporation or Community legally established and capable in law of suing and being sued, or in any person or persons of European descent, although held in trust for or for the benefit of any such Tribe or Body.

Preamble.

Appointment of a Commissioner of Indian Lands.

His powers.

Proviso.

II. And be it enacted, That all suits, actions or proceedings by or against the said Commissioner shall be brought and conducted by or against him by the name aforesaid only, and shall not abate or be discontinued by his death, removal from office or resignation, but shall be continued by or against his successor in office; and that such

Suits by or against Commissioner, how brought.

Commissioner

Commissioner shall have in each District in Lower Canada, an office which shall be his legal domicile, and whereat any process, notice or like matter may be legally served upon him, and may appoint such deputy or deputies, and with such powers as he shall from time to time deem expedient, or as he shall be instructed by the Governor to do : Provided always, that no suit or proceeding shall, during one month next after the passing of this Act, be commenced or proceeded with by or against the said Commissioner or any other party, with regard to any lands or property intended to be hereby vested in him, nor shall any prescription or limitation of time within which any proceeding or thing would otherwise require to be commenced, had or done, run or avail against the said Commissioner during the term last aforesaid.

Commissioner may concede, lease or charge lands, &c.

III. And be it enacted, That the said Commissioner shall have full power to concede or lease or charge any such land or property as aforesaid, and to receive or recover the rents, issues and profits thereof as any lawful proprietor, possessor or occupant thereof might do, but shall be subject in all things to the instructions he may from time to time receive from the Governor, and shall be personally responsible to the Crown for all his acts, and more especially for any act done contrary to such instructions, and shall account for all moneys received by him, and apply and pay over the same in such manner, at such times and to such person or officer, as shall be appointed by the Governor, and shall report from time to time on all matters relative to his office in such manner and form, and give such security, as the Governor shall direct and require : and all moneys and moveable property received by him or in his possession as Commissioner, if not duly accounted for, applied and paid over as aforesaid, or if not delivered by any person having been such Commissioner to his successor in office, may be recovered by the Crown or by such successor, in any Court having civil jurisdiction to the amount or value, from the person having been such Commissioner and his sureties, jointly and severally.

Rights of individual Indians not affected.

IV. Provided always, and be it enacted, That nothing herein contained shall be construed to derogate from the rights of any individual Indian or other private party, as possessor or occupant of any lot or parcel of land forming part of or included within the limits of any land vested in the Commissioner aforesaid.

Who shall be considered as Indians.

V. And for the purpose of determining any right of property, possession or occupation in or to any lands belonging or appropriated to any Tribe or Body of Indians in Lower Canada, Be it declared and enacted : That the following classes of persons are and shall be considered as Indians belonging to the Tribe or Body of Indians interested in such lands :

First.—All persons of Indian blood, reputed to belong to the particular Body or Tribe of Indians interested in such lands, and their descendants.

Secondly.—All persons intermarried with any such Indians and residing amongst them, and the descendants of all such persons.

Thirdly.—All persons residing among such Indians, whose parents on either side were or are Indians of such Body or Tribe, or entitled to be considered as such : And

Fourthly.—All persons adopted in infancy by any such Indians, and residing in the Village or upon the lands of such Tribe or Body of Indians, and their descendants.

Interpretation Act to apply.

VI. And be it enacted, That the Interpretation Act shall apply to this Act.

CAP. XLIII.

An Act to amend and continue the Ordinance for the Inspection of Fish and Oil.

[10th August, 1850.]

Preamble.

Ord. L. C. 2 Vic. (3) c. 65, cited.

WHEREAS it is expedient to amend the Ordinance of the Governor and Special Council for the affairs of Lower Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance to provide for the Inspection of Fish and Oil*, and to continue it as amended : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue

virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the said Ordinance, one Inspector and no more shall be appointed or continue to hold office, in each of the Cities of Quebec or Montreal, but each of the said Inspectors may appoint such and so many Deputies as he may think proper, and shall be responsible for the acts of such Deputies.

One Inspector only in Quebec or Montreal.

II. And be it enacted, That all the provisions of the fifth section of the said Ordinance shall apply to pickled or salted Fish of any kind, as they now apply to pickled or salted Salmon, and as if the words "pickled or salted Fish of any kind" were inserted in the said section instead of the words "pickled or salted Salmon": Provided always, that such fish shall be branded "No. 1," "No. 2," "No. 3," or "rejected," according to the quality thereof, No. 1 denoting the first or best quality, No. 2 the second, and No. 3 the third; and that green Codfish may be packed in barrels which have been used as flour barrels, or in any others which may be fit for carriage, provided they contain two hundred and twenty-four pounds weight of Fish over and above the weight of the salt and pickle.

Sect. 5, of the Ordinance extended to certain articles.

Proviso.

III. And be it enacted, That each Inspector may provide himself with a proper wharf or store, and in a convenient position, for the purpose of receiving therein fish sent to be inspected.

Inspector to have a wharf or store.

IV. And be it enacted, That each Inspector shall be bound, when required, to go to any place in the City for which he shall have been appointed, for the purpose of inspecting fish or oil, provided the quantity to be inspected shall not be less than ten casks or vessels.

Inspector to attend when required.

V. And be it enacted, That for and notwithstanding any thing in the nineteenth section, or in any other part of the said Ordinance, each Inspector shall for the services hereinafter mentioned, be entitled to the fees also hereinafter mentioned and to no others: For liming or whitewashing with lime the heads or butts of any vessel of any description containing oil, Nine pence; for each cask of oil containing twenty-eight gallons inspected and branded, Six pence; for each tierce of oil Nine pence; for each hogshead of oil Ten pence, and for each puncheon of oil, One shilling; for weighing and inspecting each quintal of dried cod fish, Two pence; for inspecting and packing each cask of green salted herrings Nine pence; for washing the said green salted herrings, Six pence per cask; for inspecting and packing each cask of salmon, Seven pence half penny; for washing the said salmon Six pence for each cask; for inspecting and packing each cask of mackarel, Seven pence half penny; and for washing the same, Six pence for each cask; for inspecting and packing each cask of shad, Seven pence half penny, and for washing the same, Six pence for each cask; for inspecting and packing each cask of green cod fish, six pence.

Fees for inspection and other services.

VI. And be it enacted, That the said Ordinance as hereby amended shall be and is hereby made permanent.

Ordinance to be permanent.

C A P. X L I V .

An Act to continue and amend the Ordinance concerning the erection of Parishes, and the construction and repairing of Churches, Parsonage Houses, and Church-yards.

[10th August, 1850.]

WHEREAS it is expedient to amend the Ordinance of the Governor and Special Council of the late Province of Lower Canada, passed in the third Session of the said Council, held in the second year of Her Majesty's Reign, and intituled, *An Ordinance concerning the erection of Parishes and the building of Churches, Parsonage Houses, and Church-yards*, and to continue the said Ordinance as amended: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent

Preamble.

L. C. 2 Vic. (3) c. 29.

of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the twelfth Section of the said Ordinance as regulates the manner of proceeding for filling a vacancy among the Trustees shall be, and is hereby repealed; and in case of the death, serious illness, madness or lunacy, removal of domicile out of any Parish or Mission, legal excuse or incapacity of any of the Trustees, the surviving Trustees or those remaining in office, or the majority thereof, may present a petition to the Commissioners appointed by the Governor for the purposes of the said Ordinance, alleging the death, serious illness, madness or lunacy, removal of domicile out of the Parish or Mission, legal excuse or incapacity of any Trustee, and praying that a meeting may be called of the inhabitants of the Parish or Mission for the purpose of proceeding to the election of a Trustee, in the place and stead of the Trustee whose place it shall have become necessary to fill up; and upon sufficient proof of the fact alleged the said Commissioners may make an order allowing the meeting and election prayed for, which meeting shall be called, presided over and held, and the election shall be had in the manner under the provisions and subject to the formalities prescribed by the said Ordinance, as to the election of the first Trustees; and the confirmation of the said election shall be required by the Trustees surviving or remaining in office, or by a majority of them, by petition presented to the Commissioners for that purpose; and the Commissioners shall proceed in the manner and according to the formalities prescribed as to the confirmation of the election of the Trustees first elected: Provided always, That if the said inhabitants neglect or refuse to elect such Trustee, then the Commissioners may appoint one in their default: Provided also, that the Trustees so appointed shall be qualified in the manner required by the eleventh Section of the said Ordinance.

Part of sec. 12,
repealed.

Filling vacancies
among the Trustees.

Proviso.

Proviso.

If the first assessment
prove insufficient.

Petition.

II. And be it enacted, That if the amount of the assessment levied be not sufficient to meet the necessary expenses of construction and repairs of any Church, Sacristy, Parsonage House or Church-yard, the Trustees or the majority of them, shall render to the said Commissioners a faithful account of the receipts and expenditure and of the work to be done, and probable expense to be incurred if the work be not completed, to be sworn to by one or more of them to the best of their knowledge and belief, before a Justice of the Peace, who is hereby authorized to administer the oath; and shall at the same time present a petition to the said Commissioners, alleging the want of money to complete the works or to pay for them if they are completed, and praying authority to make a supplementary assessment; which said account, accompanied by vouchers and the said petition, shall be previously deposited, announced and made public at the place, during the time and in the manner prescribed by the fourteenth Section of the said Ordinance, in relation to the statements and acts of assessment, and with the same formalities.

Homologation of the
Petition.

III. And be it enacted, That on the day appointed for proceeding to the consideration of the said account and petition, the Trustees, or the majority of them, shall present the said account and petition with the vouchers in support thereof, to the said Commissioners for homologation and the granting of the conclusions of the petition, and shall accompany them by a sufficient Certificate of the deposit thereof, and of the publication of the notice thereof which shall have been given; and the said Commissioners shall have full jurisdiction, power and authority to hear, adjudge and determine, between the Trustees and the parties interested, by rejecting, modifying, or confirming the said account altogether or in part, or by rejecting, modifying or granting the conclusions of the petition, altogether or in part, as they may find it just and reasonable to do.

Supplementary assess-
ment to be made.

IV. And be it enacted, That so soon as the Commissioners shall have made an order authorizing the Trustees to make a supplementary assessment, the said Trustees and Commissioners shall then proceed in the manner and with the formalities prescribed for

for the first assessment, as well as regards the making and drawing up, depositing, publishing and posting up, rejecting, modifying or confirming, as the levying of such supplementary assessment, and with the same powers, authority and jurisdiction: Provided always, that the Trustees shall add to the total amount of all the expenses to be raised by the first assessment or by the supplementary assessment if any there be fifteen per cent, over and above the said amount, to cover deficiencies, which said fifteen per cent shall be assessed, levied and paid in like manner with the total amount of the said expenses.

Proviso; addition for contingencies.

V. And be it enacted, That the amount of any assessment to defray the expenses of the construction or repair of any Church, Sacristy, Parsonage House or Church-yard shall be the first charge on the land, ground or lot of ground and the first privileged debt which shall affect and bind the said land, ground or lot of ground, without its being necessary to enregister the Act of assessment or the judgment of confirmation or homologation in the whole or in part, in the Registry Office.

Assessment to be a privileged debt.

VI. And be it enacted, That within the year next after the completion of the construction or repairs and the payment therefor, the Trustees shall render to the parish or mission at a meeting of the inhabitants of such parish or mission called together by the *curé* or missionary, and held in the ordinary place and manner, a faithful account shewing the receipt and expenditure and the management of the affairs for which they shall have been elected and appointed, which said account shall be supported by vouchers and sworn to by one or more of the said Trustees to the best of their knowledge and belief, before a Justice of the Peace, who is hereby authorized to administer the said oath, and they shall pay, return and hand over to the *Curé* and Church-wardens of the *fabrique* of the parish, or to the ministering *Curé* or Missionary and Church-wardens or Trustees managing the temporal affairs of the Church of the Mission, as the case may be, every thing remaining in their possession of the moneys, materials and effects, with the acts of assessment, judgments, decrees, account books, deeds, documents and papers touching the constructions and repairs conducted and the affairs managed by them; and the said *Curé* and Church-wardens, or the *Curé* or Missionary, and the Church-wardens or Trustees conducting the temporal affairs of the Church of the mission, as the case may be, may sue the Trustees elected or appointed for the construction or repairs of the church, sacristy, presbytery or church-yard for the rendering of the said account if the same has not been voluntarily rendered, contest any account rendered and compel the payment of the balance in either case; and they may at the same time receive what is remaining due of the assessment and sue for the recovery of that which has not yet been paid; and so much as they shall thus receive either from the Trustees elected or appointed for the said construction or repairs, or from parties indebted on account of their assessment, shall be deposited with the funds of the *fabrique* or mission and applied in the same manner as the other moneys of the said *fabrique* or mission.

Account to be rendered by the Trustees, and when.

How attested.

Action given if the account be not rendered.

VII. And be it enacted, That so much of the twenty-second section of the said Ordinance as empowers the Commissioners appointed under the Act or Ordinance passed in the thirty-first year of the Reign of His late Majesty King George the Third, and intituled, *An Act or Ordinance concerning the building and repairing of Churches, Parsonage Houses, and Church-yards*, to continue proceedings commenced before them until final judgment, be and the same is hereby repealed; and that the said proceedings commenced before the said Commissioners shall be conducted and continued until final judgment before the Commissioners appointed under the provisions of the Ordinance continued and amended by this Act.

Part of sec. 22 of the Ord. 31, Geo. 3, c. 6, repealed.

VIII. And be it enacted, That the provisions of the said Ordinance as amended by this Act, shall be applicable to proceedings commenced before the passing of the said Ordinance; and all proceedings had before the Commissioners appointed under the authority of the said Ordinance, and the orders, judgments and decrees given and rendered by them in the said affairs are hereby confirmed and declared valid, saving in cases where their validity may have been contested in any Court of Justice before the day of the passing of this Act.

Ordinance as amended to apply to proceedings commenced before its passing.

Ordinance to extend to Churches, &c., authorized by canonical decree issued before the passing thereof.

IX. And whereas the provisions of the said Ordinance continued and amended by this Act do not extend to Churches, Sacristies, Parsonage Houses and Church-yards, the construction or repairing whereof is allowed or ordered by a Canonical Decree rendered and issued before the passing of the said Ordinance; Be it enacted, that all the provisions of the said Ordinance as amended by this Act, concerning the construction and repairs of Churches, Sacristies, Parsonage Houses and Church-yards, and all the powers, authority and jurisdiction conferred by the same and by this Act upon the said Commissioners, shall be and are hereby extended to Churches, Sacristies, Parsonage Houses and Church-yards the construction and repairing whereof may have been allowed or ordered by a Canonical Decree rendered and issued according to the Ecclesiastical Laws and forms followed and in use in the diocese of Quebec or of Montreal, before the passing of the said Ordinance, and may be exercised in as full, ample and beneficial a manner to all intents and purposes, as if such Canonical Decree had been made and rendered after the passing of and under the provisions of the said Ordinance.

Recital.

X. And whereas in certain parts of Lower Canada, it has been the custom to construct and repair Churches, Sacristies, Parsonage houses and Church-yards, in conformity with canonical decrees given and rendered by the Ecclesiastical authorities, without having recourse to the authority of the said Commissioners, and to a forced assessment, but by means of voluntary contributions, often insufficient to pay all the expenses of construction or repairs so that sums of money have remained due to the constructors of such buildings, or to the persons who may have repaired the same, or to persons who had lent or advanced moneys to pay the said expenses, altogether, or in part; and whereas doubts have arisen whether the *Fabriques* of the Parishes in which such constructions and repairs have been made, are responsible for the payment of the said sums remaining due, although they have taken possession of the said Churches, Sacristies, Parsonage houses and Church-yards, and the said buildings and erections are applied to the uses for which they had been constructed; Be it therefore declared and enacted, and it is hereby declared and enacted, That whenever the ecclesiastical authorities of the diocese of Quebec, or of Montreal, shall have made and rendered a canonical decree conformably to the provisions of the said Ordinance continued and amended by this Act, or of the Act or Ordinance specially cited in the seventh section of this Act, allowing or ordering the construction or repair of a Church, Sacristy, Parsonage house or Church-yard, and the same shall have been respectively constructed or repaired, without the inhabitant householders of the Parish having had recourse to the authority of the said Commissioners, and to a forced assessment, and the *Fabrique* shall have taken possession thereof, and shall have used the same for the purpose for which it shall have been constructed and repaired, and moneys shall be remaining due to the Builder or Contractor for any such edifice or erection, or to any one who shall have advanced moneys to pay the expenses of construction or repairs, altogether or in part, or to both, in all such cases the *Fabrique* of the Parish in which the construction and repair shall have taken place, is and shall be responsible for the sums so due, and shall pay the same to such Builder or Contractor out of its revenues only, or to the party who shall have lent or advanced money, or to both, as the case may be, or to their respective heirs, representatives or assigns.

Fabrique to be liable in certain cases where no assessment has been made.

Bailiffs of Superior Court to be those of the Commissioners.

XI. And be it enacted, That the Bailiffs of the Superior Court in and for Lower Canada, shall, at the same time, be Bailiffs of the said Commissioners, and no special affidavit shall be necessary to prove any service, advertisement, posting up, publication or deposit, when the same shall have been done and performed by a Bailiff, but the Certificate or Return in due form, drawn up by a Bailiff under his oath of office, shall be considered as proof of the facts therein mentioned.

Amended Ordinance made permanent.

XII. And be it enacted, That the Ordinance first above mentioned, and hereby amended, shall be continued and remain in force as amended by this Act, until the same be altered or repealed by competent authority.

CAP. XLV.

An Act to amend the Act to incorporate the Lower Canada Agricultural Society.

[24th July, 1850.]

WHEREAS serious inconvenience has arisen from its being provided by the Act passed in the Session held in the tenth and eleventh years of Her Majesty's reign, and intituled, *An Act to incorporate the Lower Canada Agricultural Society*,—that, at any meeting of the Directors held according to the By-laws of the Society then in force, any nine of the said Directors, of whom the President or one of the Vice-Presidents shall be one, shall be a *quorum* for the transaction of the business of the Society,—and, from its being provided by the said Act, that, at any special general meeting of the members of the Society, fifty shall form a *quorum*, and it is expedient to remedy the said inconvenience: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, any five Directors of The Lower Canada Agricultural Society shall be a *quorum* for the transaction of the business of the said Society, at any meeting of the Directors held in conformity to the By-laws of the Society then in force; and that at any special meeting of the members of the Society called in the manner provided by the said Act of Incorporation, any fifteen members of the said Society shall be a *quorum*; and so much of the sixth and ninth sections of the said Act of Incorporation as may be inconsistent with the provisions of this Act, is hereby repealed.

Preamble.

10 & 11 Vic. c. 60.

Quorum of Directors.

Of Members.

Repeal.

CAP. XLVI.

An Act to allow the Members of County Agricultural Societies in Lower Canada, to be elected in any year, after the period fixed by law.

[10th August, 1850.]

WHEREAS it is expedient to allow the Members of County Agricultural Societies in Lower Canada, to be elected after the time now fixed by law for that purpose: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the third Section, or in any other part of the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and better to encourage Agriculture in Lower Canada by the establishment of Agricultural Societies therein*, the election of the Members and Officers of any County Agricultural Society in Lower Canada may be held in the present or in any future year, at any time before the first day of October, in like manner and with like effect as if held in the month of February, as provided by the said Act: and the Members and Officers elected in any year shall hold office until the time when their successors shall be elected in the year next following.

Preamble.

Act 8 Vic. c. 53,
amended, as to periods
of election.

II. And be it enacted, That notwithstanding any default to elect the Members and Officers of any County Agricultural Society in Lower Canada, during the year one thousand eight hundred and forty-nine, such Society shall be held to have been in existence during the said year, and to have been composed of the Members and Officers thereof elected in and for the then preceding year; and such Society shall be entitled and

As to defaults to elect
in the year 1849.

and be held to have been entitled to all allowances out of the public moneys, and all other benefits and advantages of the said Act, in like manner as if such Members and Officers had been elected in the month of February, one thousand eight hundred and forty-nine, for the said year.

CAP. XLVII.

An Act to relieve Ministers of the Wesleyan Methodist Church in Canada, from the obligation to obtain Special Licenses in order to keep Registers of Baptisms, Marriages and Burials in Lower Canada.

[24th July, 1850.]

Preamble.

WHEREAS it has been represented to the Legislature, that the Conference of the Wesleyan Methodist Church in Canada, has been accustomed and continues to appoint from year to year certain Ministers of the said Church to labour as Missionaries and Pastors in Lower Canada; and whereas the Ministers of the said Church are authorized by law to solemnize Matrimony, register Baptisms and perform all the functions of their Office in Upper Canada; and whereas it is desirable that those of them who are now labouring or who shall from time to time labour in Lower Canada, be relieved from certain disabilities and inconveniencies to which they now are liable and be authorized to keep in due form of law, Registers of all such Baptisms, Marriages and Burials as shall by such Ministers be performed: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act it shall and may be lawful for any regularly ordained Minister of the Wesleyan Methodist Church in Canada having a regular established circuit with a congregation or congregations under his care in Lower Canada, to have and keep Registers of Baptisms, Marriages and Burials according to the laws of Lower Canada; Provided always, that every such Minister who shall neglect to keep or deposit any Register required by this Act, shall be subject for such neglect to the penalties imposed by law in Upper Canada upon such Minister for neglecting to make an annual return to the Clerk of the Peace of his County, of the Marriages solemnized by him in such County.

Ministers of Wesleyan Methodist Church in Canada may keep registers.

Proviso.

II. Provided always, and be it enacted, That no such Minister of the Wesleyan Methodist Church in Canada shall be entitled to the benefit of this Act unless he shall deposit with the Prothonotary of the Superior Court in the District where he shall have charge of a congregation or congregations in Lower Canada, a copy certified on oath before such Prothonotary of the certificates, of his ordination and authority to solemnize Matrimony in Upper Canada, and also a certificate from the President for the time then being of the said Conference, to the effect that he is a Minister of the said Church in good standing, and such certificates shall be filed of record in the Office of such Prothonotary, who shall furnish to such Minister, a certificate of such record, and for filing such certificates in his office, and for furnishing a certificate of the same, the Prothonotary shall be entitled to Two Shillings and Six Pence currency, and no more.

Preliminaries to be observed by such Ministers.

Duplicate to be left for the use of the congregation.

III. Provided always, and be it enacted, That whenever the connection between any such Minister, and such circuit with a congregation or congregations shall cease, the duplicate of the Register shall be the property of such circuit, and shall be deposited with the Recording Steward thereof, to be kept by the successor of such Minister, for the use of such congregation or congregations.

Registers how deposited after removal of Minister.

IV. Provided always, and be it enacted, That such Registers after the removal of such Ministers from the city, town, township or place in which they may have respectively officiated and kept such Registers, shall be deposited with their respective successors in Office, or in case there shall be no such successors with the Prothonotary

of

of the Superior Court of the District wherein such Minister shall have usually resided or officiated.

V. Provided always, and be it enacted, That on his removal from one city, town, township or place to another city, town, township or place in Lower Canada, such Minister shall be entitled to have and obtain a new Register for the place to which he shall have removed if none shall have been previously obtained or kept at such place by some Minister of the said Church.

Minister may obtain a new register at another place in L. C.

VI. And be it enacted, That the Registers which shall have been so kept, and the several entries made therein according to the laws in force in Lower Canada, as well as authentic copies of such entries, shall to all intents and purposes be good and available in law in like manner as entries and authentic copies thereof made in any other like Register, kept under the authority of the Act of the Legislature of Lower Canada passed in the thirty-fifth year of the Reign of King George the Third, and intituled, *An Act to establish the forms of Registers of Baptisms, Marriages and Burials, and to confirm and make valid in law the Register of the Protestant Congregation of Christ Church, Montreal, and others which may have been informally kept, and to afford the means of remedying omissions in former Registers*; Provided always, that all and every the regulations and requirements of the said Act with respect to the Registers therein mentioned, be also observed with respect to the Registers to be kept pursuant to this Act; And provided also, that the Ministers keeping Registers under this Act, shall be governed by the said Act, and shall in case of contravention thereof, be liable to the penalties in like cases provided by the said Act, to be recovered, paid, applied and accounted for in the same manner.

Legal effect of entries in such registers or of extracts therefrom.

VII. And be it enacted, That this Act shall be a Public Act, and construed as such.

Public Act.

CAP. XLVIII.

An Act for the better establishment and maintenance of Common Schools in Upper Canada.

*14 & 15 Vic
cap 111: -
Vide*

[24th July, 1850.]

WHEREAS it is expedient to make provision for the better establishment and maintenance of Common Schools in the several Villages, Towns, Cities, Townships and Counties of Upper Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Parliament of this Province, passed in the seventh year of Her Majesty's reign, and intituled, *An Act for the better Establishment and Maintenance of Common Schools in Upper Canada*, and also the Act passed in the twelfth year of Her Majesty's reign, chapter eighty-three, and intituled, *An Act for the better Establishment and maintenance of Public Schools in Upper Canada, and for repealing the present School Act*, shall be, and the same are hereby repealed: Provided always, nevertheless, firstly, that no Act or part of an Act repealed by either of the Acts hereby repealed, shall be revived by the passing of this Act: And provided also, secondly, that the repeal of the said Acts shall not extend or be construed to extend to any act done, any penalty incurred, or any proceeding had under the said Acts, or either of them: And provided also, thirdly, that all School Sections or other School divisions, together with all elections and appointments to office, all agreements, contracts, assessments, and rate-bills, made under the authority of the said Acts, or of any preceding Act, and not annulled by the said Acts or by this Act, or by any of them, shall be valid and in full force and binding upon all parties concerned, as if made under the authority of this Act, and shall so continue until altered, modified, or suspended, according to the provisions of this Act: And provided also, fourthly, that nothing herein

Preamble. 14 vic cap 23

*Supplement
act 15 vic cap 185*

Two Acts repealed.

*14 vic cap: 29
12 Vic cap 48: -*

Proviso.

All school divisions, elections, appointments, contracts, &c., confirmed.

herein contained shall affect the liability of any District, County, City, Town, or Township Superintendent of Common Schools, to the Municipal Corporation to which he would otherwise be responsible for the same, for any moneys received by him under either of the said Acts ; but the liabilities of every such Superintendent for such moneys shall be and remain as if this Act had not been passed : And provided also, fifthly, that nothing in the said Act secondly above recited, contained, shall extend, or be construed to extend, to have repealed any Act of the Parliament of this Province, whereby provision was made for the appropriation of money from the Consolidated Revenue Fund of this Province, for or towards the establishment and maintenance of Common Schools in this Province, or in any part thereof.

FIRST—ELECTION AND DUTIES OF SCHOOL TRUSTEES.

Annual school meetings.

II. And be it enacted, That the annual meetings for the elections of School Trustees, as hereinafter provided by this Act, shall be held in all the Villages, Towns, Cities and Townships of Upper Canada, on the second Wednesday in January, in each year, commencing at the hour of Ten of the clock in the forenoon.

One Trustee in each school section to be elected.

III. And be it enacted, That in all School divisions (except in Cities, Towns and Incorporated Villages) which have been established according to law, and which have been called "School Sections," and in which there shall be three Trustees in office at the time this Act shall come into force, one Trustee shall be elected to office at each ensuing annual school meeting, in place of the one who shall have been three years in office : Provided always, that the same individual, if willing, may be re-elected : And provided also, that no School Trustee shall be re-elected, except by his own consent, during the four years next after his going out of office.

Proviso: as to re-election.

Mode of calling the first school meeting in a new section.

IV. And be it enacted, That whenever any school section shall be formed in any Township, as provided in the eighteenth section of this Act, the Clerk of the Township shall communicate to the person appointed to call the first school meeting for the election of Trustees, the description and number of such school section ; and such person shall, ~~within twenty days thereafter,~~ prepare a notice in writing, describing such section, and appointing a time and place for the first school section meeting, and shall cause copies of such notice to be posted in at least three public places in such school section, at least six days before the time of holding such meeting.

Mode of proceeding at first meeting. Election of Chairman and Secretary; their duties.

V. And be it enacted, That at every such first school section meeting, the majority of the freeholders or householders of such school section present, shall elect one of their own number to preside over the proceedings of such meeting, and shall also appoint a Secretary, whose duty it shall be to record all the proceedings of such meeting ; and the Chairman of such meeting shall decide all questions of order, subject to an appeal to the meeting, and shall give the casting vote in case of an equality of votes, and shall have no vote except as Chairman, and shall take the votes in such manner as shall be desired by the majority of the electors present, and shall at the request of any two electors, grant a poll for recording the names of the voters by the Secretary : and it shall be the duty of the electors present at such meeting, or a majority of them, to elect from the freeholders or householders in such section, three Trustees who shall respectively continue in office as follows : the last person elected shall continue in office until the next ensuing annual school meeting in such section, and until his successor is elected ; the second person elected, one year, and the first person elected, two years, from such next ensuing annual school meeting, and until their successors are elected respectively : Provided always, that a correct copy of the proceedings of such first school section meeting, and of every annual school section meeting, signed by the Chairman and Secretary, shall be forthwith transmitted by the Secretary to the Local Superintendent of Schools.

A poll when to be granted.

Three Trustees to be elected.

Order of retiring from office.

Proviso.

Proceedings at annual meetings.

VI. And be it enacted, That at every annual school section meeting in any Township, as authorized and required to be held by the second section of this Act, it shall be the duty of the freeholders or householders of such section, present at such meeting, or a majority of them—

Firstly.—

Firstly.—To elect a Chairman and Secretary, who shall perform the duties required of the Chairman and Secretary, by the fifth section of this Act. Chairman and Secretary.

Secondly.—To receive and decide upon the report of the Trustees, as authorized and provided for by the eighteenth clause of the twelfth section of this Act. Annual financial report.

Thirdly.—To elect one or more persons as Trustee or Trustees, to fill up the vacancy or vacancies in the Trustee Corporation, according to law: Provided always, that no Teacher in such section shall hold the office of School Trustee. Election of Trustees.

Fourthly.—To decide upon the manner in which the salary of the Teacher or Teachers, and all the expenses connected with the operation of the School or Schools, shall be provided for. Expenses of the school.

VII. And be it enacted, That if any person offering to vote at an annual or other school section meeting, shall be challenged as unqualified by any legal voter in such section, the Chairman presiding at such meeting shall require the person so offering, to make the following declaration: Challenging voters.

“I do declare and affirm that I am a freeholder (or householder) in this school section, and that I am legally qualified to vote at this meeting.” Declaration required.

And every person making such declaration, shall be permitted to vote on all questions proposed at such meeting; but if any person shall refuse to make such declaration, his vote shall be rejected: Provided always, that every person who shall wilfully make a false declaration of his right to vote, shall be deemed guilty of a misdemeanour, and punishable by fine or imprisonment, at the discretion of any Court of Quarter Sessions, or by a penalty of not less than One Pound Five Shillings, or more than Two Pounds Ten Shillings, to be sued for and recovered, with costs, by the Trustees of the school section, for its use, before any Justice of the Peace, having jurisdiction within such school section. Proviso: false declaration for voting illegally.

VIII. And be it enacted, That if any person chosen as Trustee, shall refuse to serve, he shall forfeit the sum of One Pound Five Shillings; and every person so chosen and not having refused to accept, who shall at any time refuse or neglect to perform the duties of his office, shall forfeit the sum of Five Pounds; which sum or sums may be sued for and recovered by the Trustees of the school section, for its use, before any such Justice of the Peace: Provided always, that any person chosen as Trustee may resign with the consent of his colleagues in office and of the Local Superintendent, expressed in writing. Mode of recovering penalty.

IX. And be it enacted, That in case no annual or other school section meeting be held for want of the proper notice, the Trustees or other person whose duty it was to give such notice, shall respectively or individually forfeit the sum of One Pound Five Shillings, to be sued for and recovered for the purposes of such school section, on the complaint of any resident in such section, before any such Justice of the Peace: Provided always, that in the default of the holding of any school section meeting, as hereinbefore authorized by this Act, for want of the proper notice, then any two freeholders or householders in such section, are hereby authorized, within twenty days after the time at which such meeting should have been held, to call such meeting by giving six days' notice, to be posted in at least three public places in such school section; and the meeting thus called shall possess all the power, and perform all the duties of the meeting in the place of which it shall have been called. Refusing to serve as Trustee.

X. And be it enacted, That the Trustees in each school section shall be a Corporation, under the name of “The Trustees of School Section Number _____, in the Township of _____, in the County of _____:” Provided always, that no such Corporation of any school section shall cease by reason of the want of Trustees, but in case of such want, any two freeholders or householders of such section shall have authority, by giving six days' notice to be posted in at least three public places in such section, to call a meeting of the freeholders or householders, who shall proceed to elect three Trustees, in the manner prescribed in the fifth section of this Act, and the Trustees thus elected shall hold and retire from office in the manner prescribed for Trustees elected under the authority of the said fifth section of this Act. Proviso: resigning as Trustee.

XI.

Mode of deciding on the site of a school-house.

XI. And be it enacted, That in any case of difference as to the site of a school-house between the majority of the Trustees of a school section and a majority of the freeholders or householders, at a special meeting called for that purpose, each party shall choose one person as arbitrator, and the two arbitrators thus chosen, and the local Superintendent, or any person appointed by him to act on his behalf, in case of his inability to attend, or a majority of them, shall finally decide on the matter.

Duties of Trustees.

XII. And be it enacted, That it shall be the duty of the Trustees of each school section :

Secretary-Treasurer: his duties.

Firstly.—To appoint one of themselves, or some other person, to be Secretary-Treasurer to the Corporation ; and it shall be the duty of such Secretary-Treasurer to give such security for the correct and safe keeping and forthcoming (when called for) of the papers and moneys belonging to the Corporation, as may be required by a majority of the Trustees ; to keep a record of all their proceedings, in a book procured for that purpose ; to receive and account for all school moneys collected by rate-bill, subscription, or otherwise, from the inhabitants of such school section ; to disburse such moneys in such manner as may be directed by the majority of the Trustees.

Collector. his duties.

Secondly.—To appoint, if they shall think it expedient, a Collector (who may also be Secretary-Treasurer), to collect the rates they have imposed, or shall impose upon the inhabitants of their school section, or which the said inhabitants may have subscribed ; and to pay such Collector, at the rate of not less than five or more than ten per cent. on the moneys collected by him for his trouble in collecting ; and every Collector shall give such security as may be satisfactory to the Trustees, and shall have the same powers, by virtue of a warrant, signed by a majority of the Trustees in collecting the school-rate or subscription, and shall proceed in the same manner as ordinary Collectors of County and Township rates or assessments.

His remuneration.

To give security.

Powers.

Trustees to have the keeping of the school property.

Thirdly.—To take possession and have the custody and safe keeping of all Common School property, which may have been acquired or given for Common School purposes in such section, and to acquire and hold as a Corporation, by any title whatsoever, any land, moveable property, moneys or income for Common School purposes, until the power hereby given shall be taken away or modified, according to law, and to apply the same according to the terms of acquiring or receiving them.

Providing school premises.

Fourthly.—To do whatever they may judge expedient with regard to the building, repairing, renting, warming, furnishing and keeping in order the section school-house, and its appendages, wood-house, privies, enclosures, lands, and moveable property, which shall be held by them, and for procuring apparatus and text books for their School ; also, to rent, repair, furnish, warm, and keep in order a school-house, and its appendages, if there be no suitable school-house belonging to such section, or if a second school-house be required.

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Apparatus and books.

Teachers.

Fifthly.—To contract with and employ all Teachers for such school section, and determine the amount of their salaries ; and to establish, if they shall deem it expedient, by and with the consent of the local Superintendent of schools, both a female and male school in such section, each of which shall be subject to the same regulations and obligations as common schools generally.

Female school.

Orders to Teachers for money.

Sixthly.—To give the Teacher or Teachers employed by them the necessary order or orders upon the Local Superintendent for the School Fund apportioned and payable to their school section : Provided always, that the Trustees of any school section shall not give such order in behalf of any Teacher who does not, at the time of giving such order, hold a legal certificate of qualification.

Providing for salaries of Teachers and expenses of the school.

Seventhly.—To provide for the salaries of Teachers and all other expenses of the School, in such manner as may be desired by a majority of the freeholders or householders of such section, at the annual school meeting, or a special meeting called for that purpose, and to employ all lawful means, as provided for by this Act, to collect the sum or sums required for such salaries and other expenses ; and should the sums thus provided be insufficient to defray all the expenses of such school, the Trustees shall have

And for deficiencies.

have authority to assess and cause to be collected any additional rate, in order to pay the balance of the Teacher's salary, and other expenses of such school.

Eighthly.—To make out a list of the names of all persons rated by them for the school purposes of such section, and the amount payable by each, and to annex to such list a Warrant directed to the Collector of the school section, for the collection of the several sums mentioned in such list: Provided always, that any school-rate imposed by Trustees, according to this Act, may be made payable monthly, quarterly, half-yearly, or yearly, as they may think expedient.

To make out a rate-bill list and Warrant.

Proviso: such rate-bill how payable.

Ninthly.—To apply to the Municipality of the Township, or employ their own lawful authority, as they may judge expedient, for the raising and collecting of all sums authorized in the manner hereinbefore provided, to be collected from the freeholders and householders of such section, by rate, according to the valuation of taxable property, as expressed in the Assessor's or Collector's Roll; and the Township Clerk or other officer having possession of such roll is hereby required to allow any one of the Trustees or their authorized Collector, to make a copy of such roll, as far as it shall relate to their school section.

To apply to the Township Council for raising school moneys.

Duty of Township Clerk.

Tenthly.—To exempt wholly or in part, from the payment of school-rates, such indigent persons as they shall think proper, and the amount of the same shall be a charge upon the other rateable inhabitants of the school section, and shall not be deducted from the salary of a Teacher.

To exempt indigent persons.

Teacher's salary not to be lessened.

Eleventhly.—To sue for and recover by their name of office, the amounts of school-rates or subscriptions due from persons residing without the limits of their school section, and making default of payment.

To sue defaulters.

Twelfthly.—To appoint the place of each annual school meeting, and to cause notices to be posted in at least three public places of such section, at least six days before the time of holding such meeting; to call and give like notices of any special meeting of the freeholders or householders of such section, for the filling up of any vacancy in the Trustee Corporation, occasioned by death, removal, or any other cause whatever, or for the selection of a new school site, or for any other school purpose, as they may think proper; to specify the object or objects of such meeting; which meeting shall be organized, and its proceedings recorded in the same manner, as those of an annual school meeting; and a copy of them, in like manner, shall be transmitted to the local Superintendent: Provided always, that in case of a vacancy in the office of any of the Trustees, during the period for which they shall have been respectively elected, the person or persons chosen to fill such vacancy, shall hold office only for the unexpired term.

To fix the place of the school meeting.

To call special meetings.

Mode of conducting special meetings.

Proviso.

Thirteenthly.—To permit all residents in such section between the ages of five and twenty-one years of age, to attend the school, so long as their conduct shall be agreeable to the rules of such school, and so long as the fees or rates required to be paid on their behalf, are duly discharged: Provided always, that this requirement shall not extend to the children of persons in whose behalf a separate school shall have been established, according to the nineteenth section of this Act.

To admit persons to attend the school, on conditions.

Exceptions.

Fourteenthly.—To visit the school from time to time, and see that it is conducted according to the regulations authorized by law.

To visit the school, &c.

Fifteenthly.—To see that no un-authorized books are used in the school, but that the pupils are duly supplied with an uniform series of text books, sanctioned and recommended according to law; and to procure annually, for the benefit of their school section, some periodical devoted to education.

To see that proper books are used.

Sixteenthly.—To exercise all the corporate powers vested in them by this Act, for the fulfilment of any contract or agreement made by them; and in case any of the Trustees shall wilfully neglect or refuse to exercise such powers, he or they shall be personally responsible for the fulfilment of such contract or agreement.

To be personally responsible in certain cases.

Seventeenthly.—To appoint a Librarian, and to take such steps as they may judge expedient, and as may be authorized according to law, for the establishment, safe-keeping, and proper management of a school library, whenever provision shall have been made and carried into effect for the establishment of school libraries.

To appoint a librarian and provide a library.

Eighteenthly.—

To ascertain the number of children of school age.

To read the school report.

Proceeding if the account is not satisfactory to the majority of the meeting.

To prepare and transmit the annual school report.

Contents of such report: time of keeping the school open.

Amount of moneys received and expended.

Number of children.

Attendance of pupils.

Average attendance.

Branches taught, &c.

Penalty for a false report by a Trustee; or false register or return.

*V. H. Rice
cap 183 sec 4*

Foreign books when only to be used.

Parental and religious rights.

Proviso.

Eighteenthly.—To ascertain the number of children between the ages of five and sixteen years residing in their section on the thirty-first day of December in each year; and to cause to be prepared and read at the annual meeting of their section, their annual school report for the year then terminating, which report shall include, among other things prescribed by law, a full and detailed account of the receipts and expenditures of all school moneys received and expended in behalf of such section, for any purpose whatsoever, during such year; and if such account shall not be satisfactory to a majority of the freeholders or householders present at such meeting, then a majority of the said freeholders or householders shall appoint one person, and the Trustees shall appoint another; and the two arbitrators thus appointed shall examine the said account, and their decision respecting it shall be final: or, if the two arbitrators thus appointed shall not be able to agree, they shall select a third, and the decision of the majority of the arbitrators so chosen shall be final; and such arbitrators, or a majority of them, shall have authority to collect, or cause to be collected, whatever sum or sums may be awarded against any person or persons by them, in the same manner and under the same regulations as those according to which Trustees are authorized by the twelfth section of this Act to collect school-rates; and the sum or sums thus collected shall be expended in the same manner as are other moneys for the common school purposes of such section.

Nineteenthly.—To prepare and transmit, or cause to be prepared and transmitted annually, before the fifteenth day of January, a report to the Local Superintendent; which report shall be signed by the majority of the Trustees, and made according to a form provided by the Chief Superintendent of Schools, and shall specify:

Firstly.—The whole time the school in their section shall have been kept by a qualified Teacher during the year ending the thirty-first day of the previous December.

Secondly.—The amount of moneys received from the school fund, from local rates or contributions, and from other sources, distinguishing the same; and the manner in which all such moneys have been expended.

Thirdly.—The whole number of children residing in the school section, over the age of five years, and under the age of sixteen; the number of children and young persons taught in the school in winter and summer, distinguishing the sexes, and those who are over and under sixteen years of age; the average attendance of pupils in both winter and summer.

Fourthly.—The branches of education taught in the school; the number of pupils in each branch; the text-books used; the number of public school examinations, lectures and visits, and by whom, and such other information respecting the school premises and library, as may be required in the form of a report provided by the Chief Superintendent of Schools.

XIII. And be it enacted, That every Trustee of a Common School who shall knowingly sign a false report, and every Teacher of a Common School who shall keep a false school Register, or make a false return, with the view of obtaining a larger sum than the just proportion of school moneys coming to such Common School, shall, for each offence, forfeit to the Common School Fund of the Township, the sum of five pounds, and may be prosecuted before any such Justice of the Peace, by any person whatever, and convicted on the oath of any one credible witness other than the prosecutor, and if convicted, the said penalty shall, if not forthwith paid, be levied with costs, by distress and sale of the goods and chattels of the offender, under Warrant of such Justice, and paid over by him to the said Common School Fund, or the said offender shall be liable to be tried and punished for the misdemeanor.

XIV. And be it enacted, That no foreign books in the English branches of education shall be used in any Model or Common School, without the express permission of the Council of Public Instruction; nor shall any pupil in any such School be required to read or study in or from any religious book, or join in any exercise of devotion or religion, which shall be objected to by his or her parents or guardians: Provided always, that within this limitation, pupils shall be allowed to receive such religious instruction

instruction as their parents and guardians shall desire, according to the general regulations which shall be provided according to law.

SECONDLY.—COMMON SCHOOL TEACHERS AND THEIR DUTIES.

XV. And be it enacted, That no Teacher shall be deemed a qualified Teacher within the meaning of this Act, who shall not at the time of his engaging with the Trustees, and applying for payment from the School Fund, hold a certificate of qualification, as hereinafter provided by this Act; Provided always, that certificates of qualification given by local Superintendents, shall be in force until the first of January, one thousand eight hundred and fifty-one.

A qualified Teacher defined.

Proviso.

XVI. And be it enacted, That it shall be the duty of every Teacher of a Common School—

Duties of Teachers.

Firstly.—To teach diligently and faithfully all the branches required to be taught in the School, according to the terms of his engagement with the Trustees, and according to the provisions of this Act.

To observe the law and agreement.

Secondly.—To keep the daily, weekly and monthly or quarterly registers of the School; to maintain proper order and discipline therein, according to the forms and regulations which shall be provided according to law; also to keep a Visitors' Book (which the Trustees shall cause to be provided for that purpose) and he shall enter therein the visits made to his school, and shall present such book to each Visitor, and request him to make such remarks as may have been suggested by such visit.

Registers.

Discipline.

Visitors' book, &c.

Thirdly.—To have, at the end of each quarter, a public examination of his school, of which he shall give due notice, through the pupils, to their parents and guardians, and the Trustees of the school, and of which he shall also give due notice to any School Visitors who shall reside in or adjacent to such school section.

Quarterly examinations, &c.

Fourthly.—To furnish to the Local or Chief Superintendent of Schools, when desired, any information which it may be in his power to give respecting any thing connected with the operations of his school, or in any wise affecting its interest or character.

Information to the Superintendents.

Fifthly.—To keep carefully, and at the time of his leaving a school, to deliver up to the order of the Trustees, the Registers and Visitors' Book, appertaining to the school: Provided always, that he shall, at all times, when desired by them, give Trustees or Visitors access to such Registers and Visitors' Book.

To deliver papers, &c.

Proviso.

XVII. And be it enacted, That any Teacher shall be entitled to be paid at the same rate mentioned in his agreement with the Trustees, even after the expiration of the period of his agreement, until the Trustees shall have paid him the whole of his salary, as Teacher of the school, according to their engagement with him: Provided always, that in case of any difference between Trustees and a Teacher in regard to his salary, the sum due to him, or any other matter in dispute between them, it shall be lawful to submit such matter in dispute to arbitration, and each party shall choose one Arbitrator, and in case either party in the first instance shall neglect or refuse to name and appoint an Arbitrator on his behalf, it shall be lawful for the party requiring such arbitration, by a notice in writing to be served upon the party so neglecting or refusing to make such appointment, to require the opposite party within three days, inclusive of the day of the service of such notice, to name and appoint an Arbitrator on his behalf, which notice shall name the Arbitrator of the party serving such notice; and in case the party upon whom such notice is served shall not, within the three days mentioned in such notice, name and appoint such arbitrator, then the party requiring such arbitration shall and may nominate and appoint the second arbitrator, and the two Arbitrators in either way chosen, and the Local Superintendent, or any person chosen by him to act on his behalf, in case he cannot attend, or any two of them, shall have full authority to make an award between them, and such award shall be final: Provided always, that, so often as any such submission shall fall through, it shall be lawful to re-submit the matters in dispute until a final award shall be made between them.

Protection of Teachers.

Mode of settling any differences between Trustees and Teachers.

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THIRDLY.—

THIRDLY.—DUTIES OF TOWNSHIP COUNCILS.

Duties of Township Councils.

XVIII. And be it enacted, That it shall be the duty of the Municipality of each Township in Upper Canada :

Levying assessments for school purposes, as desired by Trustees.

Firstly.—To levy such sum, by assessment, upon the taxable property in any school section, for the purchase of a school-site, the erection, repairs, renting and furnishing of a school-house, the purchase of apparatus and text-books for the school, books for the library, salary of the Teacher, as shall be desired by the Trustees of such school-section, on behalf of the majority of the freeholders or house-holders at a public meeting called for such purpose or purposes, as provided for by the twelfth section of this Act : Provided always, that such Municipality may, if it shall judge expedient, grant to the Trustees of any school section, on their application, authority to borrow any sum or sums of money which may be necessary for the purposes herein mentioned, in respect to school-sites, school-houses and their appendages, or for the purchase or erection of a Teacher's residence, and cause to be levied upon the taxable property in such section, such sum in each year as shall be necessary for the payment of the interest thereon, and as shall be sufficient to pay off the principal within ten years.

Authorizing loans for school buildings.

Establishing a Township Model school.

Secondly.—To levy, at its discretion, such sum or sums as it shall judge expedient for procuring the site and for the erection and support of a Township Model School, and for purchasing books for a Township Library, under such regulations as shall be provided according to law : Provided always, that the members of the Township Municipality shall be the Trustees of such Model School, and shall possess the powers of Common School Trustees in respect to all matters affecting such Model School : Provided also, that the Trustees of any one or more common schools shall have authority, at their discretion, and with the consent of such Council, to merge their school or schools into such Model School ; and provided likewise, that tuition to student-teachers in such Model School shall be free.

Members of the Council to be Trustees.

Proviso.

Forming new school sections.

Thirdly.—To form portions of the Township, where no schools have been established, into school sections ; to appoint a person in each new school section to call the first school section meeting ; and to cause such person to be notified in the manner prescribed in the fourth section of this Act.

Altering and uniting school sections.

Fourthly.—To alter any school section already established, and to unite two or more school sections into one, at the request of the majority of the freeholders or house-holders in each of such sections, expressed at a public meeting called by the Trustees for that purpose : Provided always, that the first election of Trustees in such section, consisting of two or more sections united, shall be appointed and held in the same manner as is provided for in the fourth section of this Act in respect to a new school section : Provided secondly, that any alteration in the boundaries of a school section shall not go into effect before the twenty-fifth day of December next after the time when it shall have been made ; nor shall any step be taken towards the alteration of the boundaries of any school section, nor any application be entertained for that purpose, unless it shall clearly appear that all parties affected by such alteration have been duly notified of such intended step or application : Provided thirdly, that the several parts of such united or altered school sections shall have the same claim to a share of the Common School Fund, to which they would have been entitled, had they not been altered or united ; and provided fourthly, that any school site, or school-house, or other school property which shall not be required in consequence of such alteration or union of school sections, shall be disposed of by sale or otherwise, in such a manner as a majority of the freeholders or house-holders in the altered or united school sections shall think proper, at a public meeting called for that purpose, and the proceeds shall be applied to the erection of a new school-house, or other common school purposes of such united or altered sections ; except that the inhabitants transferred from one school section to another, shall be entitled, for the common school purposes of the section to which they are attached, to such a proportion of the proceeds of the disposal of such school-house or other common school property, as the assessed value of their property bears to that of the other inhabitants of the school section from which they shall

First meeting in a united section.

Alterations in school sections when to go into effect.

Parties concerned to be apprized.

Privileges of altered sections secured.

Disposal of property.

shall have been separated: Provided fifthly, that union school sections consisting of parts of two or more Townships, may be formed and altered (under the conditions prescribed in this clause in respect to alterations of other school sections,) by the Reeves and Local Superintendent or Superintendents of the Townships out of parts of which such sections are proposed to be formed, at a meeting appointed for that purpose by any two of such Town Reeves; of which meeting the other party or parties authorized to act with them shall be duly notified: Provided sixthly, that each union school section composed of portions of adjoining Townships, shall, for all purposes of Trustee elections and control, be deemed one school section, and shall be considered, in respect to superintendence and taxing for the erection of a school-house, as belonging to the Township in which the school-house may be situated.

Union school sections how formed and altered.

Fifthly.—To cause the Clerk of such Township, to furnish the Local Superintendent of schools with a copy of all the proceedings of such Council relating to the formation or alteration of school sections, all school assessments, and other educational matters.

Proviso: as to parts of adjoining Township.

XIX. And be it enacted, That it shall be the duty of the Municipal Council of any Township, and of the Board of School Trustees of any City, Town or incorporated Village, on the application in writing of twelve or more resident heads of families, to authorize the establishment of one or more separate schools for Protestants, Roman Catholics, or coloured people, and, in such case, it shall prescribe the limits of the divisions or sections for such schools, and shall make the same provision for the holding of the first meeting for the election of Trustees of each such separate school or schools, as is provided in the fourth section of this Act for holding the first school meeting in a new school section: Provided always, that each such separate school shall go into operation at the same time with alterations in school sections, and shall be under the same regulations in respect to the persons for whom such school is permitted to be established, as are Common Schools generally: Provided secondly, that none but coloured people shall be allowed to vote for the election of Trustees of the separate school for their children, and none but the parties petitioning for the establishment of, or sending children to a separate Protestant or Roman Catholic school, shall vote at the election of Trustees of such school: Provided thirdly, that each such separate Protestant or Roman Catholic, or coloured school, shall be entitled to share in the school fund according to the average attendance of pupils attending each such separate school, (the mean attendance of pupils for both summer and winter being taken,) as compared with the whole average attendance of pupils attending the Common Schools in such City, Town, Village or Township: Provided fourthly, that no Protestant separate school shall be allowed in any school division except when the Teacher of the Common School is a Roman Catholic, nor shall any Roman Catholic separate school be allowed except when the Teacher of the Common School is a Protestant: Provided fifthly, that the Trustees of the Common School sections within the limits of which such separate school section or sections shall have been formed, shall not include the children attending such separate school or schools, in their return of children of school age residing in their school sections.

Copies of certain proceedings to be furnished.

Separate schools for Protestants, Roman Catholics and Coloured People.

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Manner of electing Trustees for the same.

And of apportioning school moneys.

Proviso as to certain returns.

XX. And be it enacted, That whenever the majority of the resident house-holders of the several school sections of any Township, at public meetings called by Trustees for that purpose, shall desire to abolish local school section divisions, and have all their schools conducted under one system and one management, like the schools in Cities and Towns, the Municipality of such Township shall have authority to comply with their request thus expressed, by passing a By-law to that effect; and all the Common Schools of such Township shall be managed by one Board of Trustees, one of whom shall be chosen in and for each ward of the Township, if the Township be divided into wards, and if not, then the whole number shall be chosen in and for the whole Township, and invested with the same powers, and subject to the same obligations, as are provided and required, in respect to Trustees in Cities and Towns, by the twenty-fourth section of this Act.

All the school sections in a Township under the management of one Board of Trustees.

FOURTHLY.—COUNCILS AND TRUSTEES IN CITIES, TOWNS, AND INCORPORATED VILLAGES, AND THEIR DUTIES.

Powers of Municipal Councils in Cities & Towns.

XXI. And be it enacted, That the Council or Common Council of such City or incorporated Town in Upper Canada, shall be and is hereby invested, within its limits and liberties as prescribed by law, and shall be subject to the same obligations as are the Municipal Council of each County and the Municipality of each Township by the eighteenth and twenty-seventh sections of this Act: Provided nevertheless, that the appointment of the Local Superintendent of schools for such City or Town, shall be made by the Board of School Trustees for such City or Town.

Two Trustees in each ward.

Order of retiring from Office.

XXII. And be it enacted, That in each ward into which any City or Town is or shall be divided according to law, two fit and proper persons shall be elected School Trustees by a majority of all the taxable inhabitants of such ward; one of which Trustees (to be determined by lot, at the first Trustee meeting after their election) shall retire from office the second Wednesday of January following his election; and the second of whom shall continue in office one year longer, and until his successor is elected; and the persons thus elected shall form one Board of School Trustees for such City or Town.

Board of Trustees.

A Trustee to be selected in each ward of a City or Town.

Election.

XXIII. And be it enacted, That on the second Wednesday in January of each year, at the time prescribed by the second section of this Act, one fit and proper person shall be elected Trustee in each ward of every City and Town, and shall continue in office two years, and until his successor is elected: Provided always, that such election shall be held at the place where the last municipal election was held for such ward, and under the direction of the same returning officer, or, in his default, of such person as the electors present shall choose; and such election shall be conducted in the same manner as an ordinary municipal election in each ward of such City or Town.

To be a Corporation.

Duties of the Board.

XXIV. And be it enacted, That the Board of School Trustees for each City and Town, shall be a corporation under the name of "The Board of School Trustees of the City (or Town) of _____ in the County of _____;" (the first meeting thereof may be called in the City or Town Council room by any Trustee), and it shall be the duty of such Board:

To appoint certain Officers, &c.

Firstly.—To appoint annually or oftener, a Chairman, Secretary, Superintendent of Schools, and one or more Collectors of school rates, (if required); and to appoint the times and places of their meetings, and the mode of calling them,—of conducting and recording their proceedings,—and of keeping all their School accounts.

To hold school property, &c.

Secondly.—To take possession of all Common School property, and to accept and hold as a Corporation all property which may have been acquired or given for Common School purposes in such City or Town, by any title whatsoever; to manage or dispose of such property, and all moneys or income for Common School purposes, until the power hereby given shall be taken away or modified by law, and to apply the same, or the proceeds, to the objects for which they have been given or acquired.

To provide common school premises, text-books, &c.

Thirdly.—To do whatever they may judge expedient with regard to purchasing or renting school-sites and premises,—building, repairing, furnishing, warming and keeping in order the school-house or school-houses and its or their appendages, lands, enclosures and moveable property,—for procuring suitable apparatus and text-books,—and for the establishment and maintenance of a school library or school libraries.

To determine the number and kind of schools; employ Teachers, &c.

Fourthly.—To determine the number, sites, kind and description of schools which shall be established and maintained in such City or Town,—the Teacher or Teachers who shall be employed,—the terms of employing them,—the amount of their remuneration, and the duties which they are to perform,—the salary of the Superintendent of Schools appointed by them, and his duties; and to adopt, at their discretion, such measures as they shall judge expedient, in concurrence with the Trustees of the County Grammar School, for uniting one or more of the Common Schools of the City or Town with such Grammar School.

A Committee to take the charge of each school.

Fifthly.—To appoint annually, or oftener, if they shall judge expedient, for the special charge, oversight, and management of each school within such City or Town, and

and under such regulations as they shall think proper to prescribe, a Committee of not more than three persons for each school.

Sixthly.—To prepare from time to time, and lay before the Municipal Council of such City or Town, an estimate of the sum or sums which they shall judge expedient, for paying the whole or part of the salaries of Teachers,—for purchasing or renting school premises,—for building, renting, repairing, warming, furnishing and keeping in order the school-houses and their appendages and grounds,—for procuring suitable apparatus and text-books for the schools,—for the establishment and maintenance of school libraries,—and for all the necessary expenses of the schools under their charge; and it shall be the duty of the Common Council or Council of such City or Town, to provide such sum or sums in such manner as shall be desired by the said Board of School Trustees.

To make an estimate of expenses.

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The Municipal Council to provide for such expenses.

Seventhly.—To levy at their discretion, any rates upon the parents or guardians of children attending any school under their charge, and to employ the same means for collecting such rates, as Trustees of Common Schools in any Townships may do under the twelfth section of this Act: Provided always, that all moneys thus collected shall be paid into the hands of the Chamberlain or Treasurer of such City or Town for the Common School purposes of the same, and shall be subject to the order of the said Board of School Trustees.

To levy school rate bills.

The sums thus collected to be paid over.

Eighthly.—To give orders to Teachers and other school officers and creditors upon the Chamberlain or Treasurer of such City or Town, for the sum or sums which shall be due them.

To give orders for money to Teachers, &c.

Ninthly.—To call and give notice of annual and special school meetings of the taxable inhabitants of such City or Town, or of any Ward in it, in the same manner and under the same regulations as are prescribed in the twelfth section of this Act, for the appointment of annual and special school meetings in the school sections of Townships; Provided always, that any person elected at any special ward school meeting, to fill a vacancy which shall have occurred in the Board of Trustees, from any cause whatever, shall hold office only during the unexpired part of the term for which the person whose place shall have become vacant, was elected to serve.

To call school meetings.

As to persons elected to fill vacancies.

Tenthly.—To see that all the pupils in the schools are duly supplied with an uniform series of authorized text-books,—to appoint a Librarian, and take charge of the school library or libraries, whenever established.

Supplying proper text-books, &c.

Eleventhly.—To see that all the schools under their charge are conducted according to the regulations authorized by law; and, at the close of each year, to prepare and publish, in one or more of the public papers, or otherwise, for the information of the inhabitants of such City or Town, an annual report of their proceedings, and of the progress and state of the schools under their charge,—of the receipts and expenditure of all school moneys,—and to prepare and transmit annually, before the fifteenth of January, to the Chief Superintendent of Schools, a report, signed by a majority of the Trustees, and containing all the information required in the reports of Common School Trustees by the twelfth section of this Act, and any additional items of information which may be lawfully required, and made according to a form which shall be provided for that purpose by the Chief Superintendent of Schools.

Further duties.

Annual school reports, &c.

Annual report to the Chief Superintendent.

Contents of such report.

XXV. And be it enacted, That the Municipality of every incorporated Village, shall possess and exercise all the powers, and be subject to all the obligations with regard to the levying and raising of moneys for Common School purposes, and for the establishment and maintenance of school libraries, within the limits of such incorporated Village, as are conferred and imposed by this Act upon the Municipal Corporations of Cities: Provided always, that on the second Wednesday in January, one thousand eight hundred and fifty-one, in each such incorporated Village, at the place of the then last annual election of Councillors, there shall be a meeting of the taxable inhabitants of such incorporated Village, and which meeting shall be organized and conducted in the same manner as is prescribed in the twenty-third section of this Act, for the conducting of annual school meetings in the wards of Cities and Towns; and at such meeting,

Powers of Councils of incorporated Villages.

First election of Trustees.

How held and conducted,

Six Trustees to be elected.
Mode of retirement from Office.

meeting, six fit and proper persons, from among the resident house-holders, shall be elected School Trustees for such incorporated Village; and the persons thus chosen shall be divided by lot into three classes, of two individuals each, to be numbered one, two, three; the first class shall hold office one year,—the second, two years, and the third, three years, and until their successors are elected; but each Trustee retiring from office shall be eligible to be re-elected with his own consent; Provided secondly, that there shall be a like school meeting annually in each such incorporated Village, at which two persons shall be chosen Trustees in the place of the two retiring from office, and shall continue in office two years, and until their successors are elected: Provided thirdly, that the first annual school meeting in each incorporated Village, shall be called by the Townreeve of such Village, who shall cause notices to be posted in at least six public places of such Village, at least six days before the time of holding such meeting.

Two Trustees to be elected thereafter.
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see 2
Mode of calling the first meeting.

Trustees thus substituted for the present Trustees.

XXVI. And be it enacted, That the Trustees elected in each incorporated Village, according to the provisions of the preceding section, shall succeed to all the rights, powers, obligations and liabilities of the present Trustees of such incorporated Village, and shall be a Corporation under the title of the "Board of Trustees of the Incorporated Village of _____, in the County of _____;" and shall possess all the powers, and be subject to all the obligations, within the limits of such incorporated Village, as are conferred and imposed by the twenty-fourth section of this Act upon the Trustees of Cities and Towns.

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To be a Corporation.
Their powers, obligations and duties.

FIFTHLY.—DUTIES OF COUNTY MUNICIPAL COUNCILS.

Duties of County Councils.

XXVII. And be it enacted, That it shall be the duty of the Municipal Council of each County—

To raise a sum equal to the Legislative school grant.

Firstly.—To cause to be levied each year upon the several Townships of such County, such sum or sums of money, for the payment of the salaries of legally qualified Common School Teachers, as shall at least be equal (clear of all charges of collection) to the amount of school money apportioned to the several Townships thereof for such year, by the Chief Superintendent of Schools, as notified by him to such Council, through the County Clerk: Provided always, that the sum or sums so levied may be increased at the discretion of such Council, either to increase the County School Fund, or to give special or additional aid to new or needy School Sections, on the recommendation of one or more Local Superintendents: Provided also, that the sum required to be levied in such County in each year; for the salaries of legally qualified Teachers, shall be collected and paid into the hands of the County Treasurer, on or before the Fourteenth day of December; and provided likewise, that in case of the non-payment of any part of such sum into the hands of the County Treasurer at that time, no Teacher shall, upon application, be refused the payment of the sum to which he may be entitled from such year's County School Fund, but the County Treasurer shall pay any local Superintendent's lawful order in behalf of such Teacher, in anticipation of the payment of the County School assessment; and the County Council shall make the necessary provision to enable the County Treasurer to pay the amount of such lawful order.

Such sum may be increased.

Time for payment of County school assessment.

No Teacher to be refused the payment on account of the non-collection of assessment.

To raise money for school library.

Secondly.—To raise by assessment such sum or sums of money as it shall judge expedient, for the establishment and maintenance of a County Common School Library.

To appoint local Superintendents.

Thirdly.—To appoint annually a Local Superintendent of Schools for the whole County, or for any one or more Townships in such County, as it shall judge expedient; to fix (within the limits prescribed by the thirtieth section of this Act) and provide for the salary or salaries of such Local Superintendent or Superintendents: Provided always, that no such Local Superintendent shall have the oversight of more than one hundred schools; and provided also, that the County Clerk shall forthwith notify the Chief Superintendent of Schools of the appointment and address of each such Local Superintendent, and of the County Treasurer; and shall likewise furnish him with a copy of all proceedings of such Council, relating to School assessments and other educational matters.

No local Superintendent to have charge of more than 100 schools, &c.

Fourthly.—

Fourthly.—To see that sufficient security be given by all officers of such Council to whom school moneys shall be entrusted,—to see that no deduction be made from the School Fund by the County Treasurer or Sub-treasurer, for the receipt and payment of school moneys,—to appoint, if it shall judge expedient, one or more Sub-treasurers of school moneys, for one or more Townships of such County: Provided always, that each such Sub-treasurer shall be subject to the same responsibilities and obligations in respect to the accounting for school moneys and the payment of lawful orders for such moneys given by any Local Superintendent within the parts of the County for which he is appointed Sub-treasurer, as are imposed by this Act upon each County Treasurer, in respect to the paying and accounting for school moneys.

To secure all school moneys, &c.
No deduction allowed.

May appoint a sub-treasurer.

Fifthly.—To appoint annually, or oftener, Auditors, whose duty it shall be to audit the accounts of the County Treasurer and other officers to whom school moneys shall have been intrusted, and report to such Council; and the County Clerk shall transmit to the Chief Superintendent of Schools, on or before the first day of March in each year, a certified copy of the abstract of such report, and also give any explanation relating thereto, as far as he is able, which may be required by the Chief Superintendent.

To cause school accounts to be audited, &c.

Abstract of such accounts to be transmitted, &c.

SIXTHLY—CONSTITUTION AND DUTIES OF THE COUNTY BOARDS OF PUBLIC INSTRUCTION.

XXVIII. And be it enacted, That the Board of Trustees for the County Grammar School and the Local Superintendent or Superintendents of Schools in each County, shall constitute a Board of Public Instruction for such County: Provided always, that where there is more than one Grammar School in a County, the County Council shall have authority to divide such County into as many Circuits as there are County Grammar Schools, and the Trustees of each County Grammar School and the Local Superintendent or Superintendents of Schools in each circuit, shall be a Board of Public Instruction for such circuit: Provided also, that at any lawful meeting of such Board, not less than three members, including a Local Superintendent of schools, shall constitute a *quorum* for examining and giving certificates of qualification to Common School Teachers, and not less than five members shall constitute a *quorum* for the transaction of any other business: Provided likewise, that the incidental expenses connected with the meeting and proceedings of each County Board of Public Instruction, shall be provided for by the Municipal Council of such County.

County Board of Public Instruction constituted.

Quorum for the examination of Teachers: and for other purposes.

Incidental expenses how defrayed.

XXIX. And be it enacted, That it shall be the duty of each County Board of Public Instruction—

Duties of each County Board.

Firstly.—To meet not less than four times a year,—to determine the time and places of its own meetings,—and the order of its proceedings, and the manner of recording them.

To meet quarterly, &c.

Secondly.—To examine and give certificates of qualification to Teachers of Common Schools, arranging such Teachers into three classes according to their attainments and ability, as shall be prescribed in a programme of examination and instructions to be provided according to law; also, to annul any such certificate as it shall judge expedient: Provided always, that no certificate of qualification shall be given to any person as a Teacher, who shall not furnish satisfactory proof of good moral character; nor to any person who shall not, at the time of applying for such certificate of qualification, be a natural-born or naturalized subject of Her Majesty, or who shall not produce a certificate of having taken the oath of allegiance to Her Majesty, before some one of Her Majesty's Justices of the Peace for the County in which he shall be a resident; and all Justices of the Peace are hereby authorized to administer such oath of allegiance: Provided also, that any such certificate of qualification shall be general, as regards the County, or limited as to time or place, at the pleasure of the majority of the members of the County Board of Public Instruction present at such examination: Provided likewise, that every such certificate shall have the signature of at least one Local Superintendent of Schools.

To examine and give certificates of qualification to Teachers.

Proviso.

Proviso: certificate may be general or limited.

Proviso: must be signed.

To select text-books, &c.

Thirdly.—To select (if deemed expedient) from a list of text-books recommended or authorized by the Council of Public Instruction, such books as they shall think best adapted for use in the Common Schools of such County or Circuit, and to ascertain and recommend the best facilities for procuring such books.

To provide for a County school library: and promote interests of schools.

Fourthly.—To adopt all such lawful means in their power as they shall judge expedient, to advance the interests and usefulness of Common Schools, to promote the establishment of School Libraries, and to diffuse useful knowledge in such County or Circuit.

SEVENTHLY. — DUTIES OF LOCAL SUPERINTENDENTS OF SCHOOLS.

Remuneration; &c.

XXX. And be it enacted, That each Local Superintendent of Common Schools, appointed as provided for in the twenty-seventh section of this Act, shall be entitled annually, to not less than one pound currency per School placed under his charge, together with any additional remuneration or allowance which the Council appointing him shall grant; and such Superintendent shall be paid the same in quarterly instalments by the County Treasurer.

To be paid quarterly.

Duties.

XXXI. And be it enacted, That it shall be the duty of each Local Superintendent of Schools—

To distribute the common school fund.

First.—As soon as he shall have received from the County Clerk a notification of the amount of money apportioned to the Township or Townships within the limits of his charge, to apportion the same among the several School sections entitled to receive it, (unless otherwise instructed by the Chief Superintendent of Schools) according to the rates of the average attendance of pupils attending each Common School, (the mean attendance of pupils for both summer and winter being taken) as compared with the whole average number of pupils attending the Common Schools of such Township.

To give checks to Teachers for school moneys. Conditions.

Secondly.—To give to any qualified Teacher, and to no other, on the order of the Trustees of any School section, a Check upon the County Treasurer or sub-Treasurer, for any sum or sums of money apportioned and due to such section; Provided always, that he shall not pay any such order of the Trustees of any School section, from whom no satisfactory annual school report shall have been received for the year ending the last day of December preceding; nor unless it shall appear by such report, that a School has been kept by a qualified Teacher in such section, for at least six months during the year ending at the date of such report; Provided also, that the foregoing condition shall not apply to the order or orders of Trustees in any new School section, for money apportioned and due to such section.

Conditions not to apply to new school sections.

To visit each school.

Duties at such visitations.

Thirdly.—To visit each Common School within his jurisdiction, at least once in each quarter; and at the time of each such visit, to examine into the state and condition of the School, as respects the progress of the pupils in learning,—the order and discipline observed,—the system of instruction pursued,—the mode of keeping the School Registers,—the average attendance of pupils,—the character and condition of the building and premises,—and to give such advice as he shall judge proper.

To deliver public lectures.

Topics.

Other duties.

Fourthly.—To deliver in each school section, at least once a year, a public lecture on some subject connected with the objects, principles and means of practical education; and to do all in his power to persuade and animate Parents, Guardians, Trustees and Teachers, to improve the character and efficiency of the Common Schools, and secure the universal and sound education of the young.

To enforce the law.

To recommend the use of text-books, &c.

Fifthly.—To see that all the schools are managed and conducted according to law,—to prevent the use of unauthorized, and to recommend the use of authorized books in each school,—to acquire and give information as to the manner in which such authorized books can be obtained, and the economy and advantages of using them.

To attend the meetings of the County Board of Instruction, &c.

Sixthly.—To attend the meetings of the County Board of Public Instruction,—to meet and confer with the Chief Superintendent of Schools at such time and place as he may appoint when making an official visit to such County, for the promotion of the interests of Education.

Seventhly.—

Seventhly.—To attend the Arbitrations, and to meet the Townreeves as provided for in the twelfth and eighteenth sections of this Act,—to decide upon any other questions of difference which may arise between interested parties under the operation of this or any preceding Act, and which may be submitted to him; Provided always, that he may, if he shall deem it advisable, refer any such question to the Chief Superintendent of Schools: Provided also, that any aggrieved or dissatisfied party, in any case not otherwise provided for by this Act, shall have the right of appeal to the Chief Superintendent of Schools.

To attend arbitrations.
To decide other questions.
Or refer them to the Chief Superintendent.
Proviso: for appeal.

Eighthly.—To suspend the certificate of qualification of any Teacher, for any cause which shall appear to him to require it, until the next ensuing meeting of the County Board of Public Instruction, where the case shall be disposed of in such manner as a majority of the members present shall think proper: Provided always, that due notice shall be given to the Teacher suspended, of such meeting of the County Board: Provided also, that the cancelling or suspension of a Teacher's certificate of qualification shall release his School Trustees from any obligation to continue him in their employment.

To suspend certificates of qualification in certain cases.

Effect of such cancelling.

Ninthly.—To act in accordance with the regulations and instructions which shall be provided according to law,—to give any information in his power (when desired) to the Chief Superintendent of Schools respecting any Common School matter within his jurisdiction,—to furnish the County Auditors, when required, with the Trustees' orders as the authority for his Checks upon the County or Sub-Treasurer for School moneys,—to deliver copies of his official correspondence, and all school papers in his custody, to the order of the County Council on retiring from office.

To observe all lawful regulations, &c., give information to Chief Superintendent, and accounts, &c. to auditors.

Tenthly.—To prepare and transmit to the Chief Superintendent of Schools, on or before the first day of March, an annual report, which shall be in such form as shall be provided by the said Chief Superintendent, and which shall state:

To transmit an annual school report.

1st.—The whole number of Schools and School sections or parts of sections in each Township within his jurisdiction.

Contents of such report.

2nd.—The number of pupils taught in each school over the age of five and under the age of sixteen,—the number between the ages of sixteen and twenty-one years,—the whole number of children residing in each section, or part of a section, over the age of five and under the age of sixteen years.

Number of schools and of children of school age, &c.

3rd.—The length of time a school shall have been kept in each of such sections or parts of sections, by a qualified Teacher,—the branches taught,—the number of pupils in each branch, and the books used,—the average attendance of pupils, both male and female, in summer and in winter.

Time of keeping the schools open; branches taught. Books used, &c.

4th.—The amount of moneys which have been received and collected in each section or part of section—distinguishing the amount apportioned by the Chief Superintendent of Schools, the amount received from County Assessment, the amount raised by Trustees, and the amount from any other and what source or sources; also how such moneys have been expended, or whether any part remains unexpended, and from what causes; the annual salary of Teachers, male and female, with and without board.

The amount of moneys received and expended, &c.

5th.—The number of his and other School visits during the year,—the number of school lectures delivered,—the whole number of school-houses, their sizes, character, furniture and appendages, the number rented, the number erected during the year, and of what character, and by what means.

The number of school visits and lectures. Of school houses, &c.

6th.—The number of qualified Teachers,—their standing, sex, and religious persuasion,—the number, so far as he may be able to ascertain, of private Schools,—the number of pupils and subjects taught therein,—the number of Libraries, their extent, how established and supported; also, any other information which he may possess respecting the educational state, wants and advantages in each Township of his charge, and any suggestions which he shall think proper to make with a view to the improvement of Schools and diffusion of useful knowledge.

Of Teachers, &c. Of private schools, libraries, &c.

EIGHTHLY.—SCHOOL VISITORS AND THEIR DUTIES.

XXXII. And be it enacted, That all Clergymen recognized by law, of whatever denomination, Judges, Members of the Legislature, Magistrates, Members of County Councils and Aldermen, shall be School Visitors in the Townships, Cities, Towns and Villages where they shall respectively reside : Provided always, that persons holding the Commission of the Peace for the County only, shall not be School Visitors within Towns and Cities : Provided also, that each Clergyman shall be a School Visitor in any Township, Town or City where he may have pastoral charge.

XXXIII. And be it enacted, That it shall be lawful for each of the said School Visitors, to visit, as far as practicable, all the Public Schools in such Township, City, Town or Village ; especially to attend the quarterly examinations of Schools, and, at the time of any such visit, to examine the progress of the pupils, and the state and management of the School, and to give such advice to the Teachers and pupils, and any others present, as he may think advisable, in accordance with the regulations and instructions which shall be provided in regard to School Visitors according to law : Provided always, that a General Meeting of such Visitors may be held at any time or place which may be appointed by any two Visitors, on sufficient notice being given to the other Visitors in the Township, City, Town or Village, and it shall be lawful for such Visitors, thus assembled, to devise such means as they may deem expedient for the efficient visitation of the Schools, and to promote the establishment of Libraries and the diffusion of useful knowledge.

NINTHLY.—DUTIES OF THE CHIEF SUPERINTENDENT OF SCHOOLS.

XXXIV. And be it enacted, That the Governor may, from time to time, by Letters Patent under the Great Seal of the Province, appoint a fit and proper person to be Chief Superintendent of Schools for Upper Canada, who shall hold his office during pleasure, and shall receive a salary of the same amount as that now provided by law, or as may hereafter be provided by law, for the Superintendent of Education in Lower Canada ; and shall be responsible to, and subject to the direction of the Governor General, communicated to him through such Department of Her Majesty's Provincial Government, as by the Governor may be directed in that behalf ; and shall account for the contingent expenses of his office, as provided in respect of other public offices ; and shall be allowed two Clerks, who shall receive the same salaries as are or shall be by law attached to similar offices in the education law for Lower Canada, to commence from the first of July, one thousand eight hundred and fifty.

XXXV. And be it enacted, That it shall be the duty of the Chief Superintendent of Schools—

Firstly.—To apportion, annually, on or before the first day of May, all moneys granted or provided by the Legislature for the support of Common Schools in Upper Canada, and not otherwise appropriated by this Act, to the several Counties, Townships, Cities, Towns and incorporated Villages therein, according to the ratio of population in each, as compared with the whole population of Upper Canada ; or when the census or returns upon which such an apportionment is to be made, shall be so far defective, in respect to any County, Township, City, Town or Village, as to render it impracticable for the Chief Superintendent to ascertain from such data the share of school moneys which ought then to be apportioned to such County, Township, City, Town or Village, he shall ascertain, by the best evidence in his power, the facts upon which the ratio of such apportionment can be most fairly and equitably made, and make it accordingly.

Secondly.—To certify such apportionment made by him, to the Inspector-General, so far as it relates to the several Counties, Cities, Towns and incorporated Villages in Upper Canada, and to give immediate notice thereof to the Clerk of each County, City, Town and Village interested therein, stating the time when the amount of moneys thus apportioned will be payable to the Treasurer of such County, City, Town or Village.

Thirdly.—

Who shall be school visitors.

Proviso : as to County Magistrates.

School visitors may visit the schools, attend examinations of each school, &c.

Proviso : general meetings may be called.

Duties and objects of such meetings.

Chief Superintendent of schools.

His salary.

To account for the contingent expenses of his Office.

To be allowed two clerks ; their salaries.

Duties.

To apportion all moneys granted for the support of common schools.

To certify such apportionment to the Inspector General, &c.

Thirdly.—To prepare suitable forms, and to give such instructions as he shall judge necessary and proper, for making all reports, and conducting all proceedings under this Act, and to cause the same with such general regulations, as shall be approved of by the Council of Public Instruction, for the better organization and government of Common Schools, to be transmitted to the officers required to execute the provisions of this Act.

To prepare forms, &c. and transmit them to local Officers.

Fourthly.—To cause to be printed from time to time, in a convenient form, so many copies of this Act, with the necessary forms, instructions, and regulations to be observed in executing its provisions, as he may deem sufficient for the information of all officers of Common Schools, and to cause the same to be distributed for that purpose.

To cause copies of school law, regulations, &c., to be distributed.

Fifthly.—To see that all moneys apportioned by him, be applied to the objects for which they were granted; and for that purpose, to decide upon all matters and complaints submitted to him (and not otherwise provided for by this Act) which involve the expenditure of any part of the School Fund; and to direct the application of such balances of the School Fund as may have been apportioned for any year and forfeited according to the provisions of this Act: Provided always, that such balance of the School Fund shall be expended in making up the salaries of Teachers in the County to which they shall have been apportioned.

To see that school moneys are duly applied.

Sixthly.—To appoint one of his Clerks as his Deputy, to perform the duties of his office in case of his absence; and to appoint one or more persons, as he shall, from time to time, deem necessary, to inspect any school, or examine into any school matter, in the County where such person or persons reside, and report to him: Provided, that no allowance or compensation shall be made to such special inspector or inspectors for any service or services performed by him or them.

Disposal of balances of such moneys, &c., in certain cases.

To appoint a Deputy and Special Inspectors.

Seventhly.—To take the general Superintendence of the Normal School; and to use his best endeavours to provide for and recommend the use of uniform and approved text-books in the Schools generally.

Duties as to the Normal School: and text books.

Eighthly.—To employ all lawful means in his power to procure and promote the establishment of School Libraries for general reading, in the several Counties, Townships, Cities, Towns and Villages,—to provide and recommend the adoption of suitable plans of School-houses, with the proper furniture and appendages,—and to collect and diffuse useful information on the subject of education generally, among the people of Upper Canada.

School libraries.

Plans of school houses, &c.

Ninthly.—To submit to the Council of Public Instruction, all books or manuscripts which may be placed in his hands with the view of obtaining the recommendation or sanction of such Council, for their introduction as text-books or library books,—and to prepare and lay before the Council of Public Instruction, for its consideration, such general regulations for the organization and government of Common Schools, and the management of School Libraries, as he shall deem necessary and proper.

To submit books, manuscripts, &c., for approval.

To prepare general regulations, &c.

Tenthly.—To apportion whatever sum or sums of money shall be provided by the Legislature for the establishment and support of School Libraries: Provided also, that no aid shall be given towards the establishment or support of any School Library unless an equal amount be contributed and expended from local sources for the same object.

To apportion moneys for school libraries.

Proviso: condition of such apportionment.

Eleventhly.—To appoint proper persons to conduct County Teachers' Institutes, and to furnish such rules and instructions as he shall judge advisable in regard to the proceedings of such Institutes, and the best means of promoting their objects, in elevating the profession of school teaching and increasing its usefulness.

To appoint persons to conduct Teachers' Institutes, &c.

Twelfthly.—To be responsible for all moneys paid through him in behalf of the Normal and Model Schools, and to give such security for the same as shall be required by the Governor,—and to prepare and transmit all correspondence which shall be directed or authorized by the Council of Public Instruction for Upper Canada.

To account for moneys, &c.

Thirteenthly.—To make annually to the Governor, on or before the first day of July, a report of the actual state of the Normal, Model and Common Schools throughout Upper Canada, showing the amount of moneys expended in connexion with each, and from what sources derived, with such statements and suggestions for improving the

To report annually to the Governor.

Common

Common Schools and the Common School laws, and promoting education generally, as he shall deem useful and expedient.

TENTHLY.—CONSTITUTION AND DUTIES OF THE COUNCIL OF PUBLIC INSTRUCTION.

Council of Public Instruction for U. C.

Of whom to consist.

XXXVI. And be it enacted, That the Governor shall have authority to appoint not more than nine persons (of whom the Chief Superintendent of Schools shall be one) to be a Council of Public Instruction for Upper Canada, who shall hold their office during pleasure, and shall be subject from time to time to all lawful orders and directions in the exercise of their duties, which shall from time to time be issued by the Governor.

Providing a place and defraying the expenses of the meetings of such Council, &c.

XXXVII. And be it enacted, That the Chief Superintendent of Schools shall provide a place for the meetings of the Council of Public Instruction, and shall call the first meeting of the Council, and shall have authority to call a special meeting at any time by giving due notice to the other members; that the expenses attending the proceedings of the said Council, shall be accounted for by the Chief Superintendent of Schools as part of the contingent expenses of the Education Office; that the Senior Clerk in the Education Office shall be Recording Clerk to the said Council,—shall enter all its proceedings in a book kept for that purpose,—shall, as may be directed, procure the books and stationery for the Normal and Model Schools, and shall keep all the accounts of the said Council.

Clerk to the Council. His duties.

Duties of the Council.

XXXVIII. And be it enacted, That it shall be the duty of the said Council of Public Instruction, (three members of which, at any lawful meeting, shall form a quorum for the transaction of business)—

To regulate its own proceedings.

First.—To appoint a Chairman, and establish the times of its meetings, and the mode of its proceedings; which Chairman shall be entitled to a second or casting vote in cases of an equality of votes on any question.

To provide for permanent establishment and efficiency of Normal school.

Secondly.—To adopt all needful measures for the permanent establishment and efficiency of the Normal School for Upper Canada, containing one or more Model Schools for the instruction and training of Teachers of Common Schools in the science of Education and Art of Teaching.

To make rules for the Normal school: prescribe terms of admission, &c.

Thirdly.—To make from time to time the rules and regulations necessary for the management and government of such Normal School,—to prescribe the terms and conditions on which students shall be received and instructed therein,—to select the location of such school, and erect or procure and furnish the buildings therefor,—to determine the number and compensation of teachers, and all others who may be employed therein; and to do all lawful things which such Council shall deem expedient to promote the objects and interests of such school.

To appoint Teachers, &c.

To make regulations for the government of common schools.

Fourthly.—To make such regulations from time to time as it shall deem expedient for the organization, government and discipline of Common Schools,—the classification of Schools and Teachers, and for School Libraries throughout Upper Canada.

To examine and recommend books.

Fifthly.—To examine, and at its discretion, recommend or disapprove of text-books for the use of schools, or books for School Libraries: Provided always, that no portion of the Legislative School Grant shall be applied in aid of any school in which any book is used that has been disapproved of by the Council, and public notice given of such disapproval.

Proviso.

To account annually Grant for the Normal school.

Sixthly.—To transmit annually, through the Chief Superintendent of Schools, to the Governor, to be laid before the Legislature, a true account of the receipt and expenditure of all moneys granted for the establishment and support of the Normal School.

Grant for the Normal school.

And to facilitate the attendance of Teachers.

ELEVENTHLY.—MISCELLANEOUS PROVISIONS.

XXXIX. And be it enacted, That a sum not exceeding Fifteen Hundred Pounds per annum shall be allowed out of the Legislative School Grant for the salaries of officers and other contingent expenses of the Normal School; and that a sum not exceeding one thousand pounds per annum be allowed out of the said grant to facilitate the

the attendance of Teachers in training at the Normal School, under such regulations as shall from time to time be adopted by the Council of Public Instruction.

XL. And be it enacted, That the sum of money apportioned annually by the Chief Superintendent of Schools to each County, Township, City, Town or Village, and at least an equal sum raised annually by local assessment, shall constitute the Common School Fund of such County, Township, City, Town or Village, and shall be expended for no other purpose than that of paying the salaries of qualified Teachers of Common Schools: Provided always, that no County, City, Town or Village shall be entitled to a share of the Legislative School Grant without raising by assessment a sum at least equal (clear of all charges for collection) to the share of the said School Grant apportioned to it; and provided also, that should the Municipal Corporation of any County, City, Town or Village, raise in any one year a less sum than that apportioned to it out of the Legislative School Grant, the Chief Superintendent of Schools shall deduct a sum equal to the deficiency, from the apportionment to such County, City, Town or Village in the following year.

Common school funds constituted.

Conditions of apportionment.

XLI. And be it enacted, That it may and shall be lawful for the Governor in Council, to authorize the expenditure annually, out of the share of the Legislative School Grant coming to Upper Canada, of a sum not exceeding three thousand pounds, for the establishment and support of School Libraries, under such regulations as are provided for by this Act; of a sum not exceeding twenty-five pounds in any County or Riding for the encouragement of a Teacher's Institute, under the regulations hereinbefore provided; and of a sum not exceeding two hundred pounds in any one year to procure plans and publications for the improvement of School Architecture and practical Science in connexion with the Common Schools: Provided always, that the amount heretofore apportioned in aid of common schools to the several Counties, Cities, Towns and Villages in Upper Canada, shall not be lessened by the appropriation of such sums, but they shall be taken out of any additional amount awarded to Upper Canada, out of the said Grant, in consideration of the increase of its population in proportion to that of the whole Province.

Certain sums to be expended for school libraries, &c.

Proviso: the amount heretofore apportioned in aid of common schools, not to be lessened.

XLII. And be it enacted, That the sum of money annually apportioned in aid of Common Schools in the several Counties, Cities, Towns and Villages in Upper Canada, shall be payable on or before the first day of July, in each year, to the Treasurer of each County, City, Town and Village, in such way as the Governor in Council shall from time to time direct.

Moneys apportioned when to be payable.

XLIII. And be it enacted, That if any part of the Common School Fund shall be embezzled or lost through the dishonesty or faithlessness of any party to whom it shall have been entrusted, and proper security against such loss shall not have been taken, the person or persons whose duty it was to have exacted such security, shall be responsible for the sum or sums thus embezzled or lost, and the same may be recovered from them by Civil Suit in any Court of Law having jurisdiction to the amount claimed, by the party or parties entitled to receive such sum or sums, or at the suit of the Crown.

Protection of the common school fund against loss.

XLIV. And be it enacted, That it may and shall be lawful for the Chief Superintendent of Schools, on the recommendation of the Teachers in the Normal School, to give to any Teacher of Common Schools a certificate of qualification which shall be valid in any part of Upper Canada, until revoked according to Law; Provided always, that no such certificate shall be given to any person who shall not have been a student in the Normal School; Provided always, that if any Secretary-Treasurer appointed by the School Trustees of any school division, or any person having been such Secretary-Treasurer, and having in his possession any books, papers, chattels, or moneys, which shall have come into his possession, as such Secretary-Treasurer, shall wrongfully withhold or refuse to deliver up, or to account for and pay over the same or any part thereof to such person, and in such manner as he may have been lawfully directed by any majority of the School Trustees for such School division then in office, such withholding or refusal shall be a misdemeanor; and upon the application of the majority of such Trustees, supported by affidavit of such wrongful withholding or refusal made by

Certificates of qualification for U. C. may be granted to Teachers under certain circumstances.

Proviso.

Proviso: Proceedings if any Secretary-Treasurer shall wrongfully hold over money, chattels, &c.

them before some Justice of the Peace, to the Judge of the County Court, such Judge shall thereupon make an order that such Secretary-Treasurer or person having been such, do appear before such Judge at a time and place to be appointed in such order, which shall, by a Bailiff of any Division Court, be personally served on the party complained against, or left with a grown-up person at his residence, and at the time and place so appointed, the Judge being satisfied that such service has been made, shall, in a summary manner, and whether the party complained of do or do not appear, hear the complaint; and if he shall be of opinion that the complaint is well founded, he shall order the party complained of to deliver up, account for and pay over the books, papers, chattels or moneys as aforesaid by a certain day to be named by the Judge in such order, together with reasonable costs incurred in making such application, as the Judge may tax, and in the event of a non-compliance with the terms specified in the said order or any or either of them, then to order the said party to be forthwith arrested by the Sheriff of any County in which such party shall be found, and be by him committed to the Common Gaol of his County, there to remain without bail or mainprize until such Judge shall be satisfied that such party has delivered up, accounted for or paid over the books, papers, chattels or moneys in question in the manner directed by the majority of the Trustees as aforesaid, upon proof of his having done which, such Judge shall make an order for his discharge, and he shall be discharged accordingly; Provided always, that no proceeding under this proviso shall be construed to impair or affect any other remedy which the said Trustees may have against such Secretary-Treasurer, or person having been such, or his sureties.

Proviso.

Salaries of Superintendents, &c., how paid.

XLV. And be it enacted, That no part of the salaries of the Chief or Local Superintendent of Schools, nor of any other persons employed, or expenses incurred, in the execution of this Act, shall be paid out of the Common School Fund, which shall, wholly and without diminution, be expended in the payment of Teachers' salaries as hereinbefore provided.

Punishment of persons disturbing meetings, &c.

XLVI. And be it enacted, That any person who shall willfully disturb, interrupt, or disquiet the proceedings of any school meeting authorized to be held by this Act, or any school established and conducted under its authority, shall, for each offence, forfeit, for Common School purposes, to the School Section, City, Town or Village, within the limits of which such offence shall have been committed, a sum not exceeding five pounds, and may be prosecuted before any Justice of the Peace, by any person whatever, and convicted on the oath of one credible witness other than the prosecutor, and if convicted, the said penalty shall, if not forthwith paid, be levied with costs by distress and sale of the goods and chattels of the offender, under a Warrant of such Justice, and paid over by him to the School-Treasurer of such Section, City, Town or Village; or the said offender shall be liable to be indicted and punished for the same as a misdemeanor.

Temporary provisions for holding the first elections in Cities and Towns.

XLVII. And be it enacted, That the first election of Trustees in all the Cities and Towns of Upper Canada, as provided for in the twenty-second section of this Act, shall commence at ten of the clock in the forenoon of the first Tuesday in September, one thousand eight hundred and fifty, and that the places of election in the several Wards of each City or Town, together with the name of the Returning Officer for each such Ward, shall be duly notified, by causing notices to be put up in at least three public places in each such Ward, and not less than six days before such election, by the Mayor of each City and Town respectively: Provided always, that the School Trustees then elected in each City and Town, shall be subject to all the obligations which have been contracted by the present School Trustees of such City or Town; and shall be invested with all the powers conferred by this Act on School Trustees of Cities and Towns for the fulfilment of such obligations, and for the performance of all other duties imposed by this Act; and the word "County" shall include Unions of Counties for Municipal purposes.

Interpretation clause.

XLVIII. And be it enacted, That the Interpretation Act shall apply to this Act; that the word "Teacher," shall include female as well as male teachers; that the word "Townships" shall include Unions of Townships made for Municipal purposes.

C A P .

CAP. XLIX.

An Act to remove certain doubts respecting the intention of the Act of the last Session of the Parliament of this Province for amending the Charter of the University of Toronto, and to provide for the institution and endowments of Regius and other Professorships, Lectureships, Fellowships, Scholarships, Exhibitions, Prizes and other Rewards in the said University, and for other purposes connected with the said University, and with the College and Royal Grammar School of Upper Canada College, forming an appendage thereof.

[10th August, 1850.]

WHEREAS in the preamble of the Act passed in the last Session of the Parliament of this Province, chaptered eighty-two, and intituled, *An Act to amend the Charter of the University established at Toronto by His late Majesty, King George the Fourth, to provide for the more satisfactory Government of the said University, and for other purposes connected with the same, and with the College and Royal Grammar School forming an appendage thereof*, the promotion of the religious and moral improvement, as well as the secular education of the people of this Province is expressly set forth as the object of its enactment, and as a means of accomplishing such object in a community consisting of various denominations of Christians, the necessity is asserted of having the said University entirely free in its government and discipline from all denominational bias, so that the just rights and privileges of all might be fully maintained without offence to the religious opinions of any; and whereas the said enactment originated in a sincere desire for the advancement of true religion, and a tender regard for the conscientious scruples of all classes of professing Christians, which it sought to evince by affording to the different denominations the opportunity, and thereby pressing upon them the obligation, each in its own way and each according to its own discipline and in conformity with its own peculiar views of religious truth, of providing for the spiritual welfare and advancement in religious knowledge of the youth belonging to its own communion, and not from any indifference to the importance of religious duties, or of imparting religious knowledge in the education of youth: And whereas, notwithstanding the distinct avowal of the principles on which the said Act was based, doubts have been raised as to the Christian character of the said Institution and of the powers of the University, by statute or otherwise, to make the necessary regulations for insuring to its members the opportunities of religious instruction and attendance upon public worship by their respective Ministers, and according to their respective forms of religious faith: And whereas for the satisfaction of all whose minds may have been disturbed by such doubts, it is desirable to declare: Be it therefore accordingly declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That it hath been and at all times hereafter shall be fully competent to and for the said University, by statute either visitatorial or senatorial to be passed for that purpose, to make any regulations that may be deemed expedient for the undergraduates and students attending lectures in the said University, attending upon public worship in their respective churches, or other places of religious worship, and receiving religious instruction from their respective Ministers, and according to their respective forms of religious faith, and that not only shall every facility be afforded by the authorities of the said University for such attendance on religious worship, and such acquirement of religious knowledge, but that no candidate for matriculation or for any degree, who shall at the time of his application, be a student in any of the different Colleges which shall be so far affiliated to the said University as to be entitled to appoint a member to the Senate thereof, shall be received as a student or admitted to a degree in the said

Preamble.

Act 12 Vict. c. 82, cited.

Intention of the said Act as to Religious instruction recited.

The intention of the said Act as to Religious instruction declared and provision made for giving effect to it, by statute of an University.

University, without possessing such religious requisites as may be prescribed by the constituted authorities of the affiliated College to which he belongs, and which, according to his standing in such affiliated College, he shall by the rules and statutes thereof be required to possess: Provided always nevertheless, firstly, that no part of the funds of the said University shall be expended for any such purpose, but that it be left to the authorities of each denomination of Christians to provide for the religious instruction of its own adherents attending the said University or members thereof; and provided also, secondly, that nothing herein contained shall extend or be construed to extend to empower the said University, by statute or otherwise, to compel any person to become a student or member of such affiliated College as a condition precedent to his being matriculated or admitted to any degree in the said University, or otherwise howsoever.

Proviso.

Proviso.

And also by statute of Upper Canada College.

II. And for the like reason, it is hereby further declared and enacted by the authority aforesaid, That it hath been, now is, and at all times hereafter shall continue to be fully competent to and for the said College and Royal Grammar School of Upper Canada College, by Statute, either collegiate or visitatorial, to be passed for that purpose, to make any similar regulations for the like purposes and subject to the like limitations and restrictions.

Nine members of the Senate to be a quorum.

III. And be it enacted, That notwithstanding any thing in the said Act of Parliament contained, nine Members of the Senate of the said University shall form a quorum thereof for the despatch of business.

Caput may under section 24 of the said Act, report the names of eminent men who would accept the chair and do honor to the University; and if the Senate concur, the Governor may appoint one of such men.

IV. And be it enacted, That it shall at all times be lawful for the Caput of the said University, in reporting upon the testimonials of candidates for any vacant professorship, as directed by the twenty-fourth section of the said Act, to report also the names of any men of distinguished literary or scientific reputation, whose accession to such chair would in their opinion be an acquisition to the public character of the University as a seat of learning, and who they may have ascertained or have reason to believe, would accept of such, if offered to them; and thereupon the Senate of the said University, if they shall concur in that part of the Report of the said Caput, shall report the names of such persons, or of those of them with respect to whom they shall so concur with the Caput, to the Governor of the Province, with those of the three candidates required to be transmitted to him by the said twenty-fourth section of the said Act, and in every such case it shall and may be lawful for the Governor, if he shall deem it expedient so to do, to appoint any one of those persons to such chair, who may be willing to accept thereof, instead of appointing to the same any of the three candidates whose names shall have been so transmitted to him as aforesaid; any thing in the said twenty-fourth section of the said Act to the contrary notwithstanding.

The Crown may institute and endow Regius Professorships: their rights.

V. And be it enacted, That it shall and may be lawful for Her Majesty from time to time by Letters Patent under the Great Seal of the Province, to institute, establish and endow such and so many Regius Professorships in any of the Faculties of the said University, as she shall think fit, and from time to time, by Letters Patent under the Great Seal of the Province, to appoint some fit and proper person to such Regius Professorship; and to every such Professorship and to the person who shall fill the same, shall belong all and singular the like rights, powers, and privileges which shall be attached to or be vested in the other Professorships, and Professors of the said University respectively: Provided always, firstly, that no such Regius Professorship shall be so instituted without an endowment, either by charge on the public Provincial Revenue, or by invested capital in land or other property, not at the time forming any part of the property of the said University, but sufficient to secure to the holder thereof an income equal at least to that of the smallest salary assigned by Statute of the said University to any of the chairs on the foundation thereof in the same faculty to which such Regius Professorship may be attached, or unless such salary shall have been voted amongst the other annual votes for educational purposes upon the Estimates sent down to Parliament by the Crown; and provided also, secondly, that every such Regius Professorship and Regius Professor shall be subject to all and singular the Statutes, Rules and Ordinances of the said University, and be entitled to all and singular the same

Proviso: a certain endowment required.

Proviso: such Professors subject to the statutes.

same

same rights, powers and privileges as any other Professorship or Professor in the same; and provided also, thirdly, that the appointments to all such chairs shall be made by the Crown of its mere motion and during its pleasure, without the necessity of any Report from the Caput or Senate, as provided with respect to the chairs on the foundation of the said University.

Proviso: appointment to be *ex mero motu* and during pleasure.

VI. And be it enacted, That it shall and may be lawful for Her Majesty from time to time by Letters Patent under the Great Seal of the Province, to found, institute, establish and endow such and so many Lectureships, Fellowships, Scholarships, Exhibitions, Prizes and other Rewards in the said University as she shall think fit, and to prescribe in such Letters Patent, all such Rules and Regulations as she may think proper for the appointing to and conferring of such Lectureships, Fellowships, Scholarships, Exhibitions, Prizes, and other Rewards, all which Rules and Regulations the authorities of the said University are hereby required to observe and give effect to as in the said Letters Patent shall be directed.

The Crown may institute and endow Lectureships, &c.

VII. And be it enacted, That it shall and may be lawful for any person or persons, bodies politic or corporate whomsoever, to found such and so many Professorships, Lectureships, Fellowships, Scholarships, Exhibitions, Prizes and other Rewards, in the said University, as they may think proper, by providing a sufficient endowment in Land or other property, and conveying the same to the Chancellor, Master and Scholars of the said University in trust for the said purpose, and thereupon suing out Letters Patent from the Crown, instituting, establishing and endowing the same with the property so provided for that purpose as aforesaid, in all which Letters Patent shall be set forth such Rules and Regulations for the appointing to and conferring of such Professorships, Lectureships, Fellowships, Scholarships, Prizes or other Rewards, as the respective founders thereof, with the approbation of the Crown, shall think fit to prescribe for that purpose, all which Rules and Regulations the authorities of the said University are hereby required to observe and give effect to, as in the said Letters Patent shall be directed: Provided always nevertheless, that none of such Professorships upon private foundation, shall entitle the holder of the Chair of such Professorship for the time being, to any seat in the Senate of the said University or other share in the government thereof, unless the same shall be especially conferred upon such Chair or Professor by a Statute of the said University either visitatorial or senatorial to be passed for that purpose.

Private parties and Corporations may found and endow Professorships, Lectureships, &c., and sue out Letters Patent establishing the same.

Proviso: such Professorships not to give a seat in the Senate: exception.

VIII. And be it enacted, That nothing in the three next preceeding sections of this Act contained shall affect or be construed to affect in any way the twelfth section of the said recited Act, but that the provisions of the said three sections shall to all intents and purposes whatsoever be subject to and limited by the provisions of the said twelfth section as if the same had been inserted in this Act.

Sec. 12 of the said Act not to be affected.

IX. And be it enacted, That the third proviso to the fifty-eighth section of the said Act shall apply to such Statutes, Rules and Ordinances of the College Council of the College and Royal Grammar School of Upper Canada College, as have been or shall be passed by that body, for prescribing or regulating the general duties of the Principal or Masters of the said College or others employed to teach therein, in their respective Collegiate employments, or for prescribing the course of study to be pursued, or the discipline to be observed in the said College and Royal Grammar School, and to none others.

Third proviso of sec. 58 of 12 V. c. 82, to apply to certain statutes, &c. of U. C. College.

X. And be it enacted, That all sums of money received by the Bursar of the said University for or on account of the said College and Royal Grammar School at any time since the Royal Assent was given to the said Act of Parliament, and all debts of what nature or kind soever at the time when such assent was given to the said Act due to the said College and Royal Grammar School, or in which such College and Royal Grammar School was then or at any time after beneficially interested, shall be deemed and taken to be available to, and collectable by, the Principal, Masters and Scholars of Upper Canada College and Royal Grammar School, in the same manner as the debts mentioned in the seventy-seventh section of the said Act, are thereby declared

Certain moneys to be receivable by the Principal, &c. of U. C. College, under sec. 77, of 12 V. c. 82.

Subject to certain deductions.

declared to be recoverable, subject to the deduction therefrom of all moneys which since the Royal Assent was so given to the said Act, shall or may have been paid by the said Bursar for, or on account of the said College and Royal Grammar School.

C A P . L . .

An Act for the more effectual Administration of Justice in the Court of Chancery in Upper Canada.

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to give further facilities for instituting and carrying on suits in the Court of Chancery in order as much as possible to obviate delay and diminish expense : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Judges of the said Court from time to time to appoint Masters and Deputy Registrars of the said Court, in such localities as the said Judges may consider necessary and expedient for the purpose of promoting as far as possible the local Administration of Justice : And it shall and may be lawful for the said Judges from time to time to cancel such appointments and to appoint others at their pleasure, and to make such rules and orders as may be necessary for regulating the offices of the said Masters and Deputy Registrars hereby authorized to be appointed, and for specifying the business to be transacted in the said respective offices, and for fixing the costs to be allowed in respect thereof, and from time to time to make other rules and orders amending, altering or rescinding the same or any of them ; Provided that nothing herein shall be construed to prevent the Judges of the said Court from appointing the same person to hold the offices of Master and Deputy Registrar, if they shall think it right so to do.

Judges may appoint Masters and Deputy Registrars in such localities as they think proper.

Proviso.

Such Masters and Deputy Registrars to account for and pay over one half of their emoluments.

II. And be it enacted, That the said Masters and Deputy Registrars of the Court of Chancery respectively, shall, on the first day of January, the first day of April, the first day of July and the first day of October, in each and every year, make up and render to the Inspector General of Public Accounts of the Province, accounts in writing of all the fees, dues, emoluments, perquisites and profits received by or on account of the said offices respectively, in such form and with such particulars as the said Inspector General shall from time to time require : which said accounts shall be signed by the Officer rendering the same, and shall be sworn to before the Judge of the County Court of the County in which such office is held ; and such Officers respectively shall, within ten days after the rendering of such account, pay over one-half of the amount of all such fees, dues, emoluments, perquisites and profits, to the Receiver General of the Province, and shall be respectively entitled to retain the other half as their remuneration, and if default shall be made in such payment, the amount due by the Officer making default shall be deemed a specialty debt to Her Majesty.

Master in Ordinary may appoint a Clerk.

III. And be it enacted, That it shall be lawful for the Master in ordinary of the said Court of Chancery to appoint, subject to the approval of the Judges of the said Court, one Clerk, whom the said Master on the like approval may remove at pleasure, and that there shall and may be paid and payable out of the Consolidated Revenue Fund of this Province (after paying or reserving sufficient to pay all such sums as have been directed by any former Act of the Parliament of this Province to be paid out of the same, but with preference to all other payments which shall hereafter be charged upon the same) the yearly sum of One Hundred and Twenty-five Pounds, as and for the salary of a Clerk in the Master's Office, such salary to commence from the tenth day of September last, and to be paid from the said tenth day of September up to the time of the appointment of a Clerk in pursuance of this Act to the Master of the said Court,

Salary allowed; how paid, &c.

to be by him paid to the Clerk or Clerks who may have performed the duty of Master's Clerk during such period, and such salary to be thereafter paid to the Clerk to be so appointed, quarterly, free and clear of all taxes and deductions whatsoever, on the first day of January, the first day of April, the first day of July and the first day of October, by equal portions; the first payment to be made on the first of the said quarterly days which shall occur after the appointment of such Clerk in pursuance of this Act, such first payment to be a rateable portion of the quarter's salary according to the time then elapsed since such appointment, and in case of the resignation or removal of such Clerk he shall be entitled, and in case of his death his executors or administrators shall be entitled, to a proportional part of his salary according to the time elapsed between the last quarterly payment and such death, resignation or removal.

IV. And whereas it is convenient to provide for the partition of estates by the said Court, Be it therefore enacted, That the said Court of Chancery shall have jurisdiction and possess the same power and authority in relation to the partition and sale of estates of joint tenants, tenants in common and coparceners, as by the laws of England are possessed by the Court of Chancery in England, and also as by the laws of Upper Canada are possessed by the Court of Queen's Bench and County Courts in Upper Canada respectively; and that in such cases, any Decree, Order or Report by which such partition shall be declared or effected in any Deed under the seal of and executed by the Master of the said Court of Chancery, shall respectively have the same effect at law and in equity as the Records of Returns in the Court of Queen's Bench or County Courts in Upper Canada have now by-law in matters of partition, or as Sheriffs' Deeds now have, and an office copy of any such Decree, Order or Report shall be sufficient evidence in all Courts of the partition declared thereby and of the several holdings by the parties of the shares thereby to them allotted.

Powers vested in the Court of Chancery for the partition of estates held in joint tenancy, tenancy in common or coparceners.

Legal effect of office copies of Decrees in such cases.

V. And be it enacted, That in addition to parties being at liberty to proceed as heretofore in the Court of Queen's Bench and County Courts in Upper Canada, in order to obtain a partition or sale in those Courts of estates of Joint Tenants, Tenants in Common, or Coparceners, the same may be obtained in the Court of Chancery according to the practice of the said Court of Chancery in other cases, or in such other manner and by such other proceedings as the said Court shall from time to time by general orders or otherwise direct or appoint.

Proceedings for partition in Court of Chancery.

VI. And be it enacted, That any sale or partition made or effected by the said Court of Chancery under the authority of this Act, shall be as binding and conclusive for the conveying away or apportioning the estate or interest of any married woman, infant, idiot or lunatic, party to the proceedings by which such sale or partition shall have been made or declared, as of any person fully competent to contract or act for himself.

Effect of sales or partitions made by the said Court.

VII. And be it enacted, That these provisions shall and may extend to suits already instituted in the said Court, and in which the said Court may according to such practice or orders as it shall adopt think it fit and proper to allow partition to be made, even though the specific object of the suit may not have been for partition.

These provisions to extend to existing suits.

VIII. And be it enacted, That in suits instituted in the said Court for the partition of lands held in joint tenancy, tenancy in common or coparcenery, it shall not be necessary to postpone the execution of any conveyance ordered by any decree which may be pronounced in any such suit in consequence of the infancy of any such joint tenant, tenant in common, or coparcener, but that the guardian of any such infant may be ordered by the said Court to execute such conveyance on behalf of his ward, and such guardians are hereby authorized and empowered to do and perform on behalf of their wards any act, matter or thing respecting the partition of lands which may be directed by the said Court, and every such act, matter or thing so done shall be deemed valid and effectual in law to every intent and purpose, as if the same had been done by such minor after his arrival at full age.

Guardians may execute conveyances, in suits in partition, on behalf of their wards.

IX. And be it enacted, That whenever the said Court shall be of opinion that partition cannot be made of lands so held in joint tenancy, tenancy in common, or coparcenery,

When the lands cannot be conveniently

divided, Court may order sale of the whole.

Rules may be made as to partitions under 12 V. c. 64.

coparcenery, without material prejudice to the whole, in such case it shall be competent to the Court, if it shall so think fit, to order a sale of the entire estate in such way as the Court may consider most for the benefit of all concerned; and the Judges of the said Court are hereby authorized and empowered to make rules and regulations respecting proceedings in partition, in as full and ample a manner as they are authorized to make rules and regulations in relation to the general practice of the said Court, by an Act passed in the twelfth year of Her Majesty's Reign, Chaptered sixty-four, intituled, *An Act for the more effectual Administration of Justice in the Court of Chancery of the late Province of Upper Canada.*

C A P. L I.

An Act to confirm and give effect to certain Rules and Regulations made by the Judges of Her Majesty's Court of Error and Appeal for Upper Canada, and for other purposes relating to the powers of the Judges of the Courts of Law and Equity in that part of the Province, and the practice and decisions of certain of those Courts.

[10th August, 1850.]

Preamble.

12 V. c. 63 cited.

WHEREAS the Judges of Her Majesty's Court of Error and Appeal for Upper Canada have, under the authority of the Act of the Parliament of this Province, passed in the last Session thereof, chaptered sixty-three, and intituled, *An Act to make further provision for the administration of Justice by the establishment of an additional Superior Court of Common Law, and also a Court of Error and Appeal in Upper Canada, and for other purposes*, made certain rules, orders and regulations respecting the practice of the said Court, and the costs to be allowed in the same, and the same have been laid before both Houses of the Provincial Parliament in the present Session thereof, being the Session during which such rules, orders and regulations were made: And whereas by the said Act it is provided, that no such rule, order or regulation shall have effect until six weeks after the same shall have been laid before both Houses of the Legislature; to remove therefore all doubts as to the force and effect of such rules, orders and regulations, in case Parliament should be prorogued before the expiration of the said term of six weeks, Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said rules, orders and regulations, so made by the said Judges, shall have the like effect from the expiration of six weeks from the fifth day of July in this present year, as if the Provincial Parliament had remained in Session until after the expiration of that period.

Rules to have effect after six weeks from 5th July, 1850.

Chief Justices, Chancellor, Puisné Judges and Vice-Chancellors to be Visitors of the Law Society.

II. And be it enacted, That the Chief Justice of Upper Canada for the time being, the Chancellor of Upper Canada for the time being, the Chief Justice of Her Majesty's Court of Common Pleas for Upper Canada for the time being, and all the Puisné Judges and Vice-Chancellors of Her Majesty's Superior Courts of Law and Equity at Toronto for the time being, shall be and shall be deemed to have been Visitors of the Law Society of Upper Canada, with all the powers conferred upon the Judges of Upper Canada, with respect to such Society in and by the second section of the Act of the Parliament of that Province, passed in the thirty-seventh year of the reign of King George the Third, chaptered thirteen, and intituled, *An Act for the better regulating the Practice of the Law.*

Judges of Superior Courts of Law at Toronto may sit apart during Term for certain purposes.

III. And be it enacted, That at any time wherein Her Majesty's Superior Courts of Common Law at Toronto, may by law sit in Banc, it shall and may be lawful for any one Judge of either of such Courts to sit in Banc apart from his brethren, either while they are actually so sitting, or while their sittings within such time shall be suspended or adjourned; and every such Judge so sitting apart in Banc as aforesaid, shall have

all

all the same powers and authority as belong to, or may hereafter be vested in either of such Courts touching or concerning, or in any way relating to the business of adding or justifying bail, discharging insolvent debtors, administering oaths and hearings and determining matters on motion, and making rules and orders in causes and business depending in either of the said Courts, in the same manner and with the same force, validity and effect, as might be done by the Court in which such causes or business shall be respectively depending.

IV. And be it enacted, That the Clerk of the Judges' Chambers at Osgoode Hall, shall perform the duties of Clerk of such Court, so far as such duties apply to the business transacted before such Judge so sitting apart in Banc as aforesaid.

Who shall be Clerk to Judge sitting apart.

V. And be it enacted, That it shall be lawful for any of the Judges of either of Her Majesty's said Superior Courts of Common Law at Toronto sitting at Chambers, to hear, determine and dispose of any business depending in the Court of which he is not a member, as fully and effectually to all intents and purposes whatsoever, as if he were a Judge of such Court: subject always, nevertheless, to such proceedings by the Court in which the same shall be pending, for the reversing, setting aside, or confirming what may be so done by such Judge in the same manner in the like cases, and to the like extent as if the same had been so done by one of the Judges of the Court in which the same shall be so pending as aforesaid at his Chambers.

Judges of either Court sitting at Chambers may dispose of business depending in the other Court.

VI. And whereas it is desirable that the decisions of Her Majesty's Court of Common Pleas in this Province should be recorded and published for general information, and there is reason to believe that the same cannot be effected otherwise than by the employment of a Reporter to the said Court under proper regulations: Be it therefore enacted, That it shall and may be lawful for the Law Society of Upper Canada, in convocation, by an Instrument under the Seal of the Society, to appoint a fit and proper person to be Reporter of the said Court of Common Pleas, such Reporter to be amenable to the said Society in convocation, for the correct and faithful discharge of his duty, and to be subject to such rules and regulations for the discharge of the duties of his office, as shall or may be made for that purpose by the said Society, in convocation, with the approbation of the Judges of the said Court; and it shall be in the power of the said Law Society in convocation, to remove such Reporter, and to appoint another in his place from time to time: Provided always, that no person shall be eligible to the office of Reporter other than the members of the said Society of the degree of Bachelor at Law, and that no appointment to or removal from the said office shall take place without the approbation of the Judges of the said Court, signified to the said Society in writing under the hand of the said Judges.

Preamble.

Law Society may appoint a Reporter of the Court of Common Pleas.

Proviso.

VII. And be it enacted, That it shall be the duty of such Reporter to report as well the substance of such of the verbal decisions of the Court as shall be of general importance, as to report also such decisions as may be delivered in writing; and it shall further be his duty, without any unnecessary delay, to cause such reports to be fairly entered in a book, and to submit the same for inspection of the Judges of the said Court, which reports, after due examination and correction, shall be signed by the said Judges.

Duty of such Reporter.

VIII. And be it enacted, That such Reporter shall be at liberty to print and publish such Reports or a digest thereof; and it shall be his duty so to do whenever thereto required by the said Law Society in convocation, and in such manner as the said Law Society shall direct—the profits arising therefrom to belong to such Reporter.

Reporter may publish reports, and must if required.

IX. And be it enacted, That the salary of such Reporter shall not exceed the sum of one hundred and fifty pounds per annum, and shall or may be fixed at or varied within the said amount as the said Law Society in convocation shall think just and proper: and for the purpose of providing such salary, it shall be in the power of the said Law Society in convocation, to appoint such sum as they may think proper, not exceeding the sum of one pound five shillings, to be paid to the Treasurer of the said Law Society annually by every Attorney of the said Court practising therein; and in case of persons being as well Solicitors of the Court of Chancery and Attorneys

Salary of the Reporter and mode of raising the same.

of the Court of Queen's Bench, as also Attorneys of the said Court of Common Pleas, it shall be lawful for the said Law Society, if they shall think fit, to appoint one sum of money to be paid by any such person annually as such Solicitor and Attorney.

Attorneys practising in Common Pleas to pay on or before 20th August.

X. And be it enacted, That every Attorney practising in the said Court of Common Pleas, shall annually, on or before the twentieth day of August, pay to the Treasurer of the Law Society, such sum of money as shall in that behalf be appointed as aforesaid; and thereupon the Clerk of the Crown and Pleas in the said Court of Common Pleas shall, upon production of a receipt for such payment on or before such twentieth day of August, give to such Attorney a Certificate of his being an Attorney of the said Court of Common Pleas, for which Certificate such Clerk shall be entitled to a fee of two shillings and six pence.

After 20th August, Attorney to pay £4 for Certificate.

Penalty for practising without Certificate.

XI. And be it enacted, That if any Attorney shall neglect to take out such Certificate within the time aforesaid, he shall not be entitled thereto until he shall have produced a receipt from the Treasurer of the Law Society for the sum of four pounds: and if any Attorney shall practise in the said Court without such Certificate, he shall forfeit the sum of ten pounds to be recovered by information in Her Majesty's said Court of Common Pleas, and to be paid into the hands of the Treasurer of the said Law Society; Provided always, that nothing herein contained shall extend to require any person admitted as such Attorney after the said twentieth day of August in any year, to take out any Certificate as aforesaid, before the twentieth day of August following.

Proviso.

C A P. L I I.

An Act to alter and amend the Act regulating the Practice of the County Courts in Upper Canada, and to extend the Jurisdiction thereof.

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to alter and amend the Act regulating the Practice of the several County Courts in Upper Canada, and to extend the Jurisdiction thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing contained in the fifth section of the Act passed in the eighth year of the Reign of Her Majesty, intituled, *An Act to amend, consolidate and reduce into one Act, the several Laws now in force, establishing or regulating the Practice of District Courts in the several Districts of that part of this Province formerly Upper Canada*, the said County Courts respectively shall hold plea of all causes or suits relating to debt, covenant or contract, to the amount of fifty pounds; and in cases of debt or contract, where the amount is ascertained by the signature of the defendant, to one hundred pounds, and also in all matters of tort relating to personal chattels, where the damages shall not exceed the sum of thirty pounds, and where the title to land shall not be brought in question: Provided always, that any plaintiff having a cause of action within the jurisdiction of the County Court, may institute and carry on such action in either of Her Majesty's Superior Courts of Common Law in Upper Canada, and proceed to judgment and execution therein, but such plaintiff or defendant, and all persons and officers entitled to costs and fees therein, shall only be allowed and recover the usual costs and disbursements which would be allowable in case the said action had been instituted and carried on in the County Court; any thing in the fifty-ninth section of the Act above cited to the contrary notwithstanding: Provided that in order to designate the proceedings in any such action, as being one also cognizable by the County Courts, all the papers and proceedings filed, issued or used in the said Superior Courts, shall be endorsed with the words

Jurisdiction of County Courts raised.
8 Vict. c. 13.

Proviso: Superior Law Courts to have concurrent jurisdiction with County Courts.

As to costs.

Proviso: papers must be specially endorsed, &c.

"Inferior

“Inferior Jurisdiction,” in order to regulate the costs, fees and disbursements therein, of all persons entitled to make or receive any charge therefor.

II. And be it enacted, That all writs of summons sued out of, and all declarations or other pleadings filed in any action or proceeding in any County Court, or notices required to be served in such action or proceeding, may be served in any County in Upper Canada, and the defendant shall appear and plead thereto within the periods respectively limited and required by law, in the same manner as if such defendant had been served with such summons, declaration, notice or other proceeding in the County in which such suit was instituted, and all subsequent proceedings in the cause shall be carried on thereafter to final judgment and execution, according to the practice of the County Courts.

Summons, &c., may be served in any County in Upper Canada.

III. And be it enacted, That writs of subpoena and writs of execution against goods and chattels, lands and tenements, and also all process against the person when authorized by law, and all rules on the Sheriff and other rules, Judges' orders and proceedings may be issued from the County Court in which any judgment has already been or hereafter may be entered up, or action brought into any other County in Upper Canada and served and executed there, and all such writs, rules, orders and proceedings shall be of equal force and effect, and as binding as if the same had issued from the Court or by the Judge of the County to or into which they shall be so issued, and all subsequent proceedings thereupon shall be carried on in the Court in which the judgment shall have been entered up or action brought.

Writs against goods or lands, &c., may be issued into any County in Upper Canada, &c.

IV. And be it enacted, That all actions in the County Courts shall be brought either in the County in which the defendant or one or more of them shall then reside, or in the County in which the debt was contracted or made payable, or the contract was made, in the option of the plaintiff or plaintiffs; and in default thereof, the whole proceedings may, on the application of the defendant or defendants, made at any time before plea pleaded, or any interlocutory or other judgment signed, be set aside with costs.

In what County actions may be brought.

V. And be it enacted, That every Judge of a County Court in Upper Canada, in all cases in which the suit is brought or venue laid in his County, may grant summonses and make orders to compute in all suits depending in the Superior Courts of Common Law in Upper Canada, in the same manner and in the like cases as the Judges of the said Superior Courts sitting in Chambers may now do, whether the defendants in such suits reside within his County or not.

Judges of County Courts may grant summonses and make orders to compute in certain cases pending in Superior Court.

VI. And be it enacted, That this Act shall come into force on the first day of January, one thousand eight hundred and fifty-one, and not before.

Commencement of Act.

CAP. LIII.

An Act to amend and consolidate the several Acts now in force, regulating the Practice of Division Courts in Upper Canada, and to extend the jurisdiction thereof.

Amended by the Act 177

[10th August, 1850.]

WHEREAS it is expedient to consolidate and reduce into one Act the several laws now in force regulating the system and practice of certain Courts in Upper Canada established for the recovery of Small Debts, and to make other provisions therefor: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to repeal the laws now in force in that part of this Province formerly Upper Canada, for the recovery of Small Debts, and to make other provisions therefor*,—and the Act passed in the eighth year of Her Majesty's Reign, and intituled,

Preamble.

Act 4 and 5 Vict. c. 3;

and 8 Vict. c. 37, and 12 Vict. c. 69, repealed.

intituled, *An Act to amend an Act passed in the fourth and fifth years of the Reign of Her Majesty, intituled, 'An Act to repeal the laws now in force in that part of this Province formerly Upper Canada, for the recovery of Small Debts, and to make other provisions therefor',—and the Act passed in the twelfth year of the Reign of Her Majesty, intituled, An Act to authorize attachments against personal property for sums of ten pounds and under in certain cases in Upper Canada, shall be and the same are hereby repealed, upon, from and after the day upon which this Act shall come into force.*

Division Courts, &c., now existing, to remain until altered.

II. Provided always, and be it enacted, That the several Division Courts now established and in existence in each County of Upper Canada, and the limits and extent of the same respectively, shall be and remain as they are now, until altered as hereinafter mentioned: and provided also, that all proceedings had under any Act hereby repealed, shall remain good and valid, and all suits, actions or proceedings commenced under any such Act, shall be continued and completed under this Act, as if commenced under the same.

Number of Division Courts, and time of holding them, how fixed.

III. And be it enacted, That the number of the said Courts in each County or union of Counties, shall at no time be less than three, nor more than twelve, and that there shall be one Division Court held in each City and County Town, and that a Court shall be holden under this Act once in every two months in such Division, or oftener, in the discretion of the Judge thereof, and that it shall and may be lawful for the Judge of the said Court to affix and appoint the times and the places within such Divisions when and at which such Courts shall be holden, and in like manner from time to time to alter the same.

Justices of the Peace may alter Divisions, &c.

IV. And be it enacted, That it shall and may be lawful for the Justices of the Peace in each County now or hereafter to be erected in Upper Canada, in General Quarter Sessions assembled, to declare and appoint the number, limits and extent of every such Division, within their respective Counties, subject to the restrictions in this Act contained; and such Justices may from time to time alter the number, limits and extent of such Divisions: Provided always, that a less number of Justices shall have no power to rescind or alter any Resolution or Order made by a greater number at any previous Session.

Proviso:

Divisions, &c., to be entered in a book: to be kept by the Clerk of the Peace.

V. And be it enacted, That the Divisions of each County so declared and appointed, and the times and places of holding such Courts, and all alterations that may be from time to time made therein as aforesaid, shall be entered and recorded by the Clerk of the Peace, in a book to be by him kept for that purpose, and that it shall be his duty to transmit to the Governor of this Province, a copy of every such entry and record as soon as the same shall have been made.

Justices of the Peace to number the Divisions.

VI. And be it enacted, That the Justices so assembled as aforesaid, shall be required to number the said Divisions, beginning at number one; and that the Court to be held in each Division shall be known by the name and style of the—The First (or other, as the case may be) Division Court for the County of

Judges of County Courts to preside.

VII. And be it enacted, That the Judges of the County Courts of the several Counties in Upper Canada, shall preside over the Division Courts within their respective Counties, and no such Judge, shall, during the continuance of his appointment, be capable of being elected or of sitting as a Member of the Legislature of this Province, or of practising as an Attorney, a Notary Public, or Solicitor or Counsel, in any of Her Majesty's Courts of Law or Equity.

*Remains of Act
may 14 & 15
can 109 and 27*

Judge, in case of illness, &c., may appoint a deputy properly qualified.

VIII. And be it enacted, That in case of the illness or unavoidable absence of the Judge of any such County Court, it shall be lawful for the Judge of any County Court for any other County to hold the Court and to act in the place of the Judge so absent and with the same powers, or for such Judge to appoint some Barrister duly admitted as such to act as his deputy; and every person so appointed shall, during the time for which he shall be so appointed, have all the powers and privileges, and be subject to all the duties vested in or imposed by this Act or by Law on the Judge by whom he shall have been so appointed as Judge of the Division Court, and notice of every such appointment shall be forthwith sent by the Judge or Deputy Judge to the

the Governor of this Province, and such notice shall specify the name, residence and profession of the Deputy Judge, and the cause of his appointment; and no such appointment shall be continued for more than one calendar month without a renewal of the like notice, and it shall be lawful for the Governor to annul any such appointment of which he shall disapprove: Provided always, that whenever from illness of the Judge or Deputy Judge, or from any casualty, it may happen that he shall not arrive in time, or shall not be able to open any Court to be held under this Act on the day appointed for that purpose, it shall and may be lawful for the Clerk or Deputy Clerk of such Court, after the hour of eight o'clock in the afternoon of such day, to adjourn by proclamation any Court which shall be appointed to be opened on that day to an earlier hour on the following day, not being Sunday or a legal holiday, to be by him named, and so from day to day, adjourning over any Sunday or holiday, until the Judge or Deputy Judge shall arrive to open the same, or until he shall receive other direction from such Judge or Deputy Judge.

Proviso: when the Judge shall not arrive in time to open the Court on any day.

IX. And be it enacted, That for every Court holden under the authority of this Act, there shall be a Clerk and one or more Bailiffs: and the Judge of the County Court shall from time to time appoint, and at his pleasure remove, the Clerks and Bailiffs of the Courts holden by him: Provided always, that no person other than a subject of Her Majesty shall be so appointed: And provided also, that no practising Barrister, Attorney or Solicitor shall hereafter be appointed to the Office of Clerk of any Division Court.

Clerk and Bailiffs to be appointed.

X. And be it enacted, That it shall be lawful for the Clerk of any such Division Court (with the approval of the Judge thereof,) to appoint from time to time, a Deputy to act for him in the office of Clerk of the Court at any time when he shall be prevented by illness or other unavoidable accident from acting in such office, and to remove such Deputy at his pleasure; and such Deputy, during the time for which he shall be so appointed, shall have the like powers and privileges, and be subject to the like duties as if he were the Clerk of the Court for the time being; and the Clerk of the Court and his sureties shall be jointly and severally responsible for all the acts and omissions of his Deputy.

Clerk may appoint a deputy in case of illness, &c.

XI. And be it enacted, That the Clerk or Deputy Clerk shall have full power and authority to administer oaths and take affidavits of service of process, notices or other papers, and also of the execution of Cognovits, and all other oaths required or authorized by this Act, in all suits, actions and proceedings, commenced in his own or in any other Division Court in Upper Canada.

Clerk, &c., may administer oaths of service of process, &c.

XII. And be it enacted, That the Treasurer of every County shall be the Receiver General of fees of the several Division Courts within his County; and every such Treasurer shall be paid a per centage of four pounds, on every hundred pounds of the gross produce of the fees of the Courts of which he is Receiver General; and every Judge shall be paid by a certain salary, the salary of a Judge being in no case more than Five Hundred Pounds, nor less than Two Hundred and Fifty Pounds; and the Clerk and the Bailiffs of the Court, shall be paid by fees hereby allowed to them; and the Governor in Council shall fix the remuneration to be paid to the Judges, having due regard to the population and other circumstances of the several Counties and Divisions, and the remuneration to be paid to the Judges may within the limits aforesaid be increased, or diminished by the said authority: Provided always, that the salaries of the said Judges, as at present established, shall remain the same, unless otherwise altered by law, or unless vacancies shall occur.

Treasurer to receive all fees: his per centage. 13
me 61

Judge's salary.

Clerk and Bailiffs how paid.

Judges' salaries how fixed.

Proviso.

XIII. And be it enacted, That the Clerk of each Division Court shall issue all summonses and furnish copies thereof, with the notice thereon, in the form given in the Schedule to this Act annexed marked B, and particulars of the Plaintiff's claim or demand and copy thereof, and of the defendant's sett-off, which copy of demand, particulars or sett-off, are to be furnished to the Clerk by the Plaintiff and Defendant, respectively, and also shall issue all warrants, precepts, and writs of execution, tax costs, subject to the revision of the Judge, and register all orders and judgments of the Court,

Certain duties assigned to the Clerks. Summons, &c.

Accounts of all fees.

Court, and keep an account of all Court fees and fines payable or paid into Court, and of all suitor's money paid into and out of Court, and shall enter an account of all such fees, fines and moneys in a book to be kept by him for that purpose, which book shall at all times be accessible to the Judge of the said Division Court whose duty it shall be to inspect and examine the same, quarterly, or oftener, and to compare the accounts hereinafter mentioned with the said book required to be kept by the Clerk, and such Judge shall certify on each such account, that he has examined the same, and believes it to be correct, or if he does not believe it to be correct, he shall state his objections thereto, and the Clerk shall thereupon forward the account with such certificate to the Treasurer, and such book shall also be open to all persons desirous of searching the same, and shall in addition from time to time, at such times as shall be directed and appointed by the Governor, submit his said accounts to be audited or settled by the Treasurer of his County; and all papers, processes, proceedings, accounts, moneys, books and all matters whatsoever in the possession of the said Clerk by virtue of or appertaining to his office, shall upon his resignation, removal or death, immediately become the property of the Treasurer of the County in which the Division for which he was Clerk is situate, who shall hold the same for the benefit of the public until the appointment of another Clerk to whom the same shall be respectively delivered over by the said Treasurer: Provided always, that it shall not be lawful for the said Treasurer so to deliver over the same until such Clerk and his sureties shall have executed the covenant hereinafter mentioned: And it is hereby declared, that any person or persons whosoever wrongfully holding or getting possession of such papers, processes, proceedings, accounts, moneys, books and matters aforesaid, or any of them, shall be guilty of a misdemeanor, and that upon the declaration in writing of the Judge presiding over the Division Court for the time being in which such wrongful holding or getting possession as aforesaid shall take place, that any person has obtained or holds such wrongful possession thereof as aforesaid, and upon the order of a Judge of any of Her Majesty's Superior Courts of Law in Upper Canada, founded thereon, such person may be arrested by the Sheriff of any County in which such person shall be found, and be by him committed to the Common Gaol of his County, there to remain without bail or mainprize until one of such Superior Courts or a Judge thereof shall be satisfied that such person has not and never had nor held any such matters or moneys he may have been charged with wrongfully holding or obtaining, or that he has fully accounted for the same or delivered up the same to such Treasurer, or until he shall be otherwise discharged by due course of Law, and the Bailiffs of the Court shall serve all summonses, and execute all such orders, warrants, precepts and writs; and each of such Bailiffs shall also exercise the power and authority of a Constable and Peace Officer during the actual holding of the Division Court of which he is a Bailiff, with full power to prevent all breaches of the peace, riots or disturbances within the Court Room or building wherever the said Court is held, or in the public streets, squares, or other places within the hearing of the said Court, and to arrest, with or without any warrant, all parties engaged therein or offending against the meaning of this clause, and to bring such offenders before the nearest Justice of the Peace, or any other Judicial Officer having power to investigate the matter or adjudicate thereupon.

XIV. And be it enacted, That there shall be payable on every proceeding in the Division Courts holden in pursuance of this Act, and to the Clerks and Bailiffs of the Courts, such fees as are set down in the Schedule to this Act annexed marked A. or which shall be set down in any Schedule of reduced fees, under the power hereinafter given for that purpose, and none other; and a table of such fees shall be hung up in some conspicuous place in the offices of the several Clerks of Division Courts; and the fees upon every proceeding shall be paid in the first instance by the Plaintiff, or Defendant, on or before such proceeding, and the Bailiff's fees upon executions shall be paid to the Clerk of the Court, at the time of the issue of the warrant of execution, and shall be paid over by such Clerk to the Bailiff, upon the return of the warrant of execution, and not before: Provided always, that if the Bailiff shall neglect to make

Books to be open to Public.

Proceedings in case of death or removal of Clerk.

Proviso.

Penalty on parties who shall wrongfully hold papers, &c.

Duty of Bailiffs as Peace Officers.

Fees to be those in the Schedule A, any Schedule of reduced fees.

How paid.

a return within the time required by law, of any summons, process or execution, he shall, for each such neglect, forfeit his fees on such summons, process or execution, and all fees so forfeited shall be held to have been received by the Clerk of the Court, and shall be accounted for and paid over by him to the Treasurer of the County, to form part of the General Fee Fund, in like manner as other moneys received by him, and he shall keep a special account of all moneys so forfeited by Bailiffs.

Proviso: as to Bailiff neglecting to return process.

XV. And be it enacted, That the Clerk of each Division Court shall, from time to time, and as often as he shall be required so to do by the Treasurer of his County, and at least once in every three months, deliver to him a full account in writing of the fees received in such Court, under the authority of this Act, or of any Act hereby repealed, and a like account of all fines levied by the Court, (accounting for and deducting the reasonable expenses of levying the same, and any allowance which the Judge may have made out of any such fine, in pursuance of the power hereinafter given,) and when required by the Judge shall from time to time furnish him a like account of the moneys paid into and received out of the Court, by the Defendants and Plaintiffs in the said Court, under any orders and decrees of the Court, or under process of the Court, and of the balance then remaining in Court, belonging to the Plaintiffs or Defendants in the Court, and the amount of such fees payable to the General Fee Fund, from time to time received by such Clerk, shall be paid over from time to time to the Treasurer, (such payment being made, at least, once in every three months,) and shall form part of a fund, to be called the General Fee Fund of the Division Courts, which fund shall be applied towards the payment of the salaries of the Judges of such Courts: Provided always, that each of the accounts to be rendered by the Clerk, as in this section required, shall be verified by such Clerk on oath, before the said Judge or a Justice of the Peace.

Clerks to render certain accounts to the County Treasurers;

And to pay over moneys to the Treasurer.

XVI. And be it enacted, That the Treasurer of every County shall, on or before the first day of July and the first day of January in every year, render to the Inspector General of this Province a true account, in writing, of all moneys received, and of all moneys disbursed by him on account of the Division Courts holden under the authority of this Act, during the period comprised in such account, in such form, and with such particulars as the said Inspector General shall from time to time require; and shall, within ten days after the rendering of every such account, pay over the amount of any surplus of such fees to the Receiver General of this Province; and if default shall be made in such payment, the amount due by the said Treasurer shall be deemed a specialty debt to Her Majesty.

Treasurer to account for and pay over moneys to the Receiver General twice every year.

Penalty for default.

XVII. And be it enacted, That in case the amount of fees received in the Division Courts in any County shall not be sufficient to repay the disbursements required on account of such Courts, during the period comprised in the said account, it shall be lawful for the Governor of this Province forthwith to issue his warrant on the Receiver General of this Province, in favour of the County Treasurer, for the amount which shall be required to make up the deficiency, and the amount of such warrant shall be charged upon the Consolidated Revenue Fund of this Province.

Provision if the fees be insufficient to meet the disbursements.

XVIII. And be it enacted, That the accounts to be kept by the several Treasurers on account of the said Courts, shall be deemed public accounts, and shall be inquired into and audited, and shall be within any provision of law now or hereafter to be in force for auditing public accounts.

Treasurers' accounts to be public accounts.

XIX. And be it enacted, That if any person having resigned or having been removed from the office of Treasurer, or of Clerk of a Division Court, shall neglect, after twenty-one days' notice to such person, to account for and pay to the Treasurer of the County for the time being, or to such person as he shall appoint to receive the same, all such sums as shall remain in his hands of moneys received under the authority of this Act, it shall be lawful for such Treasurer, for the time being, in addition to any other proceeding in this Act contained, in his own proper name only, or by his name and description of office, to sue for and recover the same from such person and his sureties with

Proceedings in case any Treasurer or Clerk resigning or removed, shall refuse to pay over moneys in his hands.

with costs of suit, in any Court of Record in this Province having competent jurisdiction, by action of debt; in which action it shall be sufficient for such Treasurer to declare as for money had and received to the use of such Treasurer for the purposes of this Act; and the Court in which the action shall be brought, may, at the instance of either of the parties, refer the account in dispute in a summary manner, to be audited by any officer of the Court or other fit person, who shall have power to examine all parties interested in the subject matter upon oath; and upon the report of the referee, (unless either of the parties shall shew good cause to the contrary,) the Court may make a rule either for the payment of such sum as upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the Court shall appear reasonable; or the Court may order judgment to be entered up as by confession for such sum as upon the report shall appear to be due.

Proceedings in case of the death of any Treasurer or Clerk having moneys in his hands.

XX. And be it enacted, That in case of the death of any person during the time that he shall be holding the office of County Treasurer or of Clerk of any Division Court, or after he shall have resigned or be removed from such office, the Treasurer for the time being, may, in his own proper name, or by his name and description of office, sue and recover from the executors or administrators of such person deceased, and his sureties, all such sums as shall have been remaining in his hands of money received under the authority of this Act, by an action of debt in any Court of Record in this Province having competent jurisdiction, in which it shall be competent for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this Act; whereby an action hath accrued to the plaintiff, to demand and have the same from such executors or administrators; and a like action may be brought against any executors or administrators of executors or administrators; and in all such actions the defendant or defendants may plead in like manner, and avail themselves of the like matters of defence, as in any action founded on simple contract of the original testator or intestate, and the Court may refer the account in dispute to be audited by any officer or person, and may proceed upon the report of such referee in like manner as in the case mentioned in the next preceding section.

Plaintiff acting as Treasurer to be *prima facie* evidence of his being so.

XXI. And be it enacted, That in all actions to be brought, as well as in all proceedings whatsoever to be instituted or carried on by any Treasurer by virtue of this Act, proof of his acting in the execution of the office of Treasurer shall be sufficient evidence of his holding such office, unless the contrary shall be shown in evidence by the defendants in such actions or the parties against whom such proceedings shall be instituted or carried on.

Treasurers, Clerks and Bailiffs to give security.

XXII. And be it enacted, That the Treasurer of every County shall give security for such sum, and with so many sureties, and in such manner and form as the Governor of this Province shall see reason to direct, for the due performance of his office, and for the due payment of all moneys received by him under any provision of this Act, and that every Clerk and Bailiff whose duty it shall be to receive moneys or who shall be appointed under this Act, shall give security for such sum, and with so many sureties as the Judge for the Division Court for which they act shall see reason to direct, by entering into a covenant under their hand and seal, joint and several, according to the form given in the Schedule to this Act annexed marked C, or in words to the same effect, which covenant shall be available to, and may be sued upon, by any person suffering damages by the default, breach of duty, or misconduct of such Clerks and Bailiffs respectively, in any Court of competent jurisdiction in Upper Canada; and every such Clerk or Bailiff appointed before this Act shall come into effect, shall, immediately after it shall come into effect, and before he shall perform any duty after that time, give security in the manner hereby required, but his so doing shall not in any wise impair or affect any bond or recognizance or covenant theretofore entered into by him, as such Clerk or Bailiff, but the same shall remain in full force as against him and his sureties, as regards any thing done or omitted to be done by him in breach of the conditions thereof, before this Act shall come into effect: Provided always, that such covenants shall not be accepted until the sureties therein mentioned shall have been

Form of covenant.

Clerks or Bailiffs heretofore appointed.

Proviso: sureties must be approved by Judge.

approved

approved of under the hand of such Judge, and declared sufficient for the sums for which they shall have respectively become bound to such covenants, and which said covenants, together with such approval, shall, before any such Clerk or Bailiff shall enter upon the duties of his office under this Act, be filed in the office of the Clerk of the Peace in the County in which the Division Court in respect of which such covenants were given is situate, for which filing and granting a certificate thereof the said Clerk of the Peace shall be entitled to demand and receive from such Clerk or Bailiff the sum of five shillings, and no more; and if any person who shall have become surety in any such covenant shall die, become resident out of Upper Canada, or insolvent, such Clerk and Bailiff shall, within one month after being notified by such Judge (whose duty it shall be to notify the same) of such death, departure or insolvency, give anew the like security, and in the same manner as hereinbefore provided, or forfeit his said office of Clerk or Bailiff under this Act: Provided always, that nothing herein contained shall extend or be construed to extend to discharge or exonerate all or any of the parties to such former covenants from their liability on account of any matter or thing which shall have been done or omitted before the renewal of the covenant as herein directed: And provided also, that a copy of such covenant, certified by the Clerk of the Peace, shall be received in all Courts as sufficient evidence of the due execution and of the contents thereof without any proof whatever; And provided that such sureties shall be freeholders and resident within the County in which the Court is held.

If sureties die or become insolvent, &c.

Proviso.

Proviso.

Proviso.

XXIII. And be it enacted, That the Judge of every such Division Court shall have power, jurisdiction and authority to hold plea of all claims and demands whatsoever for or against any person or persons, bodies corporate or otherwise, of debt, account, or breach of contract, or covenant, or money demand, whether payable in money or otherwise, where the amount or balance claimed shall not exceed the sum of twenty-five pounds, and in all torts to personal chattels, to and including the amount of ten pounds, and the Judge of the said Court shall hear and determine the same in a summary way; and every such Judge shall have power to make such orders, judgments and decrees thereupon as shall appear to him to be just and agreeable to equity and good conscience; and that upon any contract for the payment of a sum certain in labour or in any kind of goods or commodities, or in any manner otherwise than in money, that is to say, upon any contract for the delivery of goods or commodities, or the doing of work or labour for value received, or for or upon a past or executed consideration, it shall be lawful for the Judge, after the day has passed on which the goods or commodities ought to have been delivered, or the labour or other things performed, to give judgment for the amount in money as if the contract had been so originally expressed: Provided always, that no action shall be brought or tried in any such Division Court for any gambling debt, nor for any spirituous or malt liquors drunk in a tavern or ale-house, nor for any cause involving the right or title to real estate or involving any right to any custom or toll: Provided also, that nothing contained in this Act shall be construed to constitute and create the said Division Courts, Courts of Record.

Jurisdiction of Division Courts.

In torts.

Proceedings to be summary.

As to certain contracts.

Proviso.

Proviso.

XXIV. And be it enacted, That the Plaintiff in any suit brought in any Division Court, shall enter a copy, and if necessary, copies of his account or demand in writing, in detail, and the particulars of his demand in any case of tort or trespass, which shall be numbered according to the order in which it shall be entered, and thereupon a summons, bearing the number of the account or demand on the margin thereof, shall be issued which shall be in substance in the form of the Schedule to this Act annexed, marked B, according to the nature of the demand or claim for tort or trespass; and a copy of such summons, to which shall be attached a copy of the Plaintiff's account, or of the particulars of his demand, as the case may be, and the notice in the said Schedule of such demand, or account, or claim for each tort or trespass, shall be served on the Defendant ten days at least before the day on which the Division Court shall be holden at which the cause shall be tried: and delivery of such copies of summons and account or demand to the Defendant, or delivery thereof to his wife or servant, or any grown person being an inmate of his dwelling-house or usual place of abode, trading or dealing, shall be deemed

Mode of commencing suits in Division Courts.

Service of summons, notice, &c.

On whom to be made.

Proviso.

deemed a good service of such summons, account or demand; Provided always, that personal service of such summons on the debtor shall be necessary in all cases where the amount or damages sued for exceed the sum of forty shillings.

At what Division Court any suit may be brought.

XXV. And be it enacted, That all suits brought under this Act shall be tried at the Court holden for the Division wherein the Defendant, or where there shall be more than one Defendant, wherein any one of the Defendants shall dwell or carry on his business at the time of entering the account or demand, or at the Court holden for the Division within which the debt was contracted, or the tort or trespass committed, unless otherwise specially ordered by the Judge.

Plaintiff may not divide his claim, but may abandon excess.

XXVI. And be it enacted, That it shall not be lawful for any Plaintiff to divide any cause of action into two or more suits, for the purpose of bringing the same within the jurisdiction of a Division Court, but any Plaintiff, having a cause of action above Twenty-five Pounds, in which a suit might be brought under this Act, if the same were not above that sum, whenever he shall claim or demand only the balance, or sum of Twenty-five Pounds, may, on proving his case, recover to that amount only: Provided always, that no unsettled account to a greater amount than Fifty Pounds shall be sued for in any Division Court; and the judgment of the Court upon such suit shall be in full discharge of all demands in respect of such cause of action, and the entry of judgment shall be made accordingly.

Proviso: as to unsettled accounts.

Minors may sue for wages.

XXVII. And be it enacted, That it shall be lawful for any one under the age of twenty-one years to prosecute any suit in any Division Court under this Act, for any sum of money not exceeding Twenty-five Pounds which may be due to him or her for wages, in the same manner as if he or she were of full age.

No person exempt by privilege.

XXVIII. And be it enacted, That no privilege of any description whatsoever shall be allowed to any person to exempt him from suing and being sued in the said Division Courts upon any cause of action within the jurisdiction of the said Courts.

Debts due by more than one person jointly, may be recovered from one, saving his recourse.

XXIX. And be it enacted, That where any Plaintiff shall have any debt or demand recoverable under this Act, against two or more persons, partners in trade, or otherwise jointly answerable, but residing in different Divisions, or one or more of whom cannot be found, it shall be sufficient if any one or more of such persons be served with the process as hereinbefore directed, and the judgment may be obtained, and execution issued against such person, notwithstanding others jointly liable may not have been served or sued, reserving always to the person against whom execution may issue, any right which he may have to demand contribution from any other person jointly liable with him: Provided always, that whenever judgment is obtained against any person, being partner of a firm, and the Judge shall certify that the demand proved was strictly a partnership transaction, the Bailiff may seize and sell the property of such firm, as well as that of the Defendant or Defendants, who has or have been served, to satisfy such judgment, together with all lawful costs and charges thereon.

Proviso: as to cases against partnerships.

Judge to decide alone up to a certain amount.

XXX. And be it enacted, That the Judge of the County Court, or his Deputy, as aforesaid, shall be the sole Judge to determine all actions brought in the said Division Courts, in the summary manner authorized by this Act, and all matters and questions of fact relating thereto unless the amount claimed shall in cases of tort or trespass exceed Two Pounds Ten Shillings, in other cases where the same shall exceed Five Pounds and where either of the parties shall require a jury to be summoned as hereafter mentioned.

In suits not exceeding £5, Judge may receive affidavits of parties without his jurisdiction.

XXXI. And be it enacted, That in any suit brought in any Division Court for any debt or demand not exceeding the sum of Five Pounds, the Judge, in his discretion, may receive the affidavit of any party or witness in the said suit, resident without the jurisdiction of the Judge of such Court, as testimony in the cause, if such affidavit shall be made and sworn to before a Judge of a Division Court, or a Commissioner for taking affidavits in any of the Superior Courts in Upper Canada: Provided that the Judge, in his discretion, before he shall be required to pronounce judgment, may require any such witness, or any party in a cause, to answer any interrogatories that may be filed

Proviso.

in the said cause, which answers may in like manner be sworn to before any Judge or Commissioner.

XXXII. And be it enacted, That in all actions of tort or trespass, where the sum of money sought to be recovered shall exceed Two Pounds Ten Shillings, and in all other cases where such sum shall exceed Five Pounds, it shall be lawful for the plaintiff or defendant to require a Jury to be summoned to try the said action, and in any such case a Jury shall be summoned according to the provisions hereinafter contained to try such action: Provided always, that if the plaintiff require a Jury to be summoned, he shall give notice in writing to the Clerk of the Court at the time when he shall enter his account, demand or claim as aforesaid, and if the defendant shall require a Jury to be summoned, he shall give to the said Clerk, or leave at the office of the said Clerk, the like notice in writing within five days after the day of service of the summons on the said defendant.

Jury allowed in cases over a certain amount.

Proviso: notice to be given to the Clerk.

XXXIII. And be it enacted, That every party plaintiff or defendant, requiring any jury to be summoned, shall, at the time of giving the notice hereby required, and before he shall be entitled to have such jury summoned, pay to the Clerk of the said Court such sum of money as is set down in the Schedule of Fees for the time being, for or towards the payment of the expenses of the said jury.

Sum to be paid on demanding a jury.

XXXIV. And be it enacted, That the causes which are to be heard by the Judge alone, shall be set down for hearing in a separate list from the list of causes which are to be tried by a jury, which two lists shall be severally called "The Judge's List" and "The Jury List," and the causes shall be set down in such lists in the order in which they were entered in the first instance with the Clerk of the Division Court; and "The Jury List" shall be first disposed of, and then "The Judge's List;" except when the Judge shall see sufficient cause for proceeding differently.

"Judge's List" and "Jury List" to be kept.

XXXV. And be it enacted, That all male persons being subjects of Her Majesty by birth or naturalization above the age of twenty-one years, and not above the age of sixty years assessed upon the Collector's Roll and resident in the several divisions respectively, shall be jurors for the Division Courts in such Divisions, and the jurors to be summoned to serve at any Division Court shall be taken from the Collector's Rolls of the preceding year, for the Townships and places wholly or partly within the Division, and shall be summoned in rotation beginning with the first of such persons on such Roll; and if there be more than one such Township or place within the Division beginning with the Roll for that within which the Court is held, and then proceeding to that one of the other Rolls which shall contain the greatest number of such persons names, and so on until all the Rolls be gone through; after which, if necessary, they may be again gone through wholly or partly in the same order, and so on to *toties quoties*; and for the purposes of this section, it shall be the duty of the Collector for each place wholly or partly within any division, to furnish the Clerk of the Division Court thereof with correct lists of the names of all persons liable to serve as jurors at such Court in the order in which they stand upon the Rolls, and the Clerk of each Division Court shall cause not less than fifteen of the persons liable to serve as aforesaid to be summoned at each Session of the Court, (giving them at least three days notice,) to attend the Court at the time and place to be mentioned in the summons serving such notice personally, or leaving it with a grown-up person at the residence of the juror; Provided always, that either of the parties to any such cause shall be entitled to his lawful challenge against any of the said jury in like manner as he would in any other Court; and any jurymen who, after being duly summoned for that purpose as aforesaid, shall wilfully neglect or refuse to attend the Court in obedience to such summons shall be liable to a fine not exceeding twenty shillings, to be set on him by the Judge, which fine shall be levied and collected with costs, as other fines are hereinafter directed to be levied and collected, and shall form part of the general fee fund; and such fine may be levied by the same process as any debt or judgment recovered in the said Court: Provided always, that service as juror at any Division Court shall not exempt such juror from serving as juror in any of the Superior Courts of civil or

Who shall be Jurors at Division Courts.

What Jurors shall serve for each Division.

Collectors to furnish Clerks with lists of persons liable to serve.

Mode of summoning Jurors.

Proviso: as to right of challenge.

Penalty on Jurors summoned and not attending.

How enforced.

Proviso: such service not to exempt from

service at certain
Courts.

criminal jurisdiction or in any County Court, under any law now in force or to be passed during this present Session of Parliament respecting jurors.

Payment of Jurors.

XXXVI. And be it enacted, That each juror shall receive from the Clerk of the Division Court, out of the moneys to be deposited with him for that purpose, the sum of six pence, for every cause in which such Juror shall be sworn.

Five Jurors to be
sworn.

XXXVII. And be it enacted, That from time to time, as occasion shall require, five Jurors shall be empannelled and sworn to do justice between the parties whose cause they shall be required to try, according to the best of their skill and ability, and to give a true verdict according to the evidence, and each cause shall be decided by the unanimous verdict of any such Jury, and no other finding shall be received.

Verdict must be
unanimous.

Case where the jury
cannot agree, provided
for.

XXXVIII. And be it enacted, That whenever the Judge holding any Division Court shall be satisfied that a Jury sworn in any cause before him cannot agree upon their verdict after having been out a reasonable time, he may discharge them, and shall then adjourn the cause until the next Court and order the Clerk to summon a new Jury for the next sitting of the Court to be held in that Division, unless the parties shall have consented that the Judge may render judgment on the evidence already taken before him, in which case he is hereby authorized to give judgment accordingly.

How judgment shall
be pronounced.

XXXIX. And be it enacted, That every decision of the Judge, in any case heard before him, shall be openly pronounced in Court as soon as may be after the hearing thereof, save and except that in any case where the Judge may not be prepared to pronounce a decision instanter, he may postpone judgment and name a subsequent day and hour for the delivery thereof at the Clerk's Office in writing; and at such day and hour it shall be lawful for the Clerk to read the judgment to the parties or their agents if present, and if not, then to enter the said judgment in their absence, and such judgment shall be as effectual as if rendered in Court at the trial.

Exception.

No writ of summons
or execution to have
any blank.

XL. And be it enacted, That every summons and writ of execution issued by a Clerk of any Division Court shall be entirely filled up, and shall have no blank either in the date or otherwise at the time of its delivery to a Bailiff or any other person, to be executed.

Proceedings on day
of appearance.

XLI. And be it enacted That on the day named in the summons, the Plaintiff shall appear in the Division Court in person, or by some person in his behalf, to answer; and on answer being made in Court, the Judge shall proceed in a summary way to try the cause and give judgment without further pleading or formal joinder of issue.

Cause of action to be
proved as stated.

XLII. And be it enacted, That no evidence shall be given by the Plaintiff or Defendant on the trial of any such cause as aforesaid, of any cause of action, claim or sett-off, except such as shall be stated and contained in the demand, claim, account or sett-off, entered as hereinbefore directed.

Defendant may plead
set-off.

XLIII. And be it enacted, That any defendant may avail himself of the law of set-off and the Statute of Limitations, and of any other relief or discharge under any statute or law in Upper Canada; and if the Defendant's demand exceed that of the Plaintiff, the Court may non-suit the Plaintiff; or if the Defendant's demand, after remitting any portion of it he may please, do not exceed Twenty-five Pounds, the Court may give judgment for the Defendant for the balance found in his favour: Provided always, that no statutory defence shall be admitted, unless notice thereof in writing and a copy of such debt or demand by way of set-off, shall have been delivered to the Plaintiff, or left at his usual place of abode, if within the Division, or if living without the Division, to the Clerk of the said Court, at least six days before the trial or hearing: And provided also, that whenever any judgment shall be given in any case where a set-off is set up, the judgment of the Court on such set-off, shall be a full discharge, as well of the amount allowed to be set-off as the amount by which such claim of the Defendant exceeded Twenty-five pounds, and such judgment shall be so entered accordingly.

Proviso: as to sta-
tutory defence, &c.

Proviso.

Judgment on set-off
to be a discharge.

Judge to make rules
of practice.

XLIV. And be it enacted, That the Judge of the County Court shall have power from time to time to make general rules for regulating the practice and proceedings of the said Division Courts, and also to frame forms for every proceeding in the said Courts for which he shall think it necessary that a form be provided, and from time to time to

alter

alter any such form, and also to alter all or any of the forms given in the Schedule of this Act: Provided always, that such rules and forms so made, framed or altered, shall not be brought into use until the same shall have been submitted to and approved by the Chief Justice and Judges of the Court of Queen's Bench or Court of Common Pleas, for that part of this Province called Upper Canada, or any two of them: Provided always, that all rules and forms already legally made, approved and in force shall, as far as applicable, remain in force, until it is otherwise ordered.

Proviso: rules to be approved.

Proviso: as to existing rules.

XLV. And be it enacted, That if on the day named in the summons the Defendant shall not appear as aforesaid, or sufficiently excuse his absence, or shall neglect to answer, the Judge, on proof of due service of the summons and copy of the Plaintiff's account, claim or demand, may proceed to the hearing or trial of the cause on the part of the Plaintiff only, and the order, verdict or judgment thereupon which shall be given, made or rendered after hearing the evidence to be adduced on the part of the Plaintiff, shall be final and absolute, and as valid as if both parties had attended; and in case of the personal service of the summons, and detailed particulars of the Plaintiff's claim, except in actions of tort or trespass, the Judge may, in his discretion, give judgment without further proof: Provided always, that the Judge may make any order for granting any time to the Plaintiff or Defendant to proceed in the prosecution or defence of the suit.

Proceedings if defendant shall make default.

Proviso.

XLVI. And be it enacted, That it shall be lawful for the Defendant in any action brought under the provisions of this Act, at any time not less than six days before the day appointed for the trial thereof, to pay into Court such sum of money as he shall think a full satisfaction for the demand of the Plaintiff, together with the costs incurred by the Plaintiff up to the time of such payment; and notice of such payment shall be forthwith communicated by the clerk of the said Court to the Plaintiff by post, (on-receiving the necessary postage,) or by sending the same to his usual place of abode or business, and the said sum of money shall be paid to the Plaintiff, and all proceedings in the said action shall be stayed, unless the Plaintiff shall, within three days after the receipt of notice of such payment, signify to the Clerk of the said Court his intention to proceed for the remainder of the demand claimed, and in such case the action shall proceed as if it had been brought originally for such remainder only: Provided always, that if the Plaintiff shall recover no further sum in the action than such sum as shall have been paid into Court, under the provision hereinbefore contained, the Plaintiff shall pay to the Defendant all costs, charges and expenses incurred by him in the said action after such payment as aforesaid, and such costs, charges and expenses shall be settled by the Court, and shall be recovered by the Defendant by such ways and means as any sum ordered to be paid by the Court can be recovered.

Defendant may pay money into Court.

How the money shall be dealt with.

Proviso: if the plaintiff recover no greater sum.

XLVII. And be it enacted, That every person who in any examination, shall wilfully or corruptly give false evidence, or shall wilfully swear (or affirm, when by law affirmation is allowed,) falsely in any matter where an oath, affirmation, or affidavit in writing is required and allowed in this Act, shall be liable to the penalties of wilful and corrupt perjury.

False swearing to be perjury.

XLVIII. And be it enacted, That either of the parties to the suit may obtain from the Clerk of any Division Court a summons requiring the attendance of a witness resident within the County or served with the subpoena therein with or without a clause requiring the production of books, papers and writings in his possession or control; and in any such summons any number of names may be inserted, and service of a copy of any such summons by any literate person shall be as valid and effectual as if the same had been served by a Bailiff of the Court in which the suit is pending, and proof of the due service thereof, together with the tender of payment of expenses, may be received by the several Judges of the said Courts by written affidavits sworn before any Judge of a Division Court or before any person authorized by law to take affidavits in the Superior Courts in Upper Canada: and every person on whom any such copy of summons shall have been served, either personally or at his or her usual place of abode, and to whom at the same time a tender of payment of his or her expenses shall have been

Parties may obtain subpoenas for witnesses.

By whom to be served. Proof of service.

Penalty on witnesses not attending;

been made on such scale of allowance as has been heretofore or shall from time to time be settled by the Judge, and approved of by the Judges of the Court of Queen's Bench or Court of Common Pleas as aforesaid, and who shall refuse or neglect without sufficient cause to appear or to produce any books, papers or writings required by such summons to be produced, and also every person in Court called upon to give evidence, who shall refuse to be sworn or affirm where affirmation is by law allowed and give evidence, shall forfeit and pay such fine not exceeding two pounds, as the Judge shall set on him or her, and shall moreover be liable to imprisonment by verbal or written order of such Judge for any time not exceeding ten days; and such fine shall be levied and collected with costs in the same manner as fines imposed on Jurymen for non-attendance, and the whole or any part of such fine, in the discretion of the Judge, after deducting the costs shall be applicable towards indemnifying the party injured by such refusal or neglect, and the remainder thereof shall form part of the General Fee Fund before mentioned; Provided always, that either party may obtain from either of the Superior Courts of Common Law for Upper Canada, a subpœna requiring the attendance of a witness residing or served with such subpœna in any part of Upper Canada, at the Division Court, and at the time mentioned in such subpœna, which such witness shall obey, provided the allowance for his expenses shall, at the time of service, be tendered to him according to the scale settled in the said Superior Courts.

Or refusing to be sworn, &c.

How levied, &c.

Proviso: as to witnesses out of jurisdiction of Court.

Clerk to enter all proceedings.

XLIX. And be it enacted, That the Clerk of each Division Court shall cause a note of all summonses, and of all orders, and of all judgments and executions and returns thereto, to be fairly entered from time to time in a book which shall be kept in his office; and the Clerk shall sign his name on every page of such book; and such entries in the said book so signed, or a copy thereof purporting to be signed and certified as a true copy by such Clerk, shall at all times be admitted in all Courts and places whatsoever as evidence of such entry or entries, and of the proceedings referred to by such entry or entries, without any further proof.

Judge may grant delay to defendant.

Proviso.

L. And be it enacted, That the Judge may make orders concerning the time or times, and the proportions in which any sum and costs recovered by judgment of the said Court shall be paid, and at the request of the party entitled to the same, may order such sums to be paid into the Court: Provided always, that in any such order for time, reference shall be had to the day on which the summons was served on the defendant, and issuing of execution shall not be postponed without the consent of the party entitled to the same for a longer period than fifty days from the service of the summons.

Proceedings when there are cross judgments.

LI. And be it enacted, That if there be cross-judgments between the parties, execution shall be taken out by the party only who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered as well as satisfaction on the judgment for the smaller sum; and if both sums shall be equal, satisfaction shall be entered upon both judgments.

No suit on a judgment of a Division Court.

LII. And be it enacted, That in any suit brought in any Court for the recovery of any sum awarded by any judgment in a Division Court held under this Act, no costs shall be recoverable without the order of the Judge, on sufficient cause being shewn.

Execution how granted and enforced.

LIII. And be it enacted, That whenever the Judge of any Division Court shall make an order for the payment of money, it shall be lawful for the party in whose favor such order shall be made, in case of default or failure of payment thereof at the times and in the manner thereby directed, to sue out execution against the goods and chattels of the party against whom such order shall be made; and thereupon the Clerk of the Court, at the request of the party prosecuting such order for the payment of money, shall issue under the seal of the Court a precept in the nature of *feri facias* to one of the Bailiffs of the Court, who by virtue of such precept shall levy by distress and sale of the goods and chattels of such party, being within the County within which the said Court was holden, such sum of money and costs (together with interest thereon from the date of the entry of the judgment) as shall be so ordered, and past due, and shall pay the same over to the said Clerk.

LIV. And be it enacted, That it shall and may be lawful for any Bailiff or Clerk of the said Courts to accept and take a confession or acknowledgment of debt from any debtor or debtors desirous of executing the same before any suit commenced for the claim or demand, or from the defendant in any suit hereafter to be brought in any Division Court who may be desirous of making the same, and such confession or acknowledgment shall be in writing and witnessed by the Bailiff or Clerk at the time of the taking thereof; and upon the production of such confession or acknowledgment to the Judge, and its being proved by the oath of the said Bailiff or Clerk, judgment may be entered thereon; and such oath or affidavit shall state that the party making it has not received and is not to receive any thing from the plaintiff or defendant, or any other person, except his lawful fees, for taking such acknowledgment, and that he has no interest in the demand sought to be recovered.

The Bailiff or Clerk may receive a confession of debt.

Judgment may be entered thereon.

LV. And be it enacted, That if any person against whom a judgment shall or may have been entered up in any Division Court in any County in Upper Canada, shall remove to another County therein without satisfying the said judgment, it shall be lawful for the Judge of the Division Court of the County to which the said party has removed to order an execution for the debt and costs, for which judgment has been rendered in another County against such party, to issue against such party, upon the production of a copy of such judgment duly certified by the Judge of the County for which the judgment has been entered: Provided always, that if the party against whom such execution shall be awarded, shall, before an actual sale of the goods and chattels, pay or cause to be paid or tendered unto the Clerk or Bailiff of the Division Court out of which such execution has issued, such sum of money as aforesaid, or such part thereof as the said Plaintiff shall agree to accept in full of his debt, together with the fees to be levied, the execution shall be superseded, and the goods shall be released and restored to the said party.

Execution may issue in another County when the defendant has removed to such other County.

Proviso: if party pay the judgment and costs.

LVI. And be it enacted, That every writ of execution issued by the Clerk of any Division Court shall be dated on the day when it shall actually issue, and shall be returnable within thirty days from the date thereof.

Execution to be dated, and returnable within thirty days.

LVII. And whereas it is expedient that judgments exceeding ten pounds in the said Courts shall in certain cases affect lands, and that execution should issue in certain cases against lands on judgments obtained in any Division Court, Be it enacted, That whenever judgment is rendered in favour of any Plaintiff or Defendant in any Division Court under this or any former Act hereby repealed, and any execution therein issued shall or may have been returned *nulla bona*, it shall be lawful for such plaintiff or defendant to obtain a transcript of such judgment from the Clerk of such Court, under his hand and sealed with the seal of the said Court, which transcript shall set forth the proceedings in the cause, the date of issuing execution against the Defendant's or Plaintiff's goods and chattels, and the Bailiff's return of *nulla bona* thereon, as to the whole or a part, and upon filing such transcript in the Office of the Clerk of the County Court in the County where such judgment shall have been obtained, or in the County wherein the Defendant's or Plaintiff's lands are situate, the same shall become and is hereby declared to be a judgment of the said County Court, and the said Clerk of the County Court is hereby required to file the said transcript of Judgment on the day of the month on which he receives the same, and to enter a memorandum thereof in a book to be by him provided for that purpose, which memorandum shall contain the names of the Plaintiff and Defendant, the amount of the judgment, the amount remaining unsatisfied thereon, and the date of filing, for which services the said Clerk of the County Court shall be entitled to demand and receive from the person filing the same the sum of two shillings and six pence, and no more; and such book shall at all reasonable hours be accessible to any person desirous of examining the same, upon the payment to the said Clerk of six pence, and upon such filing and entry as aforesaid, the Plaintiff or Defendant shall, until the judgment is fully paid and satisfied, be entitled, to pursue the same remedy for the recovery of the same or the balance due thereon, as if the judgment had been originally obtained from the County Court: Provided

Execution against lands on return of *nulla bona*—

How obtained—

From County Courts.

Duty of Clerk of County Court.

Proviso.

always,

always, that no person shall be entitled to file a transcript of any such judgment in any County Court, unless the sum remaining unsatisfied on such judgment, and on the execution to be issued thereon, shall amount to the sum of ten pounds.

Certificates of judgment may be obtained and registered against lands.

LVIII. And be it enacted, That it shall be lawful for any party obtaining judgment in any Division Court exceeding ten pounds at any time after fourteen days from the day of giving judgment, to obtain a certificate of any such judgment from the Clerk of such Division Court, in the form used in the Superior Courts as near as circumstances will permit, which certificate shall on the request of the party obtaining the same be registered in the same manner, and on payment of the same fees to the Register as are paid upon certificates of the judgments of the Superior Courts, and on such registry shall bind lands to the same extent as they would have been bound had the judgment been rendered in any of the Superior Courts.

Penalty on bailiff neglecting to make a return or willfully making a false return.

LIX. And be it enacted, That if any Bailiff shall neglect to return any writ of execution within three days after the return day thereof, or shall make a false return thereto, the party having sued out such writ may maintain an action on the covenant aforesaid against such Bailiff and his sureties in any Court having competent jurisdiction in Upper Canada aforesaid, and shall recover therein the amount for which the execution issued, with interest from the date of the judgment upon which such execution was issued, or such less sum as in the discretion of the Judge or Jury the Plaintiff under the circumstances may be justly entitled to recover; and if a judgment be obtained in such suit against the Bailiff and his sureties, execution shall immediately issue thereon; any thing in this Act or in any other Act or law to the contrary notwithstanding; and in case of the departure or removal from the limits of the County, of such Bailiff, the action may be commenced and carried on against his sureties alone, or against any one or more of them.

How enforced.

At what time goods shall be sold after seizure in execution, &c.

LX. And be it enacted, That no sale of any goods which shall be taken in execution shall be had until after the end of eight days at least, next following the day on which such goods shall have been so taken, unless upon the request in writing, under the hand of the party whose goods shall have been taken; and the Bailiff after taking goods and chattels into his custody by virtue of a writ of execution, shall indorse thereon the date of the seizure; and shall immediately give public notice by advertisement signed by himself, and put up at three of the most public places in the Division, where such goods and chattels shall be taken, of the time and place within such Division when and where they will be exposed to sale; which notice shall describe the goods and chattels taken, and shall be so put up at least eight days before the time appointed for the sale.

Notice of sale.

No Bailiff, &c., to purchase at such sale.

LXI. And be it enacted, That no Bailiff or other officer of any Division Court, shall, directly or indirectly, purchase any goods or chattels at any sale made by him under execution, and every purchase made in contravention of this enactment shall be absolutely void.

In what Court a Clerk or Bailiff may sue and be sued.

LXII. And be it enacted, That when any Clerk or Bailiff of any Division Court, either by himself or jointly with any other person or persons, is liable to be sued, or may sue any other person or persons, for a debt or demand within the jurisdiction of the Division Court of which he shall be a Clerk or Bailiff, then and in every such case such Clerk or Bailiff may sue, and shall be liable to be sued for any debt due to or by him, separately or jointly with any other person or persons, in the Court of any next adjoining Division in the same County, in the same manner, to all intents and purposes, as if the cause of action for which any such suit shall be brought, had arisen within such next adjoining Division, or the defendant or defendants were resident therein.

In certain cases the Judge may order immediate execution.

LXIII. And be it enacted, That it shall and may be lawful for the judge of the said Court, at any time after the giving and recording of any judgment, upon application being made to him by the party in whose favour such judgment shall be given, upon oath or other sufficient testimony to the satisfaction of the said Judge, that the party will be in danger of losing the amount of such judgment, if he be compelled to wait till the day of payment thereof before any execution can issue thereon, to order the issue of an execution at such time as he shall think fit.

LXIV.

LXIV. And be it enacted, That if any person or persons in any County of Upper Canada, being indebted in any sum not exceeding twenty-five pounds, nor less than twenty shillings, for any debt or damages arising upon any contract, express or implied, or upon any judgment, shall abscond from this Province, leaving personal property liable to seizure under execution for debt, in any County in Upper Canada, or shall attempt to remove his, her or their personal property of the description above mentioned, either out of Upper Canada or from one County to another therein, or from Upper to Lower Canada, or shall keep concealed in any County of Upper Canada to avoid service of process, it shall and may be lawful for any creditor or creditors of such person or persons, his, her or their servant or agent, to make application to the Clerk of any Division Court of the County wherein the debtor or debtors were or was last domiciled, or where the debt was contracted, or to the Judge of the County Court therein, or to any Justice of the Peace in any County of Upper Canada, and upon making or producing an affidavit or affirmation to the purport of that in the Schedule to this Act annexed, marked D, (which affidavit or affirmation the said Clerks, Judges and Justices of the Peace are respectively hereby authorized to administer,) and upon then and there filing the said affidavit or affirmation with such Clerk or Judge, or if taken before a Justice of the Peace, with such Justice of the Peace (whose duty it shall be to transmit the same forthwith to the Clerk of the Division Court, within whose Division the same was so made or taken, to be filed and kept among the papers in the cause), it shall be lawful for such Clerk, Judge or Justice of the Peace forthwith to issue a warrant under his hand and seal, directed to the Bailiff of the Division Court, within which the same was issued, or to any Constable of the County, commanding such Bailiff or Constable to attach, seize, take and safely keep all the personal estate and effects of the absconding, removing or concealed person or persons, of what nature and kind soever, liable to seizure under execution for debt within such County, or a sufficient portion thereof, to secure the sum mentioned in the warrant, with the costs of the action, and to return the same forthwith to the Division Court of the Division wherein such warrant was issued, upon receipt of which warrant the Bailiff or Constable to whom the same may be directed, shall upon being paid his lawful fees for levy, mileage and otherwise thereupon, including the fees of appraisement, forthwith execute the same, and make a just and true inventory of all such personal estate and effects, as he shall seize and take by virtue thereof, and such Bailiff or Constable shall within twenty-four hours thereafter call to his aid two Freeholders, who shall first be sworn by such Bailiff or Constable, to appraise the said personal estate and effects so seized; and such Bailiff or Constable shall forthwith return the said Inventory which shall be attached to such appraisement to the Clerk of the Division Court of the Division within which such warrant was issued, and which warrant may be in the form of that in the Schedule to this Act annexed, marked E: Provided always, that the said appraisers shall be entitled to receive for each day they may be employed in carrying its enactments into effect, the sum of two shillings and six pence each, to be paid in the first instance by the plaintiff or plaintiffs and allowed in the costs of the cause: Provided always, that proceedings may be conducted to judgment and execution in any case commenced by attachment under the provisions of this section, in the Division Court of the Division within which the warrant of attachment shall issue; and that when proceedings shall be commenced in any case before the issuing of an attachment under the provisions of this section, such proceedings may be continued to judgment and execution in the Division Court within which such proceedings may have been commenced; and the property seized upon any such attachment shall be liable to seizure and sale under the execution to be issued upon such judgment, or the proceeds thereof, in case such property shall have been sold as perishable, shall be applied in satisfaction of such judgment: Provided further, that it shall not be lawful for any plaintiff to divide any cause of action into two or more suits for the purpose of bringing the same within the provision of this section, but any plaintiff having a cause of action above the value of twenty-five pounds, for which an attachment might be issued under this section, if the same were not

Proceedings in case of absconding debtors, &c.

Affidavit required.

Warrant to issue.

Duty of Bailiff or Constable on receiving such warrant.

Form of Warrant.

Proviso.

Fees to appraiser.

Proviso: where proceedings may be conducted to judgment.

Liability of property seized.

Proviso: cause of action not to be divided, but excess may be abandoned.

not above the value of twenty-five pounds, may abandon the excess, and upon proving his case, shall and may recover to an amount not exceeding twenty-five pounds, and the judgment of the Court in such case shall be in full discharge of all demands in respect of such cause of action, and the entry of judgment therein shall be made accordingly.

Provision when there is more than one attachment.

LXV. And be it enacted, That whenever several attachments shall be issued against any party, as authorized by the next preceding section of this Act, the proceeds of the goods and chattels which shall have been attached, shall not be paid over to such attaching creditor or creditors according to priority, but they shall be rateably distributed among such of the creditors suing out the said attachments as shall obtain judgment against the debtor, in proportion to the amount of the sums really due upon such judgments; and no distribution shall take place until reasonable time, in the opinion of the Judge, has been allowed to the several creditors to proceed to judgment: Provided always, that when such goods and chattels shall not be sufficient to satisfy the claims of all the attaching creditors, none shall be allowed to share, unless he shall have sued out his attachment, and given notice thereof to the Clerk of the Division Court out of which the first attachment shall have issued or shall be returnable, within one month from the issuing of such first attachment.

Proviso: when goods seized will not satisfy all.

Property seized to be in custody of Clerk of Division Court.

LXVI. And be it enacted, That all property seized under the provisions of the next preceding section, shall be forthwith handed over to the custody and possession of the Clerk of the Division Court of the Division within which the warrant was issued, who shall take the same into his charge and keeping, and shall be allowed all necessary disbursements for keeping the same.

Persons against whose effects, &c., a warrant is issued may tender a bond to their creditors, with sureties, prior to judgment, and obtain a release of the goods.

LXVII. And be it enacted, That if any person or persons against whose estate or effects such warrant or warrants as aforesaid, may have been issued, or any person or persons on his, her or their behalf, shall at any time prior to the recovery or judgment in the cause, execute and tender to the creditor or creditors, who sued out such warrant or warrants as aforesaid, and shall file in the Division Court to which the warrant or warrants of attachment shall have been returned, a bond with good and sufficient sureties, to be approved of by the Judge or Clerk of the Division Court, binding the obligors, jointly and severally, in double the amount of the sum claimed, with condition that the debtor or debtors (naming him, her or them) shall in the event of the claim being proved and judgment being recovered thereon, as in other cases where proceedings have been commenced against the person, pay the same, or the value of the property so taken and seized, to the claimant or claimants, or shall produce such property whenever thereunto required to satisfy such judgment, it shall and may be lawful for such Clerk to supersede such warrant, and all and singular the property which may have been attached, shall then be restored.

As to party not appearing within one month after warrant issued against him.

LXVIII. And be it enacted, That if after the period of one month from the seizure aforesaid, the party against whom the warrant issued, or some one on his behalf, do not appear and give such bond with sureties conditioned as above mentioned, whenever and as soon as judgment shall have been obtained upon such claim or claims, execution thereupon may immediately issue and the property seized upon such attachment or attachments, or enough of such property to satisfy the same, may be sold thereon to satisfy the same according to law, or enough of the proceeds thereof may be applied to satisfy the judgment and costs, if the same shall have been previously sold under the provisions hereinafter made, as perishable property: Provided always, that when a summons has been personally served on the party whose property shall have been seized as aforesaid, and before such seizure, then the trial of the cause shall be proceeded with, as if no such attachment had issued, and execution shall forthwith be awarded after judgment, unless otherwise ordered by the Judge.

Proviso.

Service of process how made in the cases last mentioned.

LXIX. And be it enacted, That in order to proceed in the recovery of any debt due by the person or persons against whose property a warrant shall have issued under this Act, where process shall not have been previously served, the same may be served either personally or by leaving a copy at the last place of abode, trade or dealing of the defendant,

defendant, with any person or persons there dwelling, or by leaving the same at the said dwelling if no person be there found; and in every case, all subsequent proceedings shall and may be conducted according to the usual course of practice and proceedings in the Division Court aforesaid: Provided always, that if it shall appear to the satisfaction of the Judge in the trial of any cause, upon affidavit, sworn to in manner authorized by this Act with regard to other affidavits or other sufficient proof, that the creditor or creditors suing out an attachment under the provisions of this Act, had not reasonable or probable cause for taking such proceedings, then it shall be the duty of the Judge to order that no costs whatever shall be allowed to such creditor or creditors, plaintiff or plaintiffs therein, and no costs in such case shall be recovered in the cause.

Proviso: if no reasonable cause of seizure

LXX. And be it enacted, That in case any horses, cattle, sheep or other perishable goods or chattels, shall be taken upon any warrant to be issued as aforesaid, it shall be lawful for the Clerk of the Court in whose custody or keeping the same shall be, the same having been first appraised as aforesaid and at the request of the plaintiff suing out the warrant, to expose and sell the same at public auction, to the highest bidder, giving at least eight days' notice at the office of the Clerk of the said Division Court, and at two other public places within such Division, of the time and place of such sale, if the articles seized will admit of being so long kept, otherwise to sell the same at his discretion: Provided always, that it shall not be compulsory upon the Bailiff or Constable to seize, or upon the Clerk to sell such perishable articles, until the party suing out the warrant shall have given a bond to the defendant or defendants therein, with good and sufficient sureties in double the amount of the appraised value thereof (to be ascertained as aforesaid) conditioned that the party directing such seizure and sale will repay the value thereof, together with all costs and damages that may be incurred in consequence of such seizure and sale, in case judgment be not obtained for such party suing out such attachment, which bond shall also be filed with the papers in the cause: Provided always, that any bond given in the course of any proceeding under this Act, may be sued in any Division Court of the County wherein the same shall have been executed, and proceedings may be thereupon carried on to judgment and execution in such Court, notwithstanding the penalty contained in such bond may exceed the sum of twenty-five pounds: And provided further, that every bond shall and may be delivered up to the party entitled to the same, by the order and at the discretion of the Judge of such Court, to be enforced or cancelled, as the case may require.

Perishable articles taken upon warrant may be sold forthwith.

Proviso: security may be required from the plaintiff.

Proviso.

Proviso.

LXXI. And be it enacted, That any residue which may remain after satisfying such judgments with the costs thereupon, shall be delivered to the defendant, or to the Agent of the defendant, or to any person in whose custody the goods were found,—whereupon the responsibility of the Clerk, as respects such property, shall cease.

Residue of proceeds how disposed of.

LXXII. And be it enacted, That the Judges of the said Courts upon proof of and being satisfied with the general correctness of the plaintiff's books, may receive the same in evidence, and give judgment to the amount of five pounds in any cause within the said Courts, except in tort or trespass, and that it shall be lawful for the Judge of any such Division Court in his discretion to grant a new trial upon application of either party within fourteen days after the trial of any cause therein.

Plaintiff's books may be evidence in certain cases.

LXXIII. And whereas it is desirable that judgments in the said Division Courts, and in the Courts of Requests for the trial of Small Causes in Upper Canada should be recovered by and against the personal representatives of the parties thereto; Be it therefore enacted, that in the event of the death of either or both of the parties to any such judgment, it shall and may be lawful for the party in whose favor such judgment may have been entered, or his personal representatives in case of his death, to revive such judgment against the other party or his personal representatives, in case of his death, and to issue Execution thereon as may be provided and established by the Judges of the said Courts respectively.

Revivor of suits against the party dying.

LXXIV. And whereas under the former Act relative to the Court of Requests, various Clerks were appointed for Townships and other localities under the Commissioners; And whereas when the Division Court Act was passed, no provisions

Recital.

were therein contained for the delivery up of the books, papers, and documents connected with the business and with the claims of suitors; And whereas it has been found inconvenient that such books, papers and documents should remain elsewhere than with the Clerks of the different Division Courts: Be it therefore enacted, That it shall and may be lawful for the Judge of the County Court, by writing under his hand, to require any person or persons in whose possession or custody any such books, papers or documents shall or may be, to deliver the same or all, or any, or either thereof, as he shall see fit, over to such Division Court Clerk as he shall name, and in the event of the same not being delivered in compliance with such order or requisition, it shall and may be lawful for Her said Majesty's Court of Queen's Bench, or Court of Common Pleas, or for any Judge thereof in vacation, to proceed against such person or persons in the like manner as provided for in any of the foregoing sections of this Act.

Provision as to papers in the hands of former Clerks of the Court of Request.

Punishment of persons wilfully insulting any Judge.

LXXV. And be it enacted, That if any person shall wilfully insult the Judge or any Officer of any Division Court, during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of such Court, it shall be lawful for any Bailiff or officer of the Court, with or without the assistance of any other person, by order of the Judge, to take such offender into custody, and the Judge may impose upon any such offender a fine not exceeding the sum of five pounds, and in default of immediate payment thereof, it shall be lawful for the said Judge, by warrant under his hand and seal, to commit the offender to the Common Gaol of the County for any period not exceeding one calendar month, unless such fine and costs, with the expenses attending the commitment, be sooner paid.

Punishment of any Bailiff or Officer guilty of extortion.

LXXVI. And be it enacted, That if any Bailiff or Officer of any Division Court, acting under colour or pretence of the process of such Court, shall be guilty of extortion or misconduct, or shall not duly pay or account for any money levied or received by him under the authority of this Act, it shall be lawful for the Judge at any sitting of the Court, if the party aggrieved shall think fit to complain to him, in writing, to inquire into such matter in a summary way, and for that purpose to summon and enforce the attendance of all necessary parties, and to make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied or received as aforesaid, and for the payment of any such damages and costs to the parties aggrieved as the Judge shall think just; and in default of payment of any money so ordered to be paid by such Bailiff within the time specified for the payment thereof in such order, it shall be lawful for the Judge, by warrant under his hand and seal, to cause such sum to be levied by distress and sale of the goods of the offender, together with the reasonable charges of such distress and sale, and in default of such distress (or summarily in the first instance,) to commit the offender to the Common Gaol of the County for any period not exceeding three calendar months.

Punishment of Clerks, Bailiffs, &c., taking other than their proper fees, &c.

LXXVII. And be it enacted, That if any Clerk, Bailiff or other Officer employed in putting this Act or any of the powers thereof into execution, shall exact, take or accept any fee or reward whatsoever, other than and except such fees as are or shall be appointed and allowed respectively as aforesaid for or on account of any thing done or to be done by virtue of this Act, on any account whatsoever relative to putting this Act into execution, every such person so offending, shall, upon proof thereof before the said Court, be for ever incapable of serving or being employed under this Act, in any office of profit or emolument, and shall also be liable in damages to the party aggrieved.

As to costs where a plaintiff shall bring in a Superior Court, an action which ought to have been brought in a Division Court provided for.

LXXVIII. And be it enacted, That in case any action shall be prosecuted after the commencement of this Act, in any County or Superior Court of Record, for any cause which might have been entered in a Division Court under this Act, and the Plaintiff shall obtain judgment for a sum not exceeding the respective sums to which the jurisdiction of a Division Court is by this Act limited, no more costs shall be taxed against the Defendant than would have been incurred in the Division Court in carrying on the same action, unless the Judge who presides at the trial of such action shall certify in open Court immediately after the verdict is recorded, that it was a fit cause to be
 withdrawn

withdrawn from the Division Court, and to be commenced in such County or Superior Court; provided also that so much of the costs of the Defendant to be taxed as between Attorney and Client in any such suit wherein the Judge shall not certify as aforesaid, as shall exceed the costs of defence, taxable and which would have been incurred in the Division Court in defending the same action, shall be set off and allowed by the taxing officer, on entering judgment, against the costs to be taxed for the plaintiff and recoverable from the defendant, who shall be entitled to execution, with the costs thereof, against the plaintiff, when the amount of the costs so set off shall exceed the plaintiff's verdict and taxable costs: And provided also, that no execution on such suit shall issue against lands, unless the amount of such judgment shall equal the sum for which execution against lands are authorized by this Act.

Proviso.

LXXIX. And be it enacted, That when any levy or distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any defect or want of form in the information, summons, conviction, warrant, precept or other proceeding relating thereto; nor shall the party or parties distraining, be deemed a trespasser or trespassers from the beginning on account of any irregularity which shall afterwards be committed by the party or parties so distraining, but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage.

Proviso.

Certain informalities in levying not to make the party a trespasser from the beginning.

LXXX. And be it enacted, That it shall and may be lawful for any executor or administrator to sue and be sued in any Courts holden under the authority of this Act in like manner as if he were a party in his own right, and the judgment and execution shall be such as in the like cases would be given or issued in any Superior Court.

Executors, &c., may sue in Division Courts.

LXXXI. And be it enacted, That on the hearing or trial of any action or in any other proceeding in the said Division Courts holden under this Act, the parties thereto, and all other persons may be summoned as witnesses and examined either on behalf of the Plaintiff or Defendant, upon oath, (or solemn affirmation, in those cases in which persons are allowed to make affirmation instead of taking an oath,) to be administered by the proper officer of the Court: Provided always, that no party to the suit shall be summoned or examined, except at the instance of the opposite party or the Judge.

All persons may be examined as witnesses in Division Courts.

Proviso: exception.

LXXXII. And be it enacted, That payment of any fine imposed by any Court under the authority of this Act, may be enforced upon the order of the Judge, in like manner as judgment for any sum adjudged in the said Court, and shall be accounted for as herein provided.

How fines imposed by this Act may be enforced.

LXXXIII. And be it enacted, That all the costs of any action or proceeding in any Division Court not otherwise provided for, shall be paid by or apportioned between the parties in such manner as the Judge shall think fit, and in cases where the plaintiff shall not appear in person or by some person on his behalf, or appearing shall not make proof of his demand to the satisfaction of the Judge, it shall be lawful for the Judge, if he shall think fit, to award to the defendant such costs and such further sum of money by way of satisfaction for his trouble and attendance as he in his discretion may think proper, to be recovered as provided for in other cases under this Act, and in default of any special direction, the costs shall abide the event of the action, and execution may issue for the recovery of such costs in like manner as for any debt adjudged in the said Court.

Costs to be apportioned in such manner as the Judges shall think fit.

If no special direction.

LXXXIV. And be it enacted, That every order and judgment of any Division Court holden under this Act, except as herein provided, shall be final and conclusive between the parties, but the Judge shall have power to non-suit the plaintiff in any case in which satisfactory proof shall not be given to him entitling either the plaintiff or the defendant to the judgment of the Court, and any plaintiff may elect to be non-suited by the Judge and insist thereon, and the Judge shall also in every case whatever have the power, if he shall think fit, to order a new trial to be had upon such terms as he shall think reasonable, and in the meantime to stay the proceedings: Provided such new trial

Judgments in Division Courts to be final: non-suits and new trials allowed.

Proviso.

trial be applied for, at furthest, within fourteen days, and good grounds be shewn therefor by the party so applying.

In certain cases, suits may be removed by *certiorari*.

LXXXV. And be it enacted, That any suit brought in any Division Court holden under this Act may be removed or removable from the said Court into Her Majesty's Court of Queen's Bench, or Court of Common Pleas in Upper Canada, by any writ of *certiorari*, provided the debt or damage claimed shall amount to ten pounds and upwards, and provided leave be obtained of one of the Judges of the said Court of Queen's Bench, or Court of Common Pleas, in cases which shall appear to the said Judge fit to be tried in either of the said Superior Courts, and not otherwise, and upon such terms as to payment of costs or such other terms as he shall think fit.

Each Court to have a seal.

LXXXVI. And be it enacted, That for every Court holden under the authority of this Act there shall be made a seal of the Court to be paid for out of the Fee Fund, and all summonses and other process issuing out of the said Court shall be sealed or stamped with the seal of the Court; and every person who shall forge the seal or any process of the Court, or who shall serve or enforce any such forged process, knowing the same to be forged, or deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons or other process of the said Court, knowing the same to be false, or who shall act or profess to act under any false color or pretence of the process of the said Court, shall be guilty of felony.

Punishment for forging it.

Mode of serving process out of the Division.

LXXXVII. And be it enacted, That any summons or other process which under this Act shall be required to be served out of the division of the Court from which the same shall have issued, may be served by the Bailiff of such or any other division Court in Upper Canada holden under this Act, and such service shall be as valid as if the same had been made by a Bailiff of the Court out of which the summons or process shall have been issued, within the jurisdiction of the Court for which he acts.

Mode of proving such service.

LXXXVIII. And be it enacted, That service of any summons or other process of any Division Court which shall require to be served out of the division of the said Court may be proved by affidavit purporting to be sworn before any Judge or Clerk of a Division Court, or before any person authorized by Law to take affidavits in the Superior Courts of Common Law in Upper Canada; and the fee for drawing such affidavit, by whomsoever done, shall be six pence, and for administering the Oath by a duly qualified person, six pence, and no more in either case, and shall be, together with the postages on the papers if transmitted by mail, costs in the cause; and in every case of the unavoidable absence of the Bailiff by whom any summons or other process of a Court holden under this Act shall have been served, the service of such summons or other process may be proved, if the Judge shall think fit, in the same manner as a summons served out of the Division of the Court, but without additional charge to either of the parties of the suit.

Fee on affidavit of service.

Unavoidable absence of Bailiff.

What goods may be taken in execution.

LXXXIX. And be it enacted, That every Bailiff or Officer executing any process of execution issuing out of any Division Court in Upper Canada, against the goods and chattels of any person, may by virtue thereof seize and take any of the goods and chattels of such person (excepting the wearing apparel and bedding of such person or his family, and the tools and implements of his trade to the value of five pounds, which shall to that extent be protected from such seizure,) and may also seize and take any money or bank notes and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money, belonging to any such person against whom any such execution shall have issued as aforesaid.

Securities for money.

How money and securities for money shall be dealt with after seizure.

XC. And be it enacted, That the Bailiff of every such Division Court shall hold any cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money which shall have been so seized or taken as aforesaid, as a security or securities for the amount directed to be levied by such execution, or so much thereof as shall not have been otherwise levied or raised for the benefit of the plaintiff, and the plaintiff may sue in the name of the defendant, or in the name of any person in whose name the defendant might have sued, for the recovery of the sum or sums secured or made payable thereby when the time of payment thereof shall have arrived; and it shall

not

not be competent for the defendant in the original cause to discharge such suit in any way without the consent of the plaintiff or of the Judge: Provided always, that the party who desires to sue for any such amount, shall in the first place pay or secure all costs that may attend the proceeding, and the moneys realized, or a sufficient part thereof, shall be paid over by the officer receiving the same to apply on the plaintiff's demand, and the overplus, if any, shall be forthwith paid to the defendant in the original suit, under the direction of the Judge.

Proviso: security to be given for costs, &c.

XCI. And be it enacted, That it shall be lawful for any party who has obtained any unsatisfied judgment or order in any Division Court, for the payment of any debt or damages or costs, to obtain a summons from any Division Court within the limits of which the defendant in any such suit shall then dwell or carry on his business, such summons to be in such form as the Judge of such Court shall from time to time direct, and to be served personally upon the person to whom it is directed, requiring him to appear at such time and place as shall be directed in such summons, to answer such things as are named in such summons, and if he shall appear in pursuance of such summons, he may be examined upon oath, touching his estate and effects, and the manner and circumstances under which he contracted the debt or incurred the damages or liability which is the subject of the action in which judgment has been obtained against him, and as to the means and expectation he then had, and as to the property and means he still hath, of discharging the said debt or damages or liability, and as to the disposal he may have made of any property, and the person obtaining such summons as aforesaid and all other witnesses whom the Judge shall think requisite, may be examined upon oath, touching the enquiries authorized to be made as aforesaid; and the costs of such summonses and of all proceedings thereon, shall be deemed costs in the cause, unless the Judge shall otherwise order and direct.

A defendant against whom there shall be an unsatisfied judgment, may be summoned and examined as to his means of satisfying the same.

XCII. And be it enacted, That if the party so summoned shall not attend as required by such summons, and shall not allege a sufficient reason for not attending, or shall, if attending, refuse to be sworn or to declare any of the things aforesaid, or if he shall not make answer touching the same to the satisfaction of such Judge, or if it shall appear to such Judge either by the examination of the party or by any other evidence, that such party in incurring the debt or liability which is the subject of the action in which judgment has been obtained, has obtained credit from the plaintiff under false pretences or by means of fraud or breach of trust, or has wilfully contracted such debt or liability without having had at the same time a reasonable expectation of being able to pay or discharge the same, or shall have made or caused to be made any gift, delivery or transfer of any property, or shall have removed or concealed the same with intent to defraud his creditors or any of them, or if it shall appear to the satisfaction of the Judge that the said party so summoned has then or has had since the judgment obtained against him, sufficient means and ability to pay the debt or damages, or costs so recovered against him, either altogether or by any instalment or instalments which the Court in which the judgment was obtained shall have ordered, and if he shall refuse or neglect to pay the same as shall have been so ordered, or as shall be ordered pursuant to the power hereinafter provided, it shall be lawful for such Judge, if he shall think fit, to order that any such party may be committed to the Common Gaol of the County in which the party summoned is resident, for any period not exceeding forty days.

Proceedings if a defendant shall refuse to attend or to be examined, or shall have contracted the debt without reasonable expectation of being able to satisfy it, or be guilty of any fraud, &c.

XCIII. And be it enacted, That it shall be lawful for the Judge of any Division Court before whom such summons shall be heard, if he shall think fit, whether or not he shall make any order for the committal of the defendant, to rescind or alter any order that shall have been previously made against any defendant so summoned before him for the payment, by instalments or otherwise, of any debt or damages recovered, and to make any further or other order, either for the payment of the whole of such debt or damages and costs forthwith, or by any instalments, or in any other manner, as such Judge may think reasonable and just.

Order allowing payments by instalments may be rescinded.

XCIV. And be it enacted, That in every case where the defendant in any suit brought in any Division Court shall have been personally served with the summons

Defendant personally appearing in any case may be examined.

to

to appear, or shall personally appear at the trial of the same, the Judge, at the hearing of the cause or at any adjournment thereof, if judgment shall be given against the defendant, shall have the same power and authority of examining the defendant and the plaintiff and other parties, touching the several things hereinbefore mentioned, and of committing the defendant to prison, and of making an order, as he might have and exercise under the provisions hereinbefore contained in case the plaintiff had obtained a summons for that purpose after the judgment obtained as hereinbefore mentioned.

And the plaintiff.

Proceedings in case of committal by the Court.

XCV. And be it enacted, That whenever any order of commitment shall have been made as aforesaid, the Clerk of the said Court shall issue under the seal of the Court, a warrant of commitment directed to the Bailiff of any Division Court within the County, who by such warrant shall be empowered to take the body of the person against whom such order shall be made; and all Constables and other Peace Officers within their respective jurisdictions shall aid in the execution of every such warrant, and the gaoler or keeper of the Gaol of the County in which such warrant shall issue, shall be bound to receive and keep the defendant therein until discharged under the provisions of this Act or otherwise by due course of law; and no protection, order or certificate granted by any Court of Bankruptcy, or for the relief of insolvent debtors, shall be available to discharge any defendant from any commitment under such last mentioned order.

No protection available.

Imprisonment not to act as an extinguishment of the debt, &c.

XCVI. And be it enacted, That no imprisonment under this Act shall in any wise operate as a satisfaction or extinguishment of the debt or other cause of action on which a judgment has been obtained, or protect the defendant from being anew summoned and imprisoned for any new fraud or other default rendering him liable to be imprisoned under this Act, or deprive the plaintiff of any right to take out execution against the defendant, in the same manner as if such imprisonment had not taken place.

Mode of executing warrant of execution or commitment out of the County in which it is obtained.

XCVII. And be it enacted, That in all cases where a warrant of execution shall have issued against the goods and chattels of any party, or an order for his commitment shall have been made under this Act, and such party or his goods and chattels shall be out of the County, it shall be lawful for the Bailiff of the Court either to execute such warrant of execution or of commitment himself, in any County or place where such party or his goods may be, or to send the same to the Clerk of any other Division Court constituted under this Act, within the jurisdiction of which such party or his goods and chattels shall then be or be believed to be, with a warrant thereto annexed under the hand of a Bailiff of the Court and seal of the Court from which the original warrant issued, requiring execution of the same, and the Clerk of the Court to which the same shall be sent shall seal or stamp the same with the seal of his Court, and issue the same to a Bailiff of his Court, and thereupon such last mentioned Bailiff shall be authorized to act in all respects as if the original warrant of execution or commitment had been directed to him by the Court of which he is a Bailiff, and shall within such time as this Act directs, return to the Bailiff of the Court from which the same originally issued, what he shall have done in the execution of such process, and in case a levy shall have been made, shall within such time as this Act directs, pay over all moneys received in pursuance of the warrant to the Bailiff of the Court from which the same shall have originally issued, retaining the fees for execution of the process; and where any order of commitment shall have been made and the person apprehended, he shall be forthwith conveyed, in custody of the Bailiff or Officer apprehending him, to the Gaol of the County in which he shall have been apprehended, and kept therein for the time mentioned in the warrant of commitment, unless sooner discharged under the provisions of this Act, and all Constables and other Peace Officers shall be aiding and assisting within their respective Counties in the execution of such warrant.

Payment of moneys levied.

Place of imprisonment.

In certain cases the Judge may suspend execution, &c.

XCVIII. And be it enacted, That if it shall at any time appear to the satisfaction of the Judge, by the oath or affirmation of any person or otherwise, that any defendant is unable, from sickness or other sufficient cause, to pay and discharge the debt and damages

damages recovered against him, or any instalment thereof ordered to be paid as aforesaid, it shall be lawful for the Judge in his discretion to suspend or stay any judgment, order or execution given, made or issued in such action, for such time and on such terms as the Judge shall think fit, and so from time to time until it shall appear by the like proof as aforesaid, that such temporary cause of disability has ceased.

XCIX. And be it enacted, That any person imprisoned under this Act, who shall have paid or satisfied the debt or demand or the instalment thereof payable, and the costs remaining due at the time of the order of imprisonment being made, together with the costs of obtaining such order, and all subsequent costs, shall be discharged out of custody, upon the certificate of such payment or satisfaction, signed by the Clerk of the Court, or by leave of the Judge of the Court in which the order of imprisonment was made.

Defendant imprisoned to be discharged on payment of debt and costs.

C. And be it enacted, That if any Officer or Bailiff of any Court holden under this Act, (or his Deputy or Assistant,) shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made, of any goods and chattels or other property seized under a process of the Court, the person so offending shall be liable to a fine not exceeding five pounds, to be recovered by order of the Court, or before a Justice of the Peace of the County in which such Court is situate, as hereinafter provided, (and to be imprisoned for any term not exceeding three calendar months;) and it shall be lawful for the Bailiff of the Court, or any peace officer in any such case, to take the offender into custody, (with or without warrant,) and bring him before such Court or Justice accordingly.

Punishment for assaulting Bailiff or rescuing goods seized.

CI. And be it enacted, That in case any Bailiff of any Division Court holden under this Act, who shall be employed to levy any execution against goods and chattels, shall, by neglect or connivance or omission, lose the opportunity of levying any such execution, then upon complaint of the party aggrieved by reason of such neglect, connivance or omission, if he shall think fit so to do, (and the fact alleged being proved to the satisfaction of the Court, on the oath of any credible witness,) the Judge shall order such Bailiff to pay such damages as it shall appear the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution issued, and the Bailiff shall be liable thereto; and upon demand made thereof, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing judgments recovered in the said Court.

Penalty on Bailiff causing loss to a plaintiff by neglect or connivance.

CII. And be it enacted, That if any claim shall be made to or in respect to any goods or chattels, property or security, taken in execution or attachment under the process of any Court holden under this Act, or by any person not being the party against whom such process has issued, it shall be lawful for the Clerk of the Court, upon application of the officer charged with the execution of such process, or for the officer himself, as well before as after any action brought against such officer, to issue a summons calling before the said Court, at the next sitting thereof for the Division, as well the party issuing such process as the party making such claim, and thereupon any action which shall have been brought in any of Her Majesty's Superior Courts of Record, or in a Local or Inferior Court in respect of such claim, shall be stayed, and the Court in which such action shall have been brought, or any Judge thereof, on proof of the issue of such summons, and that the goods and chattels or other property were so taken in execution or upon attachment, may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such summons out of the Division Court, and the Judge of the Division Court at such next sitting, or as soon after Court as convenient, shall adjudicate upon such claim, and make such order between the parties in respect thereof, and of the costs of the proceedings, as to him shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought in such Court, and such order shall be final and conclusive between the parties.

How claims by third parties to or upon goods seized in execution, shall be determined.

Application of penalties under this Act.

CIII. And be it enacted, That the moneys arising from any penalties, forfeitures and fines imposed by this Act, when paid and levied, shall (if not by this Act directed to be otherwise applied,) from time to time be paid to the Clerk of the Court by which the same shall be imposed, and shall be paid by him into the hands of the Treasurer of the County to be accounted for as part of the Fee Fund.

Proceedings for recovery of penalties before a Justice of the Peace.

CIV. And be it enacted, That in all cases in which by this Act any penalty or forfeiture is made recoverable before a Justice of the Peace, it shall be lawful for such Justice to summon before him the party complained against, and on such summons to hear and determine the matter of such complaint, and on proof of the offence to convict the offender, and to adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing shall have been exhibited before him, and all such proceeding by summons without information in writing, shall be as valid and effectual to all intents and purposes, as if an information in writing had been exhibited.

Form of conviction for offences against this Act.

CV. And be it enacted, That in all cases where any conviction shall be had for any offence committed against this Act, the form of conviction may be in the words or to the effect following, that is to say :

Be it remembered, That on this _____ day of _____ in the year of our Lord A. B. is convicted before _____ one of Her Majesty's Justices of the Peace for the County of _____ or before a Judge acting under an Act passed in the _____ year of the Reign of Her Majesty Queen Victoria, intituled, *An Act, &c. (insert the title of this Act,)* of having (*note the offence*); and I, (*or we*) the said _____ do adjudge the said _____ to forfeit and pay for the same the sum of _____ or to be committed to the Common Gaol of the County of _____ for the space of _____ : Given under _____ hand and seal, the day and year aforesaid.

No proceedings to be quashed, &c. for want of form.

CVI. And be it enacted, That no order, verdict or judgment, or other proceedings made concerning any of the matters aforesaid, shall be quashed or vacated for any matter of form.

Protection of persons acting under this Act.

CVII. And for protection of persons acting in the execution of this Act, Be it enacted, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the County where the fact was committed, and shall be commenced within six calendar months after the fact was committed, and not afterwards or otherwise ; and notice in writing of such action and of the cause thereof shall be given to the Defendant, one calendar month at least before the commencement of the action ; and no Plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought, a sufficient sum of money shall have been paid into Court with costs, by or on behalf of the defendant, and it shall be lawful in any such action for the defendant to plead the general issue, and to give any special matter arising under this Act under such plea.

Notice of action.

Tender of amends.

In certain cases the plaintiff shall recover no costs.

CVIII. And be it enacted, That if any person shall bring any suit in any of Her Majesty's Superior Courts of Record in respect of any grievances committed by any Clerk, Bailiff or Officer of any Court holden under this Act, under colour or pretence of the process of the said Court, and the Jury upon the trial of the action shall not find greater damages for the Plaintiff than the sum of Two Pounds Ten Shillings, no costs shall be awarded to the Plaintiff in such action, unless the Judge shall certify in Court upon the back of the record, that the action was fit to be brought on in such Superior Court.

Recital.

CIX. And whereas the amount of business in certain Divisions is not so great as to require the holding of Courts therein once in every two months, while from the remoteness and inaccessibility of the same, the holding of the said Courts therein is, especially at certain seasons of the year, attended with great difficulty : Be it therefore enacted, That if it shall be certified to the Governor in Council, by the Magistrates of any County in Quarter Sessions assembled, that in any Division of such County, it is expedient

Governor may fix periods of holding Courts.

expedient for the above causes that such Courts should be held there less frequently than once in every two months, it shall and may be lawful for the Governor in Council to order such Courts to be held therein, at such periods as to him shall seem meet. Provided Provided always, that such Courts shall be held in any such Division at least once in every six months, and that it shall be lawful for the Governor in Council to revoke any such order at pleasure.

CX. And be it enacted, That it shall be the duty of the Judge of each County Court to require from the respective Clerks within his County, at least semi-annually, a detailed statement, to be verified on oath before such Judge, of all fees and emoluments, which statement shall be filed by such Judge, with the said Treasurer: Judges to require accounts on oath from Clerks. Provided always, that after this Act shall come into force it shall not be lawful for any County Court Clerk to be appointed or execute the office of Clerk of any Division Court.

CXI. And be it enacted, That in construing this Act, the word "County" shall include any two or more Counties united for judicial purposes, and in any form or proceeding, the words "United Counties" shall and may be introduced according to law, and circumstances rendering the same necessary. Interpretation of word "County."

CXII. Provided always, and be it enacted, That all proceedings in the execution of the said Acts in the Preamble to this Act recited, or any of them, commenced before the passing of this Act, or before the day appointed for its going into operation, shall be as valid to all intents and purposes as if this Act had not been passed, and may be continued, executed and enforced against all persons liable thereto in the same manner as if they had been commenced under the authority of this Act. Proceedings under repealed Acts to continue.

CXIII. And be it enacted, That this Act shall come into force on the first day of January next, and not before. Commencement of Act.

SCHEDULE A.
TABLE OF FEES.

18 Vic cap 125:

FEE FUND.	Not exceeding £2.	Exceeding £2, and not exceeding £5.	Exceeding £5, and not exceeding £10.	Exceeding £10, and not exceeding £15.	Exceeding £15.
	s. d.	s. d.	s. d.	s. d.	s. d.
Entering account and issuing summons.....	0 4	0 6	1 3	2 0	3 0
Hearing an undefended cause.....	0 6	0 9	1 3	3 0	3 0
Hearing a defended cause	1 0	2 0	3 9	5 0	7 6
Every order or judgment, (not to be charged when the Defendant has given a confession of judgment,).....	0 3	0 6	0 9	1 3	2 0
On every confession of judgment.....	0 3	0 3	0 3	0 6	0 6
CLERK'S FEES.					
Entering every account, and issuing Summons.....	0 6	0 3	1 0	1 3	1 6
Copy of Summons, particulars of demand or set-off, when not fur- nished by Plaintiff or Defendant, each.....	0 3	0 6	0 6	0 6	0 6
Every summons to Witness, in which any number of names may be included.....	0 3	0 3	0 3	0 3	0 3
Adjournment of any cause	0 3	0 6	0 9	0 9	0 9
Entering set-off or other defence requiring notice to the Plaintiff..	0 6	0 9	1 0	1 0	1 0
Entering every judgment.	0 6	0 6	0 9	1 0	1 0
Every search into a proceeding over a year old.....	0 6	0 6	0 6	0 6	0 6
Taking confession of judgment.....	0 6	0 6	0 6	0 9	1 0
Every Warrant, Attachment or Execution	0 6	1 0	1 6	1 6	1 6
To the Clerk for taking charge of and keeping the property seized, such sum as the Judge may order in each particular case.					
For every copy or Certificate of Judgment to another County.....	1 3	1 3	1 3	1 3	1 3
Deposit to be paid by party requiring Jury.....	.. ..	5 0	5 0	5 0	5 0
Entering and giving notice of Jury being required .....	.. ..	0 6	0 9	1 0	1 6
Making out Summons for the fifteen Jurors, to be apportioned between and paid in the first instance by parties applying for Juries.....	.. ..	2 6	2 6	5 0	5 0
THE BAILIFF'S FEES.					
Service of Summons, or other proceeding, except Subpœna, on each person.....	0 4	0 6	0 9	0 9	1 0
Service of Subpœna on each Witness.....	0 4	0 4	0 4	0 4	0 4
For taking Confession of judgment.....	0 4	0 6	0 6	0 9	1 0
Drawing and attending to swear to every affidavit of service of Summons, when served out of the Division.....	1 0	1 0	1 0	1 0	1 0
Enforcing every Warrant, Execution or Attachment, against the goods or body.....	1 6	1 6	2 0	3 0	3 9
For every mile necessarily travelled from the Clerk's Office, to serve Summons or Subpœna, and in going to seize on execu- tion or Attachment where money made or case settled after the levy, 4d.					
For every Jury trial.....	.. ..	0 6	0 9	1 0	1 6
For carrying delinquent to prison, including all expenses and assistance, per mile, 1s.					
Every Schedule of property seized, return, including affidavit of appraisal.....	.. ..	2 6	2 6	2 6	5 0
Every Bond, including affidavit of justification.....	.. ..	2 6	2 6	2 6	
Every notice of sale not exceeding three, under execution, on attachment, 6d. each					
That there be allowed to the Bailiff upon the sale of property under any execution the sum of two and a half per cent upon the amount realised, and not to apply to any overplus on the said execution.					

SCHEDULE B.

FORM OF SUMMONS.

Between { A. B., Plaintiff,
and
C. D., Defendant.

To C. D., the above named Defendant.

You are hereby summoned to be and appear at the next sittings of the first (*or, as the case may be*) Division Court in and for the County of (*or United Counties of* *as the case may be*) to be holden at in the

Township of on the day of 18, to answer the above named Plaintiff for the causes set forth in the Plaintiff's statement of claim hereunto annexed, numbered

, and that in the event of your not so appearing the Plaintiff may proceed to obtain judgment against you by default.

Dated this day of 18, By the Court,

Clerk.

NOTICE.

Take notice that if the Defendant desires to set off any demand against the Plaintiff at the trial or hearing of the cause, notice thereof containing the particulars of such demand must be left with the Plaintiff or at his usual place of abode if living within the Division, or with the Clerk of the said Court if the Plaintiff resides without the Division, at least six days before the said trial or hearing, and that if the Plaintiff or Defendant desire to take the benefit of any Statute of Limitation or other Statute, notice thereof must be left in like manner with the said Plaintiff or the Clerk at least six days before the said trial or hearing.

(*Indorsement to be made on the Summons after the service thereof.*)

This Summons was served by me, X. Y., on the day of 18.

X. Y.

SCHEDULE C.

COVENANT BY THE CLERK OR BAILIFF.

Know all men by these presents, that we J. B., Clerk (*or Bailiff, as the case may be*) of the Division Court number in the County of S. S., of in the said County of, and P. M., of in the said County of

do hereby jointly and severally for ourselves, and for each of our heirs, executors and administrators, covenant and promise that J. B., Clerk (*or Bailiff*) of the said Division Court (*as the case may be*) shall duly pay over to such person or persons entitled to the same, all such moneys as he shall receive by virtue of the said Office of Clerk (*or Bailiff, as the case may be*) and shall and will well and faithfully do and perform the duties imposed upon him as such Clerk (*or Bailiff*) by Law, and shall not misconduct himself in the said Office to the damage of any person being a party in any legal proceeding; nevertheless, it is hereby declared that no greater sum shall be recovered under this covenant against the several parties thereunto than as follows, that is to say:

- Against the said J. B. in the whole,
- Against the said S. S.
- Against the said P. M.

In witness whereof, we have to these presents set our hands and seals, this day of in the year of Our Lord one thousand eight hundred and

Signed, sealed and delivered, }
in the presence of }

SCHEDULE D.

County of

}

A. B. of _____ in the County of *(here state the County)* the Plaintiff *(or Agent, as the case may be)* maketh oath and saith that C. D., *(the debtor's name)* is *(or are)* justly and truly indebted to *(the creditor's name)* in the sum of _____ of lawful money of Canada, for *(here state the cause of action briefly)*; and this Deponent further saith, that he hath good reason to believe, and verily doth believe, that the said C. D. hath absconded from this Province, and hath left personal property liable to seizure under execution for debt within the County of _____; or that the said C. D., is *(or are)* about to abscond from this Province, or to leave the County of _____ with intent and design to defraud the said _____ *(the creditor)* of the said debt, taking away personal estate liable to seizure under execution for debt; or that the said C. D. is concealed within the County of _____ to avoid being served with Process, with intent and design to defraud the said _____ *(the creditor)* of his said debt; and this Deponent further saith, that this affidavit *(or affirmation, as the case may be,)* is not made, nor the Process thereon to be issued, from any vexatious or malicious motive whatever.

A. B.

Signature of Deponent. day of

Sworn *(or affirmed as the case may be)* before me, the one thousand eight hundred and

SCHEDULE E.

County of *(here insert the County.)* }

To A. B., Bailiff of the Division Court of the said County of _____ *(or to A. B., a Constable of the County of _____ (as the case may be).)*

You are hereby commanded to attach, seize, take and safely keep all the personal estate and effects of C. D., *(naming the debtor,)* an absconding, removing or concealed debtor, of what nature or kind soever, liable to seizure under execution for debt within the County of *(here name the County)* or a sufficient portion thereof to secure A. B. *(here name the creditor)* for the sum of *(here state the amount sworn to be due)* together with the costs of his suit thereupon, and to return this warrant with what you shall have taken thereupon, to the Clerk of the *(here state the number of the Division)* Division Court of the County aforesaid forthwith: and herein fail not.

Witness my hand and seal, the _____ day of _____ 18
E. F. (L. S.)

Judge, Clerk, or Justice of the Peace, *(as the case may be).*

CAP. LIV.

An Act to extend the right of Appeal in certain cases in Upper Canada.

[10th August, 1850.]

*Amend
12 & 13 Vic can
45*

Preamble.

WHEREAS it is expedient to extend the right of Appeal in certain cases in Upper Canada; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, That from and after the passing of this Act, any person, complainant or respondent, who shall think himself aggrieved by any conviction or decision before any one or more Justices of the Peace, Mayor or Police Magistrate in any

Appeal given in every case where the matter is not a crime.

any matter cognizable by such Justice of the Peace, Mayor or Police Magistrate, not being a crime, may appeal to the next Court of General Quarter Sessions of the Peace which shall be holden not less than twelve days after the day of such conviction or decision, for the County wherein the cause or complaint shall have arisen: Provided such person shall give to the other party, or leave with the convicting Justice for him, a notice in writing of such appeal and of the cause and matter thereof within four days after such conviction or decision and eight days before such Sessions, and shall also either remain in custody until such Sessions, or enter into a recognizance with two sufficient sureties before a Justice of the Peace, conditioned to appear at the said Sessions and try such appeal and to abide the judgment of the Court thereupon and to pay such costs as shall be by the Court awarded; and upon such notice being given and such recognizance being entered into, the Justice before whom the same shall be entered into shall liberate such person if in custody, and the Court at such Sessions shall hear and determine the matter of such appeal, and shall make such order therein, with or without costs to either party, as to the Court shall seem meet, and in case of the dismissal of the appeal or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction and to pay such costs as shall be awarded, and shall if necessary issue process for enforcing such judgment.

Party convicted to remain in custody, or give security.

Court to hear and determine the matter

II. And be it enacted, That whenever any appeal shall be made from the decision of any Justice or Justices, Mayor or Police Magistrate, the Court of Quarter Sessions, at the request of either appellant or respondent, shall empanel a Jury to try the matter on which such decision may have been made, and to administer to such Jury the following oath:

Jury to be empanelled on the request of either party to appeal.

“ You do solemnly swear that you will well and truly try the matter of the complaint of C. D. against E. F. and a true verdict give according to the evidence: So help you God;”

and the Court on the finding of such Jury shall thereupon give such judgment as the circumstances of the case may require, not however to exceed the amount of penalty or period of imprisonment that might be imposed or awarded under any law giving cognizance to the said Justice or Justices, Mayor or Police Magistrate.

III And be it enacted, That it shall and may be lawful for any appellant to abandon the said appeal by giving the opposite party notice of such intention in writing six days before the said Sessions, and thereupon it may be lawful for the convicting Justice or Justices, Mayor or Police Magistrate to tax the respondent's additional costs if any, which shall be added to the original costs, and to proceed on the original conviction or decision in the same manner as if no appeal had been had thereon.

Appeal may be abandoned.

Proceedings in such case.

C A P. L V. *Union Act 6 Geo 4 cap 50:*

An Act for the consolidation and amendment of the Laws relative to Jurors, Juries and Inquests in that part of this Province called Upper Canada.

Amended 14/10 Vic cap 55:
[10th August, 1850.]

WHEREAS it is expedient to consolidate and amend the Laws now in force in that part of this Province called Upper Canada, relating to Juries and Inquests, and those to be summoned to serve thereon, and to introduce such a system for the selection and return of Jurors as shall better secure public confidence in the impartial administration of justice in the trial by Jury: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same,

Preamble.

*Impressible
500-*

I.—QUALIFICATIONS, EXEMPTIONS AND DISQUALIFICATIONS OF JURORS.

Who shall be qualified as a juror.

I. That every man, except as hereinafter excepted, over the age of twenty-one years, residing in any County or in any City or the Liberties thereof, or in any other local judicial division in Upper Canada, in the possession of his natural faculties and not infirm or decrepit, who shall be assessed for local purposes according to Law, for property, real or personal, or both, belonging to him in his own right or in that of his wife, to the amount hereinafter mentioned, shall be qualified and liable to serve as a Juror both on Grand and Petit Juries in Her Majesty's Superior Courts of Common Law at Toronto, having General, Criminal or Civil Jurisdiction throughout Upper Canada, and in all Courts of Criminal or Civil Jurisdiction within the County, Union of Counties, City or other local judicial division of the County in which he shall so reside.

Parting with property after assessment, not to disqualify.

II. And be it enacted, That no person shall be disqualified or relieved from serving as such Juror in consequence of his having ceased to be seized or possessed of the property in respect of which he may have been enrolled as such Juror, between the time of enrolment and his being called upon to serve as such Juror, nor shall the same form any ground of challenge to such Juror.

Joint proprietors to be deemed equally interested.

III. And be it enacted, That whenever property shall be assessed on the assessment Roll of any Township, Village or Ward, as the property of two or more persons jointly, the Selectors of Jurors hereinafter mentioned to whom it shall belong to extract from such Roll the names of those thereon qualified and liable to serve as Jurors under this Act, may, and if they shall have the requisite information as to the names of the parties to enable them to do so, such Selectors shall, in making such extract, and for all the purposes of this Act, treat such property as if it belonged to such persons in equal proportions, and each of such persons as respects his qualification and liability to serve as such Juror shall be treated by such Selectors of Jurors in making such abstract as if he had been severally assessed for such equal proportion of such property.

How the property qualification of Jurors shall be determined.

IV. And be it enacted, That the amount of property in respect of which every man shall be qualified and liable to serve as such Juror, shall be determined by the relative amount of property for which he shall be assessed on the Assessment Roll of the Township, Village or Ward of which he shall be a resident inhabitant at the time of the annual selection of Jurors, by the Selectors for such Township, Village or Ward as hereinafter provided, and that the mode for ascertaining the same shall be as follows, that is to say: The names of three fourths of the assessed Resident Inhabitants of the Township, Village or Ward, shall be copied from the Assessment Roll of such Township, Village or Ward, commencing with the name of the person rated at the highest amount on such Roll, and proceeding successively, towards the name of the person rated at the lowest amount, until the names of three fourths of the persons assessed upon such Roll, shall have been copied from the same; and the amount for which the last of such persons shall be assessed upon the said Roll, shall be that which shall qualify every Resident Inhabitant of such Township, Village or Ward as such Juror, and render him liable to serve as the same.

*Residence
16 Vic can 120
Sec 1
Sub section
Sec 2*

Persons over 60, &c., holding certain offices, or exercising certain professions or callings, exempted from serving as jurors.

V. And be it enacted, That all persons of upwards of sixty years of age,— all Members of the Executive Council of this Province,—the Secretary of His Excellency the Governor of the Province for the time being, and all officers and others in the service of the Governor for the time being,—all officers of the Provincial Government, and all clerks and servants belonging to either House of the Provincial Parliament, or to the Public Departments of the Province,—the Warden of the Provincial Penitentiary, and all the officers and servants of the said Penitentiary,—all Judges of Courts having general jurisdiction throughout Upper Canada,—the Judges of the County Courts and the Judges of all other Courts, except the Quarter Sessions of the Peace having jurisdiction throughout any County, Union of Counties or City in Upper Canada,—all Sheriffs, Coroners, Gaolers and Keepers of Houses of Correction and of Lock-up Houses,—all Priests, Clergymen and Ministers of the Gospel, recognized by law, to whatever denomination of Christians they may belong,—all members of the Law Society of

m sec 2

of Upper Canada, actually engaged in the pursuit or practice of their profession, whether as Barristers or Students,—all Attornies, Solicitors and Proctors actually practising,—all Officers of the Courts of Justice, whether of general County, City or other local jurisdiction, actually exercising the duties of their respective offices,—all Physicians, Surgeons and Apothecaries actually practising,—all Officers in Her Majesty's Army or Navy on full pay,—all Pilots and Seamen actually engaged in the pursuit of their calling,—all Officers of the Post Office, Customs, and Excise,—all Sheriff's Officers and Constables,—all County, Township, City, Town and Village Treasurers and Clerks and ~~Town Clerks, all Professors, Masters, and Teachers of~~ any University, College, County Grammar School, Common School or other School or Seminary of learning actually engaged in performing the duties of such appointments respectively,—and all Officers and servants of any such University, College, School or Seminary of learning actually exercising the duties of their respective offices or employments,—all County, Township, City, Town and Village Officers not however including Justices of the Peace,—all Millers and all Firemen belonging to any regular Fire Company, shall be and are hereby absolutely freed and exempted from being returned, and from serving as either Grand or Petit Jurors in any of the Courts aforesaid, and shall not be inserted in the Rolls to be prepared and returned by the Selectors of Jurors by virtue of this Act, as hereinafter mentioned.

VI. And be it enacted, That all Members of the Legislative Council and of the Commons House of Legislative Assembly of this Province,—all Wardens of Counties or Unions of Counties, and all other Members of any County Council,—all Mayors, Townreeves and Deputy Townreeves of any City, Town, Township or Village,—all Justices of the Peace, and all other Members and Officers of any Municipal Corporation, shall be and are hereby absolutely freed and exempted from being selected by the Selectors of Jurors hereinafter mentioned to serve as Grand or Petit Jurors in Her Majesty's Inferior Courts, and the names of such persons shall not be inserted in the Rolls from which Jurors are to be taken for such purpose, and if any such name shall have been accidentally inserted in any such Roll, it shall, if drawn in balloting any Jury List or drafting any Panel therefrom, be set aside and not inserted therein, and all such persons shall be moreover absolutely freed and exempted from being returned upon any General Precept to any Sessions of Assize or *Nisi Prius*, Oyer and Terminer or Gaol Delivery, and the names of such persons if drawn in drafting such panel, shall be set aside and not inserted in the same.

VII. And be it enacted, That every person whose name shall have been inserted in any of the Jury Lists as hereinafter provided, for the years next before that in which his name shall be again drawn in any of such Lists or for some prior year, within the Rule of Exemption hereby established, and shall have duly served on some Panel returned under a general Precept from such Jury List, until discharged by the Court to which such Panel was so returned, shall be exempt from having his name inserted in any of such lists for any subsequent year within such rule of exemption, that is to say, if the Jurors' Roll from which such name shall be drawn as hereinafter provided, shall contain a sufficient number of names to make two complete Jury Lists of the denomination of such Jurors' Roll, such person shall be exempt from having his name inserted in such Jury List if it shall appear by the Jurors' Book of the preceding year that his name had been inserted in any of the Jury Lists for that year, and that he duly attended and served upon any such Panel as aforesaid; and if there shall be a sufficient number of names on such Jurors' Roll to make three such complete Jury Lists, such person shall be exempt from having his name so inserted if it shall appear by either of the Jurors' Books of either of the two preceding years, that his name had been inserted in any of such Jury Lists for either of such years, and that he had so attended and served as aforesaid, for either of such years, and so on, *toties quoties*, allowing one additional year's exemption for each complete additional Jury List that such Jurors' Roll shall furnish as aforesaid.

Members of the legislature and certain municipal functionaries exempted from serving at certain courts.

Exemptions arising from having actually served as a juror within a certain time previously.

Service as a city juror not to exempt from service as a county juror, and vice versa.

VIII. And be it enacted, That notwithstanding any thing in this Act contained, service as a Juror upon any Panel returned by the Sheriff of any County or Union of Counties, shall not exempt the person who shall so serve from again serving as a Juror upon any Panel returned by the High Bailiff or other proper Officer of any City embraced within the Bailiwick of such Sheriff, though such service may be so required of such Juror within the period of exemption provided for by the next preceding section of this Act, nor shall any such service upon any Panel returned by the High Bailiff or other proper Officer of any such City, having a Recorder's Court established in the same, exempt the person who shall have so served from again serving as a Juror upon any Panel returned to any of the Superior Courts of Criminal or Civil Jurisdiction, by the Sheriff of the County or Union of Counties within the limits of which such City shall be embraced : and the Jury Lists for such Superior Courts for such County or Union of Counties, and for such City respectively, shall be balloted without any regard being had to any such service, but the inhabitants of every such City, and of the liberties thereof, shall be exempt from serving on Juries at any other than the City Courts, or on trials at the bar, of either of Her Majesty's Superior Courts of Common Law at Toronto, or at the Courts of Assize and *Nisi Prius*, *Oyer* and *Terminer*, and General Gaol Delivery for the County or Union of Counties within the limits or on the borders of which such City shall be situate.

14 & 15 vic
20 n 6 5

Citizens exempted from serving, except at certain courts.

IX. And be it enacted, That no man not being a natural born or naturalized subject of Her Majesty, is or shall be qualified to serve as a Grand or Petit Juror in any of the Courts aforesaid, on any occasion whatsoever, except only in the cases hereinafter expressly provided for.

Impediment
Aliens disqualified.
by 40 30
Exception. see 3

Attainted persons disqualified.

X. And be it enacted, That no man who hath been or shall be attainted of any Treason or Felony, or convicted of any crime that is infamous, unless he shall have obtained a free pardon, nor any man who is under outlawry is or shall be qualified to serve as a Grand or Petit Juror in any of the said Courts on any occasion whatsoever.

II.—SELECTION AND DISTRIBUTION OF JURORS.

Certain municipal functionaries to be selectors of jurors.

XI. And be it enacted, That the Mayor or Townreeve, the City, Town, Village or Township Clerk, and the Assessors or Assessor, if there be only one, of the respective Cities, Towns, Villages and Townships in Upper Canada, shall be *ex officio* Selectors of Jurors for every such Township and Village, and for each of the Wards of every such City or Town, and in the discharge of their duty as such Selectors shall assemble annually on the eighth day of September in each year, at the place where the Meetings of the Municipal Corporation of such City, Town, Village or Township shall be usually held, or at such other place within the jurisdiction of such Municipal Corporation as may for that purpose be appointed by the head of such Municipal Corporation, or in his absence, or the vacancy of the Office, by the Clerk of such Municipal Corporation for the purpose of selecting from the Assessment Rolls or Assessment Roll of such City, Town, Village or Township, the names of such persons as being qualified and liable to serve as Jurors under this Act, shall from the integrity of their characters, the soundness of their judgments, and the extent of their information, be in the opinion of such Selectors of Jurors, or of a majority of them, most discreet and competent for the performance of the duties of a Juror ; And it shall be the duty of such City, Town, Village or Township Clerk, or such Assessor or Assessors, or such other officer or person as shall at the time have the actual charge or custody of the Assessment Roll or Assessment Rolls for every such City, Town, Village or Township for such year, to bring such Assessment Roll or Assessment Rolls to every such annual meeting of the Selectors of Jurors for such City, Town, Village or Township, and to permit the use of the same for the purposes aforesaid. *Provided always*

8 3

What persons shall be selected.

Selectors to have the use of assessment rolls.

When the selection shall be made.

XII. And be it enacted, That the Selectors of Jurors for each City, Town, Village and Township in Upper Canada, shall annually on the day mentioned in the next preceding section of this Act, or on the first day thereafter not being a Sunday, or other Statutory Holiday, if such first mentioned day shall be a Sunday or other Statutory Holiday,

4 4

Remainder
16 vic 120
see 1:
in 120 vic 120 3

Holiday, or if they shall have been unable to complete the duty hereby imposed upon them on such first day, proceed to select such names from such Rolls accordingly : Provided always nevertheless, firstly, that they shall in no case select from any of such Rolls, a smaller number of names than what shall be equal to two-thirds of the whole number of names on such Roll, provided there shall be a sufficient number for that purpose on the same qualified and liable to serve in respect of the amount of property for which they shall be assessed on such Roll, and not otherwise wholly disqualified or exempt from serving as Jurors according to the provisions of the fifth, sixth, ninth and tenth sections of this Act, or any of them : And provided also, secondly, that in case of an equality of votes amongst such Selectors of Jurors as to any one or more of the names to be so selected, or as to the Division of the Report of such Selectors in which any such name should be inserted in the distribution of such names as hereinafter provided, or as to any other incidental question which may arise in the performance of the duty hereby imposed upon such Selectors, the Mayor or Townreeve, or in his absence or the vacancy of the office, the City, Town, Village or Township Clerk, or in the absence, or vacancy of the offices of both, then the Assessor whose Roll for the year shall have contained the greatest number of assessed names, and in the case of joint Assessors, the Assessor first named in the appointment of such Assessors shall have a casting or double vote in the decision of the same.

Proviso as to number to be selected.

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Proviso as to case of equal division among the selectors.

XIII. And be it enacted, That the said Selectors of Jurors having made such selection as hereinbefore provided, shall for the purpose of the Report thereof to be by them made as hereinafter provided, distribute the names of the persons so selected from each Roll into four divisions ; the first, to consist of persons to serve as Grand Jurors in the Superior Courts ; the second, of persons to serve as Grand Jurors in the Inferior Courts ; the third, of persons to serve as Petit Jurors in the Superior Courts ; and the fourth, of persons to serve as Petit Jurors in the Inferior Courts, and shall make such distribution according to the best of their judgment as to the relative competency of the parties with reference to the duties to be required of them respectively.

Names of jurors to be distributed into four divisions, and how.

XIV. And be it enacted, That the said Selectors of Jurors shall make such distribution amongst the said four divisions as nearly as may be in the following proportions, relatively to the whole number of persons so selected by them from each of such Rolls for that purpose as aforesaid, that is to say : ~~one ninth as nearly as may be under the first of such divisions ; two ninths as nearly as may be under the second of such divisions ; two ninths as nearly as may be under the third of such Divisions, and four ninths as nearly as may be under the fourth of such Divisions.~~

Proportionate number in each division.

1/9 2/9 2/9 4/9

XV. And be it enacted, That the said Selectors of Jurors shall thereupon make out in duplicate under their hands and seals, or under the hands and Seals of such of them as shall have performed such duty, a report of such Selection and Distribution for every such Township, Village or Ward, which Report shall be as nearly as may be in the form set forth in the Schedule to this Act annexed, marked A, and be filled up agreeably to the directions contained in the notes to such Schedule, to which said Report shall be subjoined a written declaration subscribed by such Selectors of Jurors, stating each for himself, that they had made such Selection and Distribution to the best of their judgment and information pursuant to this Act, and without fear, favour or affection of, to, or for any person or persons whomsoever, gain, reward or hope thereof, other than such fees as they may be lawfully entitled to receive for the same under the authority of this Act ; and one of such Duplicate Reports shall be deposited by such Selectors of Jurors, with the Clerk of the Peace for the County in which such Town, Village or Township shall lie, or within the limits of which such City shall be embraced ; and the other, with the City, Town, Village or Township Clerk of such City, Town, Village or Township respectively, which Clerks respectively, shall keep the same on file in their respective offices for the use and information of all such Sheriffs, High Bailiffs and other Officers, and others Her Majesty's Subjects who may have lawful occasion to examine or make use of the same ; and in the event of the loss or destruction of any such Duplicate Report, by fire or other accident, a copy thereof

Selectors to make duplicate reports in form of Schedule A.

X 6

Declaration to be annexed.

X 7
Where the said reports shall be deposited.

X 8

Renewal if destroyed.

made from the other of such Duplicates, and certified to be a true copy of such last mentioned Duplicate, by the Officer to whom the legal custody of such last mentioned Duplicate shall belong, shall and may be filed in the office in or out of which such first mentioned Duplicate Original was so lost or destroyed as aforesaid, and shall and may be thenceforth taken, received, and acted upon in all respects as if it were the said Duplicate Original Report so lost or destroyed as aforesaid.

III.—JURORS' BOOK.

XVI. And be it enacted, That the Clerk of the Peace for every County and Union of Counties in Upper Canada, shall annually procure a Book to be kept as nearly as may be in the Form set forth in the Schedule to this Act annexed marked B, and agreeably to the directions contained in the notes to such Schedule to be called "The Jurors' Book" for the County or Unions of Counties, of which he is such Clerk of the Peace as aforesaid, and the year for which such Book is to be used as hereafter provided, and shall, between the fifteenth day of September and the first day of October in each and every year, transcribe or procure to be transcribed into such Book, from the different Reports of the different Selectors of Jurors for the different Townships, Villages and Wards, or other like local divisions of his County or Union of Counties, so made to him for such year as aforesaid, or from such of them as shall have been so made to him as aforesaid, on or before such fifteenth day of September, the names and additions of all persons so selected to serve as Grand or Petit Jurors, as the same are set forth and distributed in such Reports, which names shall be transcribed into such Book in four Rolls, the first to be called "Roll of Grand Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction," the second, "Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction," the third, "Roll of Petit Jurors to serve in Her Majesty's Superior Courts of Criminal and Civil Jurisdiction," and the fourth, "Roll of Petit Jurors, to serve in Her Majesty's Inferior Courts of Criminal and Civil Jurisdiction;" and in each of such Rolls shall be transcribed as aforesaid the names and additions of all persons so selected and reported by the Selectors of Jurors as aforesaid, to serve as such Jurors in such County respectively.

XVII. And be it enacted, That such Jurors' Rolls shall be each divided into Townships, Wards and Villages, or other like sub-divisions, answering to the local divisions of such Counties, and the Cities and Towns embraced within the limits thereof, and such sub-divisions, and also the names within each sub-division respectively, shall be arranged alphabetically, and all the names in each of such Rolls thus arranged, numbered with a series of current numbers from one forward; and to each of such Rolls in the Jurors' Book shall be subjoined a certificate from such Clerk of the Peace, that he had carefully compared such Roll with the Reports made by the several Selectors of Jurors for the different Townships, Wards and Villages and other local divisions of the County or Union of Counties, and the Cities and Towns embraced within the limits of the same for the year, as such Reports remained on file in his office, on the Fifteenth day of September of such year, and that such Roll contains a true and correct transcript of the names and additions of all persons so selected and reported to serve as such Jurors as aforesaid.

IV.—BALLOTING JURY LISTS FROM JURORS' ROLLS.

XVIII. And be it enacted, That the Clerk of the Peace, for every such County or Union of Counties, shall annually prepare for each of the said Jurors' Rolls in such Jurors' Book, a separate and distinct set of ballots or pieces of parchment, card or paper of uniform and convenient size, and containing the same number of such ballots as there are numbers in the Jurors' Roll to which the same shall belong, upon each set of which ballots there shall be printed or written the whole of the numbers of such Jurors' Roll, allowing one number to each ballot, and shall carefully fold and enclose the whole of each of the said sets of ballots in a separate and distinct sheet of paper or envelope, and securely

Clerk of the peace to prepare jurors' books in form of Schedule B.

Book to contain four distinct rolls.

How the jurors' names shall be arranged in the roll.

How the rolls shall be certified.

Clerk of the peace to prepare ballots, and how.

securely fold, and seal the same so as to prevent any of such ballots from being lost from or out of the same, and shall endorse each of such parcels of ballots with the year and the name of the Jurors' Roll to which the same shall belong.

XIX. And be it enacted, That annually on the first day of the Court of General Quarter Sessions of the Peace for each of such Counties or Union of Counties, held next after the first day of October in each year, the Clerk of the Peace for such County or Union of Counties shall bring into Court and publicly deliver to the chairman of such Court *sedente curiâ*, the Jurors' Book so prepared by him as aforesaid, for the then next year, and also the four parcels of ballots belonging to the same as aforesaid, together with the Jurors' Books for such and so many of the then next preceding years as may be required for proceeding with the balloting of the Jury Lists as hereinafter directed, and shall thereupon make oath in open Court, first, that he has carefully compared the Jurors' Rolls in such first mentioned Jurors' Book with the Reports made by the several Selectors of Jurors for the several Townships, Villages and Wards within such County or Union of Counties as the same remained on file in his office on the Fifteenth day of September preceding, and that to the best of his knowledge and belief the said Jurors' Rolls contain a true and correct transcript of the names and additions of all persons so selected and reported by such Selectors of Jurors as aforesaid; secondly, that he has carefully examined and compared the ballots in each of the parcels so delivered into Court as aforesaid, with the Jurors' Roll to which such ballots by the indorsement on such parcel purports to belong, and that each parcel of such ballots so delivered into Court as aforesaid contains to the best of his knowledge and belief the whole of the numbers on the Jurors' Roll, to which by such indorsement such parcel purports to belong; and thirdly, that the Jurors' Books secondly above mentioned are those remaining on file in his office for the years to which they purport respectively to belong, and that all entries in such last mentioned Books have been truly and faithfully made therein, without fraud or collusion of any kind, and according to the very truth: Or if such Clerk of the Peace shall not have been in office during all the time that such Jurors' Books shall have been on file in the office of the Clerk of the Peace for such County or Union of Counties, then that all entries in such Books made during the time that he shall have been in office, have been truly and faithfully made therein, without fraud or collusion of any kind, and according to the very truth, and that he hath no reason but to believe, and doth therefore verily believe that all other entries made therein, prior to his appointment, have been in like manner truly and faithfully made therein as aforesaid: Whereupon the receipt of such Books and the oath or affirmation upon which the same were received respectively, shall be certified under hand and seal by the Chairman of such Court in such Books respectively, and a remembrance of the same also made in the minutes of such Court, and the Court shall then proceed to consider whether, with reference to the probable amount of judicial business to be disposed of through the instrumentality of the Jurors to be ballotted on that occasion, and the whole number of Jurors from whom the balloting is to be had, it is most expedient upon such occasion to ballot a full Jury List, a two-third Jury List or a half Jury List, and they shall come to a resolution thereon accordingly, of which a remembrance shall be duly entered upon the minutes of such Court; And in the event of such resolution affirming the expediency of balloting a full Jury List, then the numbers to be so ballotted from the said Rolls according to the provisions of the next succeeding section of this Act, shall be as follows, that is to say: from the Roll of Jurors to serve as Grand Jurors in the Superior Courts, Forty eight; from the Roll of those to serve as Grand Jurors in the Inferior Courts, Ninety-six; from the Roll of those to serve as Petit Jurors in the Superior Courts, One Hundred and Forty-four; and from the Roll of those to serve as Petit Jurors in the Inferior Courts, Two Hundred and Eighty-eight. And in the event of such resolution affirming the expediency of balloting a two-third Jury List, the numbers to be so ballotted as aforesaid shall be as follows, that is to say: from the said first named of such Rolls, Thirty-eight; from the second, Sixty-four; from the third, Ninety-six; and from the fourth, Two Hundred and Sixteen.

And

Jurors' book to be brought into Q. S. (sitting the court) yearly after 1st October—oath to be taken by the said clerk.

Particulars to be sworn to in such oath.

If the clerk has come but lately into office.

Chairman to enter certificate in the books: and the court to determine the number of jurors to be drawn.

Full list.

Two-third list.

Half list.

Proviso: names of members of the court present to be recorded.

Casting vote.

Proviso as to first jurors' book in any county.

Proclamation previous to balloting.

Mode of balloting.

Grand jurors at superior courts.

Drawing ballots.

Reference to jurors' book.

Open demand of objection, if any.

Hearing and determining on objection.

And in the event of such resolution affirming the expediency of balloting a half Jury List, the numbers to be so ballotted as aforesaid shall be as follows, that is to say: from the said first named of such Rolls, Twenty-four; from the said second, Forty-eight; from the said third, Seventy-two; and from the said fourth, One Hundred and Forty-four: Provided always nevertheless, firstly, that the names of the different members of the said Court who shall be present and vote upon such resolution, shall be entered on the minutes of such Court, and that in the event of the votes of those members present being equal, the Chairman of the said Court for the time being shall have a double or casting vote upon the same: And provided also, secondly, that on the first occasion of bringing into Court a Jurors' Book for any County or Union of Counties, or for any City there being no Jurors' Book for any preceding year for such County, Union of Counties or City, the oath to be made by the Clerk of the Peace or Clerk of the Recorder's Court respectively, shall be modified so as to be adapted to such circumstances.

XX. And be it enacted, That immediately after such resolution shall be so adopted, or if it shall be the unanimous opinion of all the Justices then present that the balloting should be proceeded with at an adjourned sitting of such Court, then on the day to which such balloting shall be adjourned, the said Court shall cause proclamation to be made for all persons to keep silence while the names of the persons to serve as Jurors for the next year for such County, or Union of Counties and City where there is one having a Recorder's Court established therein, within the limits of such County or Union of Counties, are openly ballotted. And the Chairman of such Court, and the Clerk of the Peace for such County or Union of Counties, shall immediately proceed to ballot the names of the requisite number of persons from the said Rolls, to serve as Jurors for such year, which balloting shall be conducted in the following manner, that is to say: the Chairman of the said Court of General Quarter Sessions shall first openly break the seals of the parcel of ballots belonging to the Roll of Jurors to serve as Grand Jurors in the said Superior Courts, and place such ballots promiscuously in a box or urn to be procured for that purpose by the said Clerk of the Peace. And the said Chairman shall thereupon cause the said box or urn to be shaken so as sufficiently to mix the said ballots, and the said Chairman shall then openly draw from the said box or urn indiscriminately one of the said ballots and declare openly the number of such ballot, whereupon the Clerk of the Peace shall immediately declare aloud the name to which such number is appended in the said Roll. And thereupon, if by reference to the Jurors' Book of preceding years, or any of them, it shall appear, (regard being had to the number of names on such Roll,) that such person is exempt from having his name inserted in such Jury List, on the ground of its having been inserted in some one of the Jury Lists, and of his having duly served on some Panel returned, under a General Precept from such Jury List as aforesaid, for some former year sufficiently recent to entitle him to such exemption, the same shall be so publicly announced by the Chairman of such Court, and that such person is on that account exempted from serving for the next year accordingly; and the Clerk of the Peace shall thereupon note in the said Roll for such next year opposite the name of such person, that he was exempted from serving as having served on one of the Grand or Petit Jury Lists for such a year, stating the List and year. But if such person shall be found not entitled to such exemption, then proclamation shall be made, that if any one can inform the Court why the name of such person should not be inserted in the Jury List for which it shall have been so ballotted as aforesaid, he shall come forth and he will be heard: Whereupon, if the party himself in person or by his Counsel or his Attorney in the absence of Counsel, shall by his own oath or by the testimony of witnesses, or if any other person by his own oath or by the testimony of witnesses, shall be able to satisfy the Court that the person whose name shall have been so drawn is either exempt or disqualified from serving as a Grand Juror for which he shall have been so drawn, such person's name shall not be inserted in such Jury List for such next year, and the cause with the name of the person so objecting,

and

and the names of the witnesses upon whose testimony such name was set aside, shall by the Clerk of the Peace be stated in the Minute Book of such Court, and a short note of the cause of disqualification made on the proper Juror's Roll opposite the name of such person. But if no such objection shall be so made or established to the satisfaction of the Court as aforesaid, the names and additions at length of such person shall by the said Clerk of the Peace be forthwith inserted in the Minute Book of such Court. Which being done, the Chairman and Clerk of the Peace shall in like manner proceed to ballot, canvass and set aside, or pass another name, and so on till they shall have transferred the required number of names from such Roll. After which the names so balloted, with the places of residence and additions of the parties alphabetically arranged, shall by such Clerk of the Peace be copied into the Juror's Book with the title of "The Grand Jury List for the Superior Courts," and which List shall have a series of current numbers from one forward as is hereinbefore provided with respect to the Juror's Rolls, with a reference to the number of each name on the Roll of Grand Jurors for the Superior Courts. And each of such names shall by the said Clerk of the Peace, be thereupon marked on such last mentioned Roll as transferred to such Jury List, by a reference to the number belonging to such name on such List. Which List so balloted, canvassed and transferred shall be the Grand Jury List for the Superior Courts for the year next after the same shall be so balloted as aforesaid.

If no objection be made.

Alphabetical arrangement of names finally balloted, &c.

List to serve for the then next year.

XXI. And be it enacted, That after the said Grand Jury List for the Superior Courts shall have been so balloted, canvassed and transferred as aforesaid, the said Chairman and Clerk of the Peace shall in like manner proceed to ballot, canvass and transfer from the Roll of Jurors to serve as Grand Jurors in the said Inferior Courts, to a similar List in the same Book, to be called "The Grand Jury List for the Inferior Courts" for such next year, the required number of names from such Roll, which last mentioned List so balloted, canvassed and transferred, shall be the Grand Jury List for the Inferior Courts for the year next after the same shall be so balloted as aforesaid. After which they shall in like manner proceed to ballot, canvass and transfer from the Roll of Jurors to serve as Petit Jurors in the said Superior Courts, the Petit Jury List for the Superior Court for such year, and lastly from the Roll of Jurors to serve as Petit Jurors in the said Inferior Courts, the Petit Jury List for the Inferior Courts for such year.

Ballotting for grand jurors for inferior courts.

Petit jury lists for superior and inferior courts.

XXII. And be it enacted, That so soon as the said four Jury Lists shall have been so balloted, canvassed and transferred, the Chairman and Clerk of the Peace shall certify under their hands in the said Book, immediately after each of such Jury Lists, that the same had on such a day been duly balloted, canvassed and transferred from the proper Roll in open Court as the Law directs; whereupon such Jurors' Book, with the Jury Lists so certified, shall be deposited with the said Clerk of the Peace, to be kept on file in his office: Provided always nevertheless, that all the duties by this Act required of the Chairman of the Quarter Sessions of the Peace, shall and may in his absence be performed by the presiding Member of such Court for the time being; any thing herein contained to the contrary thereof notwithstanding.

Lists so made, to be certified and filed.

Proviso: if the chairman be absent.

XXIII. And be it enacted, That the Clerk of the Peace shall on or before the thirty-first day of December thereafter, cause a correct copy of such Jurors' Book to be made and deposited in the offices of each of the Clerks of the Crown and Pleas of Her Majesty's two Superior Courts of Common Law at Toronto, and another in that of their Deputy for the County or Union of Counties for which the same shall have been so prepared as aforesaid, each of which shall be certified by him to be a true copy of the original, and from it, in the event of the loss or destruction of the original by fire or other accident, a duplicate original of such Jurors' Book may be made and being certified by either of the said Clerks of the Crown and Pleas, or the Deputy for such County or Union of Counties, to be truly copied from the copy deposited in his office, shall, upon such loss or destruction being established upon oath or affirmation before two or more Justices of the Peace of such County or Union of Counties, be received and used on all occasions, and for all purposes, as the original which shall have been so lost or destroyed as aforesaid.

Clerk of the peace to deposit copies of lists in the offices of the proper courts.

If the lists be destroyed.

V.—DRAFTING PANELS FROM JURY LISTS.

Panels of jurors to be drafted from the jury lists.

Proviso: if no book for the year.

Proviso: if there be not jurors enough on list.

Notice of drafting panels how given.

Proviso: length of notice.

Proviso: drafting prevented by accident.

Heading to panels and ballots to be prepared by the sheriff.

XXIV. And be it enacted, That every Sheriff or other Officer to whom any Writ of Venire Facias or precept for the return of Jurors shall be directed, shall to such Writ or precept return a panel of the names of such men contained in the proper Jury List for the year in which such Writ or precept is returnable, as shall be drafted from such List in the manner hereinafter mentioned: Provided always, firstly, that if there shall be no Jurors' Book, or certified copy thereof as aforesaid, in existence for such year, it shall be lawful to return to any such Writ or precept, a panel of Jurors selected in like manner from the proper Jury List in the Jurors' Book of the nearest preceding year, for which there shall be a Jurors' Book or certified copy thereof in existence; And provided also, secondly, that if there shall be no Jurors or not a sufficient number of such Jurors upon any Jury List, from which any panel is so required to be drafted, liable to be drafted and to serve upon such panel, it shall be lawful to return to any such Writ or precept, a panel of Jurors selected in like manner, or the residue of whom respectively shall have been selected in like manner, from the proper Jury List in the Jurors' Book of the nearest preceding year, for which there shall be a Jurors' Book or certified copy thereof in existence.

XXV. And be it enacted, That upon any Sheriff or other officer being called upon to return any Panel of Jurors, whether Grand or Petit, it shall be his duty to give notice by Public written Advertisement in his office, and also on the door of the Court House of the County or Union of Counties, or if there be no Court House, in some other public place, of the day, and hour at which he will attend at the office of the Clerk of the Peace to draft such panel of Jurors from the Jury List, at which time and place he shall proceed publicly to draft such panel by ballot from such Jury List in manner hereinafter mentioned, in the presence of the Clerk of the Peace and any two Justices of the Peace of such County or Union of Counties, who, upon reasonable notice from such Sheriff, are hereby required to attend the same, and of any other person or persons who may desire to be present at the same, and attend for that purpose: Provided always nevertheless, firstly, that every such notice, shall if such Sheriff or other officer shall have sufficient time for that purpose, be given by such Sheriff or other officer in the manner above mentioned, at least eight days before the drafting of such panel, and if there shall not be sufficient time for that purpose, the said notice shall be given as soon after the receipt of the precept or writ by him as conveniently may be: And provided also, secondly, that in the event of the drafting of such panel being prevented from taking place, or from being completed by any unavoidable accident at the time so appointed, the same may be had or completed at any other time in the presence of the Clerk of the Peace for the time being, and of the like number of Justices of the Peace, upon a similar notice being first given of such time.

XXVI. And be it enacted, That in proceeding to draft such panel of Jurors from the said Jury List as hereinafter directed, the Sheriff or other officer to whom the return of such panel shall belong, shall in the first place prepare a proper title or heading for the panel of Jurors to be returned, to which he shall fix an appropriate number as such panel shall by the Jurors' Book appear to be the first, second, third or subsequent panel drafted from such Jury List, and which title or heading shall set forth the number of Jurors to be returned in words at length, or where such Sheriff shall have a discretion as to such number, the number that in the exercise of such discretion, he shall have previously determined to return, and which number when discretionary, shall not be altered after the same shall have been so inserted in such title or heading as aforesaid, and thereupon such Sheriff or other officer shall append to such title or heading, a list of numbers from one forward to the number required, and having previously prepared a set of Ballots or pieces of Parchment, Card or Paper as nearly as reasonably may be of uniform and convenient size, and containing the same number of Ballots as there are numbers on the Jury List, from which the panel is to be drafted with the whole of the numbers of such Jury List, allowing one number to each Ballot printed or written on the same, shall proceed to draft such panel of Jurors in the manner hereinafter mentioned.

XXVII. And be it enacted, That the manner of drafting such panel shall be as follows, that is to say : the Sheriff or other officer to whom the return of such panel shall belong, shall place the Ballots promiscuously in a Box or urn to be procured by him for that purpose, and shall cause such box or urn to be shaken so as sufficiently to mix the ballots, and he shall then openly draw from the said box or urn indiscriminately, one of the said ballots, and declare openly, the number of such ballot whereupon the Clerk of the Peace, or one of the Justices of the Peace, present at such drawing, as aforesaid, shall immediately declare aloud the name to which such number is appended in the Jury List from which the Panel is to be drafted, and thereupon, if such person shall be exempt from being drafted or serving upon such panel, under the provisions of the sixth section of this Act, or if upon the face of such Jury List it shall appear that the person whose number has been so drafted has been already drafted to serve on any other panel drafted from such Jury List in obedience to any precept for the return of any general panel, for any sessions or sittings of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, General Quarter Sessions of the Peace, or County Court, and that such person has actually attended and served upon such Panel as aforesaid, and there shall remain a sufficient number of names on such Jury List to complete the panel then in course of being drafted, without taking any of those who have been previously drafted upon any such former panel from the same list, the same shall be publicly announced, and that the name of such person so drafted is on such account, respectively, not inserted in such panel. But if upon examination of such Jury List, no such cause shall appear for omitting the name of such person from the said panel then being drafted, the name and addition of the person whose name shall have been so drafted, shall be thereupon written down on a sheet of paper to be provided for that purpose, and such name shall by the said Sheriff or other Officer, be thereupon marked on the said Jury List, with a reference to the number which will belong to such panel in the Juror's Book. Which being done, the Sheriff shall proceed in like manner to draft and dispose of other numbers from the said box or urn, until the necessary number for the panel to be so drafted shall be completed. After which, the names so drafted, with the places of residence and additions of the parties, arranged alphabetically, shall, by such Sheriff or other officer, be transcribed on another sheet of paper, with a reference to the number of such name on the Jury List, and such name shall, by the said Sheriff or other officer or his deputy, be thereupon marked in the said Jury List, with a reference to the number which will belong to such panel in the Jurors' Book. Whereupon, such panel so alphabetically arranged and numbered with a short statement of the writ or precept in obedience to which it was drafted, the date and place of such drafting, and the names of the Sheriff or other officer or minister, or his deputy, and of the Clerk of the Peace and Justices of the Peace present at such drafting, or at least of two of them, shall be fairly entered in the said Juror's Book, and attested by the signatures of such Sheriff or other officer or minister, or his deputy, and of the said Clerk of the Peace and the said Justices, or at least two of them, and the said Sheriff shall, upon his return of the writ of *venire facias*, or precept under authority of which such panel was drafted, annex a panel to the said writ or precept containing the names, together with the places of abode, and additions of the persons so drafted upon such panel, and shall transmit a copy thereof to the office of the Clerk of the Peace, and also one to each of the Clerks of the Crown and Pleas of the two Superior Courts of Common Law at Toronto, and also to that of the Deputy for his County, each of which copies, as well as the Jurors' Book, shall at all reasonable times be open to inspection by litigants or their professional Agents without fee or reward.

XXVIII. And be it enacted, That the number of the Petit Jurors to be returned on any General Precept for the return of Petit Jurors for any sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, shall not in any case be less than forty-eight or more than seventy-two, unless by the direction of the Judges appointed to hold such Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or

Mode in which the jurors shall be balloted for.

Allowance of exemptions, &c.

If no exemption.

Names to be arranged alphabetically.

Panel to be entered in jurors' book and certified.

Copies to be transmitted to the proper courts.

Number of jurors to be returned on general precept.

County Court, or one of them, who are hereby empowered, by order under hand and seal, to direct a greater or lesser number, and then such number as shall be so directed, shall be the number to be returned.

VI.—JURY PROCESS.

Precepts to be issued, and by whom.

XXIX. And be it enacted, That the Judges, Justices and others to whom the holding of any Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, shall by law belong, or some one or more of such Judges, Justices or others shall for that purpose issue precepts to the Sheriff or other proper Officer or Minister for the return of a competent number of Grand Jurors, where such shall be requisite for such Sittings or Sessions, and of a competent number of Petit Jurors for the trial of such issues of fact in cases criminal or civil as it may be competent to such Petit Juries to try at such Sittings or Sessions according to law.

When precepts shall be issued, and to whom directed.

XXX. And be it enacted, That the several precepts for the return of Panels of Grand and Petit Jurors for any Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, shall be issued to the Sheriff or other Officer or Minister to whom the return of such precepts shall belong, as soon as conveniently may be after the Commission, or other day upon which the Jurors to be returned, upon such precepts, are to be summoned to attend, shall, or may be known, and where such day is fixed by law, then as soon as conveniently may be after the close of the last preceding Sittings or Sessions of the same Court: Provided always, that it shall and may be lawful for the Sheriff to return the same panels to the precepts, for the return of panels of Petit Jurors for the Sittings or Sessions of the Peace, and for the Sittings or Sessions of the County Court, in all cases where the day for holding such respective Sittings or Sessions shall be the same.

Providor: when county court and Q. S. sit at the same time.

Writs of *venire facias*: their form.

XXXI. And be it enacted, That every Writ of *venire facias juratores*, where such Writ may by law be necessary for the trial of any issue whatsoever, whether civil or criminal, or on any penal Statute, in any of the Courts of Upper Canada hereinbefore mentioned, shall direct the Sheriff or other Officer or Minister to whom the same shall be directed, to return twelve good and lawful men of the body of his Bailiwick, qualified according to law, and the rest of the Writ shall proceed in the accustomed form. And that every precept to be issued for the return of Jurors for Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, shall in like manner direct the Sheriff or other Officer or Minister to whom the same may be directed, to return a competent number of good and lawful men of the body of his Bailiwick, qualified according to law, and shall not require the same to be returned from any Hundred or Township, or from any particular *venue* within such Bailiwick, and that the want of Hundredors shall be no cause of challenge; any law, custom or usage to the contrary notwithstanding.

Date of teste and return of jury process.

XXXII. And be it enacted, That except in trials at Bar, the Writ of *venire facias juratores*, where such Writ may by Law be necessary, may be tested on the day on which the same shall issue, and be made returnable on any day in Term or vacation, and that except in trials at Bar, the Writ of *distringas juratores* and *habeas corpora* may be tested either on the return day of the *venire* or on any subsequent day in Term or vacation: as well after as before or on the Commission day of the Assizes at which the causes in which they may be sued out shall be intended to be tried, and all such process may be sued out of the office of the Deputy Clerk of the Crown and Pleas in the County, as well as out of the principal office at Toronto.

What must be inserted in writs of *habeas corpora*, &c.

XXXIII. And be it enacted, That in any Writ of *habeas corpora juratorum* or *distringas* subsequent to and founded upon any Writ of *venire facias juratores*, it shall not be requisite to insert the names of all the Jurors contained in such panel, but it shall be sufficient to insert in the mandatory part of such Writs respectively—"the bodies of the several persons in the panel to this Writ annexed, named," or words of the like import, and to annex to such Writs respectively, panels containing the same names as were returned on the panel to such *venire facias* with their places of abode and additions.

XXXIV.

XXXIV. And be it enacted, That for the trial of issues in cases whether criminal or civil which shall in course come on for trial at any Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, it shall not be necessary actually to sue out any Writ of *venire facias juratores* or other Jury process, but the award of such process by the Court and the entry of such award where necessary on the Roll, together with the return of a panel of Jurors upon the general precept issued for such Sittings or Sessions, and the trial of such issues respectively, by a Jury taken from such general Panel in the manner hereinafter provided, shall be sufficient and shall be as valid and effectual in law to all intents and purposes whatsoever, as if such *venire facias juratores*, or other process had been actually and regularly sued out in each case, and the names of the Jurors who shall have so tried such issues, respectively, had been regularly returned upon such Jury process, respectively: Provided always nevertheless, firstly, that nothing in this section contained shall extend or be construed to extend to any issue, to be tried at Bar, or by a Special Jury, or by a Jury *de medietate linguæ* or *de ventre inspiciendo* in a case in which a view shall have been granted, as hereinafter mentioned: And provided also, secondly, that every Jury of which some of the Jurors shall have been regularly taken from such general Panel, shall, notwithstanding its being completed by the award of a *tales de circumstantibus*, be deemed where such *tales de circumstantibus* shall have been regularly awarded according to law, to be taken from such general Panel for the purposes of this section. And provided also, thirdly, that to every *venire facias* directed to any Sheriff in any case in which a view shall have been granted, and which *venire facias* shall not be endorsed for the return of a Special Jury thereon, such Sheriff shall return the same Jurors as those whose names are inserted in the panel returned upon the general precept for the Sittings or Sessions at which such cause is to be tried.

Actual writ of *venire facias* may be dispensed with.

Proviso; as to jurors *de medietate*.

Proviso as to *tales*.

Proviso: where a view is granted.

XXXV. And be it enacted, That if any Plaintiff or Demandant or any Defendant in *Quare impedit* or *Replevin* shall in any cause which shall be at issue, sue out any Writ of *Venire Facias* upon which any Writ of *Habeas Corpora* or *distringas* with a *Nisi Prius*, shall issue in order to the trial of the said issue at the Assizes or Sessions of *Nisi Prius*, and shall not proceed to trial at the first Assizes or Sessions of *Nisi Prius*, after the teste of such Writ of *Habeas Corpora* or *distringas*, then and in every such case, (except when a view by Jurors shall be directed as hereinafter mentioned,) such Plaintiff, Demandant or Defendant, whenever he shall think fit to try the said issue at any other Assizes or Sessions of *Nisi Prius*, shall sue forth a new Writ of *Venire Facias*, commanding the Sheriff or other Minister to return anew, twelve good and lawful men of the body of the Bailiwick qualified according to Law, and the rest of the Writ shall proceed in the accustomed manner, which Writ being duly returned, a Writ of *Habeas Corpora* or *distringas* with a *Nisi Prius* shall issue thereupon, upon which such Plaintiff, Demandant or Defendant, shall and may proceed to trial, as lawfully and effectually to all intents and purposes, as if no former Writ of *Venire Facias* had been prosecuted in that cause, and so *toties quoties* as the case shall require; And if any Defendant or Tenant, shall in any cause which shall be at issue be minded to bring to trial any issue joined against him when by the practice of the Court he may do so by Proviso, he shall or may of the issuable Term next preceding such intended trial to be had at the next Assizes or Sessions of *Nisi Prius*, sue out a *Venire Facias* in the form aforesaid by Proviso, and prosecute the same by Writ of *Habeas Corpora* or *distringas* with a *Nisi Prius*, as lawfully and effectually to all intents and purposes as if no former Writ of *Venire* had been sued out, or returned in that cause and so *Toties Quoties* as the matter may require.

As to cases where the plaintiff, &c. shall not proceed to trial.

New *venire*.

When defendant, &c., may bring on trial by proviso.

VII.—DRAWING JURY AT TRIAL.

XXXVI. And be it enacted, That the name of each man who shall be summoned and empanelled as a Petit Juror, upon the general precept for any Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace or County Court, with the name of his place of abode, and addition shall be written on a

Jury to be drawn by ballott, and in what manner.

distinct piece of Parchment, Card or Paper, such pieces of Parchment, Card or Paper, being all as nearly as reasonably may be of uniform and convenient size, and shall be delivered to the Clerk of Assize, Marshal or other Clerk of such Court by the Sheriff, and shall by direction and care of such Sheriff, be put together in a Box or Urn to be provided for that purpose, and when any issue shall be brought on to be tried by the Jurors returned upon such general precept, such Clerk of Assize, Marshal or other Clerk of such Court, shall in open Court draw out twelve of the said Parchments, Cards or Papers one after another, and if any of the men whose names shall be so drawn shall not appear or shall be challenged and set aside, then such further number until twelve men be drawn, who shall appear, and after all just causes of challenge allowed, shall remain as fair and indifferent, and the said twelve men so first drawn and appearing and approved as indifferent, their names being noted in the minute Book of such Clerk of Assize, Marshal or other Clerk of such Court, and they being sworn shall be the Jury to try the issue, and the names of the men so drawn and sworn, shall be kept apart by themselves until such Jury shall have given in their verdict, and the same shall be recorded, or until such Jury shall by consent of the parties, or by leave of the Court be discharged, and then the same names shall be returned to the box or urn, there to be kept with the other names remaining at that time undrawn, and so *Toties Quoties* as long as any issue remains to be tried.

XXXVII. And be it enacted, That if any issue shall be brought on to be tried at any of the said Sittings or Sessions before the Jury in any other issue shall have brought in their verdict, or being discharged, it shall be lawful for the Court to order twelve of the residue of the said Parchments, Cards or Papers not containing the names of any of the Jurors who shall not have so brought in their verdict or been discharged, to be drawn in the manner last aforesaid, for the trial of the issue which shall be so brought on to be tried.

XXXVIII. And be it enacted, That notwithstanding the two last preceding Sections, where no objection shall be made on the part of the Queen, or any other party, it shall be lawful for the Court to try any issue with the same Jury that shall have previously tried, or been drawn to try any other issue without their names being returned to the box or urn, and re-drawn or to order the name or names of any man or men in such Jury, whom both parties may consent to withdraw or who may be justly challenged or excused by the Court to be set aside, and another name or other names, to be drawn from the box or urn, and to try the issue with the residue of such original Jury, and with such men or men, whose name or names shall be so drawn, and who shall appear and be approved as indifferent, and so *toties quoties* as long as any issue remains to be tried.

VIII.—SPECIAL JURIES.

XXXIX. And be it enacted, That it shall be in the power of Her Majesty, or any prosecutor, Relator, Plaintiff, or Demandant, and of any Defendant or Tenant in any case whatsoever, whether civil or criminal or on any Penal Statute, excepting only on Indictments for Treason or Felony, to have the issues joined in any such cases and triable by a Jury, tried by a Special Jury to be struck as hereinafter provided upon suing out the necessary Jury Process for that purpose, and procuring such Special Jury to be struck and duly summoned for the day on which the trial of such case is to be had, and every Jury so struck shall be the Jury returned for the Trial of such issue : Provided always, that in the event of a new Trial being ordered in any such case after a verdict of any such Jury, the *venire facias juratores* shall set forth the names of the Jurors who sat on the first trial of such cause, or in the event of more trials than one having been previously had, the names of all Jurors who shall have sat upon any of such trials. And none of the Jurors who shall have so sat on any such former trial shall be returned, or sit as Jurors upon any subsequent trial of the same cause.

XL. And be it enacted, That in every such case the party desiring such Special Jury to be struck, whether an actor in such cause or not, shall have a right in person,

or

Non appearance of challenge.

Jurors to be sworn, &c.

Jurors who have not brought in verdict, not to be included in any ballot.

By consent, the same jury may try several causes.

Either party may demand a special jury, except in cases of treason or felony.

Proviso: in case of a new trial.

Venire facias for special jury, how sued out and indorsed.

or by his Attorney or Agent, to sue out a Writ of *venire facias juratores* for that purpose, and every such Writ before it shall be delivered to the Sheriff or other Officer or Minister to whom it shall be directed, shall be indorsed with a direction to such Sheriff or other Officer or Minister requiring him to return a Special Jury on the same, and every such Sheriff or other Officer or Minister upon receipt of any such *venire facias*, so endorsed as aforesaid, shall, by a Memorandum in writing upon such Writ, appoint some convenient day and hour for striking such Special Jury, the day and hour to be so fixed for such purpose being sufficiently distant to enable the party suing out the said *venire* to give the necessary notice to the opposite party, as hereinafter provided.

XLI. And be it enacted, That in any such case the party, his Attorney or Agent suing out such *venire facias*, shall give notice in writing to the opposite party, his Attorney or Agent, that he had sued out a *venire facias* in such case for the purpose of having a Special Jury struck therein, and of the day and hour appointed by the Sheriff or other Officer or Minister for striking the same, which notice shall be served on such last mentioned party, his Attorney or Agent, at least four days before the day so appointed, and an Affidavit or Affirmation of such service, or an admission in writing under the hand of the Attorney or Agent on whom it may have been served, shall be produced to such Sheriff or other Officer or Minister at the time appointed for striking such Special Jury, and in default thereof the said Sheriff or other Officer or Minister shall not proceed to strike such Special Jury upon such Appointment.

XLII. And be it enacted, That every Special Jury to be struck under the authority of the thirty-ninth section of this Act, shall, except as hereinafter provided, consist solely of persons whose names shall appear on either the Roll of Grand Jurors for the Superior Courts or on the Roll of Grand Jurors for the Inferior Courts for the year in which the Writ of *venire facias* upon which such Jury shall be struck is returnable, and the same shall be struck in the manner hereinafter provided.

XLIII. And be it enacted, That every such Special Jury shall be struck in the following manner, that is to say: the Sheriff having furnished himself with a set of Ballots or pieces of parchment, card or paper, of as uniform and convenient size as reasonably may be, and containing the same number of Ballots as there are numbers on the respective Grand Jurors' Rolls from which the said Special Jury is to be struck, and upon which ballots shall be printed or written, the whole of the numbers of such Grand Jurors' Rolls allowing one number to each Ballot, and distinguishing each number by the letters S. C. or I. C. according as it shall belong to the Roll of Grand Jurors for the Superior Courts, or to the Roll of Grand Jurors for the Inferior Courts, shall, at the office of the Clerk of the Peace, at the time appointed for such purpose as aforesaid, in the presence of all the parties in the case and of their Attorneys and Agents (if they respectively choose to attend, or if the said parties, their Attorneys or Agents, all or any of them do not attend, then upon such proof as is hereinbefore provided of the service of the notice of striking such Special Jury in their absence,) put all the said Ballots in a box or urn, to be by him provided for that purpose, and after having caused the said box or urn to be shaken so as sufficiently to mix the said Ballots, shall draw out of the said box or urn forty of the said numbers, one after another, and shall, as each number is drawn, refer to the corresponding number in the Grand Jurors' Roll, to which such Ballot shall belong, and read aloud the name to which such number is appended in the said Roll. And if at the time of so reading any such name, either party, or his Attorney or Agent, shall object that the man whose name shall be so drawn is in any manner incapacitated from serving on the said Jury, and shall also then and there prove the same to the satisfaction of such Sheriff, such name shall be set aside, and the said Sheriff shall instead thereof draw out of the said box or urn another number, and shall in like manner refer to the corresponding number in the Grand Jurors' Roll, to which such Ballot shall belong, and read aloud the name to which such number is appended in the said Roll. Which name may be in like manner set aside, and other numbers and names shall in every such case be resorted to, according to the mode of proceeding hereinbefore described, for the purpose of supplying names in the places of those set
aside,

Notice to be given to the other party of the time when the jury is to be struck.

Special juries to be taken only from rolls of grand jurors.

Mode of balloting for a special jury.

As to jurors, &c., objected to, and objection proved.

Provision if forty names cannot be obtained from the rolls.

List of jurors to be made out; each party to strike out 12.

Remaining 16 to be summoned, and jury taken from them.

Sheriff may strike in place of party failing to attend.

Superior courts may order cases of certain kinds to be tried by a jury of men conversant with the subject.

And in certain other cases by consent of parties.

Such *extra* special juries shall be struck by elisors.

Indorsement or *venire*.

aside, until the whole number of forty names not liable to be set aside shall be completed. And if in any case it shall so happen that the whole number of forty names cannot be obtained from the said Grand Jurors' Rolls, in such case the said Sheriff shall in like manner Ballot such a number of names from the Grand Jurors' Rolls in the Jurors' Book of the nearest year for which there shall be a Jurors' Book or certified copy thereof, in the office of the said Clerk of the Peace, in addition to those already taken from the first mentioned Grand Jurors' Rolls, as shall be required to make up the full number of forty names. And the said Sheriff shall thereupon make out a List of the forty names, together with their respective places of abode and additions, from which List, after a reasonable time allowed in the discretion of such Sheriff for enquiry and consideration respecting the same, each party, his Attorney or Agent shall strike out twelve names, such names being so struck out by such parties one by one alternately, the party suing out such *venire facias* commencing. And the Sheriff shall thereupon return upon such *venire facias*, and summon or cause to be summoned thereon the sixteen persons whose names shall remain on such List to appear on the day appointed for the trial of such cause. And from such sixteen persons, or so many of them as shall appear in obedience to such summons, shall be taken by Ballot in the manner hereinbefore by the thirty-sixth section of this Act prescribed for the drawing of Petit Jurors from the General Panel therein mentioned, a Special Jury for the trial of such cause.

XLIV. And be it enacted, That if either of the parties in such cause shall neglect to attend either in person or by Attorney or Agent at the striking of such Special Jury, the Sheriff, upon production of such affidavit, affirmation or admission of service of such notice as aforesaid, and after waiting at least half an hour for such absent party, shall, if requested by the other party, his Attorney or Agent, proceed to strike such Special Jury, and in case of the continued absence of such first mentioned party, shall on his behalf strike out of the said List the twelve names to be by such party struck out of such list as aforesaid.

XLV. And be it enacted, That it shall and may be lawful for either of Her Majesty's Superior Courts of Common Law at Toronto, in Term time, or any Judge thereof, in Vacation, in suits between Merchant and Merchant, or Trader and Trader, or Merchant and Trader involving one or more questions of mercantile consideration, and in suits between Manufacturer and Manufacturer, or Mechanic and Mechanic, or Manufacturer and Mechanic involving one or more questions of Mechanical or scientific consideration, and in suits between any of the former and any of the latter involving one or more of any of such questions without the consent of parties; and in suits between any other persons involving one or more questions of scientific consideration, with the consent of the parties to such last mentioned suits, to order and direct any such cause to be tried by a Special Jury of men belonging to the appropriate kind or kinds of business as aforesaid, or of scientific men respectively, as the case may be: Provided always that every such Rule not made with the consent of parties, shall be made only upon a Rule to shew cause or summons upon which the adverse party shall have had the usual opportunity of being heard as in other cases.

XLVI. And be it enacted, That in every Rule for striking any such Special Jury as is provided for in the last preceding section of this Act, it shall be ordered that such Special Jury shall be struck, and the names of such Special Jury certified to the Sheriff by three Elisors to be appointed in writing by endorsement upon such Rule, one by the Plaintiff in such cause, his Attorney or Agent, another by the Defendant, his Attorney or Agent, and the third by the Clerk of the Crown and Pleas of the Court in which the cause shall be pending, or in case of such Elisors disagreeing, then by the majority of such Elisors, all three being present, and that the Sheriff shall return and summon upon the *venire facias* in such cause, such persons as such Elisors, or the majority of them, shall certify to him as having been struck as Special Jurors for the trial of the same. And the indorsement to return a Special Jury on the *venire facias* in every such cause, shall direct the Sheriff to return a Special Jury of men of the appropriate

appropriate kind or kinds of business as aforesaid, or of scientific men, as the case may be, pursuant to such certificate as he may receive from the Elisors (naming them,) or a majority of them in that behalf appointed by such Rule.

XLVII. And be it enacted, That every such Special Jury as is provided for by the forty-fifth section of this Act, shall be struck in the following manner, that is to say: the three Elisors or a majority of them, upon the delivery to them of a copy of the Rule for such Special Jury, and of the *venire facias* for the return of such Jury, shall, at the request of either of the parties in such cause, make an appointment in writing of a day, hour and place for striking such Special Jury as by the forty-third section of this Act is provided with respect to other Special Juries. And upon notice of such appointment being served upon the opposite party, and such service proved as in the same section is provided with respect to such other Special Juries, the said Elisors shall, at the time and place so appointed and after waiting the time prescribed by the said forty-third section, proceed to make a list of the names and additions of all such persons whose names shall appear on any of the Jurors' Rolls for the year in which such *venire facias* is returnable, who shall in their judgment come within the description of persons required to be struck on such Jury according to the exigency of such Rule. And if there shall not be forty of such persons to be found upon such Rolls or either of them, then the said Elisors, or the majority of them, if they shall know of a sufficient number of persons answering such description within the County, or Union of Counties, whether such persons shall be otherwise qualified and liable to serve, or exempt from serving as Jurors or not, provided they be not persons disqualified from any of the causes set forth in the tenth section of this Act or either of them, shall add the names and additions of a sufficient number of such persons to such list to complete the same to forty names. And if there shall be the names of more than forty of such persons on such Rolls, the said Elisors, or the majority of them from the names of all persons on such Rolls who shall answer such description, shall, in the manner prescribed by the forty-third section of this Act, for the striking other Special Juries, select forty of such names. And the List of such forty names being thus completed, the same shall be reduced in the same manner as hereinbefore by the said forty-third section is provided with respect to such other special Juries. And the said Elisors shall thereupon give a certificate to each of the parties to such suit, their Attorney or Agent, certifying the names and additions of the sixteen persons whose names shall remain upon such List; and the Sheriff or other Officer or Minister to whom such *venire facias* shall be directed, shall, upon receipt of either of such certificates, return and summon such sixteen persons upon such *venire facias* accordingly, and from these sixteen persons so returned, shall be selected the Jury to try such cause, in the same way and under and subject to the like restrictions as by the said forty-third section of this Act is enacted with respect to other special Juries; provided always, that every such person so struck on any such Special Jury shall be liable to serve on the same although exempted from serving upon Juries by the general provisions of the fifth, sixth and seventh sections of this Act as hereinbefore provided.

XLVIII. And be it enacted, That nothing herein contained shall be construed to prevent the same Special Jury, however nominated, from being summoned and returned, to try any number of causes so as the parties in every such cause or their Attornies shall have signified their assent in writing to the Sheriff or other Officer or Minister to whom the return of Juries in such cases shall belong, to the nomination and return of such special Jury for the trial of their respective causes: Provided always, that it shall be lawful for the Court at which he shall be summoned to attend, if it shall so think fit, upon the application of any man who shall have served upon one or more Special Juries at any Assizes or Sessions of *Nisi Prius*, to discharge such man from serving upon any other Special Jury during the same Assizes or Sessions of *Nisi Prius*.

XLIX. And be it enacted, That the party who shall sue out a *venire facias* for a Special Jury in any cause, shall pay the fees for striking such Special Jury, the fees of the Jurors and all the expenses occasioned by the trial of the cause by such Special Jury,

Mode of striking such jury by Elisors.

Elisors to attend.

If there be not forty proper persons on the rolls,

If there be more than forty such.

Reducing list.

Elisors to certify 16 jurors: who shall be summoned accordingly.

And jury taken from them.

Same special jury may by consent try any number of causes.

Proviso: in favor of Jurors having served once.

As to fees and costs of trial by special jury.

Jury, and shall not have any further or other allowance for the same upon taxation of costs, than such party would be entitled to, in case the cause had been tried by a common Jury, unless the Judge before whom the cause is tried, shall, immediately after the verdict in open Court, or afterwards upon a Summons at Chambers, certify under his hand that the same was a cause proper to be tried by a Special Jury.

IX.—VIEWS, JURIES DE MEDIETATE LINGUÆ AND INQUESTS.

Superior courts may grant views when they shall think them necessary—conditions, &c.

L. And be it enacted, That when in any case either Civil or Criminal, or on any Penal Statute depending in either of Her Majesty's Superior Courts of Common Law at Toronto, it shall appear to such Court or to any Judge thereof in vacation, that it will be proper and necessary that some of the Jurors who are to try the issues in such case, should have the view of the place in question, in order to their better understanding the evidence that may be given upon the trial of such issues; in every such case, such Court, or any Judge thereof in vacation, may order a Rule to be drawn up containing the usual terms, and also requiring, if such Court or Judge shall so think fit, the party applying for the view to deposit in the hands of the Sheriff a sum of money to be named in the Rule, for payment of the expenses of the view and commanding Special Writs of *venire facias* and *distringas* to issue, by which the Sheriff or other Officer or Minister, to whom the said Writs shall be directed, shall be commanded to have six or more of the Jurors named in such Writs, or in the Panels thereunto annexed, (who shall be mutually consented to by the parties, or if they cannot agree, shall be drawn by ballot from such Panel as hereinafter provided,) at the place in question, some convenient time before the trial, who then and there shall have the place in question shewn to them by two persons in the said writs named, to be appointed by the Court or Judge; and the said Sheriff or other Officer or Minister, who is to execute any such writ, shall, by a Special return upon the same, certify that the view hath been had according to the command of the same, and shall specify the names of the viewers.

Certificate of view.

How viewers shall be chosen, if not agreed upon by the parties.

LI. And be it enacted, That when the parties in any such case shall not agree as to the Jurors to be nominated to take such view, such viewers shall, by the Sheriff or other Officer or Minister, to whom the *venire facias juratores* in such case shall be directed, be drawn by ballot from the Panel returned upon such *venire facias*, at some time and place to be appointed by such Sheriff or other Officer or Minister for that purpose, in the like manner as by the thirty-sixth section of this Act is provided for drawing Juries from the general Panel at *Nisi Prius*: Provided always nevertheless, that no such Sheriff or other Officer or Minister shall proceed to draw such viewers from such Panel without having first given at least forty-eight hours' notice in writing to the respective parties in such suit, of the day, hour and place of such drawing.

Viewers to be the first sworn on the jury.

LII. And be it enacted, That when a view shall have been allowed in any case, those men who shall have had the view, or such of them as shall appear upon the Jury to try the issue, shall be first sworn, and so many only shall be added to the viewers who shall appear, as shall after all defaults and challenges allowed, make up a full Jury of twelve.

Right of alien to be tried by jury, *de medietate* saved.

LIII. And be it enacted, That nothing herein contained shall extend or be construed to extend to any Jury of matrons or any Writ *de ventre inspiciendo*, or to deprive any alien not naturalized, indicted or impeached of any felony or misdemeanor, of the right of being tried by a Jury *de medietate linguæ*, but that on the prayer of every such alien so indicted or impeached, the Sheriff shall by command of the Court return for one half of the Jury a competent number of aliens, if so many there be in the Town or place where the trial is had, and if not then so many aliens as shall be found in the same town or place if any, and that no such alien Juror shall be liable to be challenged for want of any qualification required by this Act, but every such alien may be challenged for any other cause in like manner as if he were qualified by this Act.

What persons only may be summoned as jurors on inquests.

LIV. And be it enacted, That no man shall be liable to be summoned or impanelled to serve as a Juror in any County, City or Town in Upper Canada, upon any inquest or inquiry to be taken or made before any Sheriff or Coroner, by virtue of any writ of inquiry,

inquiry, or by or before any Commissioners appointed under the Great Seal of the Province, or the Seal of any Court in Upper Canada, having general jurisdiction throughout the same, or having general jurisdiction throughout any County of the same, or throughout any City or Town and the liberties or precincts thereof within the same, unless the name of such person shall appear upon one or other of the Jurors' Rolls, for the year in which such person shall be called upon to serve on such inquest or inquiry: Provided always, that nothing herein contained shall extend or be construed to extend to any inquest to be taken by or before any Coroner of any County, Union of Counties, City or Town, by virtue of his office, or to any inquest or inquiry to be taken or made by or before any Sheriff, High Bailiff or Coroner of any County, Union of Counties, City or Town, but that the Coroners, Sheriffs and High Bailiffs aforesaid, in all such Counties, Unions of Counties, Cities and Towns respectively, when acting otherwise than under a writ of enquiry, shall and may respectively take and make all inquests and inquiries by Jurors of the same description as they have been used and accustomed to do before the passing of this Act.

Proviso; as to certain inquests.

X.—CHALLENGES.

LV. And be it enacted, That if any man shall be returned as a Juror for the trial of any issue in any cause civil or criminal, or on any Penal Statute in any of the Courts hereinbefore mentioned, who shall not be qualified according to this Act, the want of such qualification shall be a good cause of challenge, and he shall be discharged upon such challenge, if the Court shall be satisfied of the fact; Provided always, that nothing herein contained shall extend in any wise to any Special Juror.

Want of qualification to be cause.

LVI. And be it enacted, That if any man returned as a Juror for the trial of any such issue, shall be qualified in other respects according to this Act, the want of freehold shall not on such trial in any case civil or criminal, or on any Penal Statute, be accepted as a good cause of challenge either by the Crown or by the party, nor as cause for discharging the man so returned upon his own application; any law, custom or usage to the contrary notwithstanding.

Proviso; as to special jurors.

Want of freehold, not a cause.

LVII. And be it enacted, That no challenge shall be taken to any Panel of Jurors for want of a Knight's being returned on such Panel, nor any array quashed by reason of any such challenge; any law, custom or usage to the contrary notwithstanding.

Want of a knight, no cause.

LVIII. And be it enacted, That no person arraigned for murder or felony shall be admitted to any peremptory challenge above the number of twenty, and that the defendants arraigned for any misdemeanor, if they, or such of them as may be tried together, shall unite in such challenge, may challenge peremptorily without assigning any cause for the same, any two of the Jurors who may be called upon to serve on such trial.

Peremptory challenges limited.

LIX. And be it enacted, That in cases in which the Queen shall be a party, those who sue for the Queen shall not be allowed a challenge to any Juror who may be called to serve upon the Jury in any such case, except for cause to be assigned, tried and disposed of according to the custom of the Court.

Crown to challenge for cause only.

LX. And be it enacted, That in all civil cases, and cases upon any Penal Statute, each party, the plaintiff or plaintiffs, demandant or demandants, on one side, and the defendant or defendants, tenant or tenants, on the other, may each challenge peremptorily without assigning any cause for the same, any two of the Jurors who may be called upon to serve on the trial of any such cause; Provided always nevertheless, that the Juror so challenged shall not be a Special Juror, struck upon such Jury according to the provisions in this Act contained for the striking of Special Juries.

Peremptory challenge in civil cases.

Proviso; as to special jurors.

XI.—SUMMONING JURORS.

LXI. And be it enacted, That the summons of every man to serve on Grand Juries and on Petit Juries, not being Special Juries, in any of the Courts aforesaid, shall be made by the proper officer, eight days at the least before the day on which the Juror is to attend, by delivering to the man to be summoned, or in case he shall be absent from the usual place of his abode, by leaving with some grown person there inhabiting,

Time during which jurors must be summoned before day of attending.

a note in writing under the hand of the Sheriff or other proper Officer, containing the substance of such summons, and the summons of every man to serve on Special Juries in any of the Courts aforesaid shall be made by the like person and in the like manner as aforesaid, three days at the least before the day on which the Special Juror is to attend; which last mentioned day may be any day after the commission day of the Assizes at which the cause is to be tried as well as such commission day, and the Judges of the different Courts may by any general rule to be made by them according to law for that purpose, make such regulations as they may deem expedient for regulating the time and manner of bringing on such Special Jury trials at *Nisi Prius*.

Jurors on inquest, &c., and matrons *de ventre*, to be summoned as before.

LXII. And be it enacted, That the summons of every man to serve upon any Inquest or Inquiry before any Sheriff or Coroner, or before any Commissioners appointed under the Great Seal of this Province or under the Seal of either of Her Majesty's Superior Courts of Common Law at Toronto, or to serve as a talesman upon any Jury either for the trial of an issue, or assessment of damages, in any of the Courts aforesaid, and of any matron to serve on a Jury *de ventre inspiciendo*, shall notwithstanding any thing in this Act contained, be made by the proper officer in the manner heretofore used and accustomed in such cases respectively, as if this Act had not been passed.

XII.—PENALTIES.

On jurors for non-attendance.

LXIII. And be it enacted, That if any man having been duly summoned to attend on any kind of Jury, in any of the Courts in Upper Canada, hereinbefore mentioned, shall not attend in pursuance of such Summons, or being there called shall not answer to his name: or if any such man or any talesman after having been called shall be present, but not appear, or after his appearance shall wilfully withdraw himself from the presence of the Court, the Court shall set such fine upon every such man or talesman so making default, (unless some reasonable excuse shall be proved by oath, affidavit or affirmation,) as the Court shall think meet.

On viewers for non-attendance.

LXIV. And be it enacted, That where any viewer having been duly summoned to attend on a Jury shall make default, as in the last preceding section of this Act is set forth, the Court at which he shall have been summoned to attend for the trial of such cause, is hereby authorized and required to set upon such viewer, (unless some reasonable excuse shall be proved as aforesaid,) a fine to the amount of five pounds at the least, and as much more as the said Court under the circumstances of the particular case shall think proper.

On jurors upon inquests and inquiries for non-attendance.

LXV. And be it enacted, That if any man having been duly summoned and returned to serve as a Juror in any County, Union of Counties, City or Town in Upper Canada, upon any inquest or inquiry, before any Sheriff or Coroner, or before any of the Commissioners aforesaid, shall not, after being openly called three times, appear and serve as such Juror, every such Sheriff, Coroner and Commissioners respectively, are hereby authorized and required (unless some reasonable excuse shall be proved on oath, affidavit, or affirmation) to impose such fine upon any man so making default, as they shall respectively think fit, not exceeding Five pounds; and every such Sheriff, Coroner and Commissioners respectively shall make out and sign a certificate, containing the christian and surname, the residence and addition of every man so making default, together with the amount of the fine imposed, and the cause of such fine, and shall transmit such certificate to the Clerk of the Peace for the County or Union of Counties, or Clerk of the Recorder's Court of any such City as aforesaid, in which, or the liberties thereof, every such defaulter shall reside, on or before the first day of the General Quarter Sessions of the Peace, or Sittings or Sessions of every such Recorder's Court of any such City as aforesaid, next ensuing. And every such Clerk respectively is hereby required to copy the fines so certified on the Roll, on which all fines and forfeitures imposed at such Quarter Sessions, or Sittings or Sessions of such Recorder's Court of any such City, shall be copied, and the same shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects as if they had been

Sheriff to certify defaults, and transmit certificate.

Fines to be estreated.

been part of the fines imposed at such Quarter Sessions or Sittings respectively, as aforesaid.

LXVI. And be it enacted, That if any Sheriff or other Officer or Minister as aforesaid shall wilfully impanel and return any man to serve on any Jury in any of the Courts aforesaid, such man's name not being duly drawn upon such Panel, in the manner in this Act prescribed,—or if any Clerk of Assize, Associate, Marshal, Clerk of the Peace, Clerk of the Recorder's Court or other Officer of any of the Courts aforesaid, shall wilfully record the appearance of any man so summoned and returned, who did not really appear,—in every such case, the Court shall, and may, upon examination in a summary way, set such fine upon such Sheriff, Officer or other Minister, Clerk of Assize, Associate, Marshal, Clerk of the Peace, Clerk of the Recorder's Court or other Officer offending, as the Court shall think meet.

On sheriffs, &c., for default to perform duties assigned to them.

LXVII. And be it enacted, That no Sheriff, under-Sheriff, Coroner, Elisor, Bailiff or other Officer, Minister or person whatsoever, shall, directly or indirectly, take or receive any money or other reward or promise of money or reward, to excuse any man from serving or being summoned to serve on Juries, or under any such colour or pretence; and that no Bailiff or other officer, appointed by any Sheriff, under-Sheriff, Coroner, or Elisor, to summon Juries, shall summon or pretend to summon any man to serve thereon other than those whose names are specified in a Warrant or Mandate signed by such Sheriff, under-Sheriff, Coroner or Elisor, and directed to such Bailiff, or other officer; and if any Sheriff, under-Sheriff, Coroner, Elisor, Bailiff, or other officer, shall wilfully transgress in any of the cases aforesaid, or shall summon any of the Jurors, not being a Special Juror, less than eight days before the day on which he is to attend, or shall summon any Special Juror less than three days before the day on which he is to attend, except in the cases hereinbefore excepted, the Court of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, County and Recorder's Court, within whose jurisdiction the offence shall be committed, may, and is hereby required on examination and proof of such offence, in a summary way, set such fine upon every person so offending, as the Court shall think meet, according to the nature of the offence.

On sheriffs, &c., taking money as a bribe.

On bailiffs, &c., acting illegally.

Court to set fine on offender.

LXVIII. And be it enacted, That if any Sheriff or Deputy Sheriff of any County or Union of Counties, or any High Bailiff or other Officer of any City, shall make or cause to be made any alteration whatever in the Rolls, Lists or Panels in any Jurors' Book, or in the certified copies thereof in their official custody, or in the official custody of any of them, or in any of them, except in compliance with the directions in this Act contained, or shall neglect or refuse to prepare the Jurors' Book, the Ballots necessary for balloting the Jury Lists, drafting the Panels, striking Special Juries, and drawing Juries at the trial, or shall neglect or omit to return such Jurors' Book, and the ballots for drafting such Jury Lists, to the Court to which by this Act he is required to return the same, or shall neglect or omit to perform any other duty required of him by this Act, or shall wilfully do any thing inconsistent with the provisions of this Act, every such Sheriff, Deputy Sheriff, High Bailiff, or other Officer so offending, shall for every such offence forfeit the sum of Fifty pounds, one moiety thereof to the use of Her Majesty, Her Heirs or Successors, and the other moiety thereof, with full costs, to such person as shall sue for the same in any Court of competent jurisdiction, by action of debt, bill, plaint or information.

On sheriffs, &c., making any unauthorized alteration in any jurors' book, or neglecting to return the same, &c.

LXIX. And be it enacted, That if any Clerk of the Crown and Pleas, or any of their Deputies, shall make or cause to be made any alteration whatever in the Rolls, Lists or Panels in any Juror's Book, or in any copy thereof deposited in his office, or shall wilfully certify as true any copy of any Jurors' Book, or any Roll, List or Panel therein, when the same shall not be a true copy thereof, every such Clerk of the Crown and Pleas, or Deputy Clerk of the Crown and Pleas, shall, for every such offence, forfeit the sum of Fifty pounds, one moiety thereof to the use of Her Majesty, Her Heirs or Successors, and the other moiety thereof, with full costs, to such person as shall sue for the same in any Court of competent jurisdiction by action of debt, bill, plaint or information.

On clerks of C. & P making such alterations or certifying falsely, &c.

On assessors not making and returning the assessment roll in proper time.

LXX. And be it enacted, That if any Assessor of any Township, Village or Ward in Upper Canada, shall neglect or omit to make out and complete his Assessment Roll for such Township, Village or Ward, and to return the same to the office of the Clerk of such Township or Village, or of the City or Town in which such Ward shall be situated, or other office or place of deposit for such Roll, at least on or before the first day of September of the year for which he shall be such Assessor, every such Assessor so offending, shall forfeit for every such offence the sum of Fifty pounds, one moiety thereof to the use of Her Majesty, Her Heirs or Successors, and the other moiety thereof, with full costs, to such person as shall sue for the same in any Court of competent jurisdiction by action of debt, bill, plaint or information: Provided always, that nothing herein contained shall be construed to relieve any such Assessor from the obligation of returning such Assessment Roll at an earlier period of the year, or from any penalty he may incur by not returning the same accordingly.

Proviso:

On Municipal officers not producing assessment roll as required.

LXXI. And be it enacted, That if any City, Town, Village or Township Clerk, or any Assessor or other officer or person who, at the time of the annual meeting of the Selectors of Jurors for any City, Town, Village or Township in Upper Canada, shall have the actual charge or custody of the Assessment Rolls or Assessment Roll of such City, Town, Village or Township, for such year, shall neglect or omit to perform the duties required of him by the eleventh section of this Act, as regards the production of such Roll or Rolls at such annual meeting of such Selectors of Jurors, or permitting such Selectors the necessary access to the same for the purpose aforesaid, every such Clerk or other Officer or person so offending shall for every such offence forfeit the sum of Twenty-five pounds, one moiety thereof to the use of Her Majesty, Her Heirs and Successors, and the other moiety thereof, with full costs, to such person as shall sue for the same in any Court of competent jurisdiction, by action of debt, bill, plaint or information.

On selectors of jurors not producing assessment roll as required.

LXXII. And be it enacted, That if any Selector of Jurors for any Township, Village or Ward in Upper Canada, shall wilfully select and report as qualified and liable to serve as a Grand or Petit Juror, any person who, according to the provisions of this Act, ought not to have been so selected or reported, or shall take any money or other reward for so selecting or reporting or omitting to select or report any person whomsoever, or shall wilfully insert in any such Report a wrong description of the name, place of abode, or addition of any one so selected and reported, or shall neglect or omit to complete his selection and Report, and to deposit the same in the proper office at least on or before the fifteenth day of September of the year for which he shall act as such Selector of Jurors, every such Selector of Jurors offending in any of the foregoing cases, shall, for every such offence, forfeit a sum not exceeding Twenty pounds, nor less than Five pounds, at the discretion of the Justice before whom he shall be convicted.

On clerks of the peace for wilful dereliction of duty.

LXXIII. And be it enacted, That if any Clerk of the Peace, or Clerk of any such Recorder's Court of any City as aforesaid, or his Deputy, shall, when acting in performance of the duties required of him by the eighteenth, nineteenth, twentieth, twenty-first, twenty-second and twenty-third sections of this Act, neglect or omit to perform any duty required of him by those sections in the manner therein prescribed, or shall wilfully do any thing inconsistent with the provisions of the same, every such Clerk of the Peace, or other Clerk as aforesaid, or his Deputy, so offending, shall, for every such offence, forfeit the sum of Fifty pounds, one moiety thereof to the use of Her Majesty, Her Heirs or Successors, and the other moiety thereof, with full costs, to such person as shall sue for the same, in any Court of competent jurisdiction, by action of debt, bill, plaint or information.

How pecuniary penalties shall be levied and applied.

LXXIV. And be it enacted, That all fines to be imposed under this Act by either of Her Majesty's Superior Courts of Common Law at Toronto, or by any Court of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, County Court, or Recorder's Court, shall be levied and applied in the same manner as any other fines imposed by the said Courts respectively, and that all other penalties hereby enacted (for which no other remedy is given) shall, on conviction of the offence, before any

any Justice of the Peace, within his jurisdiction, be levied, unless such penalty be forthwith paid, by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of such Justice, who is hereby authorized to hear and examine witnesses on oath or affirmation on any complaint, and to determine the same, and to mitigate the penalty, if he shall see fit, to the extent of the moiety thereof. And all penalties, the application whereof is not herein particularly directed, shall be paid to the complainant; and for want of sufficient distress, the offender shall be committed by warrant, under the hand and seal of such Justice, to the Common Gaol or House of Correction, for such term not exceeding six calendar months, as such Justice shall think proper, unless such penalty is sooner paid.

Mitigation of penalty where no application is directed.

Committal for non-payment.

XIII.—APPLICATION OF PROVISIONS.

LXXV. And be it enacted, That in every City in Upper Canada in which there is or shall be established a Recorder's Court, or any other Court either Civil or Criminal, or both, having local jurisdiction within such City and the liberties thereof, and in which Court or any Sittings or Sessions thereof, Jurors shall be required for the trial of issues of fact joined in any such Court, according to the course of the Common Law, the Clerk of the Recorder's Court of every such City, shall annually, within the same period as is hereinbefore provided for the performance of a similar duty by the Clerk of the Peace of the different Counties and Unions of Counties in Upper Canada, and in a similar manner, prepare from such Reports of the Selectors of Jurors of the County or Union of Counties within the limits of which such City shall be embraced, as shall be returned for Wards, or other local divisions of such County or Unions of Counties lying within such City or the liberties thereof, a Jurors' Book for such City, inserting in the Jurors' Rolls in such Book respectively, the names of such persons resident within such City, or the liberties thereof, as upon such Reports or upon such of them as shall then have come in as aforesaid, shall be returned as qualified and liable to serve as Grand or Petit Jurors respectively, either in the Superior or Inferior Courts, except only that there shall, in every such case, be but two Rolls, one of Grand Jurors consisting of all such persons as shall have been so selected and reported for Grand Jurors in either the Superior or Inferior Courts, and the other of all such persons as shall have been in like manner selected and reported for Petit Jurors in either the Superior or Inferior Courts, as is hereinbefore required of the Clerk of the Peace of every County and Union of Counties, in respect of his County, and the heads of such Rolls in such Jurors' Books shall be adapted to the same accordingly. And such Recorder's Court, the Recorder of such City or the Chairman or other presiding Member thereof, and the Clerk of such Court for the time being, shall respectively perform the like duties in respect of such Books, the preparing the Ballots and the balloting of the Jury Lists from the Jurors' Rolls, as are hereinbefore prescribed to the Quarter Sessions of the Peace, the Chairman thereof, and the Clerk of the Peace for the respective Counties or Unions of Counties; and all other duties which are by this Act prescribed to the Sheriffs of Counties, in respect of Jurors, whether Grand or Petit, within their respective bailiwicks, shall, as respects Grand or Petit Juries for the administration of justice in any such Courts of any such Cities, be performed by and required of such High Bailiff, or other officer, as aforesaid: and that the manner of drafting, striking, returning and summoning Juries by the Sheriff, upon writs of *venire facias juratores*, as prescribed by this Act, shall be observed and followed by the High Bailiff, Coroners, Elisors, and other Officers and Ministers, having the return of Jury process within every such City, which Coroners, Elisors and other Officers and Ministers shall for such purpose have free access, at all reasonable times to the Jurors' Book, in the office of the Recorder's Court or other similar office of such City; and it shall be the duty of such High Bailiffs, Coroners, Elisors, and other Officers and Ministers of every such City, to perform all such duties in any way connected with the drafting, striking, returning and summoning such Juries, and they are hereby invested with all such powers as in and by this Act are prescribed to or vested in the Sheriffs of the different Districts with respect to Juries returned by them upon similar process.

In cities, the clerk of the recorder's court shall perform the duties performed by the clerk of the peace in counties; other functionaries of the Court performing certain other duties.

Aldermen to act as justices of the peace, under this Act.

LXXVI. And be it enacted, That all the powers conferred and duties imposed by this Act upon Justices of the Peace, with respect to Counties and Unions of Counties, shall be and the same are hereby conferred and imposed upon the Aldermen of the different Cities in Upper Canada, in which a Recorder's Court shall have been established in respect of the Cities of which they are or shall be Aldermen respectively.

Deputies of sheriffs, &c., may perform their duties.

LXXVII. And be it enacted, That the duties by this Act required of the Sheriffs of the different Counties and Unions of Counties and of the High Bailiffs, or other similar Officers of the different Cities in Upper Canada, and those also required of the Clerks of the Peace, and Clerks of the Recorder's Courts of such Cities as aforesaid, may be executed and performed either by the principal Officer himself, or by his Under-Sheriff or Deputy respectively.

Coroners, elisors, &c., to draft, &c., juries in like manner as sheriffs are required to do.

LXXVIII. And be it enacted, That the manner of drafting or striking, returning and summoning Juries by the Sheriff upon writs of *venire facias juratores* as prescribed by this Act, shall be observed and followed by all Coroners, Elisors, and other Officers and Ministers having the return of Jury process, who shall for such purpose have free access at all reasonable times to the Jurors' Book in the Sheriff's office, and it shall be the duty of every such Coroner, Elisor, and other Officer and Minister to perform all such duties, and they are hereby invested with all such powers, in any way connected with the drafting, striking, returning and summoning such Juries, as in and by this Act are prescribed to or vested in the Sheriffs of the different Counties, with respect to Juries returned by them upon similar process.

Provisions as to panel of grand jurors for oyer and terminer, &c., to apply to other courts.

LXXIX. And be it enacted, That the several directions in this Act contained, respecting the issue of precepts for the return of a Panel of Grand Jurors for the sittings or Sessions of Oyer and Terminer, and Gaol Delivery, as well as for the execution and return of such precepts, with all things touching the same, shall, in all and several their particulars, be observed and followed, with respect to the Sittings or Sessions of the General Quarter Sessions of the Peace in Upper Canada, and with respect to the Sittings or Sessions of the several Recorder's Courts of the different Cities in Upper Canada in which such Court shall have been established.

Provisions as to panel of petit jurors, at assizes, &c., to apply to quarter sessions and county courts.

LXXX. And be it enacted, That the several directions in this Act contained respecting the issue of precepts for the return of a General Panel of Petit Jurors, for the Sitting or Sessions of Assize and *Nisi Prius*, as well as for the execution and return of such precepts with all things touching the same, except only those contained in the eighty-fourth section of this Act, shall in all and several their particulars be observed and followed with respect to the Sittings or Sessions of the several Quarter Sessions and County Courts in Upper Canada, and with respect to the Sittings or Sessions of the several Recorder's Courts of the different Cities in Upper Canada in which such Court shall have been established.

XIV.—MISCELLANEOUS PROVISIONS.

Allowances for services under this Act.

LXXXI. And be it enacted, That the Selectors of Jurors, for every selection and distribution of Jurors and the Report thereof made by them under this Act, shall be entitled to the sum of Ten Shillings each, and the City, Town, Village or Township Clerk to the further sum of Five Shillings for bringing with him to the meeting of such Selectors the Assessment Roll or Assessment Rolls of the year as required by the eleventh section of this Act, such moneys to be paid to them respectively, by the Treasurer of the County or Union of Counties, for which such Jurors are to serve, out of any moneys in his hands belonging to such County or Union of Counties not otherwise specially appropriated by Act of Parliament, and which money shall be paid by such Treasurer to every such Selector of Jurors upon receipt of a certificate from the Clerk of the Peace for such County or Union of Counties, that such Report had been duly made to him within the time for that purpose prescribed by this Act. That the Clerk of the Peace of every such County or Union of Counties, and the Clerk of the Recorder's Court of every City, in which a Recorder's Court shall have been established, for every Juror's Book furnished and prepared by him under

Selectors.

Clerks of the peace, and of recorder's courts.

this

this Act, shall be entitled to the sum of One Pound Ten Shillings, the further sum of Two Shillings for every hundred names contained in the Rolls of Jurors by him entered in such Jurors' Book as directed by this Act, and the further sum of One Pound for each Jury List balloted and entered in such Jurors' Book according to the provisions thereof, and for every certified copy thereof required to be made by this Act, one half the amount so allowed for the original, and which several sums of money shall be paid by the Treasurer of such County or Union of Counties, or the Chamberlain of such City, as the case may be, out of any moneys in his hands belonging to such County, Union of Counties or City respectively not otherwise specially appropriated by Act of Parliament, upon receipt of a certificate from the Chairman of the Quarter Sessions of such County or Union of Counties, or the Recorder or other presiding officer of such Recorder's Court, that such Book had been furnished and prepared and such other services performed by such Clerk of the Peace or Clerk of the Recorder's Court respectively, within the time and according to the directions prescribed by this Act, and the further sum of One Pound for every Panel of Jurors drafted from any Jurors' Book in his office, to be paid in the case of General Panels returned upon such general precepts as are mentioned in the twenty-ninth section of this Act, out of the like moneys and by the like officer as hereinbefore mentioned, upon the production to such officer of the certificate of the Sheriff or other officer who shall have drafted the same, that such General Panel was so drafted as aforesaid, and in all other cases to be paid by the party suing out the Jury process upon which such Panel shall have been drafted. And the Sheriff, High Bailiff or other Officer of every such County, Union of Counties or City, exclusive of such fees as he may be entitled to from the parties in any suit or otherwise, for each Panel of Jurors, whether Grand or Petit, returned and summoned by him in obedience to any general Precept for the return of Grand or Petit Jurors for any Sittings or Sessions of *Assize and Nisi Prius, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County or Recorder's Court* respectively, under this Act, shall be entitled to the sum of One pound, and which sum of money shall be paid by the Treasurer of such County or Union of Counties or by the Chamberlain of such City, as the case may be, out of any moneys in his hands belonging to such County, Union of Counties or City respectively, not otherwise specially appropriated by Act of Parliament, upon receipt of a certificate from any two Justices of the Peace or Aldermen respectively, as the case may be, who may have been present at the drafting of such Panel pursuant to the twenty-fifth section of this Act, of such Sheriff, High Bailiff or other Officer having performed such service according to the directions of this Act, and in the case of Sheriffs of Counties, a further sum of Six pence for every mile that he or his deputy or Bailiffs may necessarily have to travel from the County Town for the purpose of summoning the Jurors upon such Panel, to be paid by such Treasurer out of the like moneys upon proof by affidavit made before some Commissioner for taking affidavits in some one of Her Majesty's Superior Courts of Common Law at Toronto, for such County or Union of Counties, of such travel having been so necessarily performed in the making such service; For all which moneys so to be paid as aforesaid, every such Treasurer and Chamberlain shall be allowed in his accounts with such County, Union of Counties or City, as if the same had been paid under the Special Authority and direction of the Municipal Corporation of such County, Union of Counties or City respectively.

LXXXII. And be it enacted, That in every case in which in any County or Union of Counties or any City of Upper Canada, there shall be no Sittings or Sessions of the General Quarter Sessions of the Peace, or Recorder's Court respectively after the first day of October in such year, at which according to the provisions of this Act, the Jury Lists for the following year for such County, Union of Counties or City respectively, are hereby required to be balloted from the Jurors' Rolls as herein provided, or if from any other cause such Lists or either of them shall not have been balloted, pursuant to the provisions of this Act, it shall and may be lawful for the Governor of this Province,

Sheriffs, high bailiffs,
&c.

How paid.

The said sums to be
allowed to treasurers
in their accounts.

Governor may in
certain cases authorize
the holding of special
sessions for balloting
for jurors, &c., under
this Act.

Province, by warrant under his privy Seal, of which a copy shall be published in the Official Gazette of the Province, and also (if there be such) in one public Newspaper published in such County, Union of Counties or City, as the case may be, to fix any day not sooner than fourteen days from the publication of the same in such Gazette, and also a place in such County, Union of Counties or City for holding a Special Sittings or Sessions of such Court for the purpose of balloting such Jury Lists as hereinbefore directed; and the several provisions and clauses of this Act, relating to the Sittings or Sessions of such Court, in which the balloting of such Jury Lists are hereinbefore directed to be done, shall be extended and applied to and be in force with respect to any such Special Sittings or Sessions, by any such warrant so directed to be held as aforesaid.

What shall be done if the clerk of the peace, &c, cannot take the oath required by section nineteen.

LXXXIII. And be it enacted, That in the event of any Clerk of the Peace or Clerk of the Recorder's Court being unable to make such oath as is required by the nineteenth section of this Act, as to the Entries made in any of such Jurors' Books, previous to the time of such Book coming into his custody from his predecessor, or having reason to suspect that any original entries in any of such Books have after their original completion been erased, mutilated or altered, he shall in lieu of that part of the said oath, make oath that, as to such entries, he is unable to speak, but that from circumstances which have come to his knowledge, or of which he has been informed, he has reason to doubt the correctness thereof, or of some parts thereof, or has reason to suspect that some of the original entries in some of such Books have been erased, mutilated or altered, as the case may be; and in every such case, such Court shall, immediately after the balloting shall have been completed, proceed, either on the same or some subsequent day, to examine and enquire by the oaths of such as may be informed thereof into such supposed incorrect entries, erasures, mutilations or alterations, their nature and extent, and by whom, when, and for what purpose made, and to punish the parties who may be thereupon found to have made such incorrect entries, erasures, mutilations or alterations, by fine or imprisonment in their discretion, and to cause such incorrect entries, erasures, mutilations or alterations to be rectified, and such Books restored to their original state as nearly as may be according to the best information they shall have been able to obtain of or concerning the same.

Certain courts to have the same powers as heretofore, for certain purposes.

LXXXIV. And be it enacted, That Her Majesty's two Superior Courts of Common Law at Toronto, and all Courts of Oyer and Terminer, and Gaol Delivery in Upper Canada, shall respectively have and exercise the same powers and authority as they have heretofore had or exercised in issuing any writ or precept, or in making any award or order orally or otherwise for the return of a Jury for the trial of any issue before any of such Courts respectively, or for the amending or enlarging the Panel of Jurors, returned for the trial of any such issue, and the return to any such writ, precept, award or order shall be made in the manner heretofore used and accustomed in such Courts respectively, save and except that the Jurors shall be returned from the body of the County or Union of Counties, and not from any Hundred or Township or from any particular venue within such County or Union of Counties, and shall be qualified according to this Act.

Justices of assize may direct the panel of petit jurors to be divided into two sets, each to serve a certain time.

LXXXV. And be it enacted, That in any County or Union of Counties in which the Justices of Assize shall think fit so to direct the Sheriff, the Sheriff to whom the return of the precept for the trial of causes at *Nisi Prius*, for such County or Union of Counties, doth belong, shall summon and impanel such number of Petit Jurors, not exceeding one hundred and forty-four, as such Justices shall think fit to direct to serve indiscriminately on the criminal and civil side, and that where such Justices shall so direct, the Sheriff shall divide such Jurors equally into two sets, the first of which sets to consist, except as hereinafter provided, of the necessary number of those first drawn upon such Panel, shall attend and serve for so many days at the beginning of each Assize as such Justices shall, within a reasonable time before the commencement of such Assize think fit to direct, and the other of which sets to consist, except as before excepted, of the residue of such Jurors, shall attend and serve for the residue

residue of such Assize: Provided always, firstly, that such Sheriff shall in the summons to the Jurors, in each of such sets specify whether the Juror named therein, is in the first or second set, and at what time the attendance of such Juror will be required; and during the attendance and service of the first of such sets, the Juries on the civil side shall be drawn from the names of the persons in that set, and during the attendance and service of the second of such sets, from the names of the persons in such second set: And provided also, secondly, that in any cause where a Rule for a view shall have been obtained as hereinbefore mentioned, in a case to be tried by a Jury to be taken from such Panel, it shall be lawful for the Judge before whom such case is to be tried, and he is hereby required on the application of the party obtaining such Rule, to appoint that in case the names of any one of the viewers shall stand in such Panel, among the first half of the names in the same, the names of all the viewers in such case shall by such Sheriff be placed in the first of such sets, and that the case shall be tried during the attendance and service of that set of Jurors in which such viewers are included.

Proviso.

Proviso.

LXXXVI. And be it enacted, That where a full Jury shall not appear before any Court of Assize or *Nisi Prius*, or before any sittings of any County Court for the trial of issues, and assessment of damages as at *Nisi Prius*, or before any such Court, of any such City as aforesaid, when engaged in the trial of a civil suit, or where after the appearance of a full Jury, by challenge of any of the parties, the Jury is likely to remain untaken for default of Jurors, every such Court, upon request made for the Queen, by any one thereto authorized or assigned by the Courts or on request made by the parties, Plaintiff, Demandant, Defendant or Tenant, or their respective Attornies, in any action or suit whether popular or private, shall command the Sheriff or other Officer or Minister to whom the making of the return shall belong, to name and appoint as often as need shall require, so many of such other able men, of the County, Union of Counties or City, as the case may be, then present, as shall make up a full Jury, and the Sheriff or other Officer or Minister aforesaid, shall, at such command of the Court, return such men duly qualified, as shall be present, or can be found, to serve on such Jury, and shall add and annex their names to any Panel that may have been returned upon any *venire facias*, in such cause; Provided always, that when a Special Jury shall have been struck for the trial of any issue, the talesmen shall be such as shall be empanelled upon the Common Jury Panel to serve at the same Court, if a sufficient number of such men can be found, and the Queen, by any one so authorized or assigned as aforesaid, and all and every the parties aforesaid, shall, and may in each of the cases aforesaid, have their respective challenges to the Jurors so added, and the Court shall proceed to the trial of every such issue with those Jurors who were before empanelled together with the talesmen so newly added and annexed, as if all the said Jurors had been returned upon the writ or precept awarded to try the issue.

Tales may be ordered in default of jurors.

Proviso: when the jury is a special one.

Challenges.

LXXXVII. And be it enacted, That every Sheriff and other Officer or Minister to whom the return of Jurors shall belong, shall be, and is hereby indemnified for empannelling and returning any man as a Grand or Petit Juror respectively, who shall be named in the Grand or Petit Jurors' Rolls from which he shall be taken respectively for the year for which he shall be summoned, although he may not be qualified or liable to serve as such Juror for such year.

Sheriff, &c., indemnified for summoning any man on the roll.

LXXXVIII. And be it enacted, That immediately after every Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, and County Court, the Sheriff shall, on the Jury List from which the Panel of Grand Jurors (if any) returned to such Sittings or Sessions was drafted, and on the Jury List from which the Panel of Petit Jurors returned upon the General Precept to such Sittings or Sessions respectively was drafted, opposite the names of the Jurors respectively, note the non-attendance or default of all such of the Jurors in such Panels respectively as shall not have duly attended and served upon such Panels until discharged by the Court.

Sheriffs to note names of jurors attending and serving; and of defaulters.

LXXXIX. And be it enacted, That every Juror who shall have so attended and served upon any such Panel as last aforesaid, shall (upon application by him made to

Certificates to be given to jurors attending.

such

such Sheriff or Deputy Sheriff, before he shall depart from the place of trial), receive a certificate testifying such his attendance and service, which certificate the Sheriff or Deputy Sheriff is hereby required to give upon payment of One Shilling.

High bailiff to note names of jurors attending and serving.

XCI. And be it enacted, That immediately after every Sittings or Sessions of the Recorder's Court for any City, the High Bailiff of such City shall, on the Jury List from which the Panel of Grand Jurors returned to such Sittings or Sessions was drafted, and on the Jury List from which the Panel of Petit Jurors returned upon the General Precept to such Sittings or Sessions was drafted, opposite the names of the Jurors respectively, note the non-attendance or default of all such of the Jurors in such Panels respectively as shall not have duly attended and served upon such Panels until discharged by the Court.

And to give certificates to such jurors.

XCI. And be it enacted, That every Juror who shall have so attended and served upon any such Panel as last aforesaid, shall (upon application by him made to such High Bailiff or his Deputy before he shall depart from the place of trial) receive a certificate testifying such his attendance and service, which certificate the High Bailiff or his Deputy is hereby required to give upon payment of One Shilling.

Attaints of jurors abolished.

XCII. And be it enacted, That it shall not be lawful either for the Queen or for any one on her behalf, or for any party or parties in any case whatsoever, to commence or prosecute any writ of attaint against any Jury or Jurors for the verdict by them given, or against the party or parties who shall have Judgment upon such verdict, and that no inquests shall be taken to inquire of the concealments of other inquests, but that all such attaints and inquests shall henceforth cease, become void, and be utterly abolished; any Law, Statute or usage to the contrary notwithstanding.

Embracery, punishable as heretofore.

XCIII. And be it enacted, That notwithstanding any thing herein contained, every person who shall be guilty of the offence of embracery, and every Juror who shall wilfully or corruptly consent thereto, shall and may be respectively proceeded against by indictment or information, and be punished by fine and imprisonment, in like manner as every such person and Juror might have been before the passing of this Act.

As to affirmations instead of oaths, in certain cases.

XCIV. And be it enacted, That nothing herein contained shall be construed to affect or alter any Statute or Law whereby the affirmation of persons belonging to certain religious societies, classes or descriptions of persons is allowed, or directed to be in all cases received and taken from such persons in lieu of an oath.

Omissions to observe the directions of this Act not to vitiate the verdict, &c..

XCV. And be it enacted, That no omission to observe the directions in this Act contained, or any of them, either as respects the qualification, selection and distribution of Jurors, the preparation of the Jurors' Book, the balloting Jury Lists from the Jurors' Rolls, the drafting panels from the Jury Lists or the striking of Special Juries, shall be taken as a ground of impeaching the verdict in any cause, or be allowed for error upon any writ of error or appeal to be brought upon any judgment to be hereafter rendered in any case, criminal or civil, by any Court in Upper Canada.

Powers of courts, practice, &c., not altered unless expressly.

XCVI. And be it enacted, That nothing herein contained shall extend or be construed to extend to alter, abridge or affect any power or authority, which any Court or Judge now hath, or any practice or form in regard to trials by Jury, Jury Process, Juries or Jurors, except in those cases only where any such power or authority, practice or form is repealed or altered by this Act, or is, or shall be inconsistent with any of the provisions thereof, nor to change or alter any privilege of Parliament.

Acts and parts of Acts in schedule C., repealed.

XCVII. And be it enacted, That the several Acts and parts of Acts of the Parliament of the late Province of Upper Canada, set forth in the Schedule to this Act annexed marked C, and containing a description of the Acts and parts of Acts repealed by this Act, so far as the same shall be in force at the commencement of this Act, and all Acts continuing or making permanent any of the said Acts, or continued or made permanent by any of them, shall be, and the same are hereby repealed; Provided always nevertheless, Firstly: That no Act or part of an Act repealed by any of the Acts hereby repealed, shall be revived by the passing of this Act, and no Act, or part of an Act, perpetuated or continued by any of the Acts hereby repealed, (except such as are herein expressly repealed) shall be repealed by the passing of this Act. And

Proviso.

Proviso.

provided

provided always, Secondly : That notwithstanding the repeal of the Acts and parts of Acts hereby repealed, all acts which might have been done, and all proceedings which might have been taken or prosecuted relating to any offences or neglects which may have been committed, or to any matters which shall have happened, or to any moneys which shall have become due, or to any fines or penalties which shall have been incurred before the day on which this Act shall come into full operation, shall and may still be done or prosecuted, and the offences and omissions may be dealt with and punished, and the moneys may be recovered and dealt with, and the fines and penalties may be imposed and applied as if the Acts and parts of Acts hereby repealed, continued in force.

XCVIII. And be it enacted, That all the provisions of this Act relating to the qualifications of Jurors, the selection and distribution of such Jurors, the preparation of the Jurors' Books, the balloting the Jury Lists, and the completion of such Jurors' Books, and the deposit thereof in the proper office, so far as they regard Jurors to be returned on any precept, or other Jury Process which shall be delivered to any Sheriff, High Bailiff or other Officer to whom the return of such Jury Process shall by law belong, upon or after the first day of January in the year of our Lord, one thousand eight hundred and fifty-one,—and all such other provisions thereof as require to be acted upon, so as to have the Juror's Books for the said year in the hands of the proper Officers throughout Upper Canada, ready to be made use of by all such Sheriffs, High Bailiffs, and other Officers aforesaid, according to the directions thereof, upon and after the first day of January in the year aforesaid, shall, so far as is necessary for that purpose, but no further, come into force and take effect immediately after the passing thereof; but none of such provisions shall extend or be construed to extend to any Jurors or Panel of Jurors either Grand or Petit to be returned upon any Precept or other Jury Process which shall be delivered to any Sheriff, High Bailiff or other Officer to whom the return thereof shall belong, on or before the thirty-first day of December in this present year; and all such last mentioned Precepts and other Jury Process, shall be executed and returned by the Officers to whom the same shall be directed, and all Jurors so returned thereupon shall be held to be the proper Jurors to inquire for the Queen or to try all issues of fact in that behalf, and all proceedings to be had thereupon in all causes, Criminal as well as Civil, shall be had and taken and held good in law to all intents and purposes whatsoever, as if this Act had not been passed; and that except as to such last mentioned Jury Process, the Jurors to be returned and the proceedings to be had thereupon, this Act and all the provisions thereof, shall come into force and take effect in all and several the particulars thereof, upon, from and after the said first day of January in the year of our Lord, one thousand eight hundred and fifty-one, and not before.

XCIX. And be it enacted, That it shall and may be lawful for the Governor of this Province for the time being to extend in his discretion, by Proclamation under the Great Seal thereof, the periods in this present year by this Act prescribed for the selection and distribution of Jurors, the preparation of the Jurors' Books, the balloting of the Jury Lists, the completion of such Jurors' Books and the deposit thereof in the proper office; Provided always nevertheless, that every such extension of time for the purposes aforesaid respectively, may be by one or more Proclamations issued at the same or different times as well after as before the expiration of the period or periods extended by the same, and may apply to any one or more of such periods, and to the whole of Upper Canada or to any one or more of the Counties or Unions of Counties thereof, as in the discretion of the Governor of the Province for the time being shall seem most expedient.

C. And be it enacted, That it shall be the duty of the Clerk of the Peace, Clerk of the County, or such other officer or person as at the time of the meeting of such Selectors of Jurors for any City, Town, Village or Township for the present year, for the selection of Jurors for service during the year one thousand eight hundred and fifty-one, shall have the actual charge or custody of the Assessment Roll or Assessment

When the enactments in this Act shall respectively take effect.

Governor may extend the time allowed for certain purposes by this Act.

Assessment rolls to be used in making jury lists for 1851, produced by the proper officers.

Rolls for such City, Town, Village or Township for such year, to bring such Assessment Roll or Assessment Rolls to such meeting, and to permit the use of the same for the purpose aforesaid, or to deliver to some one of such Selectors of Jurors, previous to the day of meeting of such Selectors, a certified copy or certified copies of such Roll or Rolls, in which latter case it shall be the duty of such Selector to bring such certified copy or copies of such Roll or Rolls to such meeting of the said Selectors, and the said Selectors shall proceed thereon as if the same were the original Assessment Roll or Rolls of such City, Town, Village or Township for the present year.

Clerks of the peace to perform certain duties for the residue of 1850, as heretofore.

To have access to assessment rolls.

Penalty for default: and how enforced.

Proviso: the time during which such duties shall be so performed, may be extended by the Governor.

CI. And be it enacted, That it shall be the duty of the different Clerks of the Peace in Upper Canada to perform for the residue of the present year the duty heretofore by law required of them as regards Jurors and Juries, their selection and return, and all things incident thereto, although the Assessment Rolls of the different Townships and other places within their respective Counties or Unions of Counties may not have been deposited with them as heretofore, and to enable them to do so it shall be the duty of the Officer or person in whose charge or custody any such Roll may in fact be, to give every such Clerk of the Peace free access to all such Rolls at all reasonable times for the purpose aforesaid, and in default thereof every such Officer or person shall forfeit and pay the sum of Fifty Pounds to be sued for and recovered in any of Her Majesty's Courts of competent jurisdiction by any person who will sue for the same, one half thereof to the use of such person, his executors and administrators, and the other half thereof to the use of Her Majesty, Her Heirs and Successors for the public uses of this Province: Provided always nevertheless, that the provision by this section made with respect to Jurors and Juries for the present year, and all other Acts of Parliament and Laws in force in Upper Canada, immediately preceding the passing of this Act in respect of the same, may, by the Governor of this Province for the time being, by Proclamation under the Great Seal thereof, if He shall think it expedient to issue the same, be continued in force for and during the year of our Lord one thousand eight hundred and fifty-one, or such part thereof as in and by such Proclamation may be prescribed, in which case all Juries shall be returned, summoned and impannelled as heretofore till the expiration of the time so prescribed in and by such Proclamation; any thing herein contained to the contrary notwithstanding.

SCHEDULE A.

REPORT OF THE SELECTION AND DISTRIBUTION OF JURORS

For the Township of Albion (or for the Ward of St. James, in the City of Toronto), in the County of York, for the year 1851, made at the Town (or City) Hall of the said Township (or City) by A. B. Townreeve (or Mayor), C. D. Town (or City) Clerk, and E. F., G. H. and I. J. Assessors of the said Township (or Ward), on the day of _____ in the year 1850, pursuant to the directions of the Act of Parliament of (1)

FIRST DIVISION

For the Roll of Grand Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction.

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or Unincorporated Village or Hamlet, where known to the Selectors.	Additions.
John Anderson.....	16	2	Esquire.
Peter Cameron.....	4	6	Yeoman.
William O'Leary.....	—	Oatlands	Gentleman.
Alfred Piper.....	17	1	Esquire.
&c.			

SECOND DIVISION

For the Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction.

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or Unincorporated Village or Hamlet, where known to the Selectors.	Additions.
William Adams.....	9	4	Gentleman.
Richard House.....	7	5	Yeoman.
Jacob Wyse.....	2	1	Tailor.
Allan Thomas.....	24	5	Esquire.
&c.			

THIRD DIVISION.

For the Roll of Petit Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction.

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or Unincorporated Village or Hamlet, where known to the Selectors.	Additions.
David Boothe.....	11	7	Merchant.
George Sullivan.....	3	4	Esquire.
Nathan Lowe.....	6	1	Shoemaker.
Henry Grace.....	24	7	Yeoman.
&c.			

FOURTH DIVISION

For the Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction.

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or Unincorporated Village or Hamlet, where known to the Selectors.	Additions.
George Gule.....	7	8	Tailor.
Samuel Jones.....	15	3	Yeoman.
William Carpenter.....	7	2	Esquire.
Thomas Hoole Rogers.....	11	1	Gentleman.
&c.			

We, the above-named Selectors of Jurors for the Township of Albion ⁽²⁾ do hereby solemnly declare, each severally for himself, that we have made the Selection and Distribution of Jurors in this Report from the Assessment Roll of the said Township for the present year to the best of our judgment and information, pursuant to the directions of the Act of Parliament of ⁽¹⁾ and that we have so made the same without fear, favor or affection of, to or for any person or persons whomsoever, gain, reward or hope

hope thereof, other than the fees to which we are entitled under the provisions of the said Act of Parliament.

Witness our Hands and Seals, the day and year last above written.

A. B. [L. S.]
Townreeve.

C. D. [L. S.]
Town Clerk.

E. F. [L. S.]
Assessor.

G. H. [L. S.]
Assessor.

I. J. [L. S.]
Assessor.

SCHEDULE B.

The JURORS' BOOK for the County of York, for the year 1851. (1)

1.—ROLL OF GRAND JURORS

To serve in Her Majesty's Superior Courts (2) of Criminal Jurisdiction.

No. on Roll.	NAMES.	No. of Lot or House as in Report of Selectors.	Concession or Street, or Unincorporated Village or Hamlet, as in Report of Selectors.	Additions.	No. on List.	Remarks.
	1 ALBION, (Township.)					
1	Anderson John.....	16	2	Esquire,		Exempted, having served on G. J. List, S. C. 1850.
2	Aylof Graham.....	9	4	Gentleman,		
3	Bosworth David.....	11	7	Merchant,		
4	Cameron Peter..... (<i>&c., to, say</i>)	4	6	Yeoman,		
20	Young David.....	7	8	Tailor,	3	
	2 BROCK, (Township.)					
21	Allan Simon.....	21	7	Yeoman,		144
22	Bolland George..... (<i>&c., to, say</i>)	5	12	Gentleman,	2	
31	Wilkinson James.....	13	4	Esquire,		
32	Yates Edward.....	1	5	Yeoman,		
	3 OSHAWA, (Village.)					
	4 ST. JAMES WARD, (City of Toronto.) [<i>&c., to, say</i>]					
	26 YORK, (Township.)					
503	Arthur Thomas.....	3	2 From Bay.	Yeoman,	1	
504	Bull Peter.....	14	1 E. Yonge St.	Yeoman,		

These are to certify that I have carefully compared the above Grand Jurors' Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within the same for certain judicial purposes, for the year one thousand eight hundred and fifty, as such Reports remained with me as Clerk of the Peace on the fifteenth day of September in that year, and that such Grand Jurors' Roll contains a true and correct

correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Grand Jurors in Her Majesty's Superior Courts of Criminal Jurisdiction for such County.

Witness my hand, this _____ day of _____ one thousand eight hundred and fifty.

E. F., Clerk of the Peace.

2.—THE GRAND JURY LIST

For the Superior Courts, ⁽²⁾ as balloted in open Court, at a General Quarter Sessions of the Peace for the County, on _____ the _____ day of _____ 1850, being the first day of the first General Quarter Sessions of the Peace for the County, held next after the first day of October in that year, by C. D. Chairman of the said Court, and E. F. the Clerk of the Peace, pursuant to the directions of the Act of Parliament of ⁽³⁾

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession or Street, or Unincorporated Village or Hamlet, as in Jurors' Roll.	Township, Village, or Ward.	Additions.	No. on Roll.	No. of Panel.	Remarks.
1	Arthur Thomas....	3	2 From Bay	York	Yeoman	503	1	Served accordingly.
2	Bollands George..	5	12	Brock	Gentleman	22	1	Omitted to attend altogether.
3	Young David.....	7	8	Albion	Tailor	20		
144	Yates Edward..... (&c. to)	1	5	Brock	Yeoman	32	1	Served accordingly.

These are to certify that on _____ the _____ day of _____ instant, being the first day of the first General Quarter Sessions of the Peace for the County of York, next after the first day of October in this year ⁽⁶⁾ the foregoing Grand Jury List for the Superior Courts for this County for the year one thousand eight hundred and fifty-one, was in open Court duly balloted, canvassed and transferred from the Roll of Grand Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction for the same year, pursuant to the directions of the Act of Parliament of ⁽³⁾

Witness our hands, this _____ day of _____ one thousand eight hundred and fifty.

C. D. Chairman.

E. F. Clerk of the Peace.

3.—GRAND JURY PANELS FOR THE SUPERIOR COURTS. ⁽²⁾

(a) No. 1.

Panel of Grand Jurors returned upon a precept from the Honorable G. H., the Honorable I. J., [&c.] Her Majesty's Justices in that behalf, tested the day of _____ 185_____, for the return of twenty-four of such Jurors for the Sessions of *Oyer and Terminer* and Gaol Delivery, to be held for this County on the _____ day of _____ one thousand eight hundred and fifty-one, as drafted on _____ the _____ day of _____ one thousand eight hundred and fifty-one, at the Office of the Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff, in the presence of K. L.

L. and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of the Act of Parliament of (3)

No. of Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or Unincorporated Village or Hamlet, as in Jury List.	Township, Village or Ward.	Additions.	No. on List.	Remarks.
1	Arthur Thomas.....	3	2 From Bay	York	Yeoman	1	
2	Bolland George..... (&c. to)	5	12	Brock	Gentleman	2	
24	Yates Edward.....	1	5	Brock	Yeoman	144	

Witness our hands the day and year last above written.

A. B. Sheriff.
K. L. J. P.
M. N. J. P.

(b) No. 2. (5) &c.

4.—ROLL OF GRAND JURORS

To serve in Her Majesty's Inferior Courts (2) of Criminal Jurisdiction. (4)

No. on Roll.	NAMES.	No. of Lot or House as in Report of Selectors.	Concession or Street, or Unincorporated Village or Hamlet, as in Report of Selectors.	Additions.	No. on List.	Remarks.
	1 ALBION, (Township)					
1	Acland White.....	16		2		Exempted, having served on G. J. List, S. C. 1850.
2	Adams William.....	9		4		
3	Eswald David.....	11		7		
4	Hamilton Peter..... (&c., to, say)	4		6		
20	Large George.....	7		8	Tailor,	3
	2 BROCK, (Township)					
21	Ash Simon.....	21		7	Yeoman,	2
22	Borland George..... (&c., to, say)	5		12	Gentleman,	
31	Wilkins James.....	13		4	Esquire,	144
32	Waters Edward.....	1		5	Yeoman,	
	3 OSHAWA, (Village)					
	4 ST. JAMES WARD, (City of Toronto) [&c., to, say]					
	26 YORK, (Township)					
503	Astor Thomas.....	3	2 From Bay,		Yeoman,	1
504	Peel Peter.....	14	1 E. Yonge St.		Yeoman,	

These are to certify that I have carefully compared the above Grand Jurors' Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within

within the same for certain judicial purposes for the year one thousand eight hundred and fifty, as such Reports remained with me as Clerk of the Peace on the Fifteenth day of September in that year, and that such Grand Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Grand Jurors in Her Majesty's Inferior Courts of Criminal Jurisdiction for such County.

Witness my hand, this _____ day of _____ one thousand eight hundred and fifty.

E. F. Clerk of the Peace.

5.—THE GRAND JURY LIST

For the Inferior Courts, ⁽²⁾ as ballotted in open Court at a General Quarter Sessions of the Peace for the County, on _____ the _____ day of _____ 1850, being the first day of the first General Quarter Sessions of the Peace for the County held next after the First day of October in that year by C. D. Chairman of the said Court, and E. F. Clerk of the Peace, pursuant to the directions of the Act of Parliament of ⁽³⁾

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession or Street, or Unincorporated Village or Hamlet, as in Jurors' Roll.	Township, Village or Ward.	Additions.	No. on Roll.	No. of Panel.	Remarks.
1	Astor Thomas.....	3	2 From Bay.	York,	Yeoman,	503	1	Served accordingly.
2	Borland George...	5	12	Brock,	Gentleman,	22	1	Omitted to attend altogether.
3	Large George..... (<i>q.c., to</i>)	7	8	Albion,	Tailor,	20		
144	Waters Edward...	1	5	Brock,	Yeoman,	32	1	Served accordingly.

These are to certify that on _____ the _____ day of _____ instant, being the first day of the first General Quarter Sessions of the Peace for the County of York next after the First day of October in this year ⁽⁶⁾, the foregoing Grand Jury List for the Inferior Courts for this County, for the year one thousand eight hundred and fifty-one, was in open Court duly ballotted, canvassed and transferred from the Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction for the same year, pursuant to the directions of the Act of Parliament of ⁽³⁾

Witness our hands, this _____ day of _____ one thousand eight hundred and fifty.

C. D. Chairman,
E. F. Clerk of the Peace.

6.—GRAND JURY PANELS FOR THE INFERIOR COURTS. ⁽²⁾

(a) No. 1.

Panel of Grand Jurors returned upon a precept from S. B. H., and K. L. M., Esquires, two of Her Majesty's Justices of the Peace in and for the County of York, tested the _____ day of _____ 185_____, for the return of twenty-four of such Jurors for the General Quarter Session of the Peace to be held for this County on _____ the _____ day of _____ one thousand eight hundred and fifty-one, as drafted on _____ the _____ day of _____ one thousand eight hundred and fifty-one, at the Office of the Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff,

Sheriff, in the presence of K. L., and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of the Act of Parliament of (3)

No. on Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or Unincorporated Village or Hamlet, as in Jury List.	Township, Village or Ward.	Additions.	No. on List.	Remarks.
1	Astor Thomas.....	3	2 From Bay	York	Yeoman	1	
2	Borland George..... (&c. to)	5	12	Brock	Gentleman	2	
24	Waters Edward.....	1	5	Brock	Yeoman	144	

Witness our hands, the day and year last above written.

A. B. Sheriff.
K. L. J. P.
M. N. J. P.

(b) No. 2. (5) &c.

7.—ROLL OF PETIT JURORS

To serve in Her Majesty's Superior Courts (2) of Criminal and Civil Jurisdiction. (4)

No. on Roll.	NAMES.	No. of Lot or House, as in Report of Selectors.	Concession or Street, or Unincorporated Village or Hamlet, as in Report of Selectors.	Additions.	No. on List.	Remarks.
	1 ALBION. (Township.)					
1	Parley Peter.....	16	2	Esquire		
2	Alley Simon.....	21	7	Yeoman	2	
3	Aikins William.....	25	3	Yeoman		
4	Ashford Thomas.....	19	5	Yeoman	3	
5	Adams George.....	5	5	Gentleman	1	
6	Worth David.....	11	7	Merchant	5	
7	Barclay John.....	9	2	Shoemaker	4	
8	Cameron William.....	4	6	Yeoman		
9	Daniels George.....	22	11	Yeoman	6	
10	Small William..... (&c. to, say)	7	8	Tailor	7	
1060	Yarrolld George.....	14	9	Baker	288	Exempted, having served on P. J. List, S. C. 1850.
	2 BROCK. (Township.)					
	&c.					

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within the same for certain judicial purposes, for the year one thousand eight hundred and fifty, as such Reports remain with me as Clerk of the Peace on the fifteenth day of September of that year, and that such Petit Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and

and reported as competent, qualified and liable to serve as Petit Jurors in Her Majesty's Superior Courts of Criminal and Civil Jurisdiction for such County.

Witness my hand, this day of 1850.

E. F. Clerk of the Peace.

8.—THE PETIT JURY LIST

For the Superior Courts, ⁽²⁾ as ballotted in open Court at a General Quarter Sessions of the Peace for the County, on the day of one thousand eight hundred and fifty, being the first day of the first General Quarter Sessions of the Peace for the County held next after the first day of October in that year by C. D. Chairman of the said Court, and E. F. the Clerk of the Peace, pursuant to the directions of the Act of Parliament of ⁽³⁾

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession or Street, or Unincorporated Village or Hamlet, as in Jurors' Roll.	Residence.	Additions.	No. on Roll.	No. of Panel.	Remarks.
1	Adams George.....	5	5	Albion	Gentleman	5	1	Served accordingly.
2	Alley Simon.....	21	7	Albion	Yeoman	2		
3	Ashford Thomas...	2	19	Albion	Yeoman	4		
4	Barclay John.....	19	8	Albion	Shoemaker	7		
5	Worth David.....	9	5	Albion	Merchant	6		
6	Daniel George.....	11	16	Albion	Yeoman	9		
288	Yarrold George..... (&c. to)	14	9	Albion	Baker	1060	1	Attended, but made default.

These are to certify that on the day of instant, being the first day of the first General Quarter Sessions of the Peace for the County of York next after the first day of October in this year, ⁽⁶⁾ the foregoing Petit Jury List for the Superior Courts for this County for the year 1851, was in open Court duly ballotted, canvassed and transferred from the Roll of Petit Jurors to serve in Her Majesty's Superior Courts of Criminal and Civil Jurisdiction for the same year, pursuant to the directions of the Act of Parliament of ⁽³⁾

Witness our hands, this day of 1850.

C. D. Chairman.
E. F. Clerk of the Peace.

9.—PETIT JURY PANELS

FOR THE SUPERIOR COURTS ⁽²⁾

(a) No. 1.

Panel of Petit Jurors returned upon a precept from the Honorable G. H., the Honorable J. J. (&c.) Her Majesty's Justices, in that behalf tested the day of one thousand eight hundred , for the return of forty-eight of such Jurors for the Sessions of Assize and *Nisi Prius*, *Oyer* and *Terminer*, and Gaol Delivery, to be held for this County, on the day of one thousand eight hundred and fifty-one, as drafted on the day of one thousand eight hundred and fifty-one, at the Office of the Clerk of the Peace in Toronto, by

A. B. Esquire, Sheriff, in the presence of K. L. and M. N. Esquires, Justices of the Peace for the said County, pursuant to the directions of the Act of Parliament of ⁽³⁾

No. on Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or Unincorporated Village or Hamlet, as in Jury List.	Township Village, or Ward.	Additions.	No. on List.	Remarks.
1	Alley Simon.....	21	7	Albion	Yeoman	2	
	(&c. to)						
48	Yarrod George.....	14	9	Albion	Baker	288	

Witness our hands, the day and year last above written.

A. B. Sheriff,
K. L. J. P.
M. N. J. P.

(b) No. 2, (5), &c.

10.—ROLL OF PETIT JURORS

To serve in Her Majesty's Inferior Courts ⁽²⁾ of Criminal and Civil Jurisdiction. ⁽⁴⁾

No. on Roll.	NAMES.	No. of Lot or House, as in Report of Selectors.	Concession or Street, or Unincorporated Village or Hamlet, as in Report of Selectors.	Additions.	No. on List.	Remarks.
	1 ALBION (Township)					
1	Alford Peter.....	16	2	Esquire		
2	Adams Simon.....	21	7	Yeoman	2	
3	Addis William.....	25	3	Yeoman		
4	Ashton Thomas.....	19	5	Yeoman	3	
5	Aylwin William.....	5	5	Gentleman	1	
6	Brooks David.....	11	7	Merchant	5	
7	Burley John.....	9	2	Shoemaker	4	
8	Catty Peter.....	4	6	Yeoman		
9	Davis George.....	22	11	Yeoman	6	} Exempted, having served on P. J. List, S. C. 1850.
10	Gule George.....	7	8	Tailor	7	
	&c. (to, say)					
1060	Yeld George.....	14	9	Baker	288	
	2 BROCK, (Township)					
	&c.					

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within the same for certain judicial purposes, for the year one thousand eight hundred and fifty, as such Reports remained with me as Clerk of the Peace, on the fifteenth day of September in that year, and that such Petit Jurors' Roll contains a true and correct transcript

for the said County, pursuant to the directions of the Act of Parliament of (3)

No. of Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or Unincorporated Village or Hamlet, as in Jury List.	Township, Village or Ward.	Additions.	No. on List.	Remarks.
1	Adams Simon.....	21	7	Albion,	Yeoman,	2	
	(&c., to)						
48	Yold George.....	14	9	Albion,	Baker,	288	

Witness our hands, the day and year last above written.

A. B., Sheriff,
K. L., J. P.
M. N., J. P.

(b) No. 2.

Panel of Special Jurors returned upon a Writ of *venire facias juratores*, out of the Court of Queen's Bench, in the case of N. O. Plaintiff, against P. Q. Defendant, tested (&c.) and returnable (&c.) as struck at the Office of the Clerk of the Peace in Toronto, on the day of 185 , by A. B. Esquire, Sheriff, in the presence of R. S. Attorney for the Plaintiff, and T. A. Agent for the Attorney of the Defendant, (or in the presence of R. S. Attorney for the Plaintiff, the Defendant's Attorney, though served with the appointment, not appearing) pursuant to the directions of the Act of Parliament of (3)

No. on Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or Unincorporated Village or Hamlet, as in the Jury List.	Township, Village or Ward.	Additions.	No. on Grand Jurors' Rolls.	Remarks.
1	Abbott William.....	11	9	Albion,	Gentleman,	I. C. 31	From G. J. Roll for S. C. for year 1850 No. 10, the G. J. Rolls for this year being exhausted.
2	Wilkins James.....	13	4	Brock,	Esquire,		
	(&c., to)						
16	Young David.....	7	8	Albion,	Tailor,	S. C. 20	

Witness my hand, the day and year last above written.

A. B., Sheriff.

(c) No. 3. (5) &c.

SCHEDULE C.

Containing a description of the Acts and parts of Acts of the Parliament of the late Province of Upper Canada, repealed by this Act.

No.	Date and Subject of Act.	TITLE.	Extent of Repeal.
1	32 Geo. 3, Cap. 2..... (Jury Trials.)	An Act to establish Trials by Jury.....	So much of the First Section as directs the mode of Summoning Jurors.
2	34 Geo. 3, Cap. 1..... (Regulation.)	An Act for the Regulation of Juries.....	The whole.
3	36 Geo. 3, Cap. 2..... (Venire.)	An Act to amend certain parts of an Act intituled, "An Act for the Regulation of Juries," and a certain other Act, intituled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeal.".....	The whole.
4	40 Geo. 3, Cap. 2..... (Special Juries.)	An Act for the Regulation of Special Juries.	The whole.
5	43 Geo. 3, Cap. 13..... (Special Juries.)	An Act for the better Regulation of Special Juries.....	The whole.

NOTES TO SCHEDULE A.

- (1) Here insert the Year and Chapter of this Act.
- (2) Or as the case may be.

NOTES TO SCHEDULE B.

- (1) This Title to be placed at the head of each page or folio throughout the Book.
- (2) So much of this Sub-Title as ends with this word, to be placed at the head of each page or folio of the Book appropriated to this class of entries.
- (3) Here insert the year and Chapter of this Act.
- (4) This Roll to be commenced on a new page or folio after leaving a sufficient number of leaves for the Jury List to be ballotted from the preceding Roll and the probable number of Panels that may be drafted from such List in the course of the year.
- (5) The subsequent Panels following immediately may be commenced on the same page or folio on which the preceding one is closed.
- (6) Or, if at a Special Sessions held under the authority of the eighty-second section of this Act, say, "Of a Special General Sessions of the Peace for the County of York, held for that purpose under the warrant of His Excellency the Governor General," (or Lieutenant Governor, as the case may be,) the foregoing Grand or Petit Jury List, &c. was in open Court, &c.

CAP. LVI.

An Act to amend the Law respecting the office of Coroner.

[24th July, 1850.]

WHEREAS the regulations for holding Coroners' Inquests are insufficient, and it is desirable that some remedy should be provided therefor: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, no Inquest shall be holden on the body of any deceased person by any Coroner until it has been first made to appear to such Coroner, that there is reason

Preamble.

In what cases only Inquests shall be held.

reason

reason to believe that such deceased person came to his death under such circumstances of violence or unfair means, or culpable or negligent conduct, either of himself or of others, as require investigation, and not through any mere accident or mischance: Provided always, that an Inquest shall be holden on the body of any person who shall die while in confinement in any Penitentiary.

Proviso.

Proceedings in case of the death of any prisoner, or person confined in a lunatic asylum.

Penalty on persons summoned to attend Inquests and not attending: and how enforced.

II. And be it enacted, That upon the death of any prisoner or any lunatic confined in any Lunatic Asylum, it shall be the duty of the Warden, Gaoler, Keeper or Superintendent of any Penitentiary, Gaol, Prison, House of Correction, Lock-up-house or Lunatic Asylum in which such prisoner or lunatic shall have died, immediately to give notice of such death to some Coroner of the County or City in which such death shall have taken place, and thereupon such Coroner shall proceed forthwith to hold an Inquest upon the body of such deceased prisoner or lunatic.

III. And be it enacted, That if any person having been duly summoned as a juror or witness to give evidence upon any Coroner's Inquest, shall not, after being openly called three times, appear and serve as such juror, or appear and give evidence on such Inquest, every such Coroner shall be empowered to impose such fine upon any person so making default as he shall think fit, not exceeding twenty shillings; and every such Coroner shall make out and sign a certificate, containing the name, residence, trade or calling of such person so making default, together with the amount of the fine imposed, and the cause of such fine, and shall transmit such certificate to the Clerk of the Peace in the County in which such defaulter shall reside, on or before the first day of the Quarter Sessions of the Peace then next ensuing for such last mentioned County, and shall cause a copy of such certificate to be served upon the person so fined, by leaving it at his residence, within a reasonable time after such Inquest; and all fines and forfeitures so certified by such Coroner shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects as if they had been part of the fines imposed at such Quarter Sessions: Provided always, that nothing herein contained shall be construed to affect any power now by law vested in any Coroner for compelling any person to appear and give evidence before him on any Inquest or other proceeding, or for punishing any person for contempt of Court, in not so appearing and giving evidence or otherwise.

Proviso.

Omission of unnecessary words, &c., not to vitiate any inquisition.

IV. And be it enacted, That no Inquisition found upon or by any Coroner's Inquest, nor any judgment recorded upon or by virtue of any such Inquisition, shall be quashed, stayed or reserved for want of the averment therein of any matter unnecessary to be proved, nor for the omission of any technical word or words of mere form or surplusage, and in all such cases and all others of technical defect, it shall be lawful for either of the Superior Courts of Common Law, or any Judge thereof, or any Judge of Assize or Gaol Delivery, if he shall think fit, upon the occasion of any such inquisition being called in question before them or him, to order the same to be amended, and the same shall be amended accordingly.

Coroner may summon a medical practitioner to attend at any Inquest.

V. And be it enacted, That whenever upon the summoning or holding of any Coroner's Inquest, it shall appear to the Coroner that the deceased person was attended at his or her death, or during his or her last illness by any legally qualified medical practitioner, it shall be lawful for the Coroner to issue his order in the form in the Schedule hereunto annexed, for the attendance of such practitioner as a witness at such inquest; and if it shall appear to the Coroner that the deceased person was not attended immediately at or before his or her death by any legally qualified medical practitioner, it shall be lawful for the Coroner to issue such order for the attendance of any legally qualified medical practitioner being at the time in actual practice in or near the place where the death has happened; and it shall be lawful for the Coroner, either in his order for the attendance of the medical witness, or at any time between the issuing of such notice and the termination of the Inquest, to direct the performance of a *post mortem* examination, with or without an analysis of the contents of the stomach or intestines, by the medical witness or witnesses who may be summoned to attend at any Inquest; Provided that if any person shall state upon oath before the Coroner, that in his or her belief the death

Proviso.

death

death of the deceased individual was caused partly or entirely by the improper or negligent treatment of any medical practitioner or other person, such medical practitioner or other person shall not be allowed to assist at the *post mortem* examination of the deceased.

VI. And be it enacted, That whenever it shall appear to the majority of the Jurymen sitting at any Coroner's Inquest, that the cause of death has not been satisfactorily explained by the evidence of the medical practitioner or other witness or witnesses who may be examined in the first instance, such majority of the Jurymen are hereby authorized and empowered to name to the Coroner, in writing, any other legally qualified medical practitioner or practitioners, and to require the Coroner to issue his order in the form hereinbefore mentioned, for the attendance of such last mentioned medical practitioner or practitioners, as a witness or witnesses, and for the performance of such *post mortem* examination, as in the fifth section of this Act mentioned, whether such examination has been before performed or not; and if the Coroner, having been so required, shall refuse to issue such order, he shall be deemed guilty of a misdemeanor, and shall be punishable by a fine not exceeding Ten Pounds, or by imprisonment not exceeding one month, in the discretion of the Court trying such offence, or by both, as to the said Court shall seem fit.

A majority of the jurymen may require the Coroner to summon another medical practitioner.

Penalty on Coroner refusing.

VII. And be it enacted, That where any legally qualified medical practitioner has attended upon a Coroner's Inquest, in obedience to any such order as aforesaid of the Coroner, the said practitioner shall receive for such attendance, if without a *post mortem* examination, One Pound Five Shillings; if with a *post mortem* examination, without an analysis of the contents of the stomach or intestines, Two Pounds Ten Shillings; if with such analysis, Five Pounds, together with the sum of One Shilling per mile, for each mile he shall have to travel in going to and returning from such inquest, such travel to be proved by his own oath to the said Coroner, who is hereby authorized and empowered to administer the same; and the Coroner is hereby required and commanded to make his order on the Treasurer of the County in which such inquest shall be holden, in favor of such medical practitioner or practitioners, for the payment of such fees or remuneration, and such Treasurer is hereby required and commanded to pay the sum of money mentioned in such order of the Coroner, to the medical witness therein mentioned, out of any funds he may then have in the County Treasury.

Allowance to such medical practitioner.

Allowance to be paid on Coroner's order, and by whom.

VIII. And be it enacted, That where any order for the attendance of any medical practitioner as aforesaid, shall have been personally served upon such practitioner, or where any such order not personally served shall have been received by any medical practitioner as aforesaid, or left at his residence, in sufficient time for him to have obeyed such order, and in every case where such medical practitioner has not obeyed such order, he shall for such neglect or disobedience forfeit the sum of Ten Pounds upon complaint made thereof by the Coroner or any two of the Jury holding such Inquest, before any two Justices of the Peace of the County where the Inquest was held, or the County where such medical practitioner resides; and such two Justices are hereby required, upon such complaint, to proceed to the hearing and adjudication of the same; and if such medical practitioner shall not shew to the said Justices a good and sufficient reason for not having obeyed such order, to enforce the said penalty by distress and sale of the offender's goods as they are empowered to proceed by any Statute for the summary enforcement of any penalty or forfeiture.

Penalty on practitioners summoned and failing to attend.

How recoverable.

IX. And be it enacted, That this Act shall be in force in Upper Canada.

Extent of Act.

SCHEDULE

TO WHICH THIS ACT REFERS.

Coroner's Inquest at

, upon the body of

By virtue of this my order, as Coroner for , you are required to appear before me and the Jury, at , on the day of , at o'clock, to give evidence touching the cause of death of

(and

(and then add when the witness is required to make or assist at a post mortem examination) and make or assist in making a post mortem examination of the body, with (or without) an analysis, (as the case may be) and report thereon at the said Inquest.

Signed,
Coroner.

CAP. LVII.

An Act to alter and amend the practice and proceedings in actions of Ejectment in Upper Canada.

[10th August, 1850.]

Preamble,

WHEREAS the present mode of proceeding in actions of Ejectment, occasions not only unnecessary delays, but is attended with great inconvenience and useless expense to the parties; And whereas it is expedient to provide, that, in future, all actions of Ejectment and the proceedings therein may be commenced and conducted to final judgment and execution as hereinafter provided: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in future all actions of Ejectment shall and may be commenced and prosecuted to final judgment and execution in the several Counties or united Counties of Upper Canada, in the manner hereinafter provided.

Actions of ejectment how to be commenced, &c.

In what place the declaration, &c., shall be filed.

Lessor of plaintiff to insert notice in form of schedule on the declaration.

If no plea, judgment may be entered, and writ of possession taken out; and where.

After consent rule, judgment case may go as if proceedings were at Toronto.

How landlords, &c., may become parties.

Landlord, &c., becoming a party sub-

II. And be it enacted, That in every such action of Ejectment, the declaration, pleadings, papers, and all other proceedings therein, shall be filed, had or issued in the office of the Clerk of the Crown and Pleas in the Courts of Queen's Bench and Common Pleas, or in the office of the Deputy Clerk of the Crown and Pleas, as the case may be, in the County or United Counties, as may be, in which the lands and premises sought to be recovered are situated.

III. And be it enacted, That in future the Lessor or Lessors of the Plaintiff or Plaintiffs in any action of Ejectment, shall, instead of the notice now required to be given to the tenant or tenants in possession of the premises, indorse upon or annex to the declaration to be filed, and upon the copy or copies thereof to be served, a notice in writing, in the form given in the Schedule to this Act; and the Lessor or Lessors of the Plaintiff or Plaintiffs, upon filing the declaration and notice and the affidavit of service thereof, with a motion paper for judgment against the casual ejector, may, after the expiration of the time limited in such notice, and no plea having been filed, enter final judgment and sue out a writ of possession from the office of the Clerk of the Crown and Pleas, or his Deputy, as the case may be, in the County or United Counties wherein the proceedings in any such action shall have taken place.

IV. And be it enacted, That upon the Defendant or Defendants entering into the necessary and usual consent rule, and filing the same, together with his plea, in the office with the declaration, it shall and may be lawful for the Lessor or Lessors of the Plaintiff or Plaintiffs, to proceed thereon to judgment and execution, in the same manner as if the proceedings were had in the principal office at Toronto.

V. And be it enacted, That any person or persons desirous of defending any action of ejectment as Landlord or otherwise, may become a defendant of such action upon entering into the usual consent rule and filing an appearance and plea as such within the time mentioned in the rule nisi for judgment against the casual ejection, or at any time before final judgment is signed without obtaining a Judge's order or fiat for that purpose.

VI. And be it enacted, That from the time that any Landlord or Landlords, or other person or persons defending any action of ejectment, shall have filed such consent appearance

appearance and plea, his or their name or names shall be considered and taken to have been substituted in the declaration of ejectment in the place and stead of the name of the casual ejector, and it shall not be necessary to file any new declaration, but in making up the issues and record for trial, the same shall be made up and the record shall be examined and passed, the same as if the name or names of the person or persons so defending had been originally in the said declaration instead of that of the casual ejector, making such alterations only as shall be necessary to render the language grammatically correct.

stituted for casual ejector.

No new declaration required.

VII. And be it enacted, That it shall be the duty of the Clerks of the Crown and Pleas, from time to time, to furnish their respective Deputies in the several Counties and United Counties of Upper Canada, with all necessary blank consent rules, writs of possession and of *Fieri Facias*, in all actions of Ejectment hereafter to be brought, sued or prosecuted, in any of the said several Counties.

Deputy clerk to be furnished with certain writs, rules, &c., in blank.

SCHEDULE.

To Mr. _____ The tenant (or tenants, if more than one,) in possession of the premises.

I am informed that you are in possession of or claim title to the premises in this declaration mentioned, or to some part thereof; and I being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear in next _____ Term, in Her Majesty's Court of Queen's Bench, (or Common Pleas, as the case may be) by some Attorney of that Court, by filing your appearance in the office of the Clerk of the Crown and Pleas in the Court of Queen's Bench (or Common Pleas, as the case may be or of the Clerk of the Common Pleas), at Toronto, in the County of York, (if proceedings are had in that County) or in the office of the Deputy Clerk of the Crown and Pleas in the Court of Queen's Bench (or Common Pleas, as the case may be) at _____ in the County of _____ (or in the United Counties of _____ as the case may be) and then and there by rule of the same Court to cause yourself to be made Defendant in my stead: And take notice, that unless the person intending to defend, shall, within eight days, inclusive, after the end of _____ Term next, enter into the customary consent rule, plead to this declaration of Ejectment, file the said consent rule and plea in the office of the said Clerk of Crown and Pleas, (where declaration filed) or the said Deputy Clerk of the Crown and Pleas in the County of _____ or of the United Counties of _____ (where declaration filed)—judgment will be signed against the casual ejector by default, and you will be turned out of possession.

Dated this _____ day of _____ A. D. 185 _____ Yours, &c.

RICHARD ROE.

CAP. LVIII.

An Act to alter the Practice of the Law in actions of Dower, in Upper Canada.

[10th August, 1850.]

WHEREAS it is expedient and necessary to alter the Practice of the Law for the recovery of Dower, and to give a more easy and less expensive remedy for the recovery thereof, than now exists in Upper Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, the action of Dower at Law shall be commenced by filing a declaration or

Preamble

How actions of Dower shall be commenced.

plaint

plaint (in the form heretofore used) in the Office of the Clerks of the Crown, or Common Pleas, or of any Deputy Clerk of the Crown or Common Pleas, in any County where the action is brought: Provided always, that any action of Dower shall be brought in the County or United Counties wherein the lands or tenements of which Dower is sought to be recovered in such action are situate, and that the declaration may be served on the tenant of the freehold in any part of Upper Canada, either within or without the limits of the County or United Counties in which the action is brought.

Proviso: where the action shall be brought, &c.

Copy of declaration, &c. to be served on tenant, and how.

II. And be it enacted, That a copy of such declaration and of the notice to this Act annexed (marked Schedule A) may be served by any literate person personally, within one year from the filing thereof, on the tenant of the freehold, if within the jurisdiction of the Court, and if not, then upon the tenant of the land of which Dower is demanded, and if such tenant do not plead agreeably to the notice, the demandant therein, upon affidavit of the due service of such declaration, and notice being made and filed, shall be entitled to proceed thereon as in personal actions.

If the land be vacant, and tenant cannot personally served.

III. And be it enacted, That if the land of which Dower is demanded is vacant, and the tenant of the freehold cannot be personally served with declaration as hereinbefore provided, then and in such case, service may be made as in actions of ejectment: Provided always, that such service when not personal upon the tenant, shall be allowed by the Court or a Judge thereof, and after filing such declaration and affidavit of service, and the order or rule of allowance thereof, the demandant may after the time for pleading has expired proceed thereon, as if personal service had been effected.

What must be proved if tenant be not personally served.

IV. And be it enacted, That whenever the tenant of the land shall not be personally served with declaration and the demandant shall proceed to the trial of the right of Dower in the land, the said demandant before the entry of any verdict in favor of such right shall prove the marriage *seisin* and death of the husband in the same manner as if the tenant had pleaded, traversing such marriage *seisin* and death of the husband.

Costs allowed to demandant.

V. And be it enacted, That costs shall be allowed to the demandant in all cases, whether damages be recoverable or not, in the same manner as costs are now allowed to a plaintiff or defendant in personal actions; provided it shall be made appear on the trial that a demand in writing had been made of the Dower claimed from the tenant one month before action brought, the action to be brought within a year from demand as aforesaid; provided also, that the tenant shall not make it appear on the trial, that he or she offered to assign the Dower demanded before action brought.

Proviso.

VI. And be it enacted, That every tenant to whom any declaration or plaint in Dower shall be delivered, shall forthwith give notice thereof to his Landlord, or to the Servant, Attorney, Agent, Bailiff or Receiver of his Landlord, under the penalty of forfeiting three years improved or rack rent of the premises so demised, holden, or in the possession of such tenant to the person of whom he holds, to be recovered by action of debt to be brought in any of Her Majesty's Courts of Record in this Province: Provided always, that a recovery had against a mere occupier of the land, and without notice to the *Terre Tenant* shall have no greater effect than a recovery in ejectment would have had for the quantity of land assigned as Dower in such recovery.

Tenant served to give notice to his landlord.

Penalty for not doing so.

Proviso.

SCHEDULE A.

In the Queen's Bench, Common Pleas, &c.,

A. B. who was (or is, as the case may be) the widow of C. D. deceased, demandant, and E. F. tenant.

Take notice, that a declaration of which the annexed is a true copy, was this day filed in the Office of the Clerk (or Deputy, as the case may be) at _____ in the County of _____ (or United Counties of _____ as the case may be) and unless you plead thereto within twenty days from the service hereof, judgment will be signed against _____

against you by default, and subsequent proceedings and execution thereof follow thereon, according to law.

Dated the _____ day of _____ 18
 J. K. Attorney, &c., residing at
 in the County of _____ (or United Counties of
 as the case may be)

To E. F. of the Town of _____ (as the
 case may be) the above tenant.

C A P. L I X.

An Act to amend an Act passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to prevent the unnecessary multiplication of Law-suits, and increase of costs in actions on Notes, Bonds, Bills of Exchange and other Instruments.*

[24th July, 1850.]

WHEREAS it is expedient to extend the provisions of an Act of the Parliament of Upper Canada, passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to prevent the unnecessary multiplication of Law-suits, and increase of costs in actions on Notes, Bonds, Bills of Exchange and other instruments*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, so much of the second and twelfth sections of the said recited Act as prevents the application of the said Act and all or any of the provisions thereof, as to Promissory Notes, Bonds, Bills of Exchange, Recognizances or other Instruments wherein or whereby the sum expressed to be payable exceeds the sum of one hundred pounds, be and the same is hereby repealed.

Preamble.

Part of Sections 2 and 12 of the Act of U. C. 5 W. 4, c. 1, repealed.

II. And be it enacted, That this Act shall not apply to any action or suit on any Bond, Promissory Note, Bill of Exchange or other Instrument wherein or whereby the sum expressed to be payable shall exceed the sum of one hundred pounds, which shall have been commenced or brought by mesne process having been issued therein before the passing of this Act, but any such action or suit may be conducted to judgment and execution as if this Act had not been passed.

Repeal not to affect suits now commenced.

C A P. L X.

An Act to amend the Law relating to Slander and Libel.

[24th July, 1850.]

WHEREAS it is expedient and necessary to alter and amend the Law relating to Slander and Libel: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall and may be lawful on the trial of any action, indictment or information, for the making or publishing any libel, on the plea of not guilty pleaded, that the jury sworn to try that issue may give a general verdict of guilty or not guilty upon the whole matter put in issue in such action, or upon such indictment or information, and shall not be required or directed by the Court or Judge before whom such action, indictment or

Preamble.

Jury not to be directed to return a verdict of guilty on the mere proof of the publication, and of the sense ascribed.

or

or information shall be tried, to find the defendant guilty merely on the proof of publication by such defendant of the paper charged to be a libel, and of the sense ascribed to the same in such action, indictment or information: Provided always, that the Court or Judge before whom such trial shall be had, shall, according to their or his discretion, give their or his opinion and directions to the jury on the matter in issue, as in other cases: And provided also, that the jury may on such issue find a special verdict, if they shall think fit so to do, and that the defendant, if found guilty, may move in arrest of judgment on such ground and in such manner, as he might have done before the passing of this Act.

Proviso.

Proviso.

Defendant may prove in mitigation that he offered a written apology.

II. And be it enacted, That in any action for defamation it shall be lawful for the defendant, when he has pleaded not guilty only, or has suffered judgment by default, or judgment has been given against him on demurrer, to give in evidence in mitigation of damages, that he made or offered a written or printed apology to the plaintiff for such defamation, before the commencement of the action or as soon afterwards as he had an opportunity of doing so, in case the action shall have been commenced before there was an opportunity of making or offering such apology.

Defendant may plead that the libel was inserted without malice, or gross negligence, and that he offered to publish an apology.

III. And be it enacted, That in an action for libel contained in any public newspaper or other periodical publication, it shall be competent for the defendant to plead that such libel was inserted in such newspaper or other periodical publication, without actual malice, and without gross negligence, and that before the commencement of the action or at the earliest opportunity afterwards, he inserted in such newspaper or other periodical publication a full apology for the said libel, or if the newspaper or periodical publication in which the said libel appeared should be ordinarily published at intervals exceeding one week, had offered to publish the said apology in any newspaper or periodical publication to be selected by the plaintiff in such action; and that any defendant shall, upon filing such plea, be at liberty to pay into Court a sum of money by way of amends for the injury sustained by the publication of such libel, and such payment into Court shall be of the same effect, and be available to the same extent and in the same manner, and be subject to the same rules and regulations as to payment of costs, and the form of pleading, except so far as regards the additional facts hereinbefore required to be pleaded by such defendant, as if actions for libel had not been excepted from the personal actions in which it is lawful to pay money into Court under an Act of the Parliament of Upper Canada, passed in the Session held in the seventh year of the Reign of His late Majesty, intituled, *An Act for the further amendment of the Law and the better advancement of Justice*, and that to such plea to such action it shall be competent to the plaintiff to reply generally, denying the whole of such plea.

And may pay money into Court as amends.

Notwithstanding exception in Act of U. C. 7 W. 4, c. 3.

Reply to such plea may be general.

Punishment for extorting money by threatening to publish or promising to prevent the publication of a libel.

IV. And be it enacted, That if any person shall publish or threaten to publish any libel upon any other person, or shall directly or indirectly threaten to print or publish, or shall directly or indirectly propose to abstain from printing or publishing, or shall directly or indirectly offer to prevent the printing or publishing, of any matter or thing touching or concerning any other person, with intent to extort any money or security for money, or any valuable thing, from such or any other person, or with intent to induce any person to confer or procure for any person any appointment or office of profit or trust, every such offender on being convicted thereof, shall be liable to be fined any sum not exceeding One Hundred Pounds, and imprisoned in the Common Gaol for a period not exceeding two years.

Punishment for publishing a libel knowing it to be false.

V. And be it enacted, That if any person shall maliciously publish any defamatory libel, knowing the same to be false, every such person, being convicted thereof shall be liable to a fine of not more than Fifty Pounds, and to be imprisoned in the Common Gaol for a period not exceeding one year.

Punishment for publishing any libel.

VI. And be it enacted, That if any person shall maliciously publish any defamatory libel, every such person, being convicted thereof, shall be liable to fine and imprisonment, or both, as the Court may award, so as such fine do not exceed the sum of Twenty-five Pounds, nor such imprisonment the period of six calendar months.

VII. And be it enacted, That on the trial of any indictment or information for a defamatory libel, the defendant having pleaded such plea as hereinafter mentioned, the truth of the matters charged may be inquired into, but shall not amount to a defence, unless it was for the public benefit that such matters charged should be published ; and that to entitle the defendant to give evidence of the truth of such matters charged as a defence to such indictment or information, it shall be necessary for the defendant, in pleading to the said indictment or information, to allege the truth of the said matters charged in the manner now required in pleading a justification to an action for defamation, and further to allege that it was for the public benefit that the said matters charged should be published, to which plea the prosecutor shall be at liberty to reply generally, denying the whole thereof : And that if after such plea the defendant shall be convicted on such indictment or information, it shall be competent to the Court in pronouncing sentence, to consider whether the guilt of the defendant is aggravated or mitigated by the said plea, and by the evidence given to prove or disprove the same : Provided always, that the truth of the matters charged in the alleged libel complained of by such indictment or information shall in no case be inquired into without such plea of justification : Provided also, that in addition to such plea, it shall be competent for the defendant to plead not guilty, and that no defence shall be taken away or prejudiced under the plea of not guilty, which the defendant can now make under such plea to any indictment or information for a defamatory libel.

Truth being pleaded, may be inquired into, but shall not be a defence, except in certain cases.

Reply may be general.

As to aggravation or mitigation of offence by such plea.

Proviso.

Proviso.

VIII. And be it enacted That whenever upon the trial of any indictment or information for the publication of a libel, under the plea of not guilty, evidence shall have been given which shall establish a presumptive case of publication against the defendant by the act of any other person by his authority, it shall be competent to such defendant to prove that such publication was made without his authority, consent or knowledge, and that the said publication did not arise from want of due care or caution on his part.

In certain cases defendant may prove publication without his authority, &c.

IX. And be it enacted, That in the case of any indictment or information by a private prosecutor for the publication of any defamatory libel, if judgment be given against the defendant, he shall be liable for the costs sustained by the prosecutor by reason of such indictment or information ; and if judgment be given for the defendant, he shall be entitled to recover from such prosecutor the costs sustained by the defendant by reason of such indictment or information, such costs so to be recovered by the prosecutor or defendant respectively, to be taxed by the Clerks of the Courts of Queen's Bench or Common Pleas in Toronto, or their respective Deputies in the counties where such trial shall be had, at the option of the party in whose favor such costs are to be taxed ; such costs to be recoverable by Writ of Attachment on the order of any Judge of the Superior Courts of Common Law, or of any Judge of the County Court in the county in which such indictment or information shall have been tried, and all proceedings for the recovery of such costs shall be entitled in the Court of Oyer and Terminer for the County in which such trial has been had, and such Writ of Attachment shall be returnable in either of the Superior Courts of Common Law as in other cases of Attachment, and on its return, such proceedings shall be had thereon as may now be had in any case of Attachment for non-payment of costs, pursuant to any order or rule of either of the said Superior Courts.

Private prosecutor, if successful, entitled to costs, and so of Defendant.

How recoverable.

Proceedings for recovery, how entitled.

X. And be it enacted, That this Act shall be in force in Upper Canada only.

Act to apply to U. C. only.

C A P . L X I .

An Act for rendering a Written Memorandum necessary to the validity of certain Promises and Engagements.

[24th July, 1850.]

WHEREAS by an Act passed in England in the twenty-first year of the reign of King James the First, it was among other things enacted, that all actions of account and upon the case, other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants, all actions of debt grounded upon

Preamble.

English Act 21 James I, c. 16, recited.

upon any lending or contract without specialty, and all actions of debt for arrearages of rent, should be commenced within six years after the cause of such action or suit, and not after; And whereas questions have arisen upon the proof of acknowledgments and promises to take the cases in such actions out of the operation of the said Statute: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in all actions on simple contract or debt of the nature hereinbefore mentioned, no acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take any case out of the operation of the said Act, or to deprive any party of the benefit thereof, unless such acknowledgment or promise shall be made or contained by or in some writing to be signed by the party chargeable thereby; and that where there shall be two or more joint contractors, or executors or administrators of any contractor, no such joint contractor, executor or administrator, shall lose the benefit of the said Act so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed by any other or others of them, or by reason of any payment of any principal or interest made by any other or others of them; Provided always, that in actions commenced against two or more such joint contractors, executors or administrators, if it shall appear at the trial or otherwise that the plaintiff, though barred by the said recited Act or this Act, as to one or more of such joint contractors, or executors or administrators, shall nevertheless be entitled to recover against any other or others of the defendants, by virtue of a new acknowledgment, promise or payment as aforesaid, judgment may be given and costs allowed for the plaintiff as to such defendant or defendants against whom he shall recover, and for the other defendant or defendants against the plaintiff.

II. And be it enacted, That if upon any plea in abatement in any of the said actions for the non-joinder of any person or persons, who, it is alleged, ought to be sued jointly, it shall appear at the trial or otherwise, that the action could not, by reason of the said recited Act or this Act, or of either of them, be maintained against the other person or persons named in such plea, or any of them, the finding and judgment on such plea, shall be against the party pleading the same; and if after the pleading of such plea, the plaintiff, instead of proceeding in the said action, shall abandon or discontinue the same, and commence a new action against the defendant or defendants pleading such plea and the person or persons named therein, as jointly liable with such defendant or defendants, and it shall appear upon the trial or pleadings in such new action that such action could not, by reason of the said recited Act or this Act, be maintained against the person or persons named in the said plea in abatement and joined in the said new action, but against the original defendant or defendants alone, the plaintiff shall thereupon be entitled to recover against the original defendant or defendants, in the said new action, as well the costs of the original action so abandoned or discontinued on such plea in abatement, as the costs awarded to such other defendant or defendants so joined in the said action by reason of the pleading of such plea, in addition to the debt or damages and costs recoverable against the said original defendant or defendants, and the said other defendant or defendants so joined in the said new action, and not liable therein, shall recover his or their costs against the plaintiff.

III. And be it enacted, That no indorsement or memorandum of any payment written or made after the time appointed for this Act to take effect, upon any promissory note, bill of exchange, or other writing, by or on behalf of the party to whom such payment shall be made, shall be deemed sufficient proof of such payment, so as to take the case out of the operation of the said Statute.

IV. And be it enacted, That the said recited Act and this Act, shall be deemed and taken to apply to the case of any debt on simple contract, or of the nature hereinbefore mentioned,

Written memorandum required to take the case out of Statute.

Case of two or more joint contractors, &c.

Proviso:
Where Plaintiff may be barred as to one or more Defendants, but not as to all.

As to non-joinder of Defendants who have good defence under the said Act and this Act.

As to costs in new action, the first being discontinued on such plea.

Indorsement, &c. made by the payee, not to take a note, &c. out of the Statute.

Statute to apply to set-off.

mentioned, alleged by way of set-off on the part of any defendant, either by plea, notice or otherwise.

V. And be it enacted, That no action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age, of any promise or simple contract made during infancy, unless such promise or ratification shall be made by some writing signed by the party to be charged therewith.

As to ratification of promise made during non-age.

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25

VI. And be it enacted, That no action shall be brought whereby to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain money, goods or credit thereupon, unless such representation or assurance be made in writing signed by the party to be charged therewith.

As to representation regarding the character, credit, &c. of a third party.

VII. And be it enacted, That the seventeenth section of an Act passed in England, in the twenty-ninth year of the Reign of King Charles the Second, intituled, *An Act for the prevention of Frauds and Perjuries*, shall extend to all contracts for the sale of goods of the value of Ten Pounds currency, and upwards, notwithstanding the goods may be intended to be delivered at some future time, or may not at the time of such contract be actually made, procured or provided, or fit or ready for delivery, or some act may be requisite for the making or completing thereof, or rendering the same fit for delivery.

Statute of Frauds extended to contracts for goods to be delivered at a future time, &c.

VIII. And be it enacted, That this Act shall extend to Upper Canada alone, and shall take effect and commence on the First day of January, one thousand eight hundred and fifty-two.

Extent of Act. Commencement.

CAP. LXII.

An Act to alter and amend the Act requiring Mortgages of Personal Property in Upper Canada to be filed.

[24th July, 1850.]

WHEREAS the Law now in force in Upper Canada requiring Mortgages of Personal Property to be filed requires amendment, so as to require that every sale of goods and chattels which shall not be accompanied by an immediate delivery and be followed by an actual and continued change of possession of the things sold, shall be in writing; and so as to require that a copy thereof be filed in the same manner as a mortgage or conveyance by the said Act is required to be filed; and so as to require an affidavit that the mortgages and conveyances mentioned in the said Act, and the bills of sale in writing mentioned in this Act, are *bonâ fide* and just and not for the purpose of protecting such goods and chattels in the possession of the mortgagee, or bargainee against the creditors of the mortgagor or bargainor: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the first Section of the Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act requiring Mortgages of Personal Property in Upper Canada to be filed*, be and the same is hereby amended by adding to the end thereof, as follows: " And that every sale of goods and chattels which shall not be accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold, shall be in writing, and such writing shall be a conveyance under the provisions

Preamble.

Sect. 1. of 12 Vict. c. 74, amended.

The amendment as to sales of goods not immediately delivered.

Affidavit required.

provisions of the said Act ; and that the mortgages and conveyances mentioned in the said Act and the writing or conveyance mentioned in this Act, shall be accompanied with an affidavit of the mortgagee or bargainee of such goods, sworn before a Commissioner of the Queen's Bench or Common Pleas, to the effect,—in the case of a mortgage, that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the said mortgage, that it was executed in good faith and for the express purpose of securing the payment of the money so justly due, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor,—and in case of an absolute sale, that the sale is *bonâ fide* and for good consideration (setting it forth) and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor ; otherwise such mortgage or sale shall be absolutely void as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith."

CAP. LXIII.

An Act to amend the Registry Law of Upper Canada.

[10th August, 1850.]

Preamble.
9 Vic. c. 31, cited.

WHEREAS by an Act passed in the ninth year of Her Majesty's Reign, intituled, *An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada*, provision was made for the registration of judgments entered up in any suit or action, in any Court of Record in Upper Canada, and it was therein enacted, That every such judgment shall affect and bind all the lands, tenements and hereditaments belonging to the party against whom such judgment is rendered, from the date of the recording of the same in the County wherein such lands, tenements or hereditaments lie, in like manner as the docketting of judgments in England affects and binds lands : And whereas at the time of the passing of the aforesaid Act, the practice of docketting judgments had been discontinued in England, and whereas doubts have in consequence been entertained as to the effect of the aforesaid provision : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That any judgment hereafter duly certified and registered as in the said Act provided, shall affect and bind the lands, tenements and hereditaments therein specified, in like manner as a judgment of any of Her Majesty's Superior Courts at Westminster when duly docketted would have bound lands before the practice of docketting judgments had been discontinued in England : Provided that nothing in this section contained shall be construed as declaratory of the meaning of the said Act ; and provided also, that whenever any judgment shall have been registered before the passing of this Act, the party in whose favor the same shall have been rendered, may require the Register of any County to mark on the margin of such registry, and sign the same, registered this day of A. D. eighteen and such entry of registry shall have the same effect from such date as if it had been registered under this section.

Meaning of the above
Act declared.

Proviso.

Proviso.

How registered judgments shall affect
lands, &c.

II. And be it enacted, That a judgment to be entered up against any person in any Court of Record in Upper Canada, after the First day of January, one thousand eight hundred and fifty-one, shall operate as a charge, so soon as a certificate of such judgment shall have been duly registered, upon all lands, tenements and hereditaments situate within the County where such certificate shall have been registered as aforesaid, of or
to

to which such person shall at the time of registering such judgment, or at any time afterwards, be seized, possessed or entitled, for any estate or interest whatever at Law or in Equity, whether in possession, reversion, remainder or expectancy, or over which such person shall at the time of registering such judgment, or at any time afterwards have any disposing power, which he might without the assent of any other person exercise for his own benefit, and shall be binding against the person against whom judgment shall be so entered up and registered, and against all persons claiming under him after such judgment and registry, and shall also be binding as against the issue of his body, and all other persons whom he might without the assent of any other person cut off and debar from any remainder, reversion or any other interest, in or out of the said lands, tenements or hereditaments; and that every judgment-creditor shall have such and the same remedies in a Court of Equity against the hereditaments so charged by virtue of this Act or any part thereof, as he would be entitled to in case the person against whom such judgment shall have been so entered up and registered had power to charge the same hereditaments and had by writing under his hand agreed to charge the same with the amount of such judgment-debt and interest; and all such judgments shall be claimed and taken to be valid and effectual according to the priority of registering such certificates: Provided nevertheless, that nothing herein contained shall be deemed or taken to alter or affect any doctrine of Courts of Equity whereby protection is given to purchasers for valuable consideration without notice.

Remedies of judgment-creditor.

Proviso as to notice.

III. And be it enacted, That after any Grant from the Crown of any lands in Upper Canada, and Deed Patent thereof issued, every deed, devise, or other conveyance which shall be executed at any time after the First day of January, one thousand eight hundred and fifty-one, whereby any lands, tenements or hereditaments in Upper Canada may be in anywise affected in Law or Equity, shall be adjudged fraudulent and void, not only against any subsequent purchaser or mortgagee for valuable consideration, but also against a subsequent judgment-creditor, who shall have registered a certificate of his judgment, unless such memorial be registered as by the said first recited act is specified before the registering of the memorial of the deed, devise or conveyance, or the certificate of the judgment, under which such subsequent purchaser, mortgagee or judgment-creditor respectively shall claim, subject nevertheless, as to devisees, to the provisions contained in the twelfth section thereof: Provided always, that nothing herein contained shall be construed to affect the rights of equitable mortgagees as now recognized in the Court of Chancery in this Province.

All deeds, devisees, &c. executed after 1st January, 1851, must be registered.

Proviso.

IV. And whereas the doctrine of tacking has been found to be productive of injustice, and requires correction: Be it enacted, That every deed and conveyance executed after the First day of January, one thousand eight hundred and fifty-one, a memorial whereof shall be duly registered, and every judgment recovered after the date last aforesaid, a certificate whereof shall be duly registered, shall be deemed and taken as good and effectual both in Law and in Equity according to the priority of the time of registering such memorial or certificate; and when no memorial of such deed or conveyance shall have been duly registered, then such deeds or conveyances shall be deemed and taken to be valid and effectual, both at Law and in Equity, according to the priority of time of execution.

Deeds, &c., to take priority according to the date of registry.

And if not registered.

V. And be it enacted, That it shall be lawful for the Chief Justices and Judges of the Court of Queen's Bench and of the Superior Court in Lower Canada, and for the Circuit Judges in that section of the Province, and for the Commissioners appointed by the Superior Courts of Record in Upper Canada, for taking affidavits in Lower Canada, and they are hereby severally required to administer the affidavit or declaration in writing mentioned and referred to in the tenth section of the said first recited Act, of the due execution of any deed, conveyance or will, or of any certificate of payment of mortgage money, executed, published or made in Lower Canada.

Who may receive affidavits under the said Act in Lower Canada.

VI. And whereas by the fourteenth section of the said Act it is enacted, That when-
ever any lands have been or shall be sold under Deed of Bargain and Sale, and such

Sec. 14 of 9 Vic. c. 34, recited.

Deed hath been only registered or shall hereafter be recorded in the Registry Office of the County where such lands lie, the same shall be, and is hereby declared to be, as good and valid a conveyance in Law as if the same had been regularly enrolled; and whereas the effect of such clause may be to render doubtful the meaning of the forty-seventh section of the Act of the Parliament of the late Province of Upper Canada, passed in the Fourth year of the Reign of His late Majesty King William the Fourth, Chaptered one, and intituled, *An Act to amend the Law respecting Real Property, and to render the proceedings for recovering possession thereof in certain cases less difficult and expensive*, by which it is enacted, that a Deed of Bargain and Sale of Land shall not be held to require enrolment, or to require registration to supply the place of enrolment for the mere purpose of rendering such Bargain and Sale valid and effectual conveyance for passing the land thereby intended to be bargained and sold: Be it therefore enacted, that the said fourteenth section of the said first mentioned Act shall be and the same is hereby repealed.

The said section repealed.

Certificate of judgment may be registered.

VII. And be it enacted, That the registry, or registry of any certificate of judgment as hereinbefore mentioned, shall be deemed and taken to be a registry of such judgment for the purposes of this Act.

Registry to be deemed notice.

VIII. And be it enacted, That the registry of any deed, conveyance will or judgment under the first recited Act, or this Act, affecting any lands or tenements, shall in Equity constitute notice of such deed, conveyance will or judgment, to all persons claiming any interest in such lands or tenements subsequent to such registry.

Separate book for registry of judgments.

IX. And be it enacted, That the Register of every County in Upper Canada, shall after the passing of this Act, enter in a separate Book to be kept for that purpose, the certificates of all judgments brought to him for registration, and prepare an Alphabetical Index thereto.

C A P. LXIV.

An Act for correcting certain errors and omissions in the Act of the Parliament of this Province, passed in the last Session thereof, intituled, *An Act to provide, by one general law, for the erection of Municipal Corporations and the establishment of Regulations of Police in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada*, for amending certain of the provisions of the said Act, and making some further provisions for the better accomplishment of the object thereof.

[10th August, 1850.]

Preamble.
12 Vict. c. 81.

WHEREAS in the engrossment of the Act passed in the last Session of Parliament, chaptered eighty-one, and intituled, *An Act to provide, by one general law, for the erection of Municipal Corporations and the establishment of Regulations of Police in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada*, some errors were accidentally committed, and amongst them, one of the Schedules in the said Act referred to, and intended to have been annexed to the same, was wholly omitted: And whereas there are also some inaccuracies, as well in the body of the said Act as in the Schedules thereunto annexed; And whereas it is expedient as well to correct the said errors and inaccuracies as to amend the said Act in some of the provisions thereof, and to make some further provisions for the better accomplishment of the object thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the several words,

words, phrases and sentences in the first column of the Schedule to this Act annexed, marked A, numbered from one to thirty-six inclusive, and set forth at length in the second column of the said Schedule, as such several words, phrases and sentences are contained in those several parts of the several and respective Sections, sub-sections and provisoes of the said Act particularly referred to in the third column of the said Schedule, opposite to each of such words, phrases and sentences respectively, shall be, and the same as so contained in such sections, sub-sections and provisoes, are hereby repealed; and the several and respective words, phrases and sentences set forth in the fourth column of the said Schedule, opposite to each of such first mentioned words, phrases and sentences respectively, shall be, and the same are hereby substituted for such first mentioned words, phrases and sentences, each for each respectively; and henceforth, the said substituted words, phrases and sentences, instead of those for which they are so substituted as aforesaid respectively, shall be, and shall be deemed and taken to have been the words, phrases and sentences used in the several and respective sections, sub-sections and provisoes of the said Act in the third column of the said Schedule mentioned, opposite to each of such words, phrases and sentences respectively, and, in the parts of such sections, sub-sections and provisoes therein particularly mentioned; and the said Act, and all other Acts referring to the same, shall be construed as if such substituted words, phrases and sentences had been there used in such respective sections, sub-sections and provisoes respectively, and in the parts thereof respectively in the said third column of the said Schedule mentioned as aforesaid, at the time of the passing of the said Act, any thing therein contained to the contrary notwithstanding: Provided always, nevertheless, that nothing in this Section contained, shall render void or otherwise affect in any way, any thing heretofore done under the authority of the said Act, but the same, unless it shall have been made the subject of proceedings at Law actually instituted before the passing of this Act, shall be, and the same is hereby ratified and confirmed; any thing herein contained to the contrary notwithstanding.

II. And be it enacted, That so much of the Schedule to the said Act annexed, marked B, as extends to the end of the divisions of the Town of Belleville into Wards, and also those parts of the said Schedule which apply to the Towns of Cobourg, Picton, Port Hope, Prescott and Saint Catherines respectively, their respective boundaries and divisions shall be, and the same are hereby respectively repealed,—and that the Schedule to this Act annexed, marked “Schedule B,” shall be substituted for the said first mentioned part of the said Schedule B, to the said Act annexed,—that the Schedule to this Act annexed, marked “5 Cobourg” shall be substituted for the said secondly above mentioned part of the Schedule B, to the said Act annexed,—that the Schedule to this Act annexed, marked “12 Picton,” shall be substituted for the said thirdly mentioned part of the said Schedule B, to the said Act annexed,—that the Schedule to this Act annexed, marked “13 Port Hope,” shall be substituted for the said fourthly mentioned part of the said Schedule B, to the said Act annexed,—that the Schedule to this Act annexed, marked “14 Prescott,” shall be substituted for the same fifthly above mentioned part of the said Schedule B, to the said Act annexed,—and that the Schedule to this Act annexed, marked “15 Saint Catherines,” shall be substituted for the said sixthly above mentioned part of the said Schedule B, to the said Act annexed, and each of such substituted parts respectively shall from henceforth be deemed and taken to form, and to have formed, that part of the said Schedule for which it is so hereby respectively substituted as aforesaid; any thing in the said Act, or the Schedules thereof, to the contrary notwithstanding: Provided always nevertheless, firstly: That nothing in this Section contained shall render void or otherwise affect in any way any thing heretofore done under the authority of the said Act, but the same, unless it shall have been made the subject of proceedings at Law, actually instituted before the passing of this Act and still pending before the proper tribunal, shall be and the same is hereby ratified and confirmed; anything herein contained to the contrary notwithstanding; and provided also, secondly, that the Municipal Elections for the said Towns of Belleville, Cobourg,

Certain words, &c., mentioned in schedule A. substituted for certain others in the said Act.

How the said Act shall hereafter be construed.

Proviso: as to things already done.

Parts of schedule B. repealed and new provisions substituted.

Proviso: as to things already done.

Proviso: certain municipal elections confirmed.

Cobourg, Picton, Port Hope, Prescott and Saint Catharines, held in January last, and all other proceedings had thereon, so far as the same shall be dependent upon the legality of such elections; shall be and the same are hereby specially ratified and confirmed as aforesaid.

The omitted schedule D. supplied.

Certain proceedings which might have been had in 1849, but for the omission of the schedule D, may be had in 1850.

III. And be it enacted, That the Schedule to this Act annexed, marked Schedule D, shall from henceforth be deemed and taken to be, and to have been annexed to the said recited Act, as the Schedule D, therein referred to; and that all such proceedings as, at any time during the year one thousand eight hundred and forty-nine, might have been had or taken for fixing or establishing the boundaries of any of the Towns mentioned in the said Schedule D, or for carrying the said Act into effect, with respect to any such Town, by the election and organization of a Municipality for the same at the commencement of the present year, shall and may be had and taken at any time during the corresponding periods of the year one thousand eight hundred and fifty, with the view and for the purpose of fixing or establishing such boundaries, and of carrying the said Act into effect with respect to such Town, by the election and organization of a Municipality for the same, at the commencement of the year one thousand eight hundred and fifty-one, and as if the said Act, with the said Schedule D annexed thereto, had been passed during the present Session of Parliament.

Governor may issue a proclamation for authorizing the immediate organization of a municipality in any town in the first division of schedule D, and may provide thereby for certain purposes.

IV. And be it enacted, That it shall and may be lawful for the Governor of this Province, for the time being, if he shall deem it expedient so to do, at any time previous to the First day of December next, to issue a Proclamation under the Great Seal of the Province, authorizing and directing the immediate organization of a Municipality for the present year, in and for any of the Towns mentioned in the first Division of the said Schedule D; and to make such provisions in and by such Proclamation, as in his discretion may appear necessary or expedient, for fixing or establishing the boundaries of such Towns, for appointing a Returning Officer, and for holding and regulating the first Municipal Election to be held for the same,—for the appointment of Municipal Officers, and for imposing and levying the necessary assessments for Municipal purposes for the year one thousand eight hundred and fifty, and for all other purposes necessary or expedient for enabling such Municipality to exercise the several powers and privileges conferred upon such bodies by the said Act; and the said Municipality, so organized, their officers and servants, shall to all intents and purposes, have the like powers and privileges, and be subject to the like duties and obligations as if they had been duly elected at the period fixed by the said Act for the general Annual Municipal Elections throughout Upper Canada for the present year.

Doubts as to elections in Belleville, Bytown, Richmond and Peterborough, removed.

V. And whereas it is expedient to remove certain doubts as to the legality of the Municipal Election held in and for the Towns of Belleville, Bytown and Peterborough, and the Village of Richmond, in the County of Carleton, for the present Municipal year: Be it therefore enacted, That for and notwithstanding any defect of substance or form in the authority of the persons who acted as Returning Officers at such Municipal Elections respectively, or in the notice given for holding such Elections, or in the time when, or the place where, such Elections were respectively held, the said Municipal Elections and all proceedings had thereon, shall be and the same are hereby ratified and confirmed, any thing in the said Act to the contrary notwithstanding; and that for and notwithstanding any such defect of substance or form in the persons who appointed the times and places of meeting of the Town Councillors returned at such Elections for the purpose of organizing the Common Councils of such Towns respectively, or in the notice given for holding such meetings, or in the time when or the place where the same were held for that purpose, the organization of such Common Councils and all proceedings had thereon, shall be, and the same are hereby ratified and confirmed, any thing in the said Act to the contrary notwithstanding: Provided always nevertheless, that nothing in this Section contained shall render valid or otherwise affect any such proceeding which shall have been made the subject of proceedings at law actually instituted before the passing of this Act, and still pending before the proper tribunal; any thing herein contained to the contrary notwithstanding.

Proviso: as to pending proceedings.

VI. And be it enacted, That for and notwithstanding any want of qualification in respect of property in any person elected a Councillor of any Township, Village or Town, or an Alderman or Councillor of any City, at the Annual Municipal Elections for the different Townships, Villages, Towns and Cities, held in January last, the election of every such Councillor and Alderman, if in other respects sufficient, shall be and the same is hereby ratified and confirmed : Provided always nevertheless, that nothing in this Section contained shall render valid or otherwise affect the claim of any such person whose election shall have been made the subject of proceedings at law, actually instituted before the passing of this Act, and still pending before the proper tribunal ; any thing herein contained to the contrary notwithstanding.

And as to property qualification of councillors, &c., elected in January, 1850.

Proviso: as to pending proceedings.

VII. And be it enacted, That the powers and duties, by the thirtieth and thirty-first Sections of the Act passed in the last Session of Parliament, chaptered thirty-five, and intituled, *An Act to repeal certain Acts therein mentioned, and to make better provision respecting the admission of Land Surveyors and the Survey of Lands in this Province*, conferred and imposed upon the Municipal Councils of the different Counties (therein called Districts) in Upper Canada, and on the Treasurers and other officers thereof, shall be and the same are hereby transferred to and imposed upon the different Township Municipalities in Upper Canada, and upon their Treasurers and Officers respectively, to be exercised and performed by such Township Municipalities, their Treasurers and other Officers in the like cases and in the like manner as is therein provided with respect to such corresponding Municipal Councils, their Treasurers and other Officers ; and no such powers or duties shall henceforth belong to, or be required of, the Municipal Councils of the different Counties or Unions of Counties in Upper Canada, their Treasurers or other Officers, or any of them.

Certain powers, &c., as to surveys under 12 V. c. 35, transferred to and vested in township municipalities.

VIII. And whereas by the third Section of the said first-mentioned Act, provision was made for the Union of Townships having less than one hundred resident freeholders and householders on the Collector's Roll, to any adjacent Township having that number of such freeholders and householders, but not for the Union of several Townships having each less than the prescribed number of such freeholders and householders, but which, if formed into a Union, would together have more than such prescribed number ; And whereas in the newly settled parts of the country, the want of such a provision has been found to occasion great inconvenience: Be it therefore enacted, That it shall and may be lawful for the Municipal Council of any County or Union of Counties in Upper Canada, at any time before the thirty-first day of December, in the year of our Lord one thousand eight hundred and fifty, by a By-law to be passed for that purpose, to dissolve all or any of the Unions of Townships formed or to be formed under the authority of the said third section of the said Act, and if they shall deem it expedient so to do to form such other Unions of the Townships within such Counties or Unions of Counties, as they may think most convenient for the accommodation of the people of such Townships: Provided always nevertheless, firstly, that it shall be lawful for any such Municipal Council, in forming such Unions, to attach together any two or more Townships lying within the same County, but not when they shall be within different Counties of such Unions of Counties: And provided also, secondly, that the Townships to be thus formed into any such Union shall together have had not less than one hundred freeholders and householders on the Collector's Rolls for the last year that the same shall have been respectively made up prior to the passing of such By-law: Provided also, thirdly, that every such By-law shall designate the order of seniority of the Townships forming every such Union of Townships, which shall in every such By-law be arranged (unless in the opinion of such Municipal Council, there may appear some special reason to arrange them otherwise) according to the relative number of freeholders and householders on such Collector's Rolls respectively, those having the greater number on such Rolls being placed senior to those having the less.

Recital.

New provision as to unions of townships.

Proviso.

Proviso.

Proviso.

In what cases and for what purposes towns and cities shall not form part of the counties in which they lie.

Incorporated villages always to be part of the county.

IX. And be it enacted, That upon, from and after the day on which any Proclamation already issued, or to be hereafter issued, under the authority of the said first mentioned Act or of this Act, for erecting any village, hamlet or place into an incorporated Village, or any incorporated Village into a Town, shall have come into force and taken effect, or shall hereafter come into force or take effect, every such incorporated Village or Town, with the boundaries in such Proclamation prescribed for the same, shall be and be held to have been, and shall continue to be part of the County to which it shall by such Proclamation be declared to belong, as well for the purpose of representation in the Commons House of Legislative Assembly of this Province, as for all other purposes whatever, except only when any such Town shall be entitled to be represented in such Legislative Assembly by a member or members of its own, in every which last case, such Town, with the boundaries in such Proclamation prescribed for it, shall, for the purpose of Representation in such Legislative Assembly, cease to be or form part of such or any other County; and that upon, from and after the day on which any Proclamation already issued or to be hereafter issued, under the authority of the said first-mentioned Act or of this Act, for erecting any Town into a City, shall have come into force and taken effect, or shall hereafter come into force and take effect, such City and the liberties thereof, with the boundaries in such Proclamation prescribed for such City and the liberties thereof, shall, (if such City, when a Town, shall have been entitled to be represented by a member or members in the said Legislative Assembly) for all the purposes of Representation in such Legislative Assembly, altogether cease to be or form a part of the County or Counties out of the territory of which it shall have been formed, and shall be, and be deemed to have been, from the time aforesaid, in the relative position to the County on the borders whereof it shall be situate, provided and prescribed by the eighty-fifth Section of the said first mentioned Act, and the other provisions thereof.

Lock-up-houses may be established by county councils, subject to certain provisions, and in certain places.

X. And be it enacted, That it shall be lawful for any of the Municipal Councils of the several Counties and Unions of Counties in Upper Canada, to establish a Lock-up-House in any Town, Incorporated Village, or Police Village, within the Jurisdiction of such Municipal Council, and to establish and provide for such salary or fees to be paid to the Constable to be placed in charge of every such Lock-up-House, as they may deem just and reasonable, and to direct the payment of such salary out of the funds of such County or Union of Counties; and that every such Lock-up-House shall be placed in the charge and keeping of a Constable to be specially appointed for that purpose by the Magistrates of such County or Union of Counties, at any General Quarter Sessions of the Peace for the same; and such Constable shall be resident in such Town or Village, and be one of the Constables of such Town or of the Township in which such Village may be situate: Provided always nevertheless, firstly, That nothing herein contained shall affect any Lock-up-Houses established under the Laws heretofore in force respecting the same, but every such Lock-up-House shall be and continue a Lock-up-House within the meaning of this section although not in any such Town or Incorporated or Police Village as aforesaid: And provided also, secondly, That parties summarily convicted before Magistrates under the provisions of the Act of the Parliament of the late Province of Upper Canada, passed in the fourth year of the Reign of His late Majesty King William the Fourth, chaptered four, and intituled, *An Act to provide for the summary punishment of petty trespasses and other offences*, may, in the discretion of the committing Magistrate or Magistrates be committed to the nearest Lock-up-House in the County or Union of Counties in which the conviction took place, instead of being committed to the Common Gaol of such County or Union of Counties.

Proviso.

Proviso.

4 W. 1, c. 1.

Provisional municipal councils may borrow money, and contract debts for certain purposes.

XI. And be it enacted, That the Provisional Municipal Councils in Upper Canada shall have, and shall be deemed to have had at all times since provision was made for their establishment, the like power and authority to make By-laws for borrowing all necessary sums of money for the purchase of the necessary County property and the erecting

erecting of the necessary County buildings, and other County works within their jurisdiction and the scope of their authority, and for incurring any debt in respect of the same as is or shall by law be vested in Municipal Councils generally, in that section of the Province, subject always, nevertheless, to the restrictions, limitations and other provisions for securing the payment of loans made to such Municipal Councils, within a limited time, and otherwise securing and insuring the recovery and payment thereof, as are or may by law be imposed upon such Municipal Councils, and upon the By-laws to be passed by them for that purpose.

XII. And be it enacted, That upon, from and after the day on which the union between any two or more Counties in Upper Canada, theretofore forming a Union of Counties, shall be dissolved, the Townreeves and Deputy Townreeves of the Junior County of such Union who shall have been in office on the day preceding the dissolution of such Union, shall, until replaced by new elections held under the said first mentioned Act, form and be to all intents and purposes whatsoever the Municipal Council of such Junior County, which Municipal Council and their successors shall to all intents and purposes whatsoever be substituted for the Provisional Municipal Council of such County, which shall have been thereby dissolved, and the Provisional Warden and other Provisional Officers of the said Provisional Municipal Council shall be and continue the Warden and Officer respectively of such Junior County, until the election or appointment of their successors under the said first mentioned Act, and all the By-laws of such Provisional Municipal Council shall be and continue in force until amended, altered or repealed according to law, by some By-law or By-laws to be passed for that purpose by the Municipal Council of such Junior County, as such By-laws would be and remain in force had the same been By-laws of such Municipal Council.

Municipal council substituted for provisional M. C. after dissolution of union: officers continued until next election.

XIII. And be it enacted, That every Municipal Corporation so substituted for the Provisional Municipal Corporation of any County in Upper Canada, shall become charged with and liable to all debts, liabilities and obligations of such Provisional Municipal Corporation legally contracted or incurred as aforesaid as if such debts, liabilities and obligations had been contracted by such Municipal Corporation themselves; and all actions at law and suits in Equity wherein such Provisional Municipal Corporation shall have been a party, and pending at the time of the dissolution of such Provisional Municipal Corporation, shall be continued by or against such substituted Municipal Corporation in their Corporate Name as if such Municipal Corporation had been the party thereto originally.

And to be liable for debts, &c.

XIV. And be it enacted, That no By-law passed or to be passed by any Provisional Municipal Council, in accordance with the requirements of the one hundred and seventy-seventh Section of the said first mentioned Act, for imposing a special rate to be levied in each year, for the payment of any debt created by loan or otherwise, shall be repealed by the Municipal Council, which shall thereafter be substituted for such Provisional Municipal Council until the debt so created and the interest thereon shall be fully paid and discharged: Provided always nevertheless, that no such By-law as aforesaid, whether passed by any Municipal Council, or by any Provisional Municipal Council, shall be held to be repealed by the Act passed in the present Session of the Provincial Parliament, and intituled, *An Act to repeal the Acts and provisions of Law relative to Assessments and matters connected therewith in Upper Canada*, but notwithstanding any thing in the said last mentioned Act contained, every such By-law shall remain in force until the debt to which it relates, and the interest thereon, shall be fully paid and discharged.

Certain by-laws not to be repealed.

Proviso as to effect of assessment repealing Act of this session.

XV. And be it enacted, That in case of there being an equality of votes in the Municipal Corporation of any Township or Village, on the Election of Townreeve for such Township or Village, or in the Municipal Corporation of any Town or City, on the Election of Mayor for such Town or City, the Member of such Municipal Corporation who, according to the Collector's Roll or Rolls of such Township, Village, Town or

Case of equality of votes for Mayor, &c., provided for.

City, for the year next preceding that for which such Election shall be held, shall be assessed for the highest amount, shall have a second or casting vote on such Election.

Time and place of first meeting of provisional municipal council to be appointed by proclamation.

How, if the P. M. C. be erected by Act of parliament.

Proviso.

Proviso.

Provisions of sect. 208 of amended Act continued until 31st Dec., 1851.

XVI. And be it enacted, That in every Proclamation erecting the Townreeves and Deputy Townreeves of any Junior County into a Provisional Municipal Council for such Junior County, a time and place may be appointed for holding the first Meeting of such Provisional Municipal Council, and some one of such Townreeves or Deputy Townreeves appointed to preside at such Meeting, and in case any such Proclamation shall not contain any such appointment of time or place or of a person to preside at such first Meeting, and in all cases of the erection of such Provisional Municipal Council by Act of Parliament, such time and place and such presiding Officer as aforesaid shall and may be appointed by the High Sheriff of the United Counties, of which such Junior County shall be one, by a warrant under his hand and seal directed to such Townreeves and Deputy Townreeves by their name of office, and published in the Official Gazette of this Province: Provided always nevertheless, Firstly, That such presiding Officer shall preside in such Provisional Municipal Council only until a Provisional Warden shall be elected by such Provisional Municipal Council: And provided also, Secondly, That in all cases of an equal division of votes on any question pending in any such Provisional Municipal Council, the Provisional Warden of such County, or the presiding Officer of such Provisional Municipal Council for the time being, shall have a second or casting vote on such question.

XVII. And be it enacted, That the provisions contained in the two hundred and eighth Section of the first mentioned Act, as amended by this Act, shall be and continue in force till the Thirty-first day of December, in the year of Our Lord one thousand eight hundred and fifty one, and the persons therein described as entitled to Elect and be Elected under the same shall be those entitled to Elect and be Elected respectively at all the Municipal Elections to be held under the said Act previous to that day.

SCHEDULE A.

Referred to in the First Section of this Act.

No.	Words, Phrases and Sentences, of 12 Vic., Cap. 81, repealed by this Act.	Sections, Sub-Sections and Provisos, of 12 Vic., Cap. 81, and the parts thereof, respectively, in which the repealed Words, Phrases and Sentences are contained.	WORDS, PHRASES AND SENTENCES SUBSTITUTED FOR THOSE BY THIS ACT REPEALED.
1	To divide such Townships anew, into several Wards, as aforesaid.	Section 8.—Between the words, “for that purpose,” and the words “re-arranging the same,”	To divide such Townships into several Wards, or where the same shall have been previously so divided by Act, either of the District or County Municipal Council, or of the Municipality of the Township, then to divide the same anew into several Wards as aforesaid, arranging or
2	Fifty.	Section 16.—Between the words “within it” and the word “resident,”	one hundred
3	For the year following.	Section 16.—Between the words “Township shall” and the words “the making up,”	for the year next but one following.
4	Three Assessors for the Township, and one Collector for the same.	Section 28.—Between the word, “appoint” and the words “and that the said Assessors”	Such and so many Assessors and Collectors for the said Township as shall or may be permitted or prescribed (as the case may be,) by the Laws for the assessment of property, and the levying and collecting of rates for local purposes, in force in Upper Canada for the time being.
5	Permission to proceed.	Section 31.—Sub-section 17 between the words “Road or Bridge Companies” and the words “with any Roads or Bridges within the jurisdiction”	to which opposition has been made in accordance with the provisions of the Act passed in the present Session of Parliament, intituled, “An Act to authorize the formation of Joint Stock Companies, for the construction of Roads and other works in Upper Canada,” permission to proceed.
6	By imprisonment.	Section 31.—Sub-Section 29, between the words “reasonable punishment” and the words “not exceeding,”	by imprisonment either in any Lock-up House in any Town or Village situate within the Township or in the County Gaol or House of Correction for any period,
7	The Municipal Council for such County.	Section 33.—After the words, “shall constitute”	the Municipal Council for such County : Provided always, nevertheless, firstly, That no Townreeve shall be entitled to take his seat in such Municipal Council, until he shall have filed with the Clerk of such Municipal Council, a certificate under the hand and seal of the Town Clerk of the Township, Village or Town for which he shall be entitled to sit in such Municipal Council, of his having been duly elected, and taken the Oath of Qualification and Office as such Townreeve ; And provided also, secondly, That no Deputy Townreeve shall be entitled to take his seat in such Municipal

SCHEDULE A—Continued.

No.	Words, Phrases and Sentences, of 12 Vic., Cap. 81, repealed by this Act.	Sections, Sub-Sections and Provisos, of 12 Vic., Cap. 81, and the parts thereof, respectively, in which the repealed Words, Phrases and Sentences are contained.	WORDS, PHRASES AND SENTENCES SUBSTITUTED FOR THOSE BY THIS ACT REPEALED.
			Council, until he shall have filed a similar certificate with the Clerk of such Municipal Council, and also a copy of the Collectors' Roll or Rolls for such Township, Village or Town for the previous year, verified by the affidavit or affirmation of the Collector, appended to or endorsed upon such copy, and sworn or affirmed before some Justice of the Peace for the County, to the effect that the same is a true copy of such Roll or Rolls, and that it contains the names of all the freeholders and householders in such Township, Village or Town as they appear upon such Roll or Rolls.
8	Of the Inspectors of the County House of Industry, and of such and so many other Officers as may be necessary for carrying into effect any of the provisions of this Act, or of any other Act of the Legislature of this Province, or of the late Province of Upper Canada, the erection or maintenance of such Houses of Industry, or of any By-law or By-laws of the Municipal Council of such County, respecting the same.	Section 41.—Sub-Section 6, after the words, "for the appointment,"	under the Corporate Seal of such County Council, one or more County Engineers, one or more Inspectors of the County House of Industry, one or more Overseers of Highways, Road Surveyors, and such and so many other Officers as may be necessary for carrying into effect any of the provisions of this Act or of any other Act of the Legislature of this Province, or of the late Province of Upper Canada, or of any By-law or By-laws of the Municipal Council of such County, and in like manner to displace all or any of them, and appoint others in their room, and to add to or diminish the number of them, or any of them, as often as the said Corporation shall see fit.
9	Licenses to proceed.	Section 41.—Sub-Section 1S, between the words "Road or Bridge Companies" and the words "with any Roads or Bridges within the jurisdiction,"	to which opposition has been made in accordance with the provisions of the Act passed in the present Session of Parliament, intituled, "An Act to authorize the formation of Joint Stock Companies for the construction of Roads and other works in Upper Canada," permission to proceed,
10	And the Townreeve.	Section 59.—Between the words, "as the Municipality of any Township shall have in respect of such Township," and the words, "of every such Village,"	And the Townreeve and Deputy Townreeve, where from the number of freeholders and householders on the Collectors' Roll, such Village Municipality shall be entitled to elect such Deputy Townreeve.
11	Townreeve.	Section 59.—Between the words, "as the," and the words "or other Officers,"	Townreeve, Deputy Townreeve.
12	Townreeve.	Section 59.—Between the words, "and the," and the words, "of each"	Townreeve and Deputy Townreeve.

SCHEDULE A—Continued.

No.	Words, Phrases and Sentences, of 12 Vic., Cap. 81, repealed by this Act.	Sections, Sub-Sections and Provisos, of 12 Vic. Cap. 81, and the parts thereof, respectively, in which the repealed Words, Phrases and Sentences are contained.	WORDS, PHRASES AND SENTENCES SUBSTITUTED FOR THOSE BY THIS ACT REPEALED.
13	For any such Town.	Section 75.—After the words, "Justices of the Peace,"	For any such Town: Provided always, nevertheless, that no such appointment shall be held to limit, determine or otherwise interfere with the jurisdiction, powers, duties or liabilities of the Justices of the Peace for the County within which such Town shall be situate in respect of such Town, or in, over, or with respect to offences committed within the same.
14	To be taken by the owners or drivers thereof.	Section 81.—Sub-Section 4, between the words "pay or hire" and the words "and for preventing,"	and to compel in a summary manner the prompt payment of the lawful fare or hire to the owner or driver of such Horses, Cab, Hackney Coach, Omnibus, Carts and other Carriages by the parties hiring or using the same.
15	One Alderman.	Section 83.—Between the words "of such Ward," and the words, "and two Councillors."	Two Aldermen.
16	From the time of the erection of any Town into a City.	Section 87.—Between the word, "that," and the words, "any and every Commission of the Peace,"	the Aldermen of each City which shall be or remain incorporated as such under the authority of this Act, shall by virtue of their respective offices be Justices of the Peace in and for such City and the Liberties thereof, and that from the time of the erection of any Town into a City.
17	By the Corporation of such City.	Section 88.—After the words, "who shall be appointed annually,"	by the Corporation of such City, who may by By-law if they shall deem it expedient so to do, provide that the offices of High Bailiff and Chief Constable may be united in and held by the same person.
18	Officer and Police Magistrate as provided with respect to incorporated Towns as aforesaid and which shall have the like duties and powers in all respects in such City and the liberties thereof as is herein provided with respect to the Police Officers.	Section 93.—Between the words, "besides a police," and the words "Magistrates for incorporated Towns."	Office and Police Magistrate as provided with respect to incorporated Towns as aforesaid, and which Police Magistrate shall have the like duties and powers in all respects in such City and the liberties thereof as is herein provided with respect to the Police
19	The City Courts and.	Section 95.—Between the words, "at any other than," and the words, "the Courts of Assize and Nisi Prius,"	The City Courts or on trials at the Bar of either of Her Majesty's Superior Courts of Common Law at Toronto, or at

SCHEDULE A—Continued.

No.	Words, Phrases and Sentences, of 12 Vic., Cap. 51, repealed by this Act.	Sections, Sub-Sections and Provisos, of 12 Vic., Cap. 51, and the parts thereof, respectively, in which the repealed Words, Phrases and Sentences are contained.	WORDS, PHRASES AND SENTENCES SUBSTITUTED FOR THOSE BY THIS ACT REPEALED.
20	Shall be vested in, and belong to such Police Magistrate.	Section 117.—After the words, “by the Municipal Corporations thereof,”	shall be vested in and belong to such Police Magistrate, and whenever there shall be no Police Magistrate for any such Town or City, such power under such By-laws as aforesaid, shall be vested in and belong to the Mayor of such Town or City.
21	Shall have full power and authority, upon complaint made to them, or any one of them upon oath, of any riotous or disorderly conduct, in the house of any Inn or Tavern Keeper, in any such Town or City, to enquire summarily into the matter of such complaint, and for the Mayor or Police Magistrate of such Town or City to summon such Inn or Tavern Keeper to appear, to answer such complaint, and thereupon, it shall be lawful for the Mayor or Police Magistrate, with any two Aldermen or Justices of the Peace, to investigate the same, and to dismiss the same, with costs, to be paid by the complainant, or to convict the said Inn or Tavern Keeper, of having a riotous and disorderly house, and to abrogate the license, or to suspend the benefit of the same, for any period not exceeding sixty days.	Section 118.—Between the words, “under the authority of this Act,” and the words, “and during the period of such suspension.”	and the Townreeve of any Township or Village incorporated or to be incorporated under the same, with any two Justices of the Peace for the County or Union of Counties within which such Township or Village shall be situate, shall have full power and authority upon complaint made to them or any one of them upon oath of any riotous or disorderly conduct in any Inn, Tavern, Ale or Beer House, situate within such Town or City or the Liberties thereof, or within such Township or Village respectively, to enquire summarily into the matter of such complaint, and for such Mayor, Police Magistrate or Townreeve to summon the keeper of such Inn, Tavern, Ale or Beer House, to appear to answer such complaint, and thereupon it shall be lawful for such Mayor, or Police Magistrate with any two of such Aldermen or Justices of the Peace, or for such Townreeve with any two of such Justices of the Peace, to investigate the same, and to dismiss the same with costs to be paid by the complainant, or to convict the said keeper of such Inn, Tavern, Ale or Beer House of having a riotous or disorderly house, and to abrogate the license for keeping the same, or to suspend the benefit of the same for any period not exceeding sixty days, with or without costs, as in their discretion may seem just.
22	Of the said Office.—So help me God.	Section 127.—After the words, “or other undue execution,”	of the said office, So help me God:” and in default thereof shall forfeit the sum of Ten Pounds to the use of Her Majesty, Her Heirs and Successors, together with such costs of prosecution as shall be adjudged by the Court.
23	Instances of any Relator having an interest as a candidate or voter in any election to be held under the authority of this Act, a writ of summons in the nature of a <i>quo warranto</i> , shall lie to try the validity of such election, which writ shall issue out of Her Majesty’s Court of Queen’s Bench for Upper Canada, upon an order of that Court in term time, or upon the fiat of a Judge thereof in vacation, upon such Relator shewing upon affidavit to such Court or Judge, reasonable grounds for supposing that such election was not conducted according to law, or that the party	Section 146.—After the words, “that at the,” at the commencement of the Section.	instance of any Relator having an interest as a municipal voter in or for any Township or Village, or in or for any ward of any Township, Town or City, for which any election shall be held under the authority of this Act, or having such interest as a candidate at such election, a writ of summons in the nature of a <i>quo warranto</i> shall lie to try the validity of such election, and also where it shall be alleged by such Relator that himself or some other person was duly elected and ought to have been returned at such election, then to try as well the validity of the election complained against as the validity of the alleged election of such Relator or other person, both which objects shall be embraced in the same writ, which writ shall issue out of either of Her Majesty’s Superior Courts of Common Law at Toronto, upon an order of such Court in Term time or upon the fiat of a Judge

SCHEDULE A—Continued.

No.	Words, Phrases and Sentences, of 12 Vic., Cap. 81, repealed by this Act.	Sections, Sub-Sections and Provisos of 12 Vic., Cap. 81, and the parts thereof, respectively, in which the Repealed Words, Phrases and Sentences are contained.	WORDS, PHRASES AND SENTENCES SUBSTITUTED FOR THOSE BY THIS ACT REPEALED.
23	<p>elected or returned thereat was not duly or legally elected or returned, and upon such Relator entering into a recognizance before the said Court or any Judge thereof, or before any Commissioner, for taking bail in such Court, himself in the sum of fifty pounds, and two sureties to be allowed as sufficient upon affidavit, by such Court or Judge, in the sums of twenty-five pounds each, conditioned to prosecute with effect the writ to be issued upon such order or fiat, and to pay to the party against whom the same shall be brought, his executors or administrators, all such costs as shall be adjudged to such party against him the said Relator, thereupon such writ shall be issued accordingly: and the said writ shall be returnable upon the eighth day after that on which it shall be served on such party by the delivery of a copy thereof to him personally, or in the manner hereinafter provided for, before some one of the Judges of the said Court at Chambers, which Judge shall have power, upon proof by affidavit of such personal or other service, and he is hereby required to proceed in a summary manner upon statement and answer, and without formal pleadings, to hear and determine the validity of such election, and to award costs against the Relator or Defendant upon such writ, as he shall deem just.</p>		<p>thereof in Vacation, upon such Relator shewing upon affidavit to such Court or Judge, reasonable grounds for supposing that such election was not conducted according to law, or that the party elected or returned thereat, was not duly or legally elected or returned, and upon such Relator entering into a recognizance before the said Court or any Judge thereof, or before any Commissioner for taking bail in such Court, himself in the sum of fifty pounds, and two sureties to be allowed as sufficient, upon affidavit, by such Court or Judge, in the sum of twenty-five pounds each, conditioned to prosecute with effect the writ to be issued upon such order or fiat, or to pay to the party against whom the same shall be brought his Executors or Administrators, all such costs as shall be adjudged to such party, against him the said Relator, thereupon such Writ shall be issued accordingly, and the said writ shall be returnable upon the eighth day (as on Friday where service shall have been made on the Thursday of the preceding week) after that on which it shall be served on such party by the delivery of a copy thereof to him personally or in the manner hereinafter provided for, before some one of the Judges of either of the said Courts, at Chambers, which Judges shall have power—upon proof by affidavit of such personal or other service—and he is hereby required to proceed in a summary manner upon statement and answer, and without formal pleadings, to hear and determine the validity of the election complained against, and where the sufficiency or legality of such other election shall have been so alleged as aforesaid then the validity of such last mentioned election, and in case of such first mentioned election being adjudged invalid, and such last mentioned election being adjudged valid, then by a writ adapted to that purpose, to cause the person returned upon such invalid election to be removed, and the person lawfully elected and who ought to have been returned, to be admitted in his place, and in case of neither of such alleged elections being adjudged valid, then by a like writ, to cause the person returned upon such invalid election to be removed, and a new election to be held to supply the vacancy thus created, in all which cases it shall and may be lawful for such Judge, if the facts in evidence before him render it proper so to do, to make the Returning Officer at such election a party to such proceedings by a writ of summons to be served upon him for that purpose in the same manner as the writ of summons hereinbefore mentioned. And it shall and may be lawful for such Judge, and he is hereby required in disposing of every such case, to award costs for or against the Relator or Defendant upon such writ or for or against the Returning Officer, when he shall be so made a party to such proceedings as aforesaid, as to such Judge shall seem just: Provided always, nevertheless, firstly, That all elections of Mayors, Wardens, Townreeves and Deputy Townreeves shall be deemed elections within the meaning of this section; And provided also, secondly, That</p>

SCHEDULE A—Continued.

No.	Words, Phrases and Sentences, of 12 Vic., Cap. 81, repealed by this Act.	Sections, Sub-Sections and Provisos of 12 Vic., Cap. 81, and the parts thereof, respectively, in which the Repealed Words, Phrases and Sentences are contained.	WORDS, PHRASES AND SENTENCES SUBSTITUTED FOR THOSE BY THIS ACT REPEALED.
23			<p>whenever the grounds of objection against any such election shall apply equally to all or any number of the members of any such Municipal Corporation, it shall and may be lawful for the Relator to proceed by one writ of summons against all such members ; and in case of the elections of all the members of any such Municipal Corporation being adjudged invalid, the writ for the removal of the members so adjudged to have been illegally elected and returned, and the admission of those so adjudged to have been legally elected, shall be directed to the Sheriff of the County or Union of Counties within the limits of which the locality in or over which such Municipal Corporation shall be established, shall be situate, who for the purpose of causing an election to be held under the authority of this Act, shall have all the powers and authority hereby conferred upon Municipal Corporations for supplying such vacancies as are occasioned by death ; And provided also, thirdly, That all such original writs of summons shall be applied for within six weeks after the election complained against, or within one month after the person whose election is questioned, shall have accepted the office and not afterwards ; And provided also, fourthly, That no costs shall be awarded against any person against whom any such writ of summons in the nature of a <i>quo warranto</i> shall be brought, who shall, within one week after having been served with such writ, transmit, postpaid, through the Post Office, directed to the Clerk of Judges Chambers at Osgoode Hall, Toronto, a disclaimer of the office in the terms, or to the effect following, that is to say :</p> <p>“I, A. B., upon whom a writ of summons, in the nature of a <i>quo warranto</i>, has been served for the purpose of contesting my right to the office of Township Councillor (or as the case may be) for the Township of _____ in the County of _____ (or as the case may be), do hereby disclaim the said office, and decline all defence of any right I may have to the same,” unless it shall have been proved to the satisfaction of such Court or Judge, that such person had been a consenting party to being put in nomination as candidate for such election in which latter case, such costs shall be in the discretion of such Court or Judge.</p> <p>And provided also, Fifthly, That it shall be the duty of every such last mentioned person to deliver a duplicate of such Disclaimer to the Clerk of the Municipal Corporation, the seat in which shall be contested, who shall forthwith communicate the same to the other members of such Municipal Corporation ; And provided also, Sixthly, That in any such case it shall be lawful for the Judge before whom such writ of summons is returnable to afford reasonable time and opportunity for the said Municipal Corporation, or to any person entitled as a Municipal voter of such Corporation, to intervene and defend the said election and return, in</p>

SCHEDULE A—Continued.

No.	Words, Phrases and Sentences, of 12 Vic., Cap. 81, repealed by this Act.	Sections, Sub-Sections and Provisos of 12 Vic., Cap. 81, and the parts thereof, respectively, in which the Repealed Words, Phrases and Sentences are contained.	WORDS, PHRASES AND SENTENCES SUBSTITUTED FOR THOSE BY THIS ACT REPEALED.
23			every which case such intervening party shall be liable and entitled to costs as any other party to such proceeding.
24	Her Majesty's said Court of Queen's Bench for Upper Canada, by any rule or rules to be by such Court made for that purpose, in Term time, to settle the forms of such writs of summons, <i>Certiorari</i> , <i>Mandamus</i> and Execution as aforesaid.	Section 153.—Between the words "it shall and may be lawful for," and the words, "and to regulate"	The Judges of Her Majesty's two Superior Courts of Common Law at Toronto, or the majority of them, by any rule or rules to be by them for that purpose made from time to time in Term time, as occasion may require, to settle the forms of all such Writs, whether of Summons, <i>Certiorari</i> , <i>Mandamus</i> , Execution, or of or for whatever other kind or purpose, as aforesaid,
25	Of the Court in matters within its ordinary jurisdiction.	Section 153.—After the words, "for the regulation of the practice."	Of the Courts in matters within their ordinary jurisdiction.
26	And the Court of Queen's Bench for Upper Canada.	Section 155.—Between the words, "of which he is the Officer," and the words, "may be moved."	And either of Her Majesty's Superior Courts of Common Law at Toronto.
27	Of such Municipal Corporation, for the preceding year.	Section 162.—Between the words, "then the Head," and the words, "shall forthwith, by warrant,"	Of such Municipal Corporation for the preceding year, or in case of his absence or the vacancy of such office, then the Clerk of such Municipal Corporation; and in case of the like vacancy of such last mentioned office, any one of the members of such Municipal Corporation for the preceding year.
28	By death or otherwise.	Section 163.—Between the words, "in any of such Municipal Corporations," and the words, "shall be filled."	By death, a judicial decision against the legality of any election, or otherwise however.
29	Of the head of such Municipal Corporation.	Section 163.—Between the words, "under the hand and Seal," and the words, "provided always."	Of the head of such Municipal Corporation, or in case of his absence or the vacancy of such office, then under the hand and seal of the Clerk of such Municipal Corporation; and in case of the like vacancy of such last mentioned office, then under the hand and seal of any one of the Members of such Municipal Corporation.
30	So appointed, shall hold his seat in such Corporation, by virtue of such appointment.	Section 163.—Between the words, "that the person," and the words, "for the residue"	So elected shall hold his seat in such Corporation by virtue of such election.
31	Of Candidates, shall not have been elected, or if there shall not be in the Poll Book, the names of a sufficient number of candidates to supply any deficiency arising from refusal of office, or neglect or refusal to be sworn in, then.	Section 165.—Between the words, "a requisite number," and the words, "and in every such case,"	Of candidates shall not have been elected, then,

SCHEDULE A—Continued.

No.	Words, Phrases and Sentences of 12 Vic., Cap. 81, repealed by this Act.	Sections, Sub-Sections and Provisos of 12 Vic., Cap. 81, and the parts thereof, respectively, in which the Repealed Words, Phrases and Sentences are contained.	WORDS, PHRASES AND SENTENCES SUBSTITUTED FOR THOSE BY THIS ACT REPEALED.
32	All such duties as may be assigned to him by any such Law or By-law.	Section 172.—After the words, "faithfully to perform"	All such duties as may be assigned to him by any such Law or By-Law: Provided always, nevertheless, Firstly, That it shall moreover be the duty of every Township, Village and Town Treasurer, to receive from the Collector or Collectors of such Township, Village or Town, all moneys collected by such Collector or Collectors for or on account of the County Rates, and to pay the same over to the County Treasurer within such time as may be prescribed by any By-Law of the Municipal Council of such County to be passed for that purpose: And provided also, Secondly, That the Municipal Corporation of such Township, Village or Town, shall be responsible to the Municipal Council of such County, for all such County Rates as shall or may be so paid to such Township, Village or Town Treasurer, who shall, together with his sureties, be responsible to such Municipal Corporation for the same as for moneys received by him on account of the Township, Village or Town Rates respectively: And provided also, Thirdly, That every such Township, Village or Town Treasurer shall keep an account in his books with the County Treasurer, and shall give receipts for all moneys received by him, on account of the County, and receive from the Treasurer of such County receipts for all such moneys as he shall pay over to him on account of such County Rates; And provided also, Fourthly, That nothing herein contained shall in any way exonerate any such Collector from his liability or limit his liability to the Municipal Council of such County for any of the County Rates, whenever they shall choose to proceed against him instead of against the Corporation of such City, Village or Town (as the case may be) for the recovery thereof; And provided also, Fifthly, That for all County Rates so received and paid over to the County Treasurer, the Township, Village or Town Treasurer shall be entitled to receive and take to his own use a per centage of two and a half per cent. upon all such County Rates so received and paid over as aforesaid, and no more.
33	Nor on the limits of any Village, Town, or City therein.	Section 187.—After the words, "original allowance for roads in any Township or County."	Nor on the limits of any Village or Town, or City therein, or on the borders thereof: Provided always, nevertheless, Firstly, That it shall and may be lawful for the Municipality of any Township, within which any Police Village or any other Village or Hamlet consisting of not less than twenty dwelling houses, standing within an area of not more than two hundred acres, shall be situate, upon the petition of the Trustees of such Village in the case of a Police Village, and in other cases upon the petition of fifteen of the inhabitant Householders of such Village or Hamlet, accompanied by a certificate from the Register of the County within which such Township shall lie, that a plan of such Village or Hamlet had been duly deposited in his office according to the then existing requirements of the Registry Laws in force in Upper Canada in that behalf, by any By-law to be passed by such Municipality for that pur-

SCHEDULE A—Continued.

No.	Words, Phrases and Sentences, of 12 Vic., Cap. 81, repealed by this Act.	Sections, Sub-Sections and Provisos of 12 Vic., Cap. 81, and the parts thereof, respectively, in which the Repealed Words, Phrases and Sentences are contained.	WORDS, PHRASES AND SENTENCES SUBSTITUTED FOR THOSE BY THIS ACT REPEALED.
33			pose, to stop up, sell and convey or otherwise deal with any original allowance for Road that may lie within the limits of such Village or Hamlet as the same shall be laid down on such plan, in the same manner as the Municipality of any Incorporated Village is empowered to stop up, sell, convey, or otherwise deal with any such original allowance for road within the limits of such Incorporated Village, but subject always nevertheless, to all and singular the directions, limitations and restrictions, and other the provisions in the one hundred and eighty-eighth section of this Act, contained respecting the same: Provided also, Secondly, That a Village or Hamlet situate partly within one Township and partly within another, whether such Township shall be within the same or different Counties, shall be a Village or Hamlet within the meaning of this section, and that in every such case the Municipality of each of such Townships shall have the powers hereby conferred as far as respects any original allowance for Road, lying within that part of such Village or Hamlet, which according to such plan so deposited in the Registry Office or Registry Offices of such County or Counties shall be situate within the respective limits of such Townships.
34	For the stopping up, altering	Section 192.— Between the words, "to make any "By-law," and the words, "widening or diverting."	for the opening, stopping up, altering,
35	Or be elected at the annual elections of Parish and Township Officers for	Section 208.— Between the words, "heretofore had "the right to vote," and the words, "the several Townships,"	or to be elected, respectively, at the annual Township Elections for District Councillors, in
36	Provided also, that where the system of the registration of votes exists at the passing of this Act, in any City or Town, the same shall continue under the Act or Acts providing such registration, until altered by any Act as aforesaid; and provided also, that whether any such new Act for regulating assessments in Upper Canada, shall or shall not be passed, prior to this Act coming into force, the persons hereinbefore described, as entitled to elect and be elected under this Act, (until such new Assessment Law shall have passed as aforesaid,) shall be those entitled to elect and be elected respectively.	Section 208.— Between the words, "for the year "previous to such election," and the words, "at the first "elections to be held under "this Act."	Provided always, nevertheless, Firstly, That the value of the property by the provisions of this Section, required as the qualification of a Township Councillor, shall be one hundred, instead of three hundred pounds, as heretofore required for District Councillors; and provided also, Secondly, That in the case of all Township Councillors, it shall be a sufficient qualification, if in lieu of such one hundred pounds of real property, they shall be seized or possessed of real and personal property, which shall, together, amount to two hundred pounds; and provided also, Thirdly, That in the case of all such Towns and Villages as are lastly above mentioned, every person to be elected a Councillor for any such Town or Village, shall be seized and possessed to his own use in fee, of lands and tenements within the County or Union of Counties in which such Town or Village shall be situate, or within some one or other of the Counties or Unions of Counties, next adjoining such first mentioned County or Union of Counties, of the real value of one hundred pounds currency, over and above all

SCHEDULE A—Continued.

No.	Words, Phrases and Sentences, of 12 Vic., Cap. 81, repealed by this Act.	Sections, Sub-Sections and Provisos of 12 Vic., Cap. 81, and the parts thereof, respectively, in which the Repealed Words, Phrases and Sentences are contained.	WORDS, PHRASES AND SENTENCES SUBSTITUTED FOR THOSE BY THIS ACT REPEALED.
36			charges and incumbrances due and payable upon or out of the same ; and provided also, Fourthly, That in the Cities and Towns in which, at the passing of this Act, a provision exists for the registering of votes, the same shall continue and be in force until repealed, altered or amended by a By-law of the Corporation of such City or Town ; Provided also, Fifthly, That whether any such new Act for regulating Assessments in Upper Canada, shall or shall not be passed prior to this Act coming into force, the persons hereinbefore in this section described as entitled to elect and be elected under this Act, until such new Assessment Law shall have been passed as aforesaid, shall be those entitled to elect and be elected respectively ; And provided also, Sixthly, that any Town, the Act of incorporation of which had been disallowed or had expired before the first of January, in the year of our Lord one thousand eight hundred and fifty, shall be taken and held to be an incorporated Town within this Section.

SCHEDULE B.

TOWNS.

1.—*Belleville*, To consist of all that part of this Province situate within the County of Hastings, and lying within the following limits, that is to say :

Commencing at the limits between Lots numbers six and seven in the first concession of the Township of Thurlow, at low water mark of the Bay of Quinté ; thence, northerly, along the side line between lots numbers six and seven, to the second concession road ; thence, westerly, along the said second concession line to the westerly boundary of Lot number one in the first Concession of Thurlow ; thence, southerly, on the Town line between the Townships of Thurlow and Sidney, to the Bay of Quinté ; thence, easterly, along the shore of the said Bay to the place of beginning ; together with the harbour, islands and marshes in front of the said Town.

The said Town to be divided into four Wards, to be called respectively, "Sampson Ward," "Ketcheson Ward," "Baldwin Ward," and "Coleman Ward," and to comprise the following portions of the said Town respectively, that is to say :

The said "Sampson Ward" to comprise all that part of the said Town which lies to the south of Bridge-street, to the limits between Lots numbers six and seven in the first Concession of the said Township of Thurlow, on the east side of the River Moira.

The said "Ketcheson Ward" to comprise all that part of the said Town which lies north of Bridge-street and west of Pinnacle-street, on the east side of the said River Moira.

The said "Baldwin Ward" to comprise all that part of the said Town which lies north of Bridge-street and on the east side of Pinnacle-street, to the said River Moira, and thence, along the said River, to the limits of the said Town.

And the said "Coleman Ward" to comprise all that part of the said Town which lies on the west side of the said River Moira.

SCHEDULES

Substituted for parts of Schedule B of Twelfth Victoria, Chapter Eighty-one.

5.—*Cobourg*, To consist of all that part of this Province situate within the County of Northumberland, and lying within the following limits, that is to say :

Commencing on the shore of Lake Ontario, at the south-east angle of Lot number fourteen in concession B, in the Township of Hamilton ; thence, north, sixteen degrees west, to the centre of the first concession of the said Township ; thence, south, seventy-four degrees west, to the centre of Lot number twenty-one in the said first concession ; thence, south, sixteen degrees east, to the distance of half a mile from the point at which the said line intersects the margin of the water on the shore of the said Lake ; thence, westerly, through the waters of the said Lake, following the direction of the curvatures, and keeping always at the distance of half a mile from the margin of the water, to a point where a line drawn southerly from the south-east angle of the said Lot number fourteen in concession B, meets the said last mentioned line ; thence, northerly, in the direction of the said line so drawn from the said concession of the said last mentioned Lot, to the place of beginning.

The said Town to be divided into three Wards, to be called respectively, " South Ward," " East Ward " and " West Ward."

The " South Ward " to comprise all that portion of the said Town which lies south of King street.

The said " East Ward " to comprise all that portion of the said Town which lies east of the centre of the street between lots numbers sixteen and seventeen and north of King street ; and

The " West Ward " to comprise all that portion of the said Town which lies west of the centre of the street between Lots numbers sixteen and seventeen and north of King street.

12.—*Picton*, To consist of all that part of this Province situate within the County of Prince Edward, and lying within the following limits, that is to say :

Commencing on the south side line of lot letter A, at a distance of fifty chains from the front of the lot ; thence, across the said lot, and across lot number one, north sixty-four degrees forty-five minutes east, to a post planted on the limit between lots numbers one and two in the first Concession, north of the Carrying-Place ; thence, at a right angle across lots numbers two, three and four in the said Concession ; thence, along the north-east side of Lot number four, to the Bay ; thence, directly across the Bay to the line between Lots numbers seventeen and eighteen in the first concession east of the Carrying-Place ; thence, along the water's edge, to the limit between lots numbers nineteen and twenty in the said Concession ; thence, along the limit between the said lots in a south-easterly direction, twelve chains ; thence, at right angles across the easterly half of lot number twenty ; thence, in a south-easterly direction along the centre of the said lot number twenty, nine chains, more or less, to the east side of John-street ; thence, along the east side of John street, thirty chains ; thence, north eighty degrees twenty minutes west, fourteen chains, forty links, more or less, to the east side of Church-street ; thence, south, twelve degrees forty-five minutes east, one chain, sixty-five links ; thence, south, forty-nine degrees fifteen minutes west, fifteen chains, fifty links ; thence, south, thirty-two degrees west, to the north-eastern limit of lot number one in the Concession south-east of the Carrying-Place ; thence, north, eighty degrees twenty minutes west along the north-east side line of the said lot number one to the front of the lot ; thence, north, eighty-seven degrees forty-five minutes west, sixty chains, more or less, to a post on the limit between lots numbers twenty-one and twenty-two in the third Concession, military tract ; thence, along the westerly side line of the said lot number twenty-two, twenty-four chains, seventy-four links, more or less, to lot letter A. aforesaid ; thence, in a direct line, to the place of beginning,—including the Harbour in the above mentioned boundaries.

13.—*Port Hope*, To consist of all that part of this Province situate within the County of Durham, and lying within the following limits, that is to say :

Composed of Lots numbers four, five, six, seven and eight, and the east half of Lot number nine, in the First Concession of the Township of Hope, and the broken fronts of the said Lots and half Lot, together with all those parts of Lots numbers four and five, in the second Concession of the said Township of Hope, with the road allowance between the said first and second Concessions, and butted and bounded as follows, that is to say :

Commencing in rear of the first Concession, at the north-east angle of Lot number four, in the first Concession ; thence, in a northerly direction, across the said allowance for road, to the south-east corner of Lot number four, in the second Concession ; thence, northerly, along the easterly side of the said Lot number four, in the second Concession, fifteen chains ; thence, westerly, in a course parallel with the front of the said second Concession, twenty-five chains ; thence, southerly, in a course parallel with the said east line of Lot number four, in the second Concession aforesaid, sixteen chains, more or less, to the rear line of the first Concession ; thence, easterly, along the rear of the first Concession, to the place of beginning ; and also, the water in front thereof to the distance of one quarter of a mile into Lake Ontario.

The said Town to be divided into three Wards, to be called respectively : First Ward, Second Ward and Third Ward, and which Wards are to comprise the following portions of the said Town respectively, that is to say :

The said First Ward to comprise all that part of the said Town which lies east of the River.

The said Second Ward to comprise all that part of the said Town which lies west of the River and south of Walton Street, continued westerly by Ridout Street and the front or Lake Shore Road to the western limit of the said Town.

And the said Third Ward to comprise all that part of the said Town which lies west of the River and north of Walton Street, continued westerly by Ridout Street and the said front or Lake Shore Road to the western limit of the said Town.

14.—*Prescott*, To consist of all that part of this Province situate within the County of Grenville, and lying within the following limits, that is to say :

Commencing at the south-eastern angle of the Township of Augusta ; thence, north, twenty-four degrees, west, to the rear of the first Concession of the said Township ; thence, south-westerly, along the Concession line to the limit between the east and west half of Lot number five, in the first Concession of Augusta aforesaid ; thence, south, twenty-four degrees, east, to the River Saint Lawrence ; thence, north-easterly, along the water's edge, to the south-eastern angle of the said Township, to the place of beginning, and shall take in so much of the waters of the River Saint Lawrence and the land under the wharves and buildings built in such waters as lie within three hundred yards in every direction of the edge in front of the present limits of the said Town of Prescott.

The said Town of Prescott to be divided into three Wards, in the following manner, that is to say :

All that part of the Town on the south side of the Queen's highway, shall compose the South Ward.

All that part of the Town on the east side of the Street called Centre Street, leading from the Queen's highway to the rear line of the said Town, shall compose the East Ward.

And all that part of the Town on the west side of the aforesaid Street called Centre Street, shall compose the West Ward.

15.—*Saint Catharines*, To consist of all that part of this Province situate within the County of Lincoln, and lying within the following limits, that is to say :

Commencing at the north-east angle of Lot number fifteen, in the fifth Concession of the Township of Grantham ; thence, south-westerly, along the road as now laid out, one hundred and fifty-five chains, more or less, crossing the Welland Canal at Ranney's Mills, to the western limit of the Welland Canal Lands ; thence, southerly and easterly, along

along the Welland Canal boundary until it intersects the allowance for road between the sixth and seventh Concessions; thence, south, sixty-five degrees west, along the rear of the sixth Concession, to the limit between Lots numbers nineteen and twenty; thence, south, crossing the main road to Hamilton, five chains; thence, north, sixty degrees east, more or less, until it intersects the allowance for road between Lots numbers fifteen and fourteen; and thence, north, along the said allowance, more or less, to the place of beginning.

The said Town to be divided into three Wards, to be called respectively, Saint Thomas Ward, Saint George's Ward and Saint Paul's Ward, and to comprise the following portions of the said Town respectively, that is to say:

The said Saint Thomas Ward to comprise all that part of the said Town which lies within the following limits:

Commencing at the south-westerly angle of the said Town; thence, north, until it intersects the allowance for road between the sixth and seventh Concessions of Grantham; thence, north, sixty-five degrees, east, along the said allowance to the Welland Canal; thence, down the said Canal, to the northern and western limit of the Welland Canal Lands; thence, easterly, across the said Canal until it intersects the main road at the north-western boundary of the said Town; thence, north-easterly, along the said boundary until it intersects Ontario Street; thence, up the said Street until it intersects Saint Paul Street; thence, southerly, on the said Street until it intersects the Concession line between the sixth and seventh Concessions; thence, north-easterly, on the said line until it crosses the Welland Canal; thence, up the said Canal until it intersects the eastern boundary of the said Town; thence, south, on the said boundary until it intersects the south-easterly angle of the said Town; thence, north-easterly, to the place of beginning.

The said Saint George's Ward to comprise all that part of the said Town which lies within the following limits:

Commencing at the corner of Saint Paul and Ontario Streets; thence, down the boundary of Ontario Street to the north-westerly boundary line of the said Town; thence, north-easterly, on the said boundary, to the north-east angle of the said Town; thence, south, until it intersects Saint Paul Street; thence, up the said Street, to the place of beginning.

And the said Saint Paul's Ward to comprise all that part of the said Town which lies within the following limits:

Commencing at the intersection of Saint Paul Street with the eastern boundary of the said Town; thence, south, until it intersects the boundary of Saint Thomas Ward on the Welland Canal; thence, down the said Canal until it intersects the line between the sixth and seventh Concessions; thence, north, up the said Concession line until it intersects Saint Paul Street; thence, westerly, up the said Street, to the place of beginning.

SCHEDULE D.

TOWNS WITH MUNICIPALITIES ONLY, OR WITHOUT ANY MUNICIPAL ORGANISATION:

FIRST DIVISION.

- | | |
|------------------|---------------|
| 1. Amherstburgh, | 4. Perth, |
| 2. Chatham, | 5. Simcœe, |
| 3. Guelph, | 6. Woodstock. |

SECOND DIVISION.

- | | |
|---------------|---------------|
| 1. Barrie, | 3. Queenston, |
| 2. L'Orignal, | 4. Sandwich. |

CAP. LXV.

An Act to amend the laws relative to Tavern Licenses in Upper Canada.

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to vest in the Municipal authorities in Upper Canada the power of fixing the number of Taverns, Beer shops and other houses and places of public entertainment where wines and spirituous or fermented liquors are sold, or of prohibiting such houses or places in the said Municipalities respectively, and of prescribing the conditions on which Licenses to keep the same shall be obtained and held, and the duty which shall be paid thereon over and above that imposed on persons keeping such houses and retailing Wines and Spirituous Liquors therein, by the Act of the Parliament of Great Britain, passed in the fourteenth year of the Reign of King George the Third, and intituled, *An Act to establish a Fund towards further defraying the charges of the Administration of Justice and the support of the Civil Government within the Province of Quebec in North America*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the Act of the Parliament of Upper Canada, passed in the fifty-ninth year of the Reign of King George the Third, and intituled, *An Act to alter the laws now in force for granting Licences to Inn-Keepers, and to give to the Justices of the Peace, in General Quarter Sessions assembled for their respective Districts, authority to regulate the duties hereafter to be paid on such Licenses*,—or of the Act of the said Parliament passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to repeal and amend certain parts of an Act passed in the thirty-sixth year of the Reign of King George the Third, intituled, 'An Act to amend an Act for regulating the manner of Licensing Public Houses and for the more easy convicting of persons selling spirituous liquors without a License,' and for other purposes therein mentioned*,—or of the Act of the said Parliament passed in the third year of Her Majesty's Reign, and intituled, *An Act for further regulating the manner of granting Licenses to Inn-Keepers, and to the Keepers of Ale and Beer Houses within this Province*,—or of the Act passed in the year last aforesaid, and intituled, *An Act to continue and make perpetual, parts of an Act passed in the fifty-ninth year of the Reign of His late Majesty King George the Third, intituled, 'An Act to alter the Laws now in force for granting Licenses to Inn-Keepers, and to give to the Justices of the Peace in General Quarter Sessions assembled for their respective Districts, authority to regulate the duties hereafter to be paid on such Licenses, and for other purposes therein mentioned*,—or of any other Act or Law in force in Upper Canada, as vests in any Justices of the Peace the power of granting certificates entitling the parties to whom they are granted to obtain Licenses to keep Inns or Houses of Public Entertainment, or of making rules and regulations for the conduct of such Inn-Keepers, or of repealing such rules and regulations, or of fixing the duty or sum which any person is required to pay for such License or before he can obtain the same, or of repealing or altering any duty or sum so fixed, or as may be inconsistent with any provision of this Act which is to be acted upon before the first day of March next, shall be and is hereby repealed from and after the passing of this Act; and the remaining provisions of the said Acts, and the rules and regulations made under them, and the duties or sums required to be paid under them for such Licenses as aforesaid, shall remain in force (in so far only as they may not be inconsistent with any provisions of this Act to be acted upon before the said day) until the said first day of March next, upon, from and after which day they shall be repealed, except the seventh and eighth sections of the Provincial Act thirdly above cited, which shall remain in force: Provided always, that all Acts and parts of Acts repealed by the said Acts or any of them shall remain repealed, and that all penalties incurred before

Imp. Act 14, G. 3, c. 88, cited.

Certain parts of Acts of U. C.;

59 G. 3, c. 2;

6 W. 4, c. 4;

3 Vic. c. 20;

3 Vic. c. 21;

Repealed on the passing of this Act;

And the remainder on the first March, 1851.

Proviso.

before the said day for any contravention of any of the said Acts, may be sued for and recovered under the same as if they were not so repealed.

II. Provided always, and be it enacted, That neither the repeal of the said Acts nor any thing in this Act contained, shall be construed to repeal or affect any duty or sum payable on licenses to vend wine, brandy and spirituous liquors by retail, to be granted or issued in Upper Canada to shopkeepers or others not keeping Inns or places of public entertainment, or any provision for preventing the vending or imposing any penalty for the vending of the same by such persons, or in any Steamboat or Vessel, without a license, or for the recovery and distribution of any such penalty.

III. And be it enacted, That a license to keep an Inn or house of public entertainment, may be issued at any time after the passing of this Act, and without any certificate, to any person then holding a license for a like purpose, which license to be so issued shall authorize such person to keep such Inn or House at the same place, from the expiration of the period to which such former license extended, until the last day of February next (inclusive) but not afterwards; and for any license to be issued under this section, the person receiving the same shall pay a sum bearing the same proportion to the sum paid by him for such former license, as the time for which such new license is to be granted shall bear to the time for which such former license was granted.

IV. And be it enacted, That the Municipality of each Township or incorporated Village, the Town Council of each incorporated Town, and the Common Council of each City in Upper Canada, shall have power and authority at any time after the passing of this Act, to make By-laws,—For limiting the number of Inns or houses of Public entertainment in such Township, Village, Town or City for which licenses to retail spirituous liquors to be drunk therein shall be issued, to be in force after the last day of February, one thousand eight hundred and fifty-one, (or for prohibiting the issuing of any such licenses, for any house in their respective Municipalities,) and for fixing the terms and conditions which shall be previously complied with by any person desiring such license, the description of house and accommodation he shall have and constantly keep and maintain, and the security he shall give for observing all the By-laws of the Municipality, and the sum which he shall pay for such license over and above the duty imposed by the Act aforesaid of the Parliament of Great Britain;—For regulating all such inns and houses of public entertainment, and for imposing for any contravention of such By-laws any penalty or punishment which they may lawfully impose for any contravention of other By-laws;—For similar purposes with respect to ale or beer houses, and other houses for the reception and entertainment of the public, where fermented or other manufactured liquors are sold to be drunk therein: Provided always, that nothing herein contained shall be construed to relieve any person keeping a house of public entertainment and retailing wine and spirituous liquors therein, without a license, from the penalty imposed for such offence by the Act of the Parliament of Great Britain aforesaid, which penalty shall always be recoverable on the oath of one credible witness other than the informer, in any Court having jurisdiction to the amount in Civil matters.

V. And be it enacted, That at the Annual Election of Councillors in the several Townships, Incorporated Villages and Towns and Cities, in Upper Canada, there shall be elected by the same electors in each Township not divided into Wards or Incorporated Village, three Inspectors of Houses of public entertainment,—and in each Ward of any Township divided into Wards or of any such Town or City, one such Inspector of Houses of public entertainment; and such Inspectors shall be subject in the same manner as other Municipal Officers, to any By-laws to be made by the Council of the Municipality touching their duties or remuneration,—the security they shall give, and other like matters; and vacancies in the office of Inspector shall be filled in like manner as vacancies in the office of Councillor.

VI. And be it enacted, That it shall be the duty of such Inspectors to see that the By-laws of the Municipality are complied with as regards the persons to whom Licenses to keep Houses of Public entertainment and to retail spirituous liquors therein are to

Shop licenses not to be affected by this Act.

Present tavern licenses may be continued until twenty-eighth February, 1851.

Municipal corporations to make by-laws for certain purposes, relative to taverns.

And beer-houses, &c.

Proviso as to penalties under the said Imp. Act.

Inspectors of houses of public entertainment to be elected.

To be subject to by-laws.

Duties of such inspectors.

Meetings.

be issued ; and for this purpose the said Inspectors shall, after such previous visits and examinations as they may think proper, meet at such time in each year before the first day of March, and at such place as they shall think meet, or at such time and place before the said day as the Council of the Municipality shall have appointed by By-law, for the purpose of determining what persons have under the By-laws in that behalf qualified themselves to obtain such Licenses, and to give certificates to such persons, which shall state the sum payable by such persons respectively, for such Licenses, under the By-laws of the Municipality ; and upon the production of such certificate and payment of the said sum and of the duty imposed by the said Act of the Parliament of Great Britain, to the proper Revenue Inspector, he shall issue Licenses to such persons respectively for the purposes aforesaid, which Licenses shall be in force from the date thereof until the last day of February in the then next year, and no such License shall be issued in favor of any person unless he shall produce such certificate as aforesaid : Provided always, that if the number of persons who shall have complied with the requirements of the By-laws made in that behalf, shall be greater than the number of persons to whom Licenses may be issued under such By-laws, the Inspectors shall determine, (subject to any By-laws passed for their guidance in this behalf) to which of such persons Licenses may be granted with most advantage to the public.

Certificates.

Licenses.

Proviso: if the number of licenses be limited.

Further duties of inspectors.

How to be performed.

Inconsistent enactments repealed.

Majority of inspectors may act.

Municipal officers may be appointed to issue licenses.

VII. And be it enacted, That the said Inspectors shall perform similar duties with regard to Inns, Ale and Beer houses, Victualling houses, Ordinaries, and eating-houses, and other establishments of like nature, which by the By-laws of the Municipality shall require licenses : And such duties shall be performed in such manner as shall be directed by such By-laws, and such licenses shall be issued at such times, for such periods and by such officer as shall be directed by such By-laws : And any provision of law vesting in any other functionary any power hereby vested in the Inspectors aforesaid, or otherwise inconsistent with this Act, is hereby repealed.

VIII. And be it enacted, That any majority of the said Inspectors may exercise all the powers of the Inspectors, and the said Inspectors shall have full power to adjourn any meeting from day to day or to any future day : and if on any question the Inspectors shall be equally divided, the Mayor or Town-reeve, or in his absence the functionary performing his duties, shall vote thereon and decide the same, unless and until other provision be made for this purpose (as it may be) by the By-laws of the Municipal Corporation of the place.

IX. Provided always, and be it enacted, That nothing herein contained shall be construed to prevent the Governor in Council from appointing any Municipal Officer or other person to issue licenses for keeping houses of public entertainment and retailing spirituous liquors therein, in any Municipality, if he shall think proper to appoint such officer or person to perform that duty instead of the Revenue Inspector.

C A P . L X V I .

An Act to repeal the Acts and provisions of Law relative to Assessments and matters connected therewith in Upper Canada.

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to repeal the several Acts and provisions of Law relating to assessments and local taxation, and to statute labour, in Upper Canada, to the end that more equal and just provisions may be made with regard to the matters aforesaid : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Parliament of Upper Canada, passed in the second Session held in the fifty-ninth year of the Reign of King George the Third, and intituled,

Certain Acts repealed.
Acts of U. C., 59, G.

An

An Act to repeal the several Laws now in force relative to levying and collecting rates and assessments in this Province, and further to provide for the more equal and general assessment of lands and other rateable property throughout this Province,—and the Act of the said Parliament, passed in the Session last aforesaid, and intituled, An Act to repeal part of and amend the Laws now in force for laying out, amending and keeping in repair the Public Highways and Roads in this Province,—and the Act of the said Parliament, passed in the second Session held in the fourth year of the Reign of King George the Fourth, and intituled, An Act to amend and make perpetual an Act passed in the fifty-ninth year of His late Majesty's Reign, intituled, 'An Act to repeal part of and amend the Laws now in force for laying out, amending and keeping in repair the Public Highways and Roads in this Province,' and also to amend an Act passed in the fiftieth year of His late Majesty's Reign, intituled, 'An Act to provide for the laying out, amending and keeping in repair the Public Highways and Roads in this Province, and to repeal the Laws now in force for that purpose,—and the Act of the said Parliament, passed in the Session last aforesaid, and intituled, An Act to repeal part of and amend an Act passed in the fiftieth year of His late Majesty's Reign, intituled, 'An Act to provide for the laying out, amending and keeping in repair the Public Highways and Roads in this Province, and to repeal the Laws now in force for that purpose,' and also to repeal part of and amend the provisions of an Act passed in the fifty-ninth year of His late Majesty's Reign, intituled, 'An Act to repeal part of and amend the Laws now in force for laying out, amending and keeping in repair the Public Highways and Roads in this Province,'—and the Act of the said Parliament, passed in the sixth year of the Reign last aforesaid, and intituled, An Act to amend and make permanent a certain Act of the Parliament of this Province, passed in the fifty-ninth year of the Reign of His late Majesty King George the Third, intituled, 'An Act to repeal the several Laws now in force relative to levying and collecting rates and assessments in this Province, and further to provide for the more equal and general assessment of lands and other rateable property throughout this Province, and to render more effectual the several Laws of this Province imposing rates and assessments, by providing, under certain restrictions, for the levying such rates and assessments by the sale of a portion of the lands on which the same are charged,—and the Act of the said Parliament, passed in the ninth year of the Reign last aforesaid, and intituled, An Act to amend the Assessment Laws of this Province,—and the Act of the said Parliament, passed in the seventh year of the Reign of His late Majesty King William the Fourth, and intituled, An Act to amend the Laws now in force regulating the sale of lands for arrear of taxes, and for other purposes therein mentioned,—and the Act of the said Parliament, passed in the third year of Her Majesty's Reign, and intituled, An Act to compel certain persons not assessed to perform Statute Labour,—and the Act of the Parliament of this Province, passed in the eighth year of Her Majesty's Reign, and intituled, An Act to provide more effectually for the collection of certain arrears of taxes on lands in the District of Wellington and other Districts, and better to define the limits of the said District of Wellington,—and the Act of the said Parliament, passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, An Act to provide for an assessment of real and personal property in the Town of Brockville, according to the annual value or rental thereof, and for other purposes,—and so much of the several Acts mentioned in the Schedules annexed to the Act of the said Parliament, passed in the twelfth year of Her Majesty's Reign, and intituled, An Act to repeal the Acts in force in Upper Canada, relative to the establishment of Local and Municipal Authorities, and other matters of a like nature, as established, provide for or regulate the assessment or mode of assessment, or the property to be assessed, or any matter relating to the same, in any of the Cities or liberties thereof, Towns or Villages to which such Acts respectively refer,—and all Acts or parts of Acts, and all by-laws, rules and regulations of the Municipal Corporations of the Townships, Villages, Towns or Cities, or of the District or County Municipal Councils, or other local authorities in Upper Canada, imposing rates or assessments, or providing for the collection thereof,—and all Acts and parts of

- 3, (sess. 2,) c. 7, assessments.
- 59 G. 3, (sess. 2,) c. 8, highways.
- 4 G. 4, (sess. 2,) c. 9, highways.
- 4 G. 4, (sess. 2,) c. 10, highways.
- 6 G. 4, c. 7, assessments.
- 9 G. 4, c. 3, assessments.
- 7 W. 4, c. 19, assessments.
- 3 V. c. 10. Statute labour. Acts of Canada, 8 V. c. 22. Wellington district.
- 10 & 11 Vic. c. 44. Brockville.
- Parts of 12 Vic. c. 30
- Other enactments.

Exception.

Acts inconsistent with this Act,—shall be and the same are hereby repealed, except in so far as the same or any of them repeal any former or other Acts, or parts of Acts, by-laws, rules or regulations, and except in so far as the same may affect any rates or taxes for the present year, or any rates or taxes which have accrued and are actually due, or any remedy for the enforcement or recovery of such rates or taxes not otherwise provided for by this Act.

Commencement of Act.

II. And be it enacted, That this Act shall commence and have force and effect upon, from and after the first day of January, one thousand eight hundred and fifty-one, and not before.

CAP. LXVII.

An Act to establish a more equal and just system of Assessment in the several Townships, Villages, Towns and Cities in Upper Canada.

[10th August, 1850.]

Preamble.

WHEREAS by an Act passed during the present Session, the several Acts and parts of Acts regulating Assessments and the liability to statute labour, in Upper Canada, and all By-laws, Rules and Regulations of the several Municipal authorities in Upper Canada imposing Rates and Assessments, or providing for the collection thereof have been repealed, and it is expedient to provide a more equal and just system of Assessment for Municipal and local objects and purposes, in the several Townships, Villages, Towns and Cities in Upper Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for all purposes for which local and direct taxes are or shall be levied by authority of law, unless the same shall be otherwise specially provided for by law, all land and all such personal property as is hereinafter defined in Upper Canada, whether owned by individuals or copartners, or corporations, shall be liable to taxation, subject to the exemptions hereinafter specified; and the occupant of any land belonging to Her Majesty shall be liable to taxation for the land so occupied, but such land shall not be chargeable for the same.

What property is liable to taxation.

As to lands of the crown.

Certain expressions interpreted.

II. And be it enacted, That the term "Land," as used in this Act, shall be held to include the land itself, all buildings and other things erected upon or affixed to the same, all trees and underwood growing thereupon, and all mines, minerals, quarries and fossils in and under the same, except mines belonging to Her Majesty, Her Heirs or Successors; and the terms "Real Estate," and "Real Property," whenever they occur in this Act, shall be construed as having the same meaning as the term "Land," thus defined.

Certain expressions interpreted.

III. And be it enacted, That the terms "Personal Estate" and "Personal Property," whenever they occur in this Act, shall be construed to include all such goods, chattels, and other property, as are enumerated in the Schedule A, hereunto annexed, and no other; and the term "Property" shall include both real property and personal property as above defined.

As to persons deriving income from certain sources.

IV. Provided always, and be it enacted, That no person deriving income from any trade, calling, office, or profession, exceeding the amount of Fifty Pounds per annum shall be assessed for a less sum as the amount of his nett taxable personal property, than the amount derived from such income during the year then last past, but such last year's income shall be held to be his nett taxable personal property, unless he has other taxable personal property to an equal or greater amount.

What property shall be exempt from taxation.

V. And be it enacted, That the following property shall be exempt from taxation: *First*.—All estate and property belonging to or vested in Her Majesty, Her Heirs and Successors, or held by Her Majesty in trust for or for the use of any tribe or body of Indians,

Indians, or vested in any public body, officer, person or party in trust for Her Majesty, or for the public uses of the Province, save as hereinbefore provided as to any private occupant of such property :

Secondly.—Every place of worship,—every church-yard or burying ground,—the real estate of every university,—college,—incorporated Grammar School or other seminary of learning, actually used and occupied by it, but not if occupied by others or unoccupied,—every public School-House,—Town or City Hall,—every Court House and Gaol, House of Correction and Lock-up House, and the land attached thereto,—every Public Hospital with the land attached thereto, or on which the same are erected, and the personal property belonging to each of them,—every Public Road and Way, or Public Square, and the property belonging to any Township, Village, Town, City or County, if occupied for the purposes thereof, or unoccupied :

Thirdly.—The Provincial Penitentiary and the land attached thereto :

Fourthly.—Every Industrial Farm, Poor-House, Alms-House, House of Industry or Lunatic Asylum, and every house belonging to a company for the reformation of offenders, and the real and personal property belonging to or connected with the same :

Fifthly.—The property of every Public Library.

VI. And be it enacted, That all taxes to be levied under this Act or the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to provide by one General Law for the erection of Municipal Corporations, and the Establishment of Regulations of Police, in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada*, or under any other Act passed or to be passed whereby any local or direct taxes have been or shall be authorized to be levied, and when no other express provision shall be made in this respect, shall be levied upon the whole taxable real and personal property of the locality to be taxed, in proportion to the assessed value thereof, and not upon any one or more kinds or species of property in particular.

Local taxes to be levied on property generally, and not on any kind in particular.

VII. And be it enacted, That all lands shall be assessed in the Township, Village or Ward in which they lie, and in the name of and against the owner thereof, if known, and if he resides or has a legal domicile, when the assessment shall be made, within such Township, Village or Ward, or the Town or City in which it is included, and if such lands be occupied by such owner or wholly unoccupied ; but if the owner be not so resident or be unknown, and the land be occupied, it shall be assessed in the name of and against the occupant ; and occupied land owned by a party residing or having a legal domicile in the Township, Village, Town or City where the same is situate, but occupied by another party, may be assessed in the name of and against the owner or the occupant (inserting the names of both in the Roll with the word "or" between them, and notifying both in the manner hereinafter provided) ; and the taxes thereon may be recovered from either or from any future owner or occupant, saving his recourse against any other party ; and if any land be owned or occupied by more than one party, then any one or more of them may be deemed the owner or owners, occupant or occupants, and shall be liable accordingly, saving his or their recourse against the others : and any occupant may deduct from his rent any taxes he may have paid, if the same could also have been recovered from the owner, unless there be a special agreement between the occupant and the owner to the contrary.

In what places real property shall be assessed, and against whom.

As to joint owners or occupants.

Remedy of occupant paying taxes.

VIII. And be it enacted, That unoccupied lands not known to be owned by any party resident or having a legal domicile in the Township, Village, Town or City where the same are situate, or belonging to any party whose residence or domicile, upon diligent enquiry by any Assessor of such Township, Village, Town or City, shall not be found therein, shall be denominated "Lands of non-residents," and shall be assessed as hereinafter provided.

What shall be deemed lands of non-residents.

IX. And be it enacted, That every party shall be assessed in the Township, Village or Ward where he actually resides when the assessment is made, for all taxable personal property situate therein owned by him, including all taxable personal property in his possession or under his sole controul as trustee, guardian, executor or administrator ; and

Where personal property shall be assessed and against whom.

and in no case shall property so held be assessed against any other party, and if it be owned or possessed by or under the controul of more than one party, each shall be assessed for his share, or if they hold in a representative character, then each shall be assessed for an equal portion.

Taxable year to correspond with the natural year.

X. And be it enacted, That all taxes which have been or which shall be levied or assessed in Upper Canada during the present year, shall be held and taken to be the taxes for the year ending the thirty-first day of December, one thousand eight hundred and fifty; and thereafter the taxes levied or assessed for any year, shall in all cases be considered and taken to have been imposed for the then current year, commencing with the first day of January, and ending with the thirty-first day of December, unless otherwise expressly provided for by the enactment or by-law under which the same are imposed or authorized or directed to be levied.

Taxes in townships and counties to be by estimate.

XI. And be it enacted, That the sums which shall be required by law, or by any by-law of any Township or County, for any lawful purpose, shall and may be taxed, rated and raised upon estimate of the amount required for any such lawful purpose for each year in which such tax is to be levied; but in Cities and incorporated Towns or Villages, the taxes shall be imposed by by-laws declaring the yearly rate in the pound to be levied on the yearly value of all taxable property, and the yearly value of taxable personal property shall be held to be six per cent. on the assessed actual value thereof.

In other places, by yearly rate in the pound.

As to any surplus or deficit in the amount raised for any purpose.

XII. And be it enacted, That whenever the amount of taxes which shall be assessed in any Township or County, incorporated Village, Town or City, for any purpose, shall exceed the charges for such purpose, the overplus shall remain at the credit of such Township or County, Village, Town or City, and shall go to the reduction of the tax for the same purpose for the succeeding year, or if such purpose shall have been accomplished then to the reduction of such other tax as the Municipality, or Council of such Township or County, Village, Town or City shall think fit to direct; and if the amount of taxes which shall be so assessed for any purpose, shall be less than the charges for such purpose, such deficiency shall go in increase of the tax for such purpose in the succeeding year: but in Cities and incorporated Towns or Villages, the amount assessed and levied shall form part of the general funds at the disposal of the Corporation, unless otherwise specially appropriated.

In cities or incorporated towns or villages.

What shall be deemed the yearly value of lands, &c.

Exception.

XIII. And be it enacted, That the yearly value aforesaid of real property in Cities or incorporated Towns or Villages, shall be the real rack-rent or full yearly value thereof, to be ascertained by the assessors in the manner hereinafter provided, for each separate tenement; except that if more than one-fourth of an acre of land be attached to any house or building forming a separate tenement, the overplus shall be held to be vacant ground, the full actual value whereof shall be estimated by the assessors, and the yearly interest on such value at six per cent., per annum, shall be deemed its yearly value.

Number of assessors or collectors how fixed.

XIV. And be it enacted, That for and notwithstanding any thing in the Act last above cited, or in any Act or Law to the contrary, the number of assessors or collectors to be appointed in and for any City, Town, Village or Township, shall be one or more, in the discretion of the Municipality or Council thereof; and such Municipality or Council may in their discretion appoint the same assessor or collector to act in and for any number of wards or for the whole of any City or Town.

Locality may be divided into assessment Districts, &c.

XV. And be it enacted, That the Municipal Council of any Township, City, Town or Village, may, if they deem it expedient, divide the same into convenient assessment districts, and may assign the assessment district or districts within which each assessor shall act, and may prescribe such regulations for governing the assessors in the performance of their duties as shall not be inconsistent with this Act, or with any law in force in Upper Canada.

When the assessors shall make out their rolls.

XVI. And be it enacted, That between the First day of February and the First day of April, in each year, the assessor or assessors for each Township, Village or Ward, shall proceed to ascertain by diligent enquiry, the names of all the taxable inhabitants and parties in their respective Townships, Villages and Wards, and also all the taxable property within the same, and its extent, amount and value.

XVII.

XVII. And be it enacted, That the assessor or assessors for each Township, Village and Ward, shall prepare an Assessment Roll, in which shall be set down in separate columns, and according to the best information in their power, the names of all taxable parties in the Township, Village or Ward, with the extent or amount of property assessable against each, and containing the particulars mentioned in the Schedule B, for each of the items whereof the Assessment Roll shall contain a separate column.

Form of assessment rolls, and their contents.

XVIII. And be it enacted, That it shall be the duty of each party assessable in any Township, Village or Ward, if required by the assessor or by one of the assessors, if there be more than one, to deliver to such assessor a statement in writing signed by such party (or his Agent, if such party be absent) and containing all the particulars respecting the property or income assessable against such party which are required in the Assessment Roll; and such statement shall be declared to by such party or his Agent before the assessor; or, if there be more than one assessor, before any one of them, in the following form:

Statement to be furnished to assessors by parties assessable.

" I, A. B., do solemnly declare that the foregoing statement contains a full and true account of all taxable property and income assessable against me (or against C. D.,) in the Township, (Village or Ward of) and that the amount or values (or yearly values) therein assigned to the same, are the full and true amount and value (or yearly value) thereof, to the best of my knowledge and belief; (and if the declaration be made by an Agent, add: and that I have the means of knowing and do know the extent and value of the property assessable against the said " "):

And any wilfully false statement in any such declaration, shall be a misdemeanour punishable as perjury; and if any such assessable party shall fail to deliver such statement and declaration to the Assessor or one of the Assessors when thereunto required, such person shall thereby forfeit to the Municipal Corporation of the Village, Town, City or Township, the sum of Five Pounds currency, to be recovered as a debt due to such Municipal Corporation in any way in which debts due to it can be recovered: Provided that no such statement shall bind the Assessor or Assessors further than they shall from their personal knowledge, believe the same to be correct, nor shall it excuse them from making due inquiry whereby to ascertain whether it is or is not correct.

False statement to be punishable as perjury.

XIX. And be it enacted, That when a person shall be assessed as Trustee, Guardian, Executor or Administrator, he shall be assessed as such with the addition to his name of his representative character, and such assessment shall be carried out in a separate line from his individual assessment, and he shall be assessed for the value of the real estate held by him, whether in his individual name or in conjunction with others in such representative character, at the full value thereof, and for the taxable personal property held by him in such character, at the full value thereof, or for the proper proportion thereof, if others, resident within the same Municipality, be joined with him in such representative character.

Proviso.

As to persons assessed in a representative character.

XX. And be it enacted, That the lands of non-residents shall be designated in the same Assessment Roll, but in a part separate from the other assessments, headed "Non-residents' Land Assessments," and in the manner following, that is to say:

How lands of non-residents shall be entered in the rolls.

If the land to be assessed be a tract not known to be sub-divided into lots, it shall be designated by its boundaries or other intelligible description:

If it be a tract which is known to be sub-divided into lots, or be part of a tract known to be so sub-divided, the Assessors shall proceed as follows:

They shall designate the whole tract in the manner above prescribed with regard to undivided tracts:

If they can obtain correct information of the sub-divisions, they shall put down in their assessment rolls, and in a first column, all the unoccupied lots owned by non-residents, by their numbers and names alone and without the names of the owners, beginning at the lowest number and proceeding in numerical order to the highest; in a second column, and opposite to the number of each lot, they shall set down the quantity of land therein liable to taxation; in a third column and opposite to the quantity, they shall

shall set down the value of such quantity, and if such quantity be a full lot, it shall be sufficiently designated as such by its name or number as aforesaid, but if it be part of a lot, the part shall be designated by boundaries, or in some other way by which it may be known.

Assessed value to be the full value.

XXI. And be it enacted, That all real and personal property liable to taxation shall be estimated by the Assessors at its full value, (or full yearly value, as the case may be) as they would appraise the same in payment of a just debt due from a solvent debtor.

Tax instead of statute labour in cities and towns, &c.

XXII. And be it enacted, That every male inhabitant of any City, incorporated Town or Village, of the age of twenty-one or upwards, and not over sixty, not otherwise assessed, and not now exempted by law from performing statute labour, shall instead of such labour be taxed ten shillings yearly, to be levied and collected in the same manner as other local taxes, to the use of the corporation of the place; and the Assessors shall return on their Rolls a list of the persons liable under this section, and shall give them like notice with other parties assessed; and the Clerk of the Corporation shall enter their names and the sum for which they are taxable, on the Collection Rolls, and the Collectors shall collect and pay over the same in like manner as other taxes: And that every male inhabitant of any Township between the ages aforesaid and not otherwise assessed, shall be liable to two days of statute labour on the Roads and Highways in such Township; and every party assessed upon the assessment Roll of any Township shall, if the property of such party be assessed—

Statute labour in townships.

Parties not assessed.

Parties assessed.

At not more than Fifty Pounds, be liable to two days of labour;

At more than Fifty Pounds, but not more than One Hundred Pounds, to three days labour;

At more than One Hundred Pounds, but not more than One Hundred and Fifty Pounds, to four days labour;

At more than One hundred and Fifty Pounds, but not more than Two Hundred Pounds, to five days labour;

At more than Two Hundred Pounds, but not more than Three Hundred Pounds, to six days labour;

At more than Three Hundred Pounds, but not more than Four Hundred Pounds, to seven days labour;

At more than Four Hundred Pounds, but not more than Five Hundred Pounds, to eight days labour;

At more than Five Hundred Pounds, but not more than Six Hundred Pounds, to nine days labour;

At more than Six Hundred Pounds, but not more than Eight Hundred Pounds, to ten days labour;

At more than Eight Hundred Pounds, but not more than One Thousand Pounds, to twelve days labour;

Commutation.

And for every Two Hundred Pounds above the sum of One Thousand Pounds, to one days labour, unless the Municipality of such Township shall have directed by By-law that a sum of money be paid in commutation of such labour, in which case all the provisions of this section, as to the said tax of ten shillings, shall apply to the commutation money to be paid under such By-law: Provided always, firstly, that the Municipality of any City, Town, Village or Township, may, by By-law to operate generally and rateably, reduce, and at their discretion increase the number of days labour to which any such party rated on the assessment Roll, or otherwise, shall be liable under this Act: Provided, secondly, that in case no distress, sufficient to satisfy the said sum of ten shillings and the expense of issuing any warrant of distress, shall be found, it shall and may be lawful for the head of any such Municipal Corporations before whom complaint shall be made, to commit the offender to the Common Gaol of the County for any time not exceeding six days, unless such sum and costs shall be sooner paid.

Proviso: statute labour may be reduced by by-law.

Proviso: if no distress can be found.

As to statute labour performable by non-residents.

XXIII. And be it enacted, That the statute labour mentioned in the next preceding section shall, as against non-residents, be and is hereby commuted for the sum of two shillings and six pence currency for each day's labour, and the sum to which such

statute labour shall amount at the said rate, shall be added to the taxes payable by such non-residents respectively, and collected as other taxes under this Act.

XXIV. And be it enacted, That the Assessors shall complete their Assessment Rolls on or before such day in every year as the Council or Municipality of the City, Town, Village or Township shall appoint.

Time for completing assessment rolls.

XXV. And be it enacted, That the Assessors shall also immediately after the completion of their Roll, leave for every party named thereon and resident or domiciled within the City, Town or Village or Township, a notice of the actual or yearly value at which his real property and of the sum at which his taxable personal property shall have been assessed by them.

Notice to parties assessed.

XXVI. And be it enacted, That immediately after the completion of their Rolls, the Assessor, or if there be more than one, the Assessors, or a majority of them, shall sign the Assessment Roll, first attaching thereto a certificate signed by them, in the following form :

Rolls to be certified by assessor.

“ I do (or we do severally) certify, that I (or we) have set down in the above Assessment Roll, all the real property liable to taxation, situate in the Township, Village or Ward of (as the case may be) and the true actual (or yearly) value thereof in each case, according to the best of my (or our) information and judgment ; and also that the said Assessment Roll contains a true statement of the aggregate amount of the taxable personal property of every party named in the said Roll ; and that I (or we) have estimated the same according to the best of my (or our) information and belief.”

Form of certificate.

XXVII. And be it enacted, That the Roll thus certified shall, on or before such day as the Council of the City, Town, Village or Township shall appoint, be delivered by the assessor or assessors to the Clerk of the Township, (Village, Town or City, as the case may be), who shall lay the Roll before the Court of Revision hereinafter mentioned.

Certified roll to be delivered to the clerk.

XXVIII. And be it enacted, That in case any party shall deem himself overcharged by the assessor or assessors in his or their Roll, he or his Agent may, within six days after the notice aforesaid shall have been left for him as aforesaid, or if he be a non-resident, then within six days after the Roll shall have been returned to the Clerk, notify the Clerk of the City, Town, Village or Township, in writing, of such overcharge, and the complaint shall be tried by a Court of five Members of the City, Town, Village or Township Municipality or Council, to be appointed by such Municipality or Council, and at such time as the said Court shall appoint, reasonable notice of such time being given to the complainant and to the assessor or assessors who made the Roll ; and the Court after hearing the complainant and the assessor or assessors and any witness adduced by either of them, upon oath, or without hearing either of them who shall fail to appear, shall finally determine the matter and affirm or amend the Roll accordingly : and any three or more Members of the Court shall be a quorum, and any majority of a quorum may decide all questions before the Court ; and if any two Members of the Municipality or Council (whether Members of the said Court or not) shall think that any party has been assessed too low, the Clerk shall, on their request in writing, give reasonable notice to such party and to the assessor or assessors, of the time when the matter will be tried by the said Court, or if such party be a non-resident, shall insert such notice in some newspaper published in the City, Town, Village or Township, or if there be none, then in one published at the nearest place in the County, giving in such notice either the name of the party or a general description of the property if the name be not on the Roll, and inserting any number of such names or descriptions in the same advertisement ; and the matter shall be decided in the same manner as complaints by a party assessed ; and the Roll as finally passed by the said Court and certified by the clerk as so passed, shall be valid and shall bind all parties concerned, notwithstanding any defect or error committed in or with regard to such Roll : Provided always that reasonable notice under this section, shall be understood to mean a notice in writing from the Clerk of the Corporation, to be left at the residence of the party

Appeal given to parties deeming themselves aggrieved, and court for trying it appointed.

Evidence.

Quorum.

If any party has been assessed too low.

Roll finally certified to be binding.

Proviso : as to notice.

party to whom it is addressed, if known and within the limits of the Municipality; or if not so resident, then with any grown person on the premises assessed, or where any of the personal property assessed shall be, or addressed to such party through the Post Office, such notice being so served, or posted, at least three days before the time when the matter is to be tried by the said Court.

Court may make reductions in certain cases of hardship.

XXIX. And be it enacted, That the said Court shall also have power to receive and decide upon any petition from any party assessed, for any tenement which shall have remained vacant during more than three calendar months, in the year for which the assessment was made, or from any party who from sickness or extreme poverty shall declare himself unable to pay his taxes, or who by reason of any gross and manifest error in the Roll as finally passed by the Court, shall have been overcharged more than twenty-five per cent. on the sum he ought to have been charged, and to remit or reduce the taxes due by any such party, or to reject such petition, as to them shall seem meet and right, unless some By-law shall be in force to govern them in this behalf, in which case they shall decide in accordance with such By-law: and the Council or Municipality of any City, Town, Village or Township, is hereby empowered to make such By-laws and to repeal or amend the same from time to time.

Certain powers vested in the Court.

XXX. And be it enacted, That the said Court shall have full power to meet and adjourn from time to time at pleasure, and the Court or any Member thereof may administer an oath to any party or witness, or may issue summons to any witness to attend such Court; and if any witness so summoned shall fail to attend, (being tendered compensation for his time at the rate of Two Shillings and Six Pence a day), he shall incur a penalty of Five Pounds, to be recovered with costs by and to the use of the Corporation of the City, Town, Village or Township, in any way in which penalties incurred under any By-law thereof may be recovered; and the Clerk of the Corporation shall be the Clerk of the said Court.

In taxes for county purposes, the sum payable by each township, &c., to be fixed by By-law.

XXXI. And be it enacted, That in every case in which any sum is to be levied for County purposes, the Municipal Council of the County shall by By-law direct what portion of such sum shall be levied in each Township or incorporated Town or Village in such County; and it shall be the duty of the County Clerk before the First day of August in each year to certify to the Clerk of each Township, or incorporated Town or Village in his County, the total amount which shall have been so directed to be levied therein in the then current year for County purposes; and for the guidance of such Municipal Council, the Clerk of each incorporated Town, Village or Township shall forthwith after the final revision of the Assessment Rolls for the same, transmit to the County Clerk a statement of the aggregate value or yearly value, (as the case may be) of all the taxable real property, and of the amount of all taxable personal property on such Rolls respectively, as finally revised and passed; but the failure to transmit any such Roll shall not affect the validity of any By-law of such County Municipal Council.

County Council to have copies of assessment rolls for their guidance.

Proviso.

XXXII. And be it enacted, That it shall be the duty of the Clerk of the City, Town, Village or Township to make out a Collector's Roll for the Township or Village, or for each Ward in the City or Town, as the case may be, on which shall be set down: the name of each party assessed,—the correct assessed value of the real property of each party,—and the amount of personal property for which such party is taxable, as the valuation on such roll may in any case be affected by any such revision as aforesaid; and he shall also set down on the same roll the true valuation of the lands of non-residents, opposite to the respective lots, part-lots or parcels of land, and as the same may be affected by such revision or equalization; and he shall also calculate and set down the amount for which each party, or each lot or piece of land of a non-resident is chargeable, for any sum or sums ordered to be levied by the Municipal Council of the County for County purposes, under the head of "County Rate," the aggregate of which column shall be the whole sum for which the Township, Village or Ward, shall be taxed for County purposes; and he shall also calculate and set down on the Roll, in a separate column, opposite to the names and lots

Clerks to make out collector's rolls; their form and contents.

lots therein, the amount with which each party or lot is chargeable for any sum or sums ordered to be levied by the Township, Village, Town or City, Municipality or Council for Township, Village, Town or City purposes, or for commutation of statute labour, the aggregate of which column shall be the whole sum to be levied for such Township, Village, Town or City purposes, and which column shall be headed "Township Rate," "Village Rate," "City Rate," or "Town Rate," as the case may be.

XXXIII. And be it enacted, That every Collector upon receiving his Collection Roll, shall proceed to collect the taxes therein mentioned, and for that purpose shall call at least once on the party taxed, or at the place of his usual residence or domicile, if within the Township, Village, Town or City, in which such Collector has been appointed, and shall demand payment of the taxes charged on the property of such party: Provided always, that the taxes upon lands of non-residents in any Township in any County, may be paid to the County Treasurer, who, on being thereunto required, shall receive the same and give a receipt therefor, specifying the amount paid, the period for which it is paid, the lot or parcel of land upon which it is paid, and the Concession and Township in which such land lies, and the date of payment; but the party making such payment to the County Treasurer shall also pay him therewith a sum equal to five per cent. on the taxes so paid, which shall be the remuneration of such County Treasurer for his trouble: And such County Treasurer shall keep an exact account of all sums so received by him, and shall pay over the same to the Treasurer of the Townships, Towns or Villages to which they shall respectively belong, before the fourteenth day of December in each year; in default whereof he may be compelled to pay over the same in the manner hereinafter provided; and on paying over such sums, he shall deliver to the Treasurer to whom they are to be paid, an account, shewing, with respect to such sums respectively, the particulars above required in the receipt given to the party paying them, and for the purpose of this Section, it shall be the duty of the Clerk making out any Collector's Roll, to forward immediately to the County Treasurer a copy of so much of the said Roll as shall relate to taxes on the lands of non-residents.

Duty of collectors on receiving their rolls.

Proviso: taxes on lands of non-residents may be paid to county-treasurer.

Account to be kept by him, &c., and moneys received to be paid over.

Treasurer to be furnished with extract from rolls.

XXXIV. And be it enacted, That in case any party shall refuse or neglect to pay the taxes imposed upon him, for the space of fourteen days after such demand made as aforesaid, the Collector shall levy the same with costs, by distress and sale of the goods and chattels of the party who ought to pay the same, or of any goods or chattels in his possession, where ever the same may be found within the Township, Village, Town or City in which he is the Collector; and no claim of property, lien or privilege thereupon or thereto, shall be available to prevent the sale, or the payment of the taxes and costs out of the proceeds thereof.

Taxes how levied if not paid, and on what goods.

XXXV. And be it enacted, That the Collector shall give public notice of the day of sale and of the name of the party whose property is to be sold, at least six days previous to the sale, by advertisement to be posted up in at least three public places in the Township, Village or Ward wherein such sale shall be made; and the sale shall be made by public auction.

Notice and manner of sale.

XXXVI. And be it enacted, That if the property distrained shall be sold for more than the whole amount of the taxes and costs, the surplus shall be returned to the party in whose possession such property was when the distress was made, if no claim to such surplus shall be made by any other party, on the ground that the property sold belonged to him, or that he is entitled by lien or privilege to such surplus; and if any such claim be made and be admitted by the party for whose taxes the same was distrained, the surplus shall be paid to such owner; but if such claim be contested, the surplus money shall be paid over by the Collector to the Township, Village, or Town Treasurer, or City Chamberlain, who shall retain the same until the respective rights of the parties shall be determined by action at law or otherwise.

Surplus how dealt with.

XXXVII. And be it enacted, That if any party against whom any tax now is or hereafter shall be assessed in any Township, Village, Town or City, shall have removed out of the same after such assessment, and before such tax shall have been collected,

Powers of collector where parties have removed.

or

or if any party shall neglect or refuse to pay any tax which now is or hereafter shall be assessed in any Township, Village, Town or City, within the County in which he shall reside, and payable by him, it shall be lawful for the Collector of such Township, Village, Town or City, to levy and collect such tax with costs, by distress and sale of the goods and chattels of the party aforesaid, in any Township, Village, Town or City, which for judicial purposes shall be within the same County, and to which such party shall have so removed, or in which he shall reside, or of any goods or chattels in his possession therein: and if in any case the taxes payable by any party cannot be recovered in any special manner provided by this Act, they may be recovered, with interest and costs, as a debt due to the City, Town, Township or Village in any competent Court in this Province; and the production of a copy of so much of the Collector's Roll as shall relate to the taxes so payable by such party, purporting to be certified as a true copy by the Clerk of such City, Town, Township or Village, shall be *prima facie* evidence of the debt: and the taxes accrued or to accrue on any land shall be a special lien on such land, having preference over any claim, lien, privilege or incumbrance of any party except the Crown, and shall not require registration to preserve it, and shall bear interest from the time they become due, which interest shall be deemed part of such taxes: Provided always, that out of the amount recovered in any such suit, the Treasurer of the Town, Township or Village shall pay over to the Treasurer of the County, the portion (if any) appertaining to the County.

Taxes how recoverable when the special means shall be insufficient.

To be privileged lien on land.

Proviso.

Collector may receive taxes on undivided portions of lands, &c.

Entry in such case.

List of certain lands to be transmitted yearly by commissioner of crown lands to county treasurers.

Collectors to receive taxes on lands of non-residents.

Time for return of collector's rolls.

Accounts to be rendered by collectors on oath.

XXXVIII. And be it enacted, That the Collector shall receive the tax on any lot, piece or parcel of land separately assessed, although the taxes on others assessed against the same party be not paid, or upon any undivided part of any such lot, piece or parcel of land: provided the person paying such tax shall furnish, in writing, a statement of such undivided part, shewing also who is the owner thereof; and if the tax on the remainder of such lot, piece or parcel of land shall remain unpaid, the Collector shall enter the substance of such statement in his return to the proper Treasurer or City Chamberlain, to the end that the part on which the tax remains unpaid may be clearly known, so that such undivided part may be excepted in case of the sale of the remainder.

XXXIX. And be it enacted, That the Commissioner of Crown Lands shall, within thirty days after the first day of January, of each and every year, after the passing of this Act, transmit to each and every County Treasurer, a list of all the lands granted or leased during the preceding year, to the end that the said Treasurers may, and they are hereby required to furnish each Township Clerk with a list of all the lands in the Township for which he is Clerk, that have been granted or leased during the said term.

XL. And be it enacted, That it shall be the duty of the Collector to receive taxes upon the lands of non-residents if tendered to him within the time of his collection.

XLI. And be it enacted, That on or before the fourteenth day of December, in each year, or on such other day in each year as the Municipal Council of the County shall have appointed, it shall be the duty of each Collector to return his Collector's Roll to the Treasurer of the Township, Village or Town, or City Chamberlain, and to pay over the amount payable to such Treasurer or Chamberlain.

XLII. And be it enacted, That if any of the taxes mentioned in the Collector's Roll shall remain unpaid, and the Collector shall not be able to collect the same, he shall deliver to the Township, Village or Town Treasurer, and to the County Treasurer (or to the City Chamberlain, if the account relate to a City) an account of all the taxes remaining due on the said Roll; and in such account the Collector shall shew, opposite to each separate assessment, the reason why he could not collect the same, by inserting in each case the words "non resident" or "no property to distrain" as the case may be, and upon making oath before the Treasurer or Chamberlain that the sums mentioned in such account remain unpaid, and that he has not upon diligent enquiry been able to discover any goods or chattels belonging to or in the possession of the parties charged with or liable to pay such sums, whereon he could levy the same, he shall

shall be credited with the amount thereof, and the said account shall be sufficient authority to the County Treasurer or City Chamberlain to proceed to sell the lands on which such taxes remain unpaid in the manner hereinafter provided.

XLIII. And be it enacted, That it shall be the duty of the proper Clerk, previously to the delivery of the Collector's Rolls by him to the several Collectors, to furnish the Treasurer of the Township, Village, or Town or the Chamberlain of the City, with a correct copy of each Roll so far as the same relates to the lands of non-residents; and such Treasurer or Chamberlain shall enter the same in a book to be kept by him for that purpose, together with the taxes charged upon such lands.

Treasurer, or Chamberlain to have a copy of roll as to lands of non-residents.

XLIV. And be it enacted, That upon the return of the Collector's Rolls to the said Treasurer or Chamberlain, he shall enter in the said book any taxes which may have been charged upon such lands by the Municipal Council of the County, in which the land is situate, and he shall also enter in the said book the taxes which shall appear to have been received on such lands by the Collector.

And enter taxes paid.

XLV. And be it enacted, That it shall be the duty of the said County Treasurer or Chamberlain to prepare a list of such lands in each Township, Village, Town or City upon which any taxes shall remain due at the time of the Collector making his return, distinguishing in separate columns, and opposite the lots or parcels of land respectively, the amounts due for County Rates, and the amounts due for Township, Village, Town or City Rates, and it shall be the duty of such County Treasurer or Chamberlain, within one month after the receipt of such Collector's Roll, to address a circular letter through the Post to the owners of the several lots or part-lots of land respectively, on which taxes are still due, stating the amount due, and calling upon such owners respectively for payment thereof: Provided always, that in any case where the County Treasurer or Chamberlain shall not be able to satisfy himself who the owner of any land in the said list is, or where he resides, it shall be the duty of such Treasurer or Chamberlain to publish in the *Government Official Gazette* of the Province, a list of such lands, setting forth the total amount due on each, and calling on the owners for payment, charging the expenses of publication against the lands in question in proportion to the amount due on them respectively; and such expenses shall be levied on such lands with the taxes due on them, and with the same advantage of privileged lien.

Duty of treasurer or chamberlain as to such lands on which taxes are not paid.

Proviso: where the owner of any lands cannot be found.

XLVI. And be it enacted, That the Treasurers of the several Counties in Upper Canada, shall on or before the first day of January, one thousand eight hundred and fifty-one, make out and submit to the Municipal Council of the County, a true list of the lands in their Counties respectively, or in any Cities or the liberties thereof, lying within the limits or on the borders of such County on which any taxes shall then remain unpaid, stating the number of acres in each lot or part-lot, describing the same as hereinbefore prescribed with regard to such lands, the number of years for which it is in arrears for taxes, and the amount of taxes due on each lot or part-lot respectively, both for taxes chargeable under the Wild Land Assessment Law, and for assessments lawfully imposed under By-laws of the Municipal Councils, together with the names of the owners respectively, as far as such Treasurers may be enabled to ascertain the same; and the said arrears shall be certified to the Clerk of the proper locality by the County Clerk, and shall be added to the Assessment Roll for the year one thousand eight hundred and fifty-one, and collected in like manner, and the proper proportions of the moneys so collected shall be accounted for and paid over to the Treasurers of the several Municipalities for the purposes for which they were originally imposed.

Duty of treasurers of counties as to lands on which taxes remain due on 1st January, 1851.

And of the county clerks, such arrears to be added to assessment rolls.

XLVII. And be it enacted, That in all cases where any Township or Townships, or any part or parts thereof, shall have been detached from any District or County for the formation of any new District or County, since the passing of the Wild Land Assessment Law, the Treasurers of each of such Districts or Counties respectively, shall, on or before the first day of January, one thousand eight hundred and fifty-one, meet together at some convenient place to be agreed upon between them, and make up a correct list of the arrears of taxes due on the lands in such Townships or parts of Townships

As to townships or parts of townships which have been detached from districts or counties within a certain time.

Townships respectively, up to the periods at which such lands became parts of the said new Districts or Counties, and it shall be the duty of the Clerk of the County in which the Township then actually lies, to include the amount of such arrears of taxes as aforesaid due in the Township in his list of arrears of taxes due on such lands, respectively, for the year one thousand eight hundred and fifty-one; and it shall be the duty of the Treasurer of the County to pay over to the Treasurer of the County from which (or from the District subsequently forming it) such Townships or parts of Townships were respectively detached, that portion of the said arrears accrued while the township was part of such District or County, which is by law applicable for County purposes, reserving for the use of his own County that portion only of such arrears which is applicable for the improvement of the Roads and Bridges in the said Townships respectively; the said payments to be made as aforesaid, on or before the first day of January, one thousand eight hundred and fifty-two.

Warrant for levying taxes on non-residents' lands if not paid.

XLVIII. And be it enacted, That the County Treasurer or City Chamberlain shall, within thirty days after the Collector has made his return, issue a warrant under his hand and seal, directed to the Sheriff of the County or High Bailiff of the City, commanding him to levy on the said lands of non-residents for the amount of the taxes then remaining due thereon, with his costs.

Duty of sheriff, &c., to whom the warrant is addressed.

XLIX. And be it enacted, That the Sheriff or High Bailiff to whom the warrant is directed, shall, within the then current year, cause the same to be executed, giving at least three months notice, and shall make return thereof to the County Treasurer or City Chamberlain issuing the same, and shall pay to him the money levied by virtue thereof; and the Sheriff shall have for executing and returning such warrant, Five Shillings for the sale of each separate lot or parcel of land, and may deduct and retain for himself three per cent. on the amount levied by him, and the remainder whereof shall be paid over to the Treasurer or Chamberlain.

Advertisement of time and place of sale.

L. And be it enacted, That the said Sheriff or High Bailiff shall give notice of the time and place of sale of any real estate so taken for taxes, by an advertisement thereof, inserted once in each month during four successive months, in some newspaper of the County or City where the real estate lies, if there be any such newspaper, and if not, then in a newspaper printed in any adjacent County, the last publication of which advertisement shall be at least one week prior to the time of sale.

Further notice thereof.

LI. And be it enacted, That the said Sheriff or High Bailiff shall also post a notice similar to the advertisement required by the preceding section, in some convenient and public place within the County or City, three weeks before the time of sale.

Contents of notices.

LII. And be it enacted, That the notices required by the two preceding sections shall state the names of all the owners who are known to the said Sheriff or High Bailiff, with the total amount of the taxes assessed on their lands respectively: and when the owners are not so known, the advertisement shall state the total amount of the taxes on the several lots, part-lots, or parcels of land to be sold as aforesaid.

Sale if no person comes forward to pay the taxes.

LIII. And be it enacted, That if no person shall appear to pay the taxes at the time and place appointed for the sale of lands so taken for taxes, the Sheriff or High Bailiff, shall sell by public auction so much of such lands as shall be sufficient to discharge such taxes, with the interest thereon, and all lawful charges incurred in and about such sale and the collection of such taxes, selling in preference such part of such real estate as he may consider it most for the advantage of the owner to sell first, stating distinctly in the certificate to be delivered by him to the purchaser, what part of the lot is so sold, or that the whole lot or estate is so sold, as the case may be.

Certificate to be given by sheriff, &c., to purchaser.

LIV. And be it enacted, That the Sheriff or High Bailiff selling any lands for taxes, shall give a certificate under his hand to the purchaser, describing the lands sold, the quantity of such lands, the sum for which they were sold and the expenses of sale, and stating that a deed conveying the same to such purchaser will be executed by the Sheriff or High Bailiff, on his demand, at any time after the expiration of three years from the date of such certificate, if the land be not previously redeemed.

LV. And be it enacted, That all holders of Sheriff's or High Bailiff's certificates for lands sold under this Act, shall pay the taxes which may accrue thereon during the term allowed for redemption, and the taxes so paid shall be added to the amount specified in such certificate, and shall be subject to the payment of ten per cent. interest, in like manner, provided the holder of such certificate shall have given the Sheriff or High Bailiff notice and proof of the payment of such taxes, in order that the amount and interest thereon may be by him received from the party redeeming: Provided always, that if the holder of such certificate shall neglect to pay the taxes accruing as aforesaid, such lands shall be again sold as hereinbefore provided, subject to the right of redemption by the first purchaser during the three years from such second sale, on the payment of the amount disbursed by the second purchaser with interest at the rate of ten per cent. per annum, and without prejudice to the right of the original owner to redeem the same from either purchaser, on the payment of the price, interest at the rate last aforesaid, and all lawful costs, at any time during the three years from the first sale, but not afterwards.

Holder of certificates to pay taxes, saving their recourse.

Proviso: in case of neglect to pay such taxes.

LVI. And be it enacted, That the owner of any real estate sold for non-payment of taxes, or his heirs, executors, administrators or assigns, may at any time within three years from the day of sale, redeem the estate sold, by paying or tendering to the County Treasurer or City Chamberlain, for the use and benefit of such purchaser or his legal representatives, the sum paid by him, including taxes paid since the sale, together with interest on such sum or sums, at the rate of ten per cent. per annum, as such amount may be officially known to such Treasurer or Chamberlain; and the said Treasurer or Chamberlain shall give to the party paying such redemption money a receipt stating the sum paid and the object of the payment, and such receipt shall be evidence of the redemption.

Term allowed for redeeming such lands, and conditions of redemption.

LVII. And be it enacted, That if the land be not redeemed within the period hereinbefore allowed for its redemption, the Sheriff or High Bailiff shall, on the demand of the purchaser at any time after the expiration of the said period, and on payment of the sum of Two Shillings and Six Pence to him by such purchaser, execute and deliver a deed of sale of such land to the purchaser, his heirs and assigns; and such deed shall state the date and cause of sale and the price, and shall describe the land by its situation, boundaries and quantity, and shall have the effect of vesting the land in the purchaser, his heirs and assigns, in fee simple, free and clear of all charges and incumbrances thereon, except taxes accrued since those for the non-payment whereof it was sold; and the Sheriff or High Bailiff shall also give the purchaser a certificate of the execution of such deed, containing the particulars aforesaid, under his hand and seal, which for the purposes of registration of the deed in the Registry Office of the proper County shall be deemed a memorial thereof, and the deed shall be registered and a certificate of the registry thereof granted by the Register, on production to him of the deed and certificate and without further proof: and the Register shall, for the registry and certificate thereof, be entitled to Three Shillings and Six Pence, and no more.

If the land be not redeemed, sheriff, &c. to convey it to purchaser.

What the deed shall state.

Certificate for registry.

Fee to registrar.

LVIII. And be it enacted, That the purchaser of any land sold for taxes under this Act shall, on receipt of the Sheriff's or High Bailiff's certificate of sale, become the owner thereof, so far as to have all the necessary rights of action and powers for protecting the same from spoliation or waste until the expiration of the term during which the land may be redeemed; he shall not knowingly permit any person to cut Timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but may use the same without deteriorating its value; Provided always, that from and after tender of the full amount of redemption money required by this Act, the said purchaser shall cease to have any further right in or to the land in question.

Purchaser to have certain rights before the conveyance is made to him.

LIX. And be it enacted, That it shall be the duty of the County Treasurer, on the receipt of the taxes on the lands of non residents, to pay over, as soon as reasonably may be, to the Treasurer of the proper Township, Town or Village Municipality, the amount of such taxes belonging to them respectively.

Proportion of taxes due to any township, &c., to be paid over to it.

Treasurers and chamberlains to give security.

LX. And be it enacted, That every Township, Village, Town or County Treasurer or City Chamberlain, and every Collector, before entering upon the duties of his office, shall enter into a bond with two or more sufficient sureties, in such sum as the Municipal Council of the County, or the Township or Village Municipality, or the Town or City Council, shall require by any By-law to be passed in that behalf, and in the manner required by such By-law, and in conformity to all the provisions thereof; and such sureties shall be to the satisfaction of such Municipal Corporations respectively, and such bond shall be to the Township, Village, Town, City or County, by its corporate name, and shall be conditioned for the faithful performance of the duties of such Treasurer, Chamberlain or Collector.

Penalty on assessor neglecting his duty.

LXI. And be it enacted, That if any Assessor shall refuse or neglect to perform any of the duties required of him by this Act, he shall, for every such offence, upon conviction thereof, before the Recorder's Court of any City, or before the Court of General Quarter Sessions of any County, in which he shall be Assessor, forfeit the sum of Twenty-five Pounds to Her Majesty, Her Heirs and Successors; and if any Assessor shall neglect, or from any cause omit to perform his duties, the other Assessor or Assessors for the same locality, if there be more than one, or either of them, shall, until a new appointment, perform such duties, and shall certify upon their Assessment Roll the name of such delinquent Assessor, and shall state, if he or they know it, the cause of such omission.

His colleagues may act for him.

Punishment of assessor making fraudulent assessment.

LXII. And be it enacted, That if any Assessor or Collector, acting under this Act, shall make any unjust or fraudulent assessment or collection, or shall wilfully omit any duty required of him by this Act, he shall be guilty of a misdemeanor, and, upon conviction thereof, before any Court of competent jurisdiction, he shall be liable to a fine not exceeding Fifty Pounds, (and to imprisonment until the fine shall be paid), or to imprisonment in the common gaol of the County or City, for a period not exceeding six calendar months, or to both, in the discretion of the Court whose duty it shall be to pass the sentence of the law on such offender; and proof to the satisfaction of the Jury, that any real property was assessed by such Assessor at an actual or yearly value greater or less than its true actual or yearly value by thirty per centum thereof, shall be *prima facie* evidence that such assessment was fraudulent and unjust, and the Assessor convicted of having made any fraudulent and unjust assessment, shall be sentenced to the greatest punishment, both of fine and imprisonment, allowed by this section.

Prima facie evidence of fraudulent intention.

Mode of enforcing payment from a collector in default.

LXIII. And be it enacted, That if any Collector shall refuse or neglect to pay to the County, Township, Village or Town Treasurer or City Chamberlain, or to such other person as shall be legally authorized to receive the same, the sums contained on his roll, or duly to account for the same as uncollected, the County Treasurer or City Chamberlain, shall, within twenty days after the time when such payments ought to have been made, issue a warrant under his hand and seal, directed to the Sheriff of the County, or to the High Bailiff of such City, commanding him to levy such sum as shall remain unpaid and unaccounted for, with costs, of the goods, chattels, lands and tenements of such Collector, and to pay to the County, Township, Village or Town Treasurer or City Chamberlain, the sum coming to each of them respectively, and to return such warrant within forty days after the date thereof, which warrant the said Treasurer or Chamberlain, shall immediately deliver to the Sheriff of the County or High Bailiff of the City, as the case may require.

Duty of the sheriff or high bailiff.

LXIV. And be it enacted, That the Sheriff or High Bailiff, to whom the warrant is directed, shall, within such forty days, cause the same to be executed, and make return thereof to the County Treasurer or City Chamberlain, and shall pay to him the money levied by virtue thereof deducting for his fees the same compensation which the Collector would have been entitled to retain.

Proceedings against a sheriff or high bailiff neglecting his duty.

LXV. And be it enacted, That if any Sheriff or High Bailiff shall refuse or neglect to levy such money, or any money which he shall be commanded to levy in any warrant lawfully issued under this Act by any Treasurer or Chamberlain, or to pay over the

the same, or shall make a false return to such warrant, or neglect or refuse to make any return, or shall make an insufficient return, it shall and may be lawful for the Treasurer or Chamberlain, to make application in a summary manner upon affidavit of the facts, to either of the Superior Courts of Common Law Jurisdiction in Upper Canada, in term time, or to any Judge of either of the said Courts in vacation, for a rule or summons calling upon such Sheriff or High Bailiff to answer the matter of such affidavit, which said rule or summons shall be returnable at such time as the Court or Judge shall direct; and upon the return of such rule or summons, it shall and may be lawful for the Court or Judge to proceed in a summary manner, upon affidavit and without formal pleadings, to hear and determine the matters of such application; and if the Court or Judge shall be of opinion that the Sheriff or High Bailiff has refused or neglected to levy such money or to pay over the same, or has made a false return or neglected or refused to make any return, or has made an insufficient return, it shall and may be lawful for the Court or Judge, and the Court or Judge is hereby required to order the proper officer of such Court, to issue a Writ of *Fieri Facias* adapted to the case, directed to a Coroner of the said County, in case the said application be made by the County Treasurer, or to the Coroner of the County in which the said City is situate, in case the application has been made by any City Chamberlain, which said Writ shall direct the said Coroner to levy of the goods and chattels of the said Sheriff or High Bailiff, such sum as such Sheriff or High Bailiff may have been ordered to levy by the Warrant of the said County Treasurer or City Chamberlain, together with the costs of such application and of execution; and such Writ shall bear date on the day of issuing the same, whether in term or in vacation, and shall be returnable forthwith, and the Coroner executing any such Writ shall be entitled to the same fees, and no more, as upon a Writ grounded upon a judgment of the Court.

LXVI. And be it enacted, That if any Sheriff or High Bailiff shall wilfully omit to perform any duty required of him by this Act, and no other penalty be hereby imposed for such omission, he shall be liable to a penalty of fifty pounds, to be recovered from him in any Court of competent jurisdiction at the suit of the County Treasurer or Chamberlain of the City; and the said penalty, as well as any penalties recovered under the preceding sections, shall be paid to the Treasurer or Chamberlain for the uses of the County or City respectively.

Penalty on sheriff or high bailiff for neglect of duty.

LXVII. And be it enacted, That this Act shall apply solely to that part of the Province called Upper Canada; that the Interpretation Act shall apply to this Act; that the words "Wild Land Assessment Law," shall be understood as meaning any and every Act of the Legislature of Upper Canada, under which taxes were, immediately before the coming into force of this Act, imposed on Wild Lands in Upper Canada; that the word "County" shall be held to include Unions of Counties while such Unions shall continue; and that the word "Ward" shall not be held to extend to or apply to any rural Ward in any Township.

Interpretation clause.

LXVIII. And be it enacted, That this Act shall commence and have force and effect upon, from and after the first day of January, one thousand eight hundred and fifty-one, and not before.

Commencement of Act.

SCHEDULE A.

PERSONAL PROPERTY LIABLE TO TAXATION UNDER THE FOREGOING ACT.

All Horses of three years old, and upwards.

All Neat Cattle of three years old, and upwards.

Pleasure Carriages of all descriptions, and also all Carriages kept for hire.

The average Stock of Goods on hand, of every Merchant, Trader or Dealer, Manufacturer, Tradesman or Mechanic; such average stock to be considered to be the mean between the highest and the lowest amount of goods on hand at any time during the year.

The amount of all Stock or Shares in Steamers, Schooners, or other water craft employed in the conveyance of freight or passengers, and owned within the Municipality.

SCHEDULE B.

- COLUMN 1.—Name of Taxable Party.
 “ 2.—Number of Concession, Street, Square or other designation of the local division in which the real property lies.
 “ 3.—Number of the Lot, House, &c., in such division.
 “ 4.—Number of Acres, Superficial Feet, or other measure, shewing the extent of the property.
 “ 5.—Value (or yearly value) of each separate lot or parcel of real property.
 “ 6.—Total value (or total yearly value) of all the real property of such party.
 “ 7.—Number of Horses, three years old, or upwards.
 “ 8.—Value of the same.
 “ 9.—Number of Neat Cattle, three years old, or upwards.
 “ 10.—Value of the same.
 “ 11.—Number of pleasure Carriages of all descriptions, or of Carriages kept for hire.
 “ 12.—Value of the same.
 “ 13.—Value of the average Stock of Merchants, Traders, Dealers, Manufacturers, Tradesmen or Mechanics.
 “ 14.—Value of Stock or Shares in Steamers, Schooners, and other water craft, employed for the conveyance of freight or passengers.
 “ 15.—Amount of taxable income.
 “ 16.—Total value of taxable personal property.
 “ 17.—Total yearly value of the same.

NOTE.—The yearly value of the real property will be set down in Cities, and incorporated Towns and Villages, and the actual value in other places; in which, also, the column No. 16 may be omitted. In columns 2 and 3, any other description by which the property can be ascertained, may be set down if the Concession, Street, Square, or number be unknown.

CAP. LXVIII.

An Act to provide Funds for defraying the cost of the erection of the Lunatic Asylum and other Public Buildings in Upper Canada.

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to make better provision for paying off the principal and interest of the Debentures issued for the purpose of raising funds for defraying the expense of erecting the Lunatic Asylum in Upper Canada, under the provisions of the Act hereinafter mentioned, and for raising a fund for defraying the cost of erecting other public buildings in that portion of this Province of general importance to the inhabitants thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the Act of the Parliament of Upper Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Act to authorize the erection of an Asylum within this Province, for the reception of Insane and Lunatic Persons*, as authorizes the imposing of an assessment of one-eighth of a penny in the pound for the purposes of the said Act, shall be and is hereby repealed; as are also all rates and assessments made under the authority of the said Act: except in so far as regards any arrears of such rates and assessments remaining due and unpaid when the said repeal shall take effect.

Rate imposed by Act of U. C.
2 Vic. c. 11, repealed.

Exception.

II. And be it enacted, That instead of the rate mentioned in the said Act, there shall be and there is hereby imposed upon all taxable property, real or personal, in Upper Canada, a yearly rate or tax of six pence in the hundred pounds (and so in proportion on any less sum) on the assessed actual value of such property, or of one penny in the pound on the assessed yearly value thereof, according as the same is assessed by its actual or yearly value, and such rate or tax shall be entered upon the Collector's Rolls, in a separate column, by the Clerk or Officer making out the same, and shall be received, collected and levied by the same Officers, at the same times and in the same manner as other local taxes, rates or assessments on the same property; and all moneys arising therefrom and received by any Collector shall be paid over by him to the County Treasurer or City Chamberlain, at the same times and under the same provisions, and with the same remedy in case of non-payment as other moneys payable to him by such Collector, and all such moneys received by any Treasurer or Chamberlain, shall by him be paid over (retaining five per cent., of which one half shall be allowed by him to the Collectors respectively, on sums collected by them) to the Receiver General of the Province, for the purposes of this Act, at such times and in such manner as the Governor shall from time to time direct and require; and such moneys shall, in the hands of such Treasurer or Chamberlain, be held to be moneys received by him for duties due to Her Majesty, and such Treasurer or Chamberlain shall, in default of paying over the same, be liable accordingly.

A new rate imposed.

How to be collected, paid over, &c

Per centage allowed.

To be deemed moneys of the crown.

III. And be it enacted, That the sums paid over to the Receiver General under the next preceding section of this Act shall be applied—

To what purposes such rate shall be applied.

First—To the payment of the interest on all Debentures issued on account of the said Lunatic Asylum and now outstanding, and also of the interest on any Debentures which may be issued under the authority of Parliament for the purpose of raising money to complete the said Asylum, or to defray the expense of procuring a site for or of erecting any other Public Building in Upper Canada, for any Institution of general importance to the inhabitants of that portion of the Province.

Interest on debentures.

Secondly—To the formation of a Sinking Fund of not less than one thousand five hundred pounds per annum, towards paying off the principal of such Debentures as aforesaid.

Sinking fund.

Thirdly—Towards the support of the said Lunatic Asylum and of any other such Institution as aforesaid, in such manner as shall be directed by Parliament.

Other purposes.

IV. And be it enacted, That the foregoing provisions of this Act shall have force and effect upon, from and after the first day of January, one thousand eight hundred and fifty-one, and not before.

When the foregoing provisions shall take effect.

V. And be it enacted, That out of any moneys arising from any rate or assessment imposed under the Act first above cited, there may be paid and applied such sums as may be required to defray the expenses of the said Lunatic Asylum for the present year one thousand eight hundred and fifty, in addition to the Parliamentary grant for that purpose.

Appropriation out of moneys arising under 2 Vic. c. 11.

C A P . L X I X .

An Act to enable Collectors of Local Taxes in Upper Canada, for the several years between one thousand eight hundred and thirty-six and one thousand eight hundred and forty-nine, (both inclusive,) to recover Taxes accrued in such years respectively, and remaining due.

[10th August, 1850.]

WHEREAS there are considerable amounts of Local Taxes, Rates and Assessments accrued in Upper Canada, between the years one thousand eight hundred and thirty-six and one thousand eight hundred and forty-nine, both inclusive, still remaining due and unpaid; And whereas difficulties have arisen and doubts exist as to whether the several Collectors appointed for such years respectively, can now legally enforce payment of such arrears, and it is but fair and just that the parties assessed

Preamble.

and in arrear should be required to pay the Taxes due by them : Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any Collector or Collectors in office during the present or any future year in the Town, Township or place in and for which he or they may be such Collector or Collectors respectively, to demand, collect, levy, sue for, recover and receive, in the same way and by such means as any Collector or Collectors may then lawfully use for collecting, levying and recovering Local Taxes in Upper Canada, all such arrears of Taxes, Rates and Assessments as became due between the years one thousand eight hundred and thirty-six and one thousand eight hundred and forty-nine, (both years inclusive) and which now remain due and unpaid.

Collectors in office may collect arrears of former years.

Notice to the party in default, and mode of proceeding for enforcing payment, &c.

II. And be it enacted, That no person shall be sued for recovery of any such arrears until the same shall have been first demanded by the Collector or person specially appointed as aforesaid in the usual way, and four days (exclusive of the day of demand,) shall have elapsed without payment being made; and the Collector shall be the plaintiff in the suit or proceeding, which proceeding shall be by and before a Judge of the Division Court, or two Justices of the Peace, by summons and distress warrant in the usual way, or before the Judge of the County Court, who shall have power respectively to examine the parties themselves, if they or he deem it necessary, and their witnesses on oath, and to receive in evidence all such matters as they or he see fit to receive, in order to enable them to arrive at a just and equitable decision in the matter; and they or he shall have power to award to either party such reasonable costs as they or he may think proper, and also to allow the defendant to set off any money, produce, work or other matter heretofore paid, or delivered to, or performed by him for the Collector suing, or to or for the Collector who acted at the time when he became in arrear, if it shall appear to the said Justices or Judge, at the hearing of the case, that any such payment, delivery or performance was intended to be in satisfaction, either wholly or in part, of the arrears claimed, and the said Justices or Judge, as the case may be, shall decide according to the legal or equitable merits of each case; any law or usage to the contrary thereof in any wise notwithstanding.

Taxes so collected to be paid over to the proper treasurer.

III. Provided always, and be it enacted, That such Collectors as aforesaid, shall pay over the sums by them collected as aforesaid, to the Treasurer or other officer entitled to demand and receive the same, first deducting their lawful charges and allowances; and in default thereof, shall be subject to such penalties or legal proceedings as are provided by the laws of Upper Canada, with regard to Collectors failing to account for or pay over taxes due in the localities for which they are appointed.

CAP. LXX.

An Act to repeal the Enactment appropriating the proceeds of that portion of the Marriage License Fund arising in Upper Canada, to the support of certain specified Institutions only, and to leave the same at the disposal of Parliament for Upper Canadian purposes generally

[10th August, 1850.]

Preamble.

WHEREAS it is expedient to amend the Act hereinafter mentioned, so far as regards the appropriation of that portion of the Marriage License Fund arising in Upper Canada : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and*

and Lower Canada, and for the Government of Canada, and it is hereby enacted by the authority of the same, That the third section of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to provide for the payment of certain Rebellion Losses in Lower Canada, and to appropriate the proceeds of the Marriage License Fund*, shall be and is hereby repealed, and that the proceeds of that portion of the Marriage License Fund arising in Upper Canada, shall be at the disposal of the Provincial Parliament for purposes of public interest in that portion of the Province.

Sec. 3, of 9 Vic. c. 65, repealed, &c.

C A P . L X X I .

An Act to enable the Provincial Government to dispose of claims against certain Companies for Loans made to them under the authority of certain Acts of the Parliament of Upper Canada.

[10th August, 1850.]

WHEREAS the Government of this Province, or that of the Province of Upper Canada, hath at divers times, under the authority of Acts of the Legislature of Upper Canada, advanced or paid sums of money to or for Companies incorporated for the purpose of constructing canals, rail-roads, harbors, roads and other works and improvements of a public nature in Upper Canada, and such sums or part thereof, or the interest thereon or part thereof, remain due to the Province, and it is expedient to authorize the Provincial Government to dispose of the claim of the Province for any such sum as aforesaid, to any party who may be willing to purchase the same, and upon such terms as may be agreed upon between the Government and such party: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Governor in Council, by any Order in Council to be made for that purpose, to assign, transfer and convey to any Municipal Corporation, Incorporated Company or other party, who may agree to purchase the same, the claim of the Province for any sum of money due from any Company or party, and arising out of any such advance or payment as is mentioned in the preamble to this Act, on such conditions and with such clauses, provisions and limitations as shall be mentioned in such Order in Council, including the undertaking of any third party to become surety for the due payment of the consideration money, and the faithful performance of any conditions therein mentioned; and any such Order in Council shall transfer to and vest in the party therein named for that purpose, all the rights of the Crown in and to the debt or claim thereby intended to be transferred, and shall have effect according to the tenor thereof, as if the clauses, conditions and provisions thereof were inserted in this Act: and a copy of the *Canada Gazette* containing any such Order in Council, or any copy of such Order certified by the Provincial Secretary, shall be evidence thereof, and the consent and agreement of all the parties named therein shall be presumed, unless disputed by such parties, and if disputed, shall be proved by any copy of such Order in Council on which the consent of such parties shall be written and attested by such signature or seal, or both, as would be sufficient to make any deed or agreement the deed or agreement of such parties: and any Municipal Corporation in or through whose Municipality any such public work or improvement as is mentioned in the preamble to this Act, may lie or pass, is hereby empowered to purchase any claim of the Province upon the same, and to raise by assessment the sum necessary to pay the consideration agreed upon.

Preamble.

Governor in council may assign claims against companies, and how.

Evidence of such transfer.

Municipal corporations empowered to purchase.

CAP. LXXII.

An Act to amend and extend the provisions of an Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to authorize the formation of Joint Stock Companies for the construction of Roads and other Works in Upper Canada.*

[10th August, 1850.]

Preamble.

WHEREAS it is expedient and desirable, with a view to the introduction of British capital and enterprise into this Province, to amend and extend the provisions of an Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to authorize the formation of Joint Stock Companies for the construction of Roads and other Works in Upper Canada*, and to adapt the same to Rail and Tram Roads, and to enlarge the same so as to enable Companies of Her Majesty's subjects formed in Great Britain or Ireland to take the benefit thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the several powers and privileges in the said recited Act mentioned, as far as the same may be applicable, shall extend and be considered to apply to roads made of charcoal and to all Rail-roads or Tram Roads, whether the same shall be constructed of iron or wood or stone or partly of any of the said materials, and also to all companies formed or to be formed in Great Britain or Ireland, whether chartered, registered or otherwise legally constituted.

12 Vic c. 81, cited.

And extended to rail and tram roads, and to companies in the United Kingdom.

Amount of shares in such companies.

II. And be it enacted, That in any such Company, as shall or may be desirous of acting under the provisions of the said recited Act or this Act, the shares for the purposes of the said Acts, shall be of the same amount as those already mentioned in the charters, deeds of settlement or constitutions of any such Company, instead of the sum of five pounds in the said recited Act mentioned.

Commissioners to be appointed in Upper Canada.

III. And be it enacted, That any such Company in Great Britain or Ireland, desirous of acting under the provisions of the said Acts, or either of them, shall appoint one or more Commissioners in Upper Canada, who shall have the same powers and privileges, and act in the same manner, as if such Commissioners were Directors of such Company, duly elected, and acting under the provisions of the said Acts.

One to act as president and treasurer.

IV. And be it enacted, That any one of such Commissioners shall be also considered as the presiding officer and Treasurer of such Company, for the purposes in the second and fourth sections of the said Act mentioned.

Rail or tram road to be subject to any general rail road Act.

V. And be it enacted, That any rail or tram road to be erected or made under the provisions of this Act, shall be subject to such supervision and control by the Governor and Council of this Province, as well as to rates of toll and charges, as to all other matters relating to such rail or tram road, as shall or may at any time be directed by any statute passed or to be passed for the general supervision and control of Rail-roads in this Province.

Time for completing any rail road, &c.

VI. And be it enacted, That for and notwithstanding any thing in the twenty-first section of the said recited Act, the time for completing any Rail or Tram road shall be extended to the period of five years.

How suits may be brought against such companies.

VII. And be it enacted, That any suit, action or proceeding, for any cause of action arising under or out of the provisions of this Act, shall and may be brought against any such Company of Great Britain or Ireland by service of any process or proceeding upon any Commissioner of such Company resident in Upper Canada.

CAP. LXXIII.

An Act to establish a Board of Agriculture in Upper Canada.

[10th August, 1850.]

WHEREAS the improvement of Agriculture is an object of the first importance to the people of this Province; and whereas the establishment, by law, of a Board of Agriculture in Upper Canada, to collect and disseminate statistical and other useful information concerning the agricultural interests and resources of the country, would greatly promote such improvement: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That a Board of Agriculture shall be established in Upper Canada, and may consist of ten members, of whom five shall be a quorum.

Preamble.

Board of agriculture established.

II. And be it enacted, That the Inspector General of the Province and the Professor of Agriculture in the University of Toronto, shall be ex-officio members of the said Board.

Ex-officio members.

III. And be it enacted, That the Chairman of the said Board shall be elected annually by the members thereof, which election shall be made at the first regular meeting held after the presentation of the Annual Report hereinafter mentioned: provided that the first Chairman may be elected at the first meeting of the members of the Board.

Chairman to be elected annually.

IV. And be it enacted, That the other seven members of the Board shall be chosen as follows: the Directors of each County Agricultural Society in Upper Canada shall, at their first regular meeting next after the annual meeting of the Society, elect seven persons residing in the vicinity of, or at convenient distances from the City of Toronto, to be members of the said Board of Agriculture, and their names shall be entered in the journal of the Society, and the Secretary of the Society shall, within one week thereafter, transmit to the Provincial Secretary a list of the said names, certified by the President of the Society, or in his absence by one of the Vice-Presidents, and also by the Secretary, to be a correct list of the names of the persons so elected to be members of the Board; and the Provincial Secretary shall, in the month of June next after he shall have received six county lists, cause to be made a full list, to be called the "Board List," of all the names upon the several county lists, setting opposite each name the number of county lists on which the same shall be found, and placing those receiving a higher number of votes above those receiving a lower number of votes; and the seven persons who shall have received the greatest number of county votes shall be members of the said Board of Agriculture: and if it shall be necessary in order to fill up the Board to choose between persons having an equality of votes, the Provincial Secretary shall make such choice, and shall immediately notify the several members of their election, and name the day for their first meeting. And the said Board List and County Lists shall, after the election of the first Board, be transferred to the Secretary of the Board of Agriculture, and together with all future lists shall at all times, during office hours, be open to inspection.

Mode of first election of the other seven members of the board.

List to be open to inspection.

V. And be it enacted, That any person elected to be a member of the said Board, shall be liable to serve during his term, unless he shall signify his refusal to act by written notice to the person who shall have notified him of his election, within ten days after receiving such notice of election, and in case of any such refusal to act, the person next highest on the Board List shall fill the vacancy caused thereby: Provided that if at the first, or any future election, so many refuse to act, that a full Board cannot be had from the persons nominated by the County Societies, it shall be lawful for the Governor in Council to fill up the Board.

Persons elected may refuse within ten days after notice.

Proviso:

Provision for subsequent elections of members of the board.

VI. And be it enacted, That the retiring Directors and Officers of the County Societies at the next annual meeting but one of the said Societies, after the election of the first Board, and at each annual meeting thereafter, shall elect two persons in the same manner as is hereinbefore provided for the election of the first members, and shall transmit a list of their names properly certified to the Secretary of the Board of Agriculture, and the two persons who shall have received the greatest number of county votes, or in case of an equality of votes for more than two persons, the two whose surnames begin with letters standing highest in the alphabet, shall be members of the said Board; and their names placed at the top of the Board List, and the two members of the Board standing lowest on the Board List, shall thereupon retire, unless re-elected.

Penalty on member neglecting to attend two successive meetings.

VII. And be it enacted, That if any member of the Board elected as aforesaid, and who shall not within ten days after notice of his election have refused to act as hereinbefore mentioned, shall neglect to attend the regular meetings of the Board twice in succession, without reasonable excuse, of which the Board shall judge, he shall cease to be a member of the Board.

Board may appoint a chairman *pro tempore* and a secretary.

VIII. And be it enacted, That it shall be lawful for the said Board, at any meeting from which the Chairman shall be absent, to appoint one of their number Chairman *pro tempore*; and the said Board may also appoint a Secretary, who need not be a member of the Board, and shall be *ex-officio* Secretary of the Provincial Agricultural Association, and shall have an office in the City of Toronto; and the said Secretary shall have charge of the books and papers of the Board, and shall perform such duties as the Board may direct.

Holding and calling regular meetings.

IX. And be it enacted, That the regular meetings of the Board shall be held pursuant to adjournment, or be called by the Secretary upon the advice of the Chairman, or upon the written request of any three members of the Board, in which latter case the special object of the meeting shall be stated by the members requesting a meeting, and in all cases, besides a written notice to each member of the Board, a notice of each meeting shall be published in some public newspaper in Toronto, at least ten days before the day of such meeting; and the Chairman and members elected as aforesaid shall be entitled to be repaid, out of any of the funds at the disposal of the Board, their necessary expenses actually incurred in coming to, attending at, and returning from the regular meetings of the said Board: Provided that the amount paid to any member on account of such expenses shall not exceed the sum of Ten Pounds Currency in any one year.

Members to be paid their expenses.

Proviso.

X. And be it enacted, That the members of the Board elected as aforesaid, and the Presidents of the several County Societies, shall be the Directors of the Provincial Agricultural Association; and the said Board shall be the Council of the Association, and may have and exercise all the powers of the Directors thereof, in the interval between the annual meetings of the said Directors.

Who shall be directors of the Provincial agricultural association.

Board to collect information, &c., and report annually to the Legislature.

XI. And be it enacted, That it shall be the duty of the said Board to examine into, and collect information upon, such questions as concern the agricultural interests of the Province, and to take such means as they may think best to promote those interests. And they shall prepare yearly a report of their transactions, together with such extracts from the reports of the County and Township Societies, and such of the proceedings of the Provincial Agricultural Association, as the Board may deem interesting and useful to the public: and the said report, with the suggestions and recommendations of the Board, shall, at the Session then next, be laid before Parliament, and published in such manner as the Legislature may direct.

Board to prepare plan for establishing illustrative farm, &c.

XII. And be it enacted, That it shall be the duty of the said Board to prepare as soon as practicable, and present to the Legislature, a plan for establishing an experimental or illustrative farm in connection with the Chair of Agriculture in the University of Toronto, or in connection with the Normal School, or otherwise, as they may deem best; and to make any recommendations they may think expedient for extending agricultural education throughout the Province.

CAP. LXXIV.

An Act for the protection of the Indians in Upper Canada from imposition, and the property occupied or enjoyed by them from trespass and injury.

[10th August, 1850.]

WHEREAS it is expedient to make provision for the protection of the Indians in Upper Canada, who, in their intercourse with the other inhabitants thereof, are exposed to be imposed upon by the designing and unprincipled, as well as to provide more summary and effectual means for the protection of such Indians in the unmolested possession and enjoyment of the lands and other property in their use or occupation: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That no purchase or contract for the sale of land in Upper Canada, which may be made of or with the Indians or any of them, shall be valid unless made under the authority and with the consent of Her Majesty, Her Heirs or Successors, attested by an Instrument under the Great Seal of the Province, or under the Privy Seal of the Governor thereof for the time being.

Preamble.

Purchases of land from Indians not valid without the consent of the Crown.

II. And be it enacted, That if any person, without such authority and consent, shall in any manner or form, or upon any terms whatsoever, purchase or lease any lands within Upper Canada of or from the said Indians, or any of them, or make any contract with such Indians, or any of them, for or concerning the sale of any lands therein, or shall in any manner, give, sell, demise, convey or otherwise dispose of any such lands, or any interest therein, or offer so to do, or shall enter on, or take possession of, or settle on any such lands, by pretext or colour of any right or interest in the same, in consequence of any such purchase or contract made or to be made with such Indians or any of them, unless with such authority and consent as aforesaid, every such person shall, in every such case, be deemed guilty of a misdemeanor, and shall, on conviction thereof before any Court of competent jurisdiction, forfeit and pay to Her Majesty, Her Heirs or Successors, the sum of Two Hundred Pounds, and be further punished by fine and imprisonment, at the discretion of the Court.

Such purchase without consent to be a misdemeanor.

Penalty.

III. And be it enacted, That no person shall take any confession of Judgment or Warrant of Attorney from any Indian within Upper Canada, or by means thereof, or otherwise howsoever obtain any judgment for any debt or pretended debt, or upon any bond, bill, note, promise or other contract whatsoever, unless such Indian shall be seized in fee simple in his own sole right of real estate in Upper Canada, the title to which shall be derived directly or through others by Letters Patent from the Crown, and shall be assessed in respect of such real estate to the amount of twenty-five pounds or upwards.

Confessions of judgment, &c., not to be taken from Indians.

Exception.

IV. And be it enacted, That no taxes shall be levied or assessed upon any Indian or any person inter-married with any Indian for or in respect of any of the said Indian lands, nor shall any taxes or assessments whatsoever be levied or imposed upon any Indian or any person inter-married with any Indian so long as he, she or they shall reside on Indian lands not ceded to the Crown, or which having been so ceded may have been again set apart by the Crown for the occupations of Indians.

Taxes and assessments not to be levied on Indians.

V. And be it enacted, That notwithstanding any thing in this Act contained, Indians and persons inter-married with Indians, residing upon any such Indian lands and engaged in the pursuit of agriculture as their then principal means of support, shall be liable, if so directed by the Superintendent General, the Assistant Superintendent General, or by any Subordinate Superintendent of Indian Affairs, who may, for the time being,

As to performance of statute labour by Indians.

be charged with the subordinate superintendence of such Indians and persons inter-married with Indians as aforesaid, or by any such Commissioner or Commissioners, to perform labour on the public roads laid out or used in or through such Indian lands, such labour to be performed under the sole control of the said Superintendents or Commissioners, or of any or either of them, who shall have power to direct when, where, how and in what manner the said labour shall be applied, and to what extent the same shall be imposed upon Indians or persons inter-married with Indians, who shall be resident upon any of the said lands, and that the said Superintendents and Commissioners, and every of them, shall have the like power to enforce the performance of all such labor by imprisonment or otherwise as may now be done by any power or authority under any law, rule or regulation in force in this Province for the non-performance of Statute labour: Provided always, nevertheless, that the labour to be so required of any such Indian or person inter-married with an Indian, shall not exceed in amount or extent what shall or may be required of other inhabitants of Upper Canada, under the general laws requiring and regulating such labour and the performance thereof.

Proviso: as to amount of labour.

No spirituous liquors to be furnished to Indians.

Penalty.

How recovered and appropriated.

Proviso.

Pawns not to be taken for liquor.

Recital.

Indian presents not to be purchased from them.

Commissioners and Superintendents of Indians to be Justices of the Peace.

VI. And be it enacted, That it shall not be lawful for any person to sell, barter, exchange or give to any Indian, man, woman or child, within this Province, any kind of spirituous liquors in any manner or way, or to cause or procure the same to be done for any purpose whatsoever; and that if any person shall so sell, barter, exchange or give any such spirituous liquors to any Indian, man, woman or child as aforesaid, or shall cause the same to be done, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined at the discretion of the Court, not exceeding five pounds for every such offence, and shall forfeit also the sum of one pound five shillings for every such offence, to be recovered as in an action of debt with costs in any Court of competent jurisdiction, by any one who will sue for the same, one moiety of every such last mentioned pecuniary penalty or forfeiture to go to the informer or prosecutor, and the other moiety thereof to be paid to Her Majesty, Her Heirs or Successors, or to some officer acting under Her authority, to be disposed of for the use and benefit of the Indians, as the Governor of this Province for the time being may be pleased to direct: Provided always, nevertheless, that no such penalty shall be incurred by the furnishing to any Indian, in case of sickness, any spirituous liquor, either by a medical man or under the direction of any such medical man.

VII. And be it enacted, That no pawn taken of any Indian for any spirituous liquor, shall be retained by the person to whom such pawn shall be delivered, but the thing so pawned may be sued for and recovered, with costs of suit, by the Indian who may have deposited the same, before any Court of competent jurisdiction.

VIII. And whereas certain tribes of Indians in Upper Canada receive annuities and presents, which annuities, or portions thereof, are expended for and applied to the common use and benefit of the said Tribes, more especially for the encouragement of agriculture and other civilizing pursuits among them, although the articles so required or purchased out of such annuities, may be and often necessarily are, in the possession or control of some particular Indian or Indians of such Tribes, and it is important with a view to the progress and welfare of such Tribes, that the property thus acquired or purchased should be protected from seizure, distress or sale, under or by virtue of any process whatsoever: Be it therefore enacted, That none of such presents or of any property purchased or acquired with or by means of such annuities, or any part thereof, or otherwise howsoever, and in the possession of any of the Tribes or any of the Indians of such Tribes, shall be liable to be taken, seized or distrained for any matter or cause whatsoever.

IX. And be it enacted, That the Commissioners appointed under the Acts of Parliament in the next section of this Act mentioned, or either of them, and the different Superintendents of the Indian Department, either now in office or who may hereafter be appointed to either of such offices shall, by virtue of their office and appointment, be Justices of the Peace within the County, or United Counties, within which, for the time being, they or any or either of them, may be resident or employed as such Commissioners

Commissioners or Superintendents, without any other qualification; any law to the contrary notwithstanding.

X. And whereas for the purpose of affording better protection to the Indians in the unmolested possession and enjoyment of their lands, it is expedient to give more summary and effectual powers to the Commissioners appointed or who may be appointed by virtue of the Act of the Province of Upper Canada, passed in the second year of Her Majesty's Reign, chaptered fifteen, and intituled, *An Act for the protection of the lands of the Crown in this Province from trespass and injury*, and also by virtue of the Act of this Province, passed in the twelfth year of Her Majesty's Reign, chaptered nine, and intituled, *An Act to explain and amend an Act of the Parliament of the late Province of Upper Canada, passed in the second year of Her Majesty's Reign, intituled, 'An Act for the protection of the lands of the Crown in this Province from trespass and injury, and to make further provision for that purpose,'* to enable them more efficiently to protect the said lands from trespass and injury, and to punish all persons trespassing upon or doing damage thereto: Be it therefore enacted, That it shall not be lawful for any person or persons other than Indians, and those who may be inter-married with Indians, to settle, reside upon or occupy any lands or roads or allowances for roads running through any lands belonging to or occupied by any portion or Tribe of Indians within Upper Canada, and that all leases, contracts and agreements made or to be made, purporting to have been or to be made, by any Indians, or by any person or persons inter-married with any Indian or Indians whereby any person or persons other than Indians shall be permitted to reside upon such lands, shall be absolutely void; and if any person or persons other than Indians, or those who may be inter-married with Indians as aforesaid, shall without the license of the said Commissioners or any or either of them, (which license, however, the said Commissioners or any of them, may at any time revoke,) settle, reside upon or occupy any such lands, roads or allowances for roads, it shall be the duty of the Commissioners or any or either of them, on complaint made to them or any of them, and on due proof of the fact of such settlement, residence or occupation, to issue their or his warrant under their hands and seals, or his hand and seal, directed to the Sheriff of the County, or Union of Counties in which the said lands may lie, or if the said lands may not be situated within any County or Union of Counties, then such warrant shall be directed to any literate person who may be willing to act in the premises, commanding him forthwith to remove all such persons settling, residing upon or occupying such lands, with his, her or their families, from the said lands or roads or allowances for roads, and it shall be the duty of such Sheriff, or other person accordingly, to remove such person or persons, and for that purpose he shall have and possess the same powers as in the execution of criminal process: Provided always, nevertheless, that the provisions in this and the two following sections of this Act contained, shall extend and be construed to extend to such Indian lands only as the Governor of this Province for the time being shall from time to time, by Proclamation under the Great Seal thereof, think fit to declare and make subject to the same, and so long only as such Proclamation shall remain unrevoked and in full force.

XI. And be it enacted, That so often as any person or persons after being or having been removed as aforesaid, shall return to settle, reside upon or occupy any of the said lands or roads or allowances for roads, the said Commissioners or any or either of them, upon their or his view, or upon proof by any witness or witnesses on oath, to be made or taken before the Commissioners or any or either of them, and upon their or his being satisfied that the said person or persons has or have returned to, settled, resided upon or occupied any of the said lands or roads or allowances for roads, then and in every such case, such Commissioners or Commissioner shall direct and send their or his warrant, under their hands and seals or his hand and seal, to the Sheriff of the County or Union of Counties within which such lands may lie, or to any literate person there, or if the said lands shall not be situated within any County or Union of Counties, then to any literate person, commanding him forthwith to arrest such person or persons, and

Recital.

U. C. 2 Vict. c. 15.

Canada.
12 Vict. c. 9.

None but Indians or those inter-married with them to reside on Indian lands.

Provision for the removal of persons contravening this section.

Proviso: to what lands this section shall extend.

Proceedings if persons so removed return to such lands.

Arrest of such person.

to commit him, her or them to the Common Gaol of the said County or Union of Counties in which the said lands may lie, or to the Common Gaol of the nearest County or United Counties to the said lands, if the said lands shall not be within any County or United Counties, there to remain for such time as shall be ordered by the Commissioners or by any or either of them, not exceeding thirty days; and such Sheriff or other person shall accordingly arrest the said party or parties, and deliver him, her or them to the Gaoler or Sheriff of the said County or United Counties as aforesaid, who are hereby required to receive such person or persons, and the said person or persons to confine and imprison in the said Common Gaol for the term aforesaid, there to remain without bail and without being entitled to the liberties of the limits of the said Gaol; and such Commissioners or any of them shall cause the judgment or order against such person or persons to be drawn up, and no such judgment shall be liable to be removed by *Certiorari* or otherwise, or to be appealed from, but shall be deemed and taken to be final.

No *certiorari* allowed.

Punishment of persons cutting timber on and doing damage to Indian lands.

XII. And be it enacted, That if any person without the license in writing of the Commissioners or of any or either of them, shall hereafter trespass upon any of the said lands or roads or allowances for roads, by cutting any trees, saplings, shrubs, underwood or timber thereon, or by carrying away or removing any of the trees, saplings, shrubs, underwood or timber therefrom, or by removing any of the stone or soil of the said lands, roads or allowances for roads, each person so trespassing shall for every tree he shall cut, carry away or remove, forfeit and pay the sum of five pounds, and for cutting, carrying or removing any of the saplings, shrubs, underwood or timber, under the value of five shillings, the sum of one pound, but if over the value of five shillings, then the sum of five pounds, and for removing any of the stone or soil aforesaid, the sum of five pounds, such fine to be imposed and recovered by the said Commissioners or any or either of them, by distress and sale of the goods and chattels of the party or parties fined, or the said Commissioners may, without proceeding by distress and sale as aforesaid, upon the non-payment of the said fine, order the party or parties to be imprisoned in the Common Gaol as aforesaid, for a period not exceeding thirty days, when the fine shall not exceed five pounds, or for a period not exceeding three calendar months, when the fine shall exceed the sum of five pounds; and upon the return of any warrant for distress or sale, if the amount thereof have not been made, or if any part of it may remain unpaid, the said Commissioners or any or either of them, may commit the party or parties who may be in default upon such warrant or warrants to the Common Gaol as aforesaid, for a period not exceeding thirty days, if the sum claimed by the said Commissioners upon the said warrant do not exceed five pounds, or for a time not exceeding three calendar months, if the sum claimed do exceed five pounds; all which fines shall be paid to Her Majesty, Her Heirs or Successors, or to some officer acting under Her authority, to be disposed of for the use and benefit of the Indians, as the Governor of this Province for the time being may be pleased to direct.

Penalties.

Imprisonment if the penalty cannot be levied.

Application of penalties.

Recital.

Provision where the name of any person to be proceeded against under this Act cannot be ascertained.

XIII. And whereas great difficulty has been experienced by the said Commissioners in carrying into effect the several Acts relating to Indian lands, by reason of persons giving false names or concealing their names, and it is expedient that the Commissioners should be enabled to proceed without difficulty in this respect: Be it therefore enacted, That in all orders, writs, warrants, summonses and proceedings whatsoever to be made, issued or taken by the Commissioners or any or either of them, under this or any other Act whatsoever, it shall only be necessary for the Commissioners or such of them as may be acting, to insert or express the name or names of the person or persons summoned, arrested, distrained upon, imprisoned or otherwise proceeded against in any of such orders, writs, warrants, summonses or proceedings, when the name or names of such person or persons shall be truly given to or known by the said Commissioners, or such of them as may be acting in that behalf, and if the name or names be not truly given to or known by the Commissioners, then the Commissioners or such of them as shall be acting in that behalf, shall be at liberty to name or describe the person or persons by any part of the name or names of such person or persons

persons which may be given to or known by them, or such of them as may be so acting ; but if no part of the name or names be given to or known by the said Commissioners, or such of them as shall be so acting, they or such of them as shall be acting may describe the person or persons proceeded against in any manner by which he, she or they may be capable of being identified ; And it is hereby declared that all such proceedings as aforesaid, containing the name or description, or purporting to give the name or description of any such person as aforesaid, according to this Act, shall *prima facie* be deemed to be sufficient ; any thing to the contrary notwithstanding.

XIV. And be it enacted, That all Sheriffs, Gaolers and Peace Officers, to whom any such process shall be so directed by such Commissioners or any or either of them, are hereby required to obey the same, and all other Officers upon reasonable requisition to be aiding and assisting in the execution thereof.

Sheriff, &c., to obey process.

C A P . L X X V .

An Act for the protection of Mill-owners in Upper Canada.

[24th July, 1850.]

WHEREAS it often happens that persons purchase Crown Lands and Clergy Reserves in Upper Canada from the Crown, which, at the time of the purchase, and of the issuing of the patent therefor, were in the whole or in part overflowed by the waters of some mill stream, in consequence of the erection and continuation of Mill Dams thereon : And whereas it often happens that such persons, at the time they purchase such Lands, are well aware of their being so overflowed, and have in consequence thereof obtained a reduction or allowance in the price paid for the same, but, nevertheless, obtain Patents for the whole of such Lots, and afterwards bring actions against the proprietors or occupiers of the Mills for the use of which such Dams have been erected : For remedy thereof, Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That when in any action hereafter to be brought against the proprietor or occupier of any Mill, for the overflowing of, or injury to any Land, caused by the erection or continuation of any Dam for the purposes of such Mill, it shall appear that such overflowing or other injury was caused by the erection or continuation of a Dam which was built before the purchase by, and grant thereof to the Grantee of the Crown of such Land, and that such purchaser obtained a reduction in the price of such Land, or was otherwise indemnified in consequence of its being so overflowed or otherwise injured, then, the Jury on the trial of any such cause may take such facts into their consideration, and if they think it just and equitable, may, in consequence thereof, find a verdict for the Defendant in any suit so to be brought.

Preamble

Grantee of Crown not to recover damages for injury caused to lands by dam erected before patent issued in certain cases.

II. And be it enacted, That in any such action, it shall and may be lawful for the Defendant to plead the general issue, and under such plea, on entering a note of this Act in the margin thereof, to avail himself of this Act and of the matters of defence herein given.

Defendant may plead the general issue, &c.

III. And be it enacted, That this Act shall extend to Upper Canada only.

Extent of Act.

CAP. LXXVI.

An Act to authorize the formation of Companies for the establishment and management of Cemeteries in Upper Canada.

[10th August, 1850.]

Preamble.

WHEREAS it hath become necessary to the health of many Towns in Upper Canada, that Public Cemeteries should be established near to, but without the limits of the said Towns, upon the plan now adopted by the Inhabitants of many of the Cities in Europe and America: And whereas the delay and expense incident upon obtaining a special Act for each Company operate as a great discouragement to persons desirous of founding such Cemeteries: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That any number of persons, not less than twenty respectively, may, in Upper Canada, form themselves into a Company under the provisions of this Act for the purposes aforesaid.

Formation of a cemetery company.

After certain formalities they shall be a body corporate, &c.

II. And be it enacted, That when any number of persons not less than twenty shall have subscribed, and paid in a sufficient quantity of stock to amount to a sum adequate in their judgment to the purchase of the ground required for a Cemetery, and shall have executed an instrument according to the form in the Schedule A, to this Act contained, and shall have paid to the Treasurer of such intended Cemetery twenty-five per cent. upon the capital stock intended by such Company to be raised for the purpose aforesaid, which sum shall not be less than that required for the purchase of the grounds necessary for such Cemetery, and shall have registered such instrument at full length, together with a receipt from the Treasurer of such Company, for such first instalment of twenty-five per cent. as aforesaid, with the Register of the County in which the grounds to be purchased shall be situate, such Company shall thenceforth become and be a body corporate by such name as shall be designated in the instrument so to be registered as aforesaid; and by such name, they and their successors shall and may have perpetual succession, and shall be capable, both at law and in equity, of suing and being sued, of impleading and being impleaded, answering and being answered unto, defending and being defended in all Courts of law and equity, and places whatsoever, in all manner of actions, suits, complaints and causes whatsoever; and they and their successors may have a common seal, and the same may make, alter and change at their will and pleasure, and they and their successors by their corporate name, shall be capable of taking, purchasing, having, holding, conveying, selling and departing with, any piece or parcel of land in Upper Canada to be used exclusively as a Cemetery, or a place for the burial of the dead.

Corporate powers.

Property of company to be managed by nine directors to be elected by ballot.

III. And be it enacted, That the affairs, property and concerns of every such Company which shall or may be formed under the provisions of this Act, shall be managed by nine Directors, a majority of whom shall form a quorum capable of doing business, which said Directors shall be chosen by ballot from among the subscribers to the said instrument so to be registered as aforesaid, and thereafter to be annually elected by the said stockholders on the third Monday in January in each and every year; and that upon the first and every such election of Directors, each shareholder shall be entitled to one vote for every share he may hold or be possessed of up to ten, and one vote for every five shares above ten; but no stockholder shall be allowed to vote at any election unless he shall have paid at least ten shillings upon each lot or share he may hold.

Lots to be not less than one hundred superficial feet.

IV. And be it enacted, That every lot or share in the said Cemetery shall contain not less than one hundred superficial feet, and every person holding such lot or share, and having paid as before provided, shall be deemed and taken to be a shareholder, and every shareholder

shareholder who shall have paid in a sum not less than two pounds, shall be eligible for a Director.

V. And be it enacted, That the Directors, or a majority of them, shall, at their first meeting, elect one of their number to be President of the said Company, and the President, if present, (or if he be not present, then some Director chosen for the occasion) shall preside at all meetings, and in cases of equality shall have the casting vote : And the said Directors may pass By-laws for the laying out, selling, and management of the grounds required for the Cemetery,—for regulating the erection of tombs, monuments, or grave-stones therein, and for empowering the President to execute deeds or conveyances of plots of ground in the Cemetery to shareholders,—and shall keep a book in which shall be recorded all By-laws and proceedings, and to which any person shall have access for the purpose of searching and making extracts therefrom without payment of any fee whatsoever.

VI. And be it enacted, That the real estate of any Company formed under the provisions of this Act, and the lots or plots when conveyed by the Company to individual proprietors, shall be exempt from taxation or assessment of any kind, and not liable to be seized or sold on execution, or attached or applied to the payment of debts by assignment under any bankrupt or insolvent law that all lots or plots of ground when conveyed and numbered as lots by any Company formed under the provisions of this Act, shall be indivisible, but may afterwards be held and owned in undivided shares : and one half of the proceeds of all sales made by any such Company shall be first applied to the payment of the purchase money of the land acquired by such Company, and the residue thereof to preserving, improving and embellishing the land as a Cemetery, or burial ground, and to the incidental expenses of the Cemetery Establishment : and after payment of such purchase money, the proceeds of all future sales shall be applied to the preservation, improvement and embellishment of the Cemetery, and the incidental expenses thereof and to no other purpose whatever : And no dividend or profit of any kind shall be paid by any such Company to any member or members thereof : Provided nevertheless, that the Directors of said Company shall be personally liable for any judgment recovered against the said Company.

VII. And be it enacted, That any Company formed as aforesaid shall furnish graves for strangers and the poor of all denominations, free of charge, on the certificate of a Minister or Clergyman of the denomination to which such person may have belonged, that the relatives of the deceased are poor and cannot afford to purchase a lot in the Cemetery ; and the Directors of any such Company may sell any lot of any size whatever, but no party being proprietor of a lot containing a less quantity than one hundred superficial feet, shall thereby become a Member of the said Company, or have any voice in the management of the affairs thereof.

VIII. And be it enacted, That the lots sold by any Company formed as aforesaid, shall be conveyed by a Deed, in the form in the Schedule to this Act marked B, which conveyance shall not require to be registered for any purpose whatever, nor shall it be affected by any Registry Act now in force in Upper Canada, nor shall any judgment, mortgage or incumbrance in any wise subsist on any lot so conveyed.

IX. And be it enacted, That any person who shall wilfully destroy, mutilate, deface, injure or remove any tomb, monument, grave-stone or other structure placed in any Cemetery, or any fence, railing or other work for the protection or ornament of any Cemetery, or of any tomb, monument, grave-stone or other structure aforesaid, or of any Cemetery lot within any Cemetery, or shall wilfully destroy, cut, break or injure any tree, shrub or plant, within the limits of any Cemetery, or play at any game or sport, or discharge fire arms (save at a military funeral) in any such Cemetery, or who shall wilfully and unlawfully disturb any persons assembled for the purpose of burying any body therein, or who shall commit any nuisance in any such Cemetery, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof before any Justice of the Peace, or other Court of competent jurisdiction, be punished by a fine of not less than one pound nor more than ten pounds, according to the nature of the offence ; and such offender

Election of president.

By-laws.

Register to be kept.

Real estate of company exempt from taxation, &c.

Application of proceeds of sales.

No dividends allowed.

Proviso: liability of directors.

Graves to be furnished gratis for strangers and poor.

Lots to be conveyed in form of schedule B.

Penalty on persons defacing tomb-stones, &c.

offender shall also be liable to an action of trespass, to be brought against him in any Court of competent jurisdiction, in the name of any such Corporation aforesaid, to pay all damages which shall have been occasioned by his unlawful act or acts; which money, when recovered, shall be applied under the direction of the Directors for the reparation and reconstruction of the property destroyed, and members of any such Company may be competent witnesses in such suits.

Application of penalties.

Funerals to be decently performed.

X. And be it enacted, That every Company formed as aforesaid shall make regulations for ensuring that all burials within its Cemetery are conducted in a decent and solemn manner.

Where bodies may be buried.

XI. And be it enacted, That no body shall be buried in any vault under any chapel or other building in any such Cemetery, nor within fifteen feet of the outer wall of any such chapel or building.

Cemetery to be enclosed.

XII. And be it enacted, That every part of every such Cemetery shall be enclosed by walls or other sufficient fences of the height of eight feet at least.

Cemetery to be kept in good repair.

XIII. And be it enacted, That every Company formed as aforesaid shall keep its Cemetery, and the buildings and fences thereof, in complete repair and in good order and condition out of the moneys to be received by it in virtue of this Act.

Company to make all necessary sewers, &c.

XIV. And be it enacted, That every Company formed as aforesaid shall make all proper and necessary sewers and drains in and about its Cemetery for draining it and keeping it dry: and they may from time to time, as occasion requires, cause any such sewer or drain to open into any existing sewer with the consent in writing of the persons having the management of the street or road, and of the owners or occupiers of the lands through which such opening is made, doing as little damage as possible to the road or ground wherein such sewer or drain may be made, and restoring it to the same or as good condition as it was in before being disturbed.

Penalty on company contaminating any river, &c.

XV. And be it enacted, That if any Company formed as aforesaid at any time cause or suffer to be brought or to flow into any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place, any offensive matter from their Cemetery, whereby the water therein shall be fouled, the Company so offending shall forfeit for every such offence the sum of Twelve Pounds Ten Shillings currency.

Recovery and application of penalties.

XVI. And be it enacted, That the said penalty, with full costs of suit, may be recovered by any person having right to use the water fouled by such offensive matter by a civil action in any Court of competent jurisdiction: Provided always, that the said penalty shall not be recoverable unless the same be sued for during the continuance of the offence, or within six months after it has ceased.

Damages may be recovered in addition to penalties.

XVII. And be it enacted, That in addition to the said penalty of Twelve Pounds Ten Shillings (and whether the same be recovered or not) any person having right to use the water fouled by such offensive matter may sue the Company in a civil action in any Court of competent jurisdiction for any damage specially sustained by him by reason of the water being so fouled; or, if no special damage be alleged, for the sum of Two Pounds Ten Shillings for each day during which such offensive matter is brought or flows as aforesaid, after the expiration of twenty-four hours from the time when notice of the offence is served upon the Company by such person.

Directors may call for instalments.

XVIII. And be it enacted, That the Directors of any Company formed under the provisions of this Act shall have full power to call for instalments on the sums which shall be subscribed for, and to appoint a time for the payment thereof, and if the same shall not then be paid, the right of any subscriber, and every instalment he may have formerly paid, shall be forfeited, and he shall be held not to have subscribed, unless the Directors shall think it expedient to remit such forfeiture, which they may do in their discretion, if the instalments be paid with interest within one year after the day when it ought to have been paid.

Public Act.

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

SCHEDULE A.

Be it remembered, that on this _____ day of _____ in the year of our Lord one thousand eight hundred and _____ We, the undersigned, Stockholders, met at _____ in the County of _____ in the Province of Canada, and resolved to form ourselves into a Cemetery Company, to be called _____ according to the provisions of an Act of Parliament, intituled, *An Act, &c.* (insert the title of this Act) and we do hereby agree that the Capital Stock of the said Company shall be _____ pounds, to be divided into shares of _____ pounds each, entitling the holder to one hundred superficial feet; and we, the undersigned Stockholders, do hereby agree to accept and take the number of Shares set by us opposite to our respective signatures, and we do hereby agree to pay the calls thereon, according to the provisions of the said Act, and of the Rules, Regulations and By-laws of the said Company, to be made in that behalf.

NAME.	No. OF SHARES.	AMOUNT.

B.

Know all men by these presents, That the _____ Cemetery, in consideration of _____ Pounds, paid to them by _____, of _____, the receipt whereof is hereby acknowledged, do grant unto the said _____, his heirs and assigns, _____ Lot of Land in the Cemetery of the said Company, called _____, and situate in the County of _____, which Lot is delineated and laid down on the map of the said Cemetery, and which said Lot is therein designated by the name of _____ containing by admeasurement _____ superficial feet; To have and to hold the herein above named premises, &c.

CAP. LXXVII.

An Act to permit Lands in Upper Canada to be conveyed to Trustees for Burial Places.

[10th August, 1850.]

WHEREAS in many parts of Upper Canada the inhabitants are desirous of securing the title to land requisite for a burying ground, which shall not belong exclusively to any of the various denominations of Christians, and that the same should be taken and held by Trustees acting in a corporate capacity, and having perpetual succession: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That whenever any of the inhabitants of any township or locality in Upper Canada,

Preamble.

Land for such burying grounds may be vested in trustees.

Canada, to the number of ten or more, shall desire to take a conveyance of land for the purpose mentioned in the Preamble to this Act, it shall and may be lawful for them to appoint Trustees, to whom, and their successors to be appointed in such manner as shall be specified in the deed conveying the same to them, the land requisite for the purposes aforesaid may be conveyed: and such Trustees, and their successors in perpetual succession, by the name expressed in such deed, shall be capable of taking, holding and possessing such land, in trust to and for the uses and purposes limited in such deed, and of commencing and maintaining any action or proceeding in law or equity for the protection thereof, and of their right in and to the same: Provided there shall not be held in trust under any such conveyance for the purposes aforesaid, more than ten acres of land for the inhabitants of any one township or locality.

Proviso: extent limited

CAP. LXXVIII.

An Act to authorize the Trustees holding Land upon which Churches are erected in Upper Canada to mortgage the same to pay off the Debts due by such Churches.

[10th August, 1850.]

Preamble.

WHEREAS it frequently happens that the Trustees who hold lands in a corporate capacity for the site of a Church, Meeting House or Chapel for some of the religious denominations in Upper Canada under various public and private Acts of Parliament, contract debts for the building, repairing and improving such Churches, Meeting Houses or Chapels, and may be desirous of mortgaging the land they may so hold to secure the payment of such debts; Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the government of Canada*, and it is hereby enacted by the authority of the same, That whenever any debt shall have been or may hereafter be contracted, for the building, repairing, extending or improving of any Church, Meeting House or Chapel erected or to be erected upon lands held by Trustees for the benefit of any Religious Society in Upper Canada which by law may take land for such purpose, or for the purchase of the land on which the same is erected, the Trustees for the time being, or a majority of them, may from time to time, as may be necessary, obtain by way of loan or loans from any person or party whomsoever, such sum of money as shall be sufficient to discharge such debts or any part thereof, and may secure the repayment of such loan or loans and interest by mortgage upon the lands, Churches, Meeting Houses or Chapels which may be respectively held by them as aforesaid, upon such terms as may be agreed upon: Provided always, that the said Trustees or a majority of them may give such mortgage directly to any party to whom such debts may be owing.

Trustees holding such lands may mortgage the same for certain purposes.

Proviso.

CAP. LXXIX.

An Act to amend the Act to encourage the establishment of certain Societies commonly called Building Societies, in that part of the Province of Canada formerly constituting Upper Canada.

[10th August, 1850.]

Preamble.

9. Vict. c. 90.

WHEREAS in the tenth section of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to encourage the establishment of certain Societies commonly called Building Societies, in that part of the Province of Canada formerly constituting Upper Canada*, it is among other things provided, that it shall and may be lawful for every such Society to take and hold any real estate or securities thereon,

thereon, *bond fide* mortgaged or assigned to the said Society, either to secure the payment of the shares subscribed for by its members, or to secure the payment of any loans or advances made by or debts due to such Society, and that they may also proceed on such mortgages, assignments or other securities for the recovery of the moneys thereby secured, either at law or in equity or otherwise; and it is expedient that no doubt should exist with respect to the power and legality of carrying into force the stipulations of the Shareholders among themselves, or as to the power of the Society to loan money upon property actually belonging to any member thereof, before and at the time at which any moneys may be advanced, as well as for the actual purchase of such property and erection of buildings thereon: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, whenever any such Society shall have received from any Shareholder an assignment, mortgage or transfer of any real estate belonging to him or her, to secure the payment of any advances, and containing an authority to such Society to sell such real estate in case of non-payment of any stipulated number of instalments or sum of money, and containing also authority and power to such Society to apply the proceeds of such sale to the payment of the advances, interest and all other charges due to such Society, such stipulations and agreement shall be valid and effectual, and binding to all intents and purposes whatsoever, and it shall be lawful for such Society to cause the same to be enforced, either by foreclosure or by an action or proceeding in Her Majesty's Court of Queen's Bench or Common Pleas in Upper Canada, which action shall be brought in the Court of Queen's Bench or Common Pleas, within the County or United Counties in which the lands so given in security lie, and may be brought in the names of the President and Treasurer of such Society, describing them to be such President and Treasurer, or in the Corporate name of the Society.

Certain stipulations declared valid.

How enforced.
Where action shall be brought.

II. And be it enacted, That any such Society may pursue the same course, exercise the same powers and take and use the same remedies to enforce the payment of any debt or demand due to such Society, as any person or persons, body corporate or politic may now by law take or use for such purpose.

Society to have the same recourse as other parties.

III. And be it enacted, That every such Society shall have power either to forfeit and declare forfeited to the Society, the share or shares of any member who may be in arrear or neglect to pay such number of instalments or monthly subscriptions as may be or are fixed by any stipulation or By-law, and to expel such member from the Society; and the Secretary shall make a minute of such forfeiture and expulsion in the books of the Society, or otherwise recover the same by an action of debt, which action (if the amount in arrear do not exceed the sum of ten pounds) may be brought in the Division Court of the Division wherein the office of the Society is kept.

Society may forfeit shares or sue for instalments.

IV. And whereas doubts have arisen as to the construction of the first and tenth sections of the Act hereby amended, with respect to the right of such Societies to loan and advance moneys on property and estate actually belonging to and acquired by the borrower at or before the time of such borrowing and advance, and it is expedient to remove such doubts: Be it therefore declared and enacted to have been and to be the intention of the said Act, that such Societies should have the power to advance, and such Societies are hereby authorized to advance in the manner usual with any such Society, moneys on any real estate whatsoever of any member of such Society, as well for the actual purchase of real estate and for the erection of buildings thereon, as generally for any purpose whatsoever, upon the security of any real estate belonging to any such member at the time of his borrowing such moneys, and to take and receive an assignment, mortgage or transfer of all or any such real estate in security for such advances, on the same conditions and with the same privileges in all respects as any

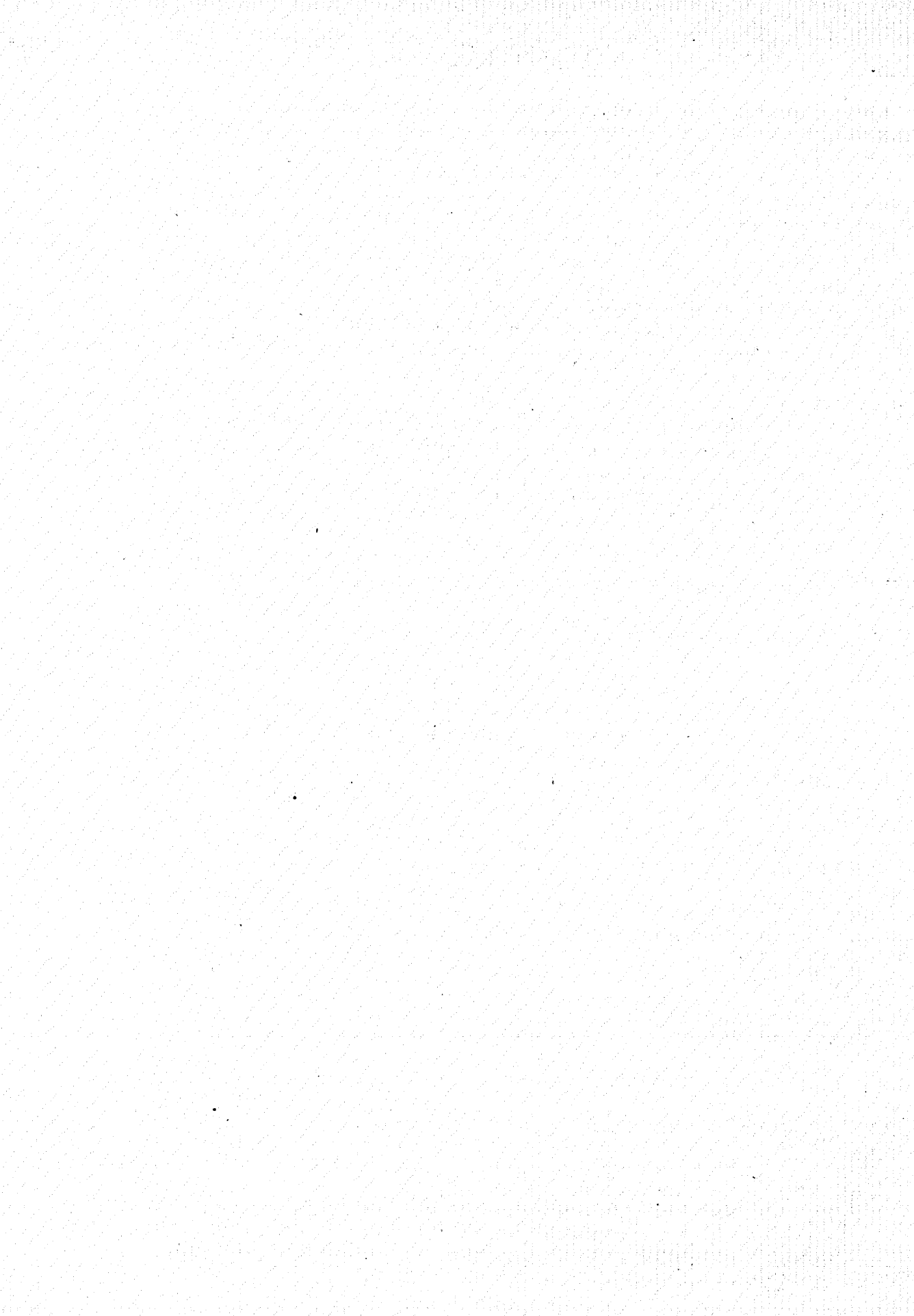
Provisions of sec 1 and 10 of the Act explained.

other real estate by the said Act and by this Act authorized and required to be assigned, mortgaged or transferred; and further, that all securities heretofore taken for moneys advanced in the manner above mentioned, shall be valid and binding on the parties to all intents and purposes whatsoever, and in the same manner as if taken under this Act, and that all or any person or persons whomsoever, whether capitalists or otherwise, shall be at liberty to become members of any such Society; and that Copartners and Corporate Bodies may hold shares therein, in the same manner as single individuals.

Who may be members
of building societies.

Public Act.

V. And be it enacted, That this Act shall be a Public Act, and as such be judicially taken notice of by all Judges and Justices, and other persons whomsoever, without being specially pleaded.



**TITLES OF THE
ACTS NOT BEING PUBLIC GENERAL STATUTES,**

Which, under the Act 12 Vict. Cap. 16, are to be generally distributed only in
the localities specially affected by their provisions.

LOCAL ACTS, UPPER CANADA.

CAP. LXXX.

An Act to provide for the future management of the Toronto Harbour.

[10th August, 1850.]

CAP. LXXXI.

An Act to enable the Municipal Corporation of the City of Toronto, to assist in the construction of the Toronto, Simcoe and Lake Huron Union Rail-road.

[10th August, 1850.]

CAP. LXXXII.

An Act to remove doubts as to the effect of the disallowance of the Act incorporating the Town of Bytown.

[10th August, 1850.]

CAP. LXXXIII.

An Act to vest the Harbour at Cobourg in the Municipality of that Town.

[10th August, 1850.]

CAP. LXXXIV.

An Act to establish a Survey in front of the ninth Concession of Cornwall (from Lot Number Twenty-two, westerly, to the limit of the Township,) as the governing line of the said Concession of Cornwall.

[24th July, 1850.]

CAP. LXXXV.

An Act to determine the mode in which the Side Lines in certain Concessions in the Township of Edwardsburgh shall be run.

[24th July, 1850.]

CAP. LXXXVI.

An Act to amend and explain the Act relative to the Side Lines in the Township of Osgoode.

[24th July, 1850.]

CAP. LXXXVII.

An Act to remedy an error in certain Letters Patent for two lots in the Town of Chatham.

[10th August, 1850.]

CAP. LXXXVIII.

An Act to confirm a certain Survey of the Township of Ameliasburgh in Upper Canada.

[10th August, 1850.]

CAP. LXXXIX.

An Act to enable the Commissioners for defining the Boundary Line between the Townships of Walpole and Woodhouse, to perform the duty assigned to them by the Act in that behalf provided.

[10th August, 1850.]

TITLES OF ACTS NOT GENERALLY DISTRIBUTED.

CAP. XC.

An Act to authorize Aaron Silverthorn and Newman Silverthorn, their heirs or assigns, to erect a Dam across the River Thames.

[10th August, 1850.]

CAP. XCI.

An Act to provide for the payment of the sum of Money therein mentioned, for the use and support of three additional Grammar Schools in the County of York, for the year one thousand eight hundred and forty-nine.

[10th August, 1850.]

LOCAL ACTS, LOWER CANADA.

CAP. XCII.

An Act to repeal an Act therein mentioned, and to make provision for regulating the carting and transporting of gunpowder within the City of Montreal.

[10th August, 1850.]

CAP. XCIII.

An Act to extend the period limited for certain purposes in the Montreal Registry Act.

[24th July, 1850.]

CAP. XCIV.

An Act to appropriate the Moneys arising from Duties on Tavern Licenses, in the County and City of Montreal, towards defraying the cost of the new Court House to be erected in the City of Montreal.

[10th August, 1850.]

CAP. XCV.

An Act to amend the Act relating to the Trinity House at Montreal,

[10th August, 1850.]

CAP. XCVI.

An Act to repeal certain provisions of an Act passed in the last Session of the Provincial Parliament, and intituled, *An Act to consolidate the laws relative to the powers and duties of the Trinity House of Quebec, and for other purposes*, and to exempt Masters of Vessels belonging to Lower Canada from taking Pilots in certain cases.

[10th August, 1850.]

CAP. XCVII.

An Act to amend the Acts for the improvement of the Harbour of Montreal, and provide for the improvement of the Navigation of the River Saint Lawrence, within the Port of Montreal.

[10th August, 1850.]

CAP. XCVIII.

An Act to provide for the appointment of Commissioners to inquire into the affairs and management of the Montreal Provident and Savings Bank.

[10th August, 1850.]

CAP. XCIX.

An Act to oblige the Trinity House of Quebec to lay down Buoys to mark the Shoals in the North Channel of the River St. Lawrence, and to facilitate the Traverse from Cape *Tourments* to *Isle-aux-Reaux*.

[24th July, 1850.]

CAP. C.

An Act to amend the Act for supplying the City of Quebec and parts adjacent thereto with water.

[10th August, 1850.]

CAP. CI.

An Act further to amend the Act for granting relief to the sufferers by the Fires at Quebec.

[10th August, 1850.]

CAP. CII.

An Act to amend the Act authorizing the Quebec Turnpike Road Trustees to acquire Dorchester Bridge, and to make certain Roads.

[10th August, 1850.]

CAP. CIII.

An Act to authorize the Exchange of certain Turnpike Road Debentures for others of the same total value, but being respectively for smaller sums.

[10th August, 1850.]

CAP. CIV.

An Act to transfer to the Municipal Council of the Municipality of the Town of Three-Rivers, the administration of the Common of the said Town, and for other purposes.

[24th July, 1850.]

CAP. CV.

An Act to provide more fully for the incorporation of the Village of Saint Hyacinthe.

[10th August, 1850.]

CAP. CVI.

An Act to place the Longueuil and Chambly Turnpike Road under the control of the Commissioners of Public Works.

[10th August, 1850.]

CAP. CVII.

An Act to authorize the Inhabitant Householders holding Lands in the new Settlements on the borders of the Saguenay, forming the Second Municipal Division of that County, to establish a Municipal Council therein, and for other purposes.

[24th July, 1850.]

CAP. CVIII.

An Act to divide the County of Huntingdon into two Districts, for the Registration of Deeds.

[24th July, 1850.]

CAP. CIX.

An Act to explain and amend the Act dividing the County of Rimouski into two Districts, for the Registration of Deeds.

[10th August, 1850.]

CAP. CX.

An Act to remedy an error in the Act dividing the County of Berthier into two Municipalities.

[24th July, 1850.]

CAP. CXI.

An Act to extend the period for the Election of Commissioners under the Act for the improvement of the River-du-Chêne.

[24th July, 1850.]

PRIVATE ACTS, OR ACTS NOT AFFECTING ALL THE INHABITANTS
OF ANY LOCALITY.—LOWER CANADA.

CAP. CXII.

An Act to authorize the Union of the Montreal and Lachine Rail-road Company and the Lake St. Louis and Province Line Rail-way Company, and for other purposes connected with the said Companies.

[10th August, 1850.]

CAP. CXIII.

An Act to continue and extend the Montreal and Lachine Rail-road, and to incorporate "The St. Lawrence and Ottawa Grand Junction Rail-road Company."

[10th August, 1850.]

CAP. CXIV.

An Act to authorize the Company of Proprietors of the Champlain and Saint Lawrence Rail-road to extend the said road, and for other purposes.

[24th July, 1850.]

CAP. CXV.

An Act to incorporate a Company for making a Rail-road from the Village of Industry to the Township of Rawdon in Lower Canada.

[10th August, 1850.]

CAP. CXVI.

An Act to incorporate Peter Patterson, Esquire, and others, under the name of the Quebec and Richmond Rail-way Company.

[10th August, 1850.]

CAP. CXVII.

An Act to incorporate the Quebec and St. Andrews Rail-road Company.

[10th August, 1850.]

CAP. CXVIII.

An Act further to amend *An Act to incorporate the St. Lawrence and Atlantic Rail-road Company*, and other Acts relative to the said Company, and to extend the powers of the said Company.

[24th July, 1850.]

CAP. CXIX.

An Act to extend the period for completing the Telegraph of the British North American Electric Telegraph Association, and for other purposes relative to the said Association.

[10th August, 1850.]

CAP. CXX.

An Act to incorporate "The Bytown and Montreal Telegraph Company."

[10th August, 1850.]

CAP. CXXI.

An Act to grant further powers to "The Montreal Fire, Life and Inland Navigation Assurance Company," and to change the name of the said Corporation.

[10th August, 1850.]

CAP. CXXII.

An Act to amend the Ordinance incorporating "The Advocates' Library of Montreal."

[24th July, 1850.]

CAP. CXXIII.

An Act to incorporate the Pilots for and above the Harbour of Quebec.

[10th August, 1850.]

CAP. CXXIV.

An Act to incorporate the Saint John's Academy. [10th August, 1850.]

CAP. CXXV.

An Act to facilitate the recovery of sums due for Rent of Pews in St. Patrick's Church, Quebec. [10th August, 1850.]

CAP. CXXVI.

An Act to amend an Act, intituled, *An Act to incorporate La Société Saint Jean Baptiste de la Cité de Québec.* [24th July, 1850.]

CAP. CXXVII.

An Act to incorporat  the Quebec Workmen's Benevolent Society. [24th July, 1850.]

CAP. CXXVIII.

An Act to enable Louis Comte to recover a certain amount due to him by the Parish of St. Edouard, in the District of Montreal. [10th August, 1850.]

PRIVATE ACTS, OR ACTS NOT AFFECTING ALL THE INHABITANTS OF ANY LOCALITY.—UPPER CANADA.

CAP. CXXIX.

An Act to empower Municipal Corporations to subscribe for Stock of the Great Western Rail-road Company, or otherwise to aid in completing that undertaking. [24th July, 1850.]

CAP. CXXX.

An Act to empower the Great Western Rail-road Company to make a Branch Rail-road to the Town of Galt. [10th August, 1850.]

CAP. CXXXI.

An Act to amend the Act, intituled, *An Act to incorporate the Toronto, Simcoe, and Lake Huron Union Rail-road Company.* [10th August, 1850.]

CAP. CXXXII.

An Act for the incorporation of a Company to construct a Rail-road between Bytown and Prescott. [10th August, 1850.]

CAP. CXXXIII.

An Act to amend the Act, intituled, *An Act to incorporate certain persons as The Guelph and Dundas Road Company.* [10th August, 1850.]

CAP. CXXXIV.

An Act to incorporate certain persons under the name of "The Vaughan Road Company." [10th August, 1850.]

CAP. CXXXV.

An Act to prolong the time for the completion of the Grimsby Breakwater, Pier and Harbour. [10th August, 1850.]

TITLES OF ACTS NOT GENERALLY DISTRIBUTED.

CAP. CXXXVI.

An Act to incorporate the Hamilton Gas Light Company. [24th July, 1850.]

CAP. CXXXVII.

An Act further to extend the time for paying up the increase Capital Stock of the Bank of Upper Canada. [24th July, 1850.]

CAP. CXXXVIII.

An Act to alter and amend two several Acts passed respectively in the seventh year and in the eighth year of Her present Majesty's Reign, relating to the Trust and Loan Company of Upper Canada. [10th August, 1850.]

CAP. CXXXIX.

An Act to incorporate the Kingston Fire and Marine Insurance Company. [10th August, 1850.]

CAP. CXL.

An Act to incorporate the Catarauqui Cemetery Company. [10th August, 1850.]

CAP. CXLI.

An Act to incorporate the Toronto *Necropolis*. [10th August, 1850.]

CAP. CXLII.

An Act to amend the Act to incorporate the Mechanics' Institute of the City of Toronto. [10th August, 1850.]

CAP. CXLIII.

An Act to authorize the removal of the Site of Victoria College from Cobourg to Toronto. [10th August, 1850.]

CAP. CXLIV.

An Act to incorporate *The Elgin Association*, for the settlement and moral improvement of the Coloured Population of Canada. [10th August, 1850.]

CAP. CXLV.

An Act to enable John Counter to obtain a Patent for making Stoves of a new pattern, and on a new principle. [10th August, 1850.]



ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. LXXX.

An Act to provide for the future management of the Toronto Harbour.

[10th August, 1850.]

WHEREAS under the Act of the Parliament of Upper Canada, passed in the third year of the Reign of King William the Fourth, and intituled, *An Act granting a sum of money for the construction of Works to improve and preserve the Harbour of York, and for other purposes therein mentioned*, and the Act of the said Parliament, passed in the seventh year of the said Reign, and intituled, *An Act granting a sum of money to complete the improvement of the Harbour of Toronto*, certain improvements in the Harbour of Toronto were made and sums of money were advanced by the Government for making the said improvements, the claim of the Province for any balance whereof can easily be adjusted in a satisfactory manner, and it is expedient that the operation of the said Acts should cease, and that better provision should be made for the improvement and management of the said Harbour: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, the operation of the Acts cited in the Preamble to this Act shall cease, and the improvements made under the same or hereafter to be made in the said Harbour shall be under the control and management of the Commissioners hereinafter mentioned.

Preamble.
 U. C. 3 W. 4, c. 31.
 U. C. 7 W. 4, c. 64.

The said Acts to cease.

II. And be it enacted, That it shall be lawful for the Common Council of the City of Toronto to appoint two persons to be Commissioners under this Act, and for the Toronto Board of Trade to appoint two other persons to be Commissioners under this Act, and for the majority of such Commissioners to recommend another person to be a Commissioner under this Act, who shall upon such recommendation be appointed by the Governor of this Province, but if such majority shall report that they cannot agree on such person, then the Governor shall appoint such fifth Commissioner without such recommendation; and the four first mentioned Commissioners shall hold office respectively during the pleasure of the authority by whom they shall have been appointed and by whom they may be removed, re-appointed, or others appointed in their stead; and the fifth Commissioner shall be removeable by the Governor, and in case of such removal, another shall be appointed in the manner aforesaid.

Commissioners to be appointed, and by whom.

III. And be it enacted, That the said Commissioners shall be a body corporate, by the name of *The Commissioners of the Harbour of Toronto*, and shall by that name have and may exercise the powers vested in bodies corporate by the Interpretation Act, and all such powers as may be necessary for carrying this Act into effect, according to its true intent and meaning; and such powers may be exercised by any three of the said Commissioners as effectually as by all of them; and if any three of them shall execute any deed, and affix the corporate seal of the Commissioners to the same, it shall be held to be the deed of the Commissioners.

Commissioners to be a body corporate.

Quorum.

What property shall be vested in the commissioners.

IV. And be it enacted, That the works and property constructed and acquired by the Commissioners appointed under the Acts hereinbefore cited shall be and are hereby vested in the Commissioners under this Act, as shall be also all such works and property as shall be constructed or purchased by them under this Act for the purposes thereof, or as may be assigned and conveyed to them for the said purposes by the Common Council of the City of Toronto, acting for the Municipal Corporation thereof; and the said Common Council acting as aforesaid, shall have power to take any property which may be required by the said Commissioners for the improvement of the said Harbour, in like manner and under like conditions as they are empowered to take property for the opening of any street in the said City, and upon the conveyance of such property to the said Commissioners, the sum which the said Municipal Corporation shall have paid for the same (or such less sum as the Common Council and the Commissioners may agree upon) may be paid by the Commissioners out of the moneys they are hereby empowered to borrow: or the said Municipal Corporation may place any property under the control of the said Commissioners for any period without absolutely conveying it to them.

Common Council may take property acquired by the commissioners.

Commissioners to prepare plans and estimates, &c.

V. And be it enacted, That it shall be the duty of the said Commissioners, with such assistance as they may find necessary, to prepare plans and estimates for the improvement of the said Harbour of Toronto, and it shall be lawful for the Commissioners to acquire such property as may be requisite to enable them to execute the same, and to do all lawful things which may be necessary for the execution thereof.

Commissioners may make By-laws for certain purposes, and impose tolls

VI. And be it enacted, That it shall be lawful for the said Commissioners, at any time after their appointment, to make By-laws for regulating the use of the works and property vested in them or placed under their control, and for the government of all parties using the same, and of all vessels and floats coming into or using the said Harbour, and by such By-laws to impose tolls to be paid upon such vessels and upon goods landed from or shipped on board of the same, and upon such floats; which tolls they may, if they think fit, levy according to the use which may be made of such Harbour and works aforesaid and the period during which such use shall continue in any case; and by such By-laws the said Commissioners may direct in what manner, at what time, and to what persons the said tolls shall be paid, and may impose fines not exceeding five pounds in any case, for the contravention of any such By-law, to be recovered by the said Commissioners, and for their use for the purposes of this Act, in any manner in which fines imposed by By-laws of the Municipal Corporation of the said City can be recovered; and such By-laws may from time to time be repealed or amended by other By-laws to be made by the Commissioners for that purpose; and the said Commissioners shall have power and authority to detain any vessel, float or goods on which any tolls may be due, at the cost and risk of the owner thereof, until the same are paid, and if they be not paid within one month after they have accrued, such vessel, float or goods may be sold by the said Commissioners by public auction to the highest bidder, and the Commissioners shall retain out of the proceeds the amount of the tolls due and of the expenses of detention and sale, and shall pay the surplus to the owner on demand; or the said Commissioners may recover such tolls from the master, owner, consignee or person in charge of the vessels, goods or floats on which they may be due, in the usual course of law, as a debt due to them.

Powers for recovery of tolls.

Persons employed by the commissioners.

VII. And be it enacted, That the said Commissioners may in carrying this Act into effect, employ such persons to assist them as may be necessary, and assign to them such powers and duties as they may deem expedient.

Commissioners empowered to borrow a sum of money.

VIII. And be it enacted, That for defraying the expenses of improving the said Harbour and carrying the provisions of this Act into effect, it shall be lawful for the said Commissioners to borrow, either in this Province or elsewhere, such sums of money, not exceeding in the whole fifty thousand pounds currency, and at such rate of interest not exceeding eight per centum per annum, as they may find necessary, but at the lowest rate at which they can obtain the same; and the interest on the sums so borrowed shall be payable half-yearly, on days to be named in the debentures, and the principal

principal at such period or periods as may be agreed upon, and such interest and principal may be made payable at such places within or without this Province, and in such currency or money whether of this Province or of any other country, as the Commissioners shall find expedient; and the debentures to be issued by the said Commissioners for the sums so borrowed may be in such form as they shall think proper, and shall be signed by at least three of them, and shall bear the seal of the Corporation; and the principal and interest of the sums so borrowed as aforesaid shall be secured upon and payable out of the tolls and other revenues to be received by the said Commissioners under this Act, but shall not be guaranteed by this Province, or payable out of any Provincial Funds.

Debentures to be issued.

IX. And be it enacted, That the proceeds of the tolls and revenues to be received by the said Commissioners under this Act shall be applied by them:

Order of charges on the tolls and revenues.

First. To the payment of all reasonable expenses of collecting the same and of managing the said Harbour and works, and keeping the same in efficient repair;

Management.

Secondly. To the payment of the interest of the sums borrowed as aforesaid and of the principal thereof, at the periods when the same shall respectively become due;

Interest.

Thirdly. To the payment of not less than two per centum per annum on the sum to be so borrowed, for the purpose of forming a Sinking Fund towards paying off the principal of the sum so borrowed, the amount to be so paid, the officer to whom it shall be paid, and the mode of paying, managing and investing the same, to be from time to time determined by the Governor in Council: Provided always, that if the proceeds of the said tolls and revenues shall not at any time be sufficient to meet the charges imposed thereon by this section, then it shall be the duty of the Commissioners to increase the tolls aforesaid, to such extent as will in their opinion be sufficient to produce sufficient revenue to meet the said charges.

Sinking fund.

Proviso

X. And be it enacted, That the said Commissioners shall keep detailed accounts of all moneys borrowed, received and expended by them under the authority of this Act, and shall account for the same to the Governor in such manner and form and at such periods as he shall from time to time direct, and such accounts shall be accompanied by a full and particular statement of the proceedings of the Commissioners under this Act.

Accounting clause.

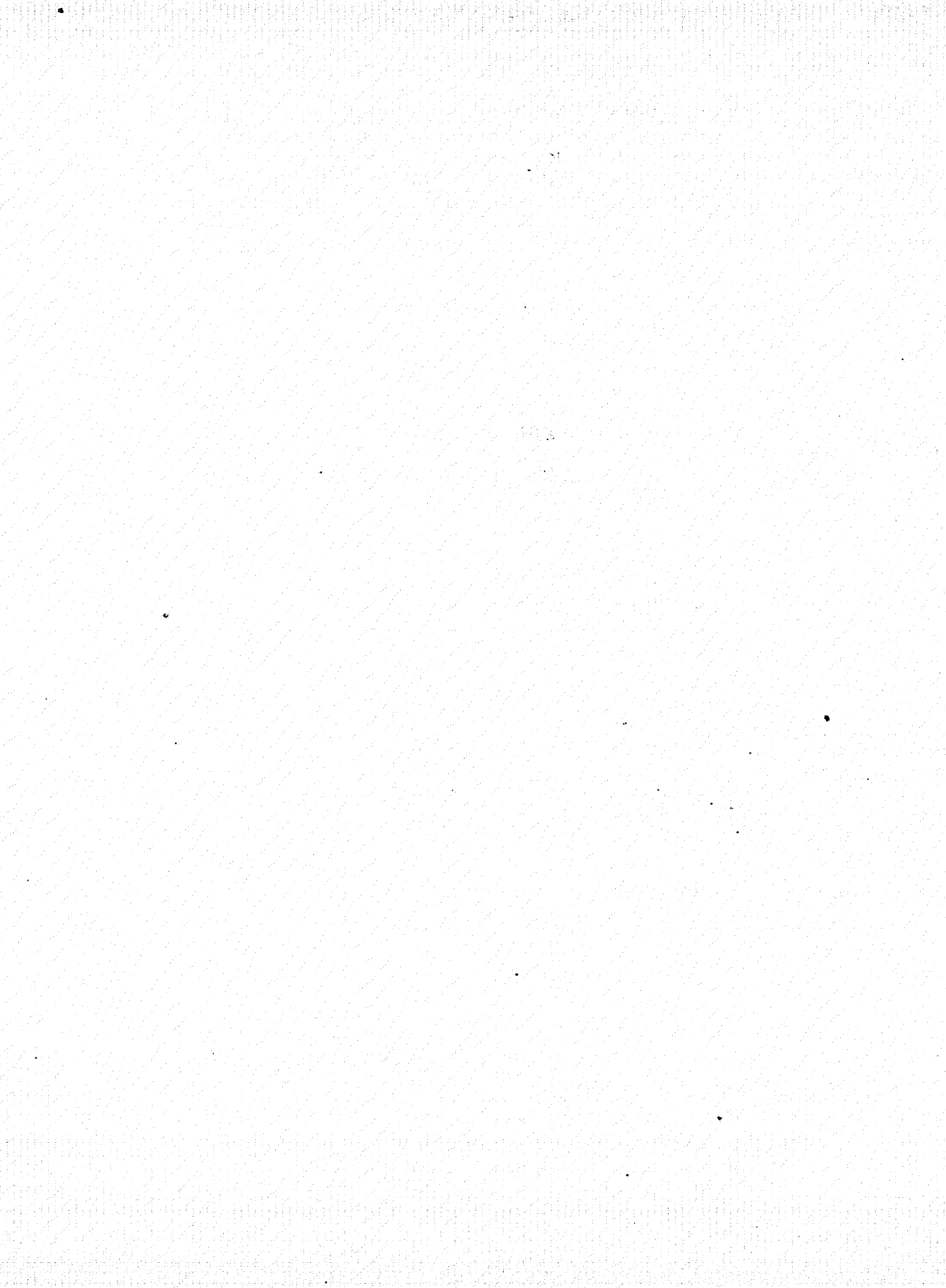
XI. And be it enacted, That the word "vessels" in this Act shall include ships, boats, vessels and water-craft of all kinds, whether impelled by sails or steam, or both, or in any other way whatever, and the word "floats" shall include all rafts, cribs, or timber afloat, and all other things floated in the water and not being vessels; and the word "goods" shall include goods, wares, merchandize, animals, articles and things of any description whatever not being vessels or floats.

Interpretation clause.

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

Public Act.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. LXXXI.

An Act to enable the Municipal Corporation of the City of Toronto to assist in the construction of the Toronto, Simcoe and Lake Huron Union Rail-road.

[10th August, 1850.]

WHEREAS the Municipal Corporation of the City of Toronto, have by almost an unanimous vote resolved, that so soon as legal authority shall have been obtained to enable them to assist the Rail-road Company incorporated by an Act of the Parliament of this Province passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to incorporate the Toronto, Simcoe and Lake Huron Union Rail-road Company*, in the construction of their intended Rail-road, the said Municipal Corporation is prepared to do so, on certain terms and conditions more fully set forth in a certain Report of the Finance Committee of the said Municipal Corporation, and by the said Municipal Corporation adopted in Council, on the twenty-ninth day of July now last past; And whereas George Gurnett, Esquire, Mayor of the City of Toronto, hath, by his petition to the Legislature, prayed on behalf of the Mayor, Aldermen and Commonalty of the said City, that authority might be conferred on the said Municipal Corporation of the said City, so soon as responsible parties shall have subscribed to the amount of One hundred thousand pounds in the Capital Stock of the said Rail-road Company, and in other respects shall have complied with the terms, conditions and regulations required by the said Municipal Corporation, to issue the debentures of the said Municipal Corporation to the like amount of Stock so subscribed; And whereas it is desirable and expedient that power and authority should be given to the said Municipal Corporation to assist the said Rail-road Company in such manner as the said Municipal Corporation shall deem advisable, and that similar power should also be given to each Municipality through whose jurisdiction the Rail-road of the said Company may pass: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the Mayor, Aldermen and Commonalty of the City of Toronto, in pursuance of any By-law of the said Municipal Corporation, in the name or on the credit and behalf of the said Municipal Corporation, to issue debentures to an amount not exceeding One hundred thousand pounds, nor in sums less than five pounds each, for and towards assisting in the construction of the proposed Rail-road of the said Company, and to provide for or secure the payment thereof, in such manner and way as to the said Municipal Corporation shall seem proper and desirable; and further, that it shall and may be lawful for the said Municipal Corporation of the City of Toronto, and any other Municipal Corporation, within or through whose jurisdiction the proposed Rail-road of the said Company may pass, to assist otherwise in the construction and forwarding of the said proposed Rail-road, in such manner as to any such Municipal Corporation may seem proper and desirable on grounds of public utility.

Preamble.

12 Vict. c. 196.

Corporation of Toronto empowered to issue debentures in aid of the said Company.

The said corporation and others may aid the company in other ways.

Other municipalities may issue debentures in aid of the company.

II. And be it enacted, That any other Municipal Corporation within or through whose jurisdiction the proposed Rail-road of the said Company may pass, shall and may for and towards assisting in the construction of the said proposed Rail-road, issue debentures to an amount not exceeding Fifty thousand pounds, in the same manner and upon the same terms as the said Municipal Corporation of Toronto are hereby authorized to do.

Corporations so issuing debentures to have the power of electing directors of the company.

III. And be it enacted, That for the purpose of enabling any such Municipal Corporation to exercise a sufficient precaution in regard to the due application of such debentures towards the purposes for which they are proposed to be issued, and to enable such Municipal Corporations respectively, to be therefore adequately represented in the direction of the said Rail-road Company, so soon as any such Municipal Corporation shall have issued the debentures hereby authorized, to the amount of Fifty thousand pounds each, such Municipal Corporation shall have power and is hereby authorized to nominate and appoint one Director from among the members of the Council of such Municipal Corporation, for or in respect of every Fifty thousand pounds of debentures, which may be so issued, and each such Director so appointed shall possess and enjoy all the powers and privileges possessed and enjoyed by the other Directors of the said Rail-road Company, named or to be appointed under the said Act of Incorporation of the said Rail-road Company, so long as such Municipal Corporation shall and may be liable for the payment of the principal and interest of such debentures.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P . L X X X I I .

An Act to remove doubts as to the effect of the disallowance of the Act incorporating the Town of Bytown.

[10th August, 1850.]

WHEREAS the Town Council of the Town of Bytown have by their petition represented that the said Town was incorporated by an Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to define the limits of the Town of Bytown, to establish a Town Council therein, and for other purposes*, that the said Act was carried into effect and remained in full operation until the twelfth day of October, one thousand eight hundred and forty-nine, when Her Majesty's disallowance thereof was signified by Proclamation of His Excellency the Governor General; that between the passing of the said Act and the signification of the disallowance thereof, as aforesaid, the Corporation of the Mayor and Town Council of Bytown, created by the said Act, had, under the provisions thereof, lawfully entered into divers contracts and incurred divers liabilities, and that at the date of the said proclamation a large amount of taxes and statute labour was due to the said Corporation, which said contracts and liabilities have remained and still remain uncompleted and unsatisfied, and the said taxes and statute labour unpaid and unperformed by reason of the doubts occasioned by the disallowance of the Act aforesaid; that the schools and school-matters of the said Town, and all other matters connected with the Municipal affairs of the said Town, are also in much confusion by reason of the said doubts, which have even extended to the legality of the proceedings of the Corporation of the said Town, now constituted under the provisions of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to provide by one general law for the erection of Municipal Corporations and the establishment of regulations of Police in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada*, and the said Town Council of the Town of Bytown have prayed that all such doubts as aforesaid may be removed, and that their powers in the matters aforesaid be confirmed; And whereas it is clear that the Legislature, in passing the Act last above cited, did not contemplate the disallowance of the Act first above cited, but on the contrary provided by the Act passed with reference to that last above cited in the twelfth year of Her Majesty's Reign, and intituled, *An Act to repeal the Act in force in Upper Canada relative to the establishment of local and Municipal Authorities, and other matters of a like nature*, it is enacted in effect, that the said first cited Act shall be repealed upon, from and after the first day of January, one thousand eight hundred and fifty, and not before, and it is therefore expedient to grant the prayer of the said Petition and to secure to the Corporation of the said Town and other parties the same relative rights as if the Act first cited had remained in force until the time last aforesaid: Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby declared and enacted

Preamble.
Recital.
10 & 11 Vict. c. 43.

12 Vict. c. 81.

12 Vict. c. 80.

Powers and liabilities of the corporation to be as they would have been if the Act 10 & 11 Vict. c. 43 (except sect 41) had remained in force until 1st January, 1850.

enacted by the authority of the same, That for and notwithstanding the disallowance of the Act first cited in the Preamble to this Act, the rights, powers, duties, obligations and liabilities of the Municipal Corporation of the Town of Bytown, constituted under the Act secondly cited in the said Preamble, and of the Council of the said Town and of the Mayor and every Member thereof, and of all Officers thereof, and of all other parties with respect to them, shall be and shall be held to have been the same to all intents and purposes as they would have been if the said firstly cited Act, with the exception of the forty-fourth section thereof, had been and remained in force from the passing thereof until the first day of January, one thousand eight hundred and fifty, and had been then repealed by the Act thirdly cited in the said Preamble: and more especially, but without prejudice to the full effect of the general provision above made, Be it declared and enacted, That the Council of the said Town shall have full power and authority to collect, sue for and recover all arrears of taxes imposed by the late Corporation for the year one thousand eight hundred and forty-nine, and to enforce the performance of or the payment of the commutation for all arrears of statute labour for the said year, and shall pay all just debts and discharge all just liabilities of the said late Corporation, and shall complete and may enforce the completion of all contracts lawfully made by or with the said late Corporation; and that all elections of Councillors, Mayor or other Officers or functionaries in or with regard to the said Town, and all By-laws, Rules or Regulations made, or things done by the Council of the said Town, or by the said Mayor, Councillors, Officers or functionaries, or any of them, or by any person under their authority, shall be, and shall be held to have been valid and binding, and shall have, and be held to have had full force and effect, provided the same would have been and would be valid and binding, and have force and effect, if the said firstly cited Act (with exception of the forty-fourth section) had been and remained in force from the passing thereof to the said first day of January, one thousand eight hundred and fifty.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. LXXIII.

An Act to vest the Harbour at Cobourg in the Municipality of that Town.

[10th August, 1850.]

WHEREAS the Harbour at Cobourg has never been completed, notwithstanding that the time allowed to the President, Directors and Company of the Cobourg Harbour, for that purpose, has long since expired; And whereas by a certain Indenture, bearing date the eighteenth day of August, one thousand eight hundred and forty-two, and executed by and between the President, Directors and Company of the Cobourg Harbour, of the one part, and the Board of Works, of the other part, the said Harbour and its appurtenances were conveyed and assigned to the Board of Works in security for all such moneys as the Provincial Government in this Province had expended or should expend upon the said Harbour; And whereas the sum of Ten thousand five hundred pounds, or thereabout, has been expended by the Provincial Government upon and in improving the said Harbour, and for the money so expended Her Majesty holds the said Harbour, its tolls and appurtenances in security, under and by virtue of the said conveyance to the Board of Works; And whereas the Town Council of the Town of Cobourg have contracted with the Government for the purchase by the Town of the interest of the Government in the said Harbour and its appurtenances, and it hath been agreed by the Government to assign such interest and the right and title of Her Majesty to the said Harbour and its appurtenances to the Municipal Corporation of the said Town for a consideration agreed upon; And whereas in consequence of the non-completion of the said Harbour and its present imperfect state, the stock of the said Company has become very much depreciated in value; And whereas the Town Council of the Town of Cobourg have agreed with divers of the Stockholders of the said Company for the purchase of the Stock held by them, and are desirous of becoming possessed of the said Harbour, and of having the management and control thereof; And whereas it is most desirable that the said Harbour should be rendered and made as safe, commodious and convenient as possible, and the said Town Council are interested on behalf of the said Town of Cobourg in improving and keeping improved the said Harbour for the purposes of the trade of the said Town, and attracting thither vessels navigating the Lake; And whereas the said Company have, by the non-completion of the said Harbour within the time prescribed by their Act of Incorporation and the Acts amending the same, rendered themselves liable to a forfeiture of the rights, privileges and powers conferred upon them as such Company, and to have their Act of Incorporation declared void: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Corporation of *The President, Directors and Company of the Cobourg Harbour*, created by the Act of the Parliament of Upper Canada, passed in the tenth year of the Reign of King George the Fourth, and intituled, *An Act to improve the navigation of Lake Ontario*

Preamble.
Recital.

Corporation created
by Act of U. C. 10
Geo. 4, c. 11, dissolved,
and the Act to cease,
&c.

by authorizing the construction of a Harbour at Cobourg, by a Joint Stock Company, shall be, and the said Corporation is hereby dissolved; and the said Act, and the Acts amending it, shall cease from and after the passing of this Act, so far as regards any thing to be done by the said Corporation or the Stockholders thereof, subject nevertheless to the provisions hereinafter contained in favor of those now holding Stock in the said Company; and the assignment made by the Provincial Government to the Municipal Corporation of the said Town is hereby confirmed and made valid, and the sum thereby agreed to be paid by the said Corporation shall be a debt due to Her Majesty by it.

Assignment confirmed.

Harbour, &c, vested in the town corporation.

II. And be it enacted, That the said Harbour and all the land attached thereto, or hereafter to be attached thereto, and the moles, piers, wharves, buildings, erections and appurtenances, and all other things now erected, or being or belonging to or used with or in the said Harbour and heretofore vested in the said Company, and all other moles, piers, wharves, buildings and erections to be hereafter erected, set up or established in the said Harbour, and all materials which shall be, from time to time, got or provided for constructing, building, repairing or maintaining the said Harbour or the erections therein made, or the appurtenances thereto, and all claims for sums of money due to the said Company for tolls, and all tolls which the said Town Council are by this Act authorized to levy, and all rents, issues, profits, fees and emoluments derivable or to be derived from the said Harbour and appurtenances, and every thing thereto belonging, shall be, and the same are hereby vested in the Municipal Corporation of the Town of Cobourg for ever, and shall be under the control and management, and within the jurisdiction of the Council of the said Town; and the said Harbour, in its present or future state, and with any additions that may be made thereto, shall, and the same is hereby declared to be within the limits, and to be part of said Town of Cobourg; and all sums of money due to the said Company for tolls may be sued for and recovered by the said Municipal Corporation by virtue of this Act: Provided always, that when recovered, all such sums shall be the property of the Company for the benefit of such Stockholders as in the sixth section mentioned; and whenever such sums shall amount to a sum sufficient to pay a dividend of three per cent. to such Stockholders, such dividend shall be from time to time paid to them thereon, until the last dividend which shall be declared at such rate per cent. as shall cover the balance remaining unpaid.

And to be part of the town.

Proviso.

Town council, with approval of Governor in council, may levy tolls, &c.

III. And be it enacted, That the said Town Council shall and may have power and they are hereby authorized by By-laws, subject to the approval of the Governor in Council, to fix and determine and to alter from time to time as they may see fit, the rate of tolls to be chargeable and paid on all vessels and boats entering the said Harbour, and on all goods, chattels, wares and merchandize shipped or landed on board or out of any vessel or boat in the said Harbour, or between the eastern boundary of lot number thirteen and the western boundary of lot number twenty-one, in the Township of Hamilton, in the County of Northumberland, and to ask, demand, recover and receive the same to and for the use of the said Town Council; and in case of neglect or refusal by any person or persons owning or in charge of any such vessel, boat, goods, chattels, wares or merchandize, to pay the tolls legally collectable thereon under this Act, or in case of any vessel, boat, goods, chattels, wares or merchandize on which such tolls may be chargeable, lying or remaining in or adjacent to such Harbour, unclaimed and without the tolls thereon being paid for ten days after such tolls shall have been legally chargeable thereon, to seize and detain the vessels, boats, goods, chattels, wares or merchandize on which such tolls may be due, payable or chargeable, and if such tolls shall remain unpaid thereon for the space of twenty days after such seizure, then to sell and dispose of such goods, chattels, wares, merchandize, vessels or boats, by and at public auction, for the best price that can be obtained for the same, first giving ten days notice thereof by inserting the same in a newspaper (if any) published in the Town of Cobourg, and by putting up a notice on some conspicuous place in the said Harbour, and out of the proceeds of such sale to deduct and pay the tolls in arrear and unpaid upon the things sold, and the expenses of and incident to such sale, and the residue, if any, to pay over, when demanded, to the owner or owners of the things so sold.

Mode of enforcing payment.

IV. And be it enacted, That it shall and may be lawful for the said Town Council, and they are hereby empowered to make such additions and improvements in and to the said Harbour, as they from time to time may think fit, and to make and adopt from time to time such By-laws and Regulations, and enter into such contracts as they shall approve, for managing and controlling the said Harbour and leasing any portion or portions thereof, and improving or adding to the said Harbour, and to employ such servants and agents in and about the business of the said Harbour as they shall require, and generally to do and perform all such acts and exercise all such powers as shall be necessary for the efficient management of the said Harbour, and to contract for, purchase and take conveyances of, to and for the purposes of the said Harbour, in extending or improving the same as they may think fit, such additional land as they can acquire, and the same, when so acquired, shall vest in the Municipal Corporation of the said Town for ever; and the said Town Council shall and may, from time to time, as they shall see fit, sell, depart with and convey any portion of the land now forming part of or attached to, or hereafter to be acquired for or attached to the said Harbour, which they may find unnecessary for the purposes of such Harbour; and in case the said Town Council shall not be able to agree with the owner or owners for any property which they may desire either to purchase absolutely for the use and purposes of the said Harbour, or in or about which they may desire to make any road, street, cut, drain or other improvement for the purposes of the said Harbour, either for the price of such property or the amount of damages which the parties, or party over, in or upon whose land such road, street, cut, drain or other improvement may be made, shall be reasonably entitled to, such land may be taken and such road, street, cut, drain or other improvements made by the said Council in the manner and subject to the provisions made in and by the one hundred and ninety-fifth, one hundred and ninety-sixth and one hundred and ninety-seventh Sections of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to provide by one general law, for the erection of Municipal Corporations, and the establishment of Regulations of Police in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada*, which shall apply as if the said Council had been authorized by the said Act to take such land or to do such thing as aforesaid without the consent of the owner of the property taken or affected.

Town council may improve and enlarge the harbour.

How land, &c. may be taken or entered upon, &c. for harbour purposes.

12 Vict. c. 81.

V. And be it enacted, That for the purpose of completing and improving the said Harbour and of erecting additional wharves, moles and piers therein, and of making such other additions and improvements therein as the said Town Council shall resolve on and approve, it shall and may be lawful for the said Town Council, and they are hereby authorized to borrow such sum or sums of money from time to time as they may deem requisite, and if they shall see fit, to secure and provide for payment of the same, by issuing from time to time, in the name of the Municipal Corporation of the said Town, debentures for sums not less than One hundred pounds and redeemable within twenty years after the issue thereof with interest at a rate not exceeding eight per cent. per annum, and such debentures shall be transferable, and the holder or holders of such of them as are not paid within or at the time at which they shall be made redeemable shall and may sue for and recover against the said Municipal Corporation of the said Town the amount thereof, with the interest thereby agreed to be paid; Provided nevertheless that all such debentures, shall, on the face thereof, in some sufficient form of words, show and express that they are issued for or on account of the said Harbour.

Town council may borrow money for improving the said harbour.

Debentures may be issued.

Proviso.

VI. And be it enacted, That all parties who at the time of the passing of this Act, hold any stock of the Company hereinbefore mentioned, and shall not have sold or transferred the same to the Municipal Corporation of the said Town, shall be entitled to be, and shall be interested in and considered to hold Stock in the said Harbour to the amount paid up on the Stock held by them as aforesaid, but without any right nevertheless to interfere in the management or control of the said Harbour; Provided that within six months after the passing of this Act they notify to the said Town Council, by writing

As to parties who have not sold their stock to the town.

Proviso. they must notify the council.

Rights reserved to such stockholders.

Statements to be published by the corporation.

Dividends to be paid.

Such stock transferable.

Proviso.

Proviso: any stockholder may compel the corporation to purchase his stock at a certain rate.

Saving of general powers of town council.

Public Act.

writing under their hands respectively, the amount of Stock of the said Company held by them at the time of the passing of this Act, and the amount paid up by them on such Stock; and the value and extent of the interest of such persons in the said Harbour shall be regulated in manner following, that is to say: They shall be entitled annually hereafter to a dividend upon the said Stock of the rents, issues, profits, annual fees and tolls derived from the said Harbour (after paying all the current expenses of managing the said Harbour, and the interest on any money which may be borrowed from time to time for improving the same, and the interest of the sum expended by the Government upon the said Harbour, and now assigned to the Municipal Corporation of the said Town Council) in the proportion which the amount of Stock held by them in the said Harbour, shall bear to the aggregate amount assigned by the Government to the Municipal Corporation of the said Town, the sum paid by the said Council to individual Stockholders, or otherwise in acquiring the said Harbour, and the sum expended by the said Town in improving and completing the said Harbour; and so long as any such Stockholders shall remain, the said Town Council shall annually, that is to say, on the second Monday in January in each and every year hereafter, publish, by insertion thereof in one newspaper, if any published in the Town of Cobourg, and by filing a copy thereof under the Seal of the Corporation and the hand of the Mayor or Chief Municipal Officer of the Town of Cobourg, in the office of the Clerk of the Peace for the County in which the said Town is situate, such a statement of the said Harbour, and the affairs thereof, as will enable a calculation to be made of the dividend payable according to this Act to any person or persons holding Stock in the said Harbour, and any person shall be entitled to examine such statement, or make a copy thereof, on paying to the said Clerk of the Peace a fee of One shilling and three pence; and the said Town Council shall, on and after such second Monday in January in each and every year, pay to the person or persons entitled thereto the dividend or dividends to which he or they may be so entitled, and in default of such payment such dividends may be sued for and recovered in like manner as other debts due by the said Corporation.

VII. And be it enacted, That the Stock held by individuals in the said Harbour under this Act, may be transferred to the said Town Council, or, from time to time, to any person or persons desirous of obtaining the same; Provided that such transfer, unless made to the said Town Council, shall not be binding or effectual until a memorandum of the same shall have been signed by the Transferer and Transferee, or their duly authorized Attornies, in such Book of the said Town Council as by the said Town Council may be provided or assigned for that purpose; Provided always, that it shall be lawful during one year from the passing of this Act, for any holder of Stock in the said Harbour, to tender the same to the said Municipal Corporation, without prejudice to the right of such Stockholder to receive his dividends as in the proviso to the second section mentioned, notwithstanding the sale of Stock as in this clause mentioned, and to require the said Corporation to purchase the same at the rate of Sixty-six pounds thirteen shillings and four pence for every One hundred pounds of the nominal amount of such shares, payable in debentures to be issued by the said Corporation in favor of such Shareholder, one third of the principal of such debentures being payable in five years, one third in ten years, and one third in fifteen years from the date of such tender, with interest from the said date, payable half yearly; and if the said Corporation shall refuse or neglect to purchase such Stock or to issue such debentures, such Stockholder shall have the like remedy against them in law or in equity as if they had contracted to purchase such Stock from him on the terms aforesaid.

VIII. And be it enacted, That this Act shall not in any way abridge or be construed to abridge the powers, which, independently of the special provisions herein contained, the said Town Council might or could, may or can, exercise over property within their control or jurisdiction, except when such powers may be inconsistent with this Act.

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



ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. LXXXIV.

An Act to establish a Survey in front of the ninth Concession of Cornwall, (from Lot Number Twenty-two, westerly, to the limit of the Township,) as the governing line of the said Concession of Cornwall.

[24th July, 1850.]

WHEREAS no line has ever been run by the authority of the Government between the eighth and ninth Concessions of the Township of Cornwall, further west than the west side of Lot number twenty-two, in front of the ninth Concession of the said Township; And whereas disputes have arisen between the inhabitants of the said ninth Concession with regard to the boundaries in front of their respective lots; And whereas, with a view to the final settlement of all disputes, the inhabitants of the said Concessions, west of the said Lot number twenty-two, employed one John S. Bruce, Esquire, a Deputy Provincial Surveyor, to run the said line, from the said west side of Lot number twenty-two to the western limit of the Township, and have petitioned that the said line, as run by the said John S. Bruce, may be established as the boundary line in front of the said ninth Concession from the said lot number twenty-two, to the western boundary of the Township; And whereas the said John S. Bruce has made a plan of the said line, and a copy of all his field notes relative to the said survey, and it is necessary and desirable that the said line should be established and all disputes on the subject of the said boundary line for ever settled: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the line in front of the said ninth Concession, as run by the said John S. Bruce, shall be to all intents and purposes, established as the boundary line of the said ninth Concession of the said Township, as fully as if the same had been originally run by the authority of the Government, and all parties interested shall be governed by the said line accordingly.

Preamble.

Front line of the ninth concession established.





ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. LXXXV.

An Act to determine the mode in which the Side Lines in certain Concessions in the Township of Edwardsburgh shall be run.

[24th July, 1850.]

WHEREAS by the petition of the inhabitants of the Township of Edwardsburgh, in the County of Grenville, and by the report of John Booth and William Campbell, Esquires, Deputy Provincial Surveyors, under a commission to them in that behalf, it appears that great inconvenience has resulted from the running of the side lines in the fifth, sixth, seventh and eighth concessions of the Township of Edwardsburgh aforesaid, in all cases parallel to the Eastern boundary of the Township, the said Eastern boundary, from the front of the fifth concession to the rear of said Township, having a different bearing from that which it has in the first, second, third and fourth concessions of the said Township: And whereas the said inhabitants have prayed, and the said Commissioners have reported, in favor of having certain side lines in the said fifth, sixth, seventh and eighth concessions drawn as hereinafter mentioned, and not generally parallel to the said Eastern boundary, and it is expedient under the circumstances aforesaid to grant their prayer, and to act upon the suggestions of the said Commissioners: Be it therefore enacted and declared by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-uite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted and declared by the authority of the same, That for and notwithstanding any thing in the thirty-ninth section, or in any other part of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts therein mentioned, and to make better provision respecting the admission of Land Surveyors, and the Survey of Lands in this Province*, or in any other Act or Law, the side line between numbers eleven and twelve, in the fifth and sixth concessions of the said Township of Edwardsburgh, and the side line between any lots in the said concessions west of number eleven, run and shall be run from the corner post in the front of such lots to the rear thereof, in such direction as that if any such line were prolonged, it would strike the post or front boundary between the lots bearing the same numbers in the next concession towards the rear of the Township.

Preamble.

How certain side lines in 5th and 6th concessions shall be run: *nonobstante* 12 V. c. 35.

II. And be it declared and enacted, That in the seventh concession of the said Township the course of the side line between the East half and the West half of Lot number seven, and of the side lines of all the Lots to the West thereof, is and shall be North thirty-one degrees twenty-two minutes West, astronomically.

And in 7th concession.

III. And be it declared and enacted, That the Eastern commons in the said eighth concession is and shall be fourteen chains and twenty-five links in width, and that all the land to the west thereof be divided into the number of Lots, Commons and Roads, shewn in the original survey; and that the side lines be run parallel to the Eastern boundary

And in 8th concession.

boundary of the said Township ; and any line run in accordance with this Act shall be deemed to be and to have been since the survey of the said Township the true side line of the lots between which it shall run : subject nevertheless to the provisions of the hereinbefore recited Act, relative to the breadth of Lots and the mode of ascertaining such breadth when the original posts or monuments cannot be found, and as to all matters not provided for by this Act.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. LXXXVI.

An Act to amend and explain the Act relative to the Side Lines in the Township of Osgoode.

[24th July, 1850.]

WHEREAS it appears that the Act hereinafter mentioned was erroneously, and contrary to the intention of the signers of the petition therein recited, and to the justice of the case, made to apply to the whole of the Township of Osgoode, instead of applying to certain Concessions therein, and it is expedient to correct the said error: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to declare the mode in which the Side Lines of the Township of Osgoode, in the County of Carleton, shall be run*, shall not apply, and shall be construed as having been intended by the Legislature not to apply to the first, second or third Concessions of the said Township of Osgoode, or to the Broken Front of the said Township, but only to the remaining Concessions thereof.

Preamble.

Act 10 & 11 V. c. 54,
to apply to certain
concessions only.

II. And inasmuch as there is no Concession Line run between the Broken Front of the said Township and the first Concession, for the avoidance of difficulties which might otherwise arise, Be it declared and enacted, That the Side Lines of the lots in the Broken Front of the said Township prolonged, are and shall be held to be the Side Lines of the corresponding lots in the first Concession, and shall be drawn from the Corner Posts in the said Broken Front, parallel to the mean course of the governing line of the Township from the front of the said Broken Front to the rear of the first Concession.

How side lines in the
first concession shall
be run.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. LXXXVII.

An Act to remedy an error in certain Letters Patent for two lots in the Town of Chatham.

[10th August, 1850.]

WHEREAS on the map of the Town of Chatham, in the County of Kent, as drawn by the late Deputy Surveyor Mahlon Burwell, from a survey made by him, and dated the Twenty-third day of March, one thousand eight hundred and twenty-three, a certain lot, bounded on the west by William street and on the south by Murray street, is marked and numbered as lot number Twenty-two in the said Town, and a certain lot, bounded on the east by Adelaide street and on the south by Murray street, is marked and numbered as lot number Twenty-one in the said Town : And whereas when the said lots were put up for sale, a lithographed map was used and referred to by the local agent of the Commissioner of Crown lands, upon which the lot numbered twenty-two in the map first mentioned, was erroneously marked as number twenty-one, and the lot numbered twenty-one in the map first mentioned, was erroneously marked as number twenty-two ; and the said lots were sold by the said agent according to the said erroneous lithographed map, and the purchasers bought and took possession of the said lots respectively, and have improved and built thereon according to the same, but the Letters Patent granting the same were made out with reference to the map first mentioned ; And whereas it is expedient to secure to the said purchasers, their heirs and assigns, the lands they respectively intended to purchase, and of which they severally took possession, and the said purchasers are not in a position to surrender the said lots to the Crown, so that new Patents may issue to them respectively: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That notwithstanding any thing to the contrary in any map or plan, or in any other document or paper, the said lot number twenty-two, old survey of the town of Chatham, as shewn on the original map or diagram of the survey by Deputy Surveyor Mahlon Burwell, being the lot bounded on the west by William street, and on the south by Murray street, shall be and be held to have been lot number twenty-one, old survey of the Town of Chatham, and lot number twenty-one, as shewn by the last named map, being the lot bounded on the east by Adelaide street and on the south by Murray street, shall be and be held to have been lot number twenty-two, old survey of the said Town ; and the Letters Patent issued for the said lots, or any portion thereof, shall be construed and have effect accordingly.

Preamble.

What lots shall be held to be No. 22 and No. 21, old survey.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. LXXXVIII.

An Act to confirm a certain Survey of the Township of Ameliasburgh in Upper Canada.

[10th August, 1850.]

WHEREAS Samuel Street Wilmot, a Deputy Provincial Surveyor, was in the year of Our Lord one thousand eight hundred and eighteen, employed under the authority of an Order in Council to complete the Survey of the Township of Ameliasburgh, in the County of Prince Edward, in that part of this Province which then constituted the Province of Upper Canada, and to correct the Surveys before that time made in the said Township; And whereas the said Samuel Street Wilmot did, under the authority aforesaid, complete the Survey of the said Township, and made a return thereof to the then Surveyor General of Upper Canada, who thereupon adopted such Survey as the correct and true survey of the said Township; And whereas the Survey so made by the said Samuel Street Wilmot, is in fact a true Survey, and the original or first complete Survey of the said Township of Ameliasburgh, according to the true intent and meaning of the Act of the Parliament of Upper Canada hereinafter mentioned: Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That the said Survey is and shall be deemed and taken to be to all intents and purposes whatsoever a true Survey, and the original or first complete Survey of the said Township of Ameliasburgh according to the true intent and meaning of the Act of the Parliament of the Province of Upper Canada, passed in the fifty-ninth year of the Reign of His late Majesty King George the Third, intituled, *An Act to repeal an Ordinance of the Province of Quebec passed in the Twenty-fifth year of His Majesty's Reign, intituled, 'An Ordinance concerning Land Surveyors and the admeasurement of Lands,' and also to extend the provisions of an Act passed in the thirty-eighth year of His Majesty's Reign, intituled, "An Act to ascertain and establish on a permanent footing the Boundary Lines of the different Townships of this Province, and further to regulate the manner which Lands are hereafter to be surveyed,"* and that all Boundary Lines of the said Township, all Concession Lines, governing Points, and all Boundaries, Posts or Monuments which were placed or planted at the front angles of any lots or parcels of land by the said Samuel Street Wilmot, in his said Survey, intended to determine the width of such lots or parcels of land, shall be and the same are hereby declared to be the true and unalterable Boundaries of such Township and of the Concessions and lots therein respectively, and that every lot or parcel of land respectively, whether it shall upon admeasurement be found to contain the exact width, or more or less, than what may be expressed in any Letters Patent, Grant or other Instrument in respect of such Boundaries or Lines mentioned and expressed, shall embrace the whole width contained within the front Posts, Monuments or Boundaries planted or placed at the front angles of any such lot or parcel of land, as aforesaid, by the said Samuel Street Wilmot in his said Survey

Preamble.

The survey of S. S. Wilmot confirmed.

59 Gt. 3. c. 14.

Boundary lines, &c. of S. S. Wilmot declared good.

of

of the said Township, performed under the authority of the Executive Government of Upper Canada, and adopted as aforesaid, and no more nor less, and every half or quarter of such lot or parcel its proportion; any thing in such Patent or Instrument to the contrary thereof in any wise notwithstanding.

II. And be it enacted, That any Survey or Surveys of the said Township of Ameliasburgh, made or professed to have been made by any Deputy Provincial Surveyor previous to the said Survey of the said Samuel Street Wilmot, except in so far as the same were adopted and confirmed by the said Samuel Street Wilmot in his said Survey, shall be and the same are hereby declared to be void.

III. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such by all Judges and Justices of the Peace and other persons whatsoever without being specially pleaded.

Former surveys
invalidated where
inconsistent with that
hereby confirmed.

Public Act.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. LXXXIX.

An Act to enable the Commissioners for defining the Boundary Line between the Townships of Walpole and Woodhouse, to perform the duty assigned to them by the Act in that behalf provided.

[10th August, 1850.]

WHEREAS the period limited by the Act hereinafter mentioned, as that within which the Commissioners thereby appointed should proceed to execute the duties thereby assigned to them, expired before the said Act was printed and distributed, and the said Commissioners were unable to act before the expiration of the said period: And whereas the persons interested have by their Petition prayed that the said Act may be carried into effect, and it is right to grant the prayer of their petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to appoint Commissioners to define the Boundary Line between the township of Walpole, in the Niagara District, and the township of Woodhouse, in the Talbot District*, the Commissioners appointed by or to be appointed under the said Act, may proceed to the land and boundary mentioned in the Preamble thereto, and may then and there determine the same as between the said Townships of Walpole and Woodhouse, and may exercise all the powers and perform all the duties assigned to them by the said Act, at any time before the First day of July, one thousand eight hundred and fifty-one, as fully and effectively, to all intents and purposes whatsoever, as they might have done under the provisions of the said Act, in the months of June, July or August next after the passing of the said Act.

Preamble.

The commissioners under 12 Vict. c. 101, may perform the duties assigned to them within a certain time.

II. And be it declared and enacted, That the words "Talbot District," wherever they occur in the said Act, shall be understood as meaning the County of Norfolk, and the words "Niagara District," shall be understood as meaning the United Counties of Lincoln, Haldimand and Welland.

Interpretation clause.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P . X C .

An Act to authorize Aaron Silverthorn and Newman Silverthorn, their heirs or assigns, to erect a Dam across the River Thames.

[10th August, 1850.]

WHEREAS it hath been represented by the Petition of Aaron Silverthorn and Newman Silverthorn, and a number of persons inhabiting the Townships adjacent to the banks of the River Thames, in the Townships of Howard, Camden and Zone, that the erection of Mills upon the said River, in the Township of Howard and Gore of Camden and Zone, at or near the place known as Kerby's Point, on the south part of lot number fourteen, in the Gore of Camden, in the united Counties of Essex and Kent, would tend greatly to increase the general prosperity and wealth of the surrounding country: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the united Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for Aaron Silverthorn and Newman Silverthorn, their heirs or assigns, to erect a Dam upon the above mentioned site, but of such height only as will not flood or otherwise injure any lands lying above the said Dam belonging to individuals, without the consent of such individuals previously had in writing, and recorded in the Registrar's office for the county in which the proposed Dam will be erected, and which registration the said Registrar is hereby authorized to make: Provided always, that the said Dam shall be constructed with inclined planes of not less than forty feet in length and thirty feet in width, with good and sufficient aprons for the safe passage of rafts and the ascent of fish; to be maintained and kept in good repair by the person in possession of the said water privilege, free from toll or other charge, as long as the said Dam shall exist.

Preamble.

A. and N. Silverthorn may build a dam, subject to certain conditions.

Proviso: further conditions.

II. And be it enacted, That if the passage aforesaid shall at any time be obstructed for the period of twenty days successively, the grant hereby intended to be made shall be absolutely void.

Privilege voided by certain acts.

III. And be it enacted, That the owner or owners of the said Dam, for the time being, shall be held to possess and be beneficially interested in the said Dam so to be erected, so that he or they may be enabled to maintain actions at law or in equity against any person or persons who may break down, destroy or injure the said Dam, or who shall in any wise prevent the use and enjoyment thereof by the owner or owners thereof.

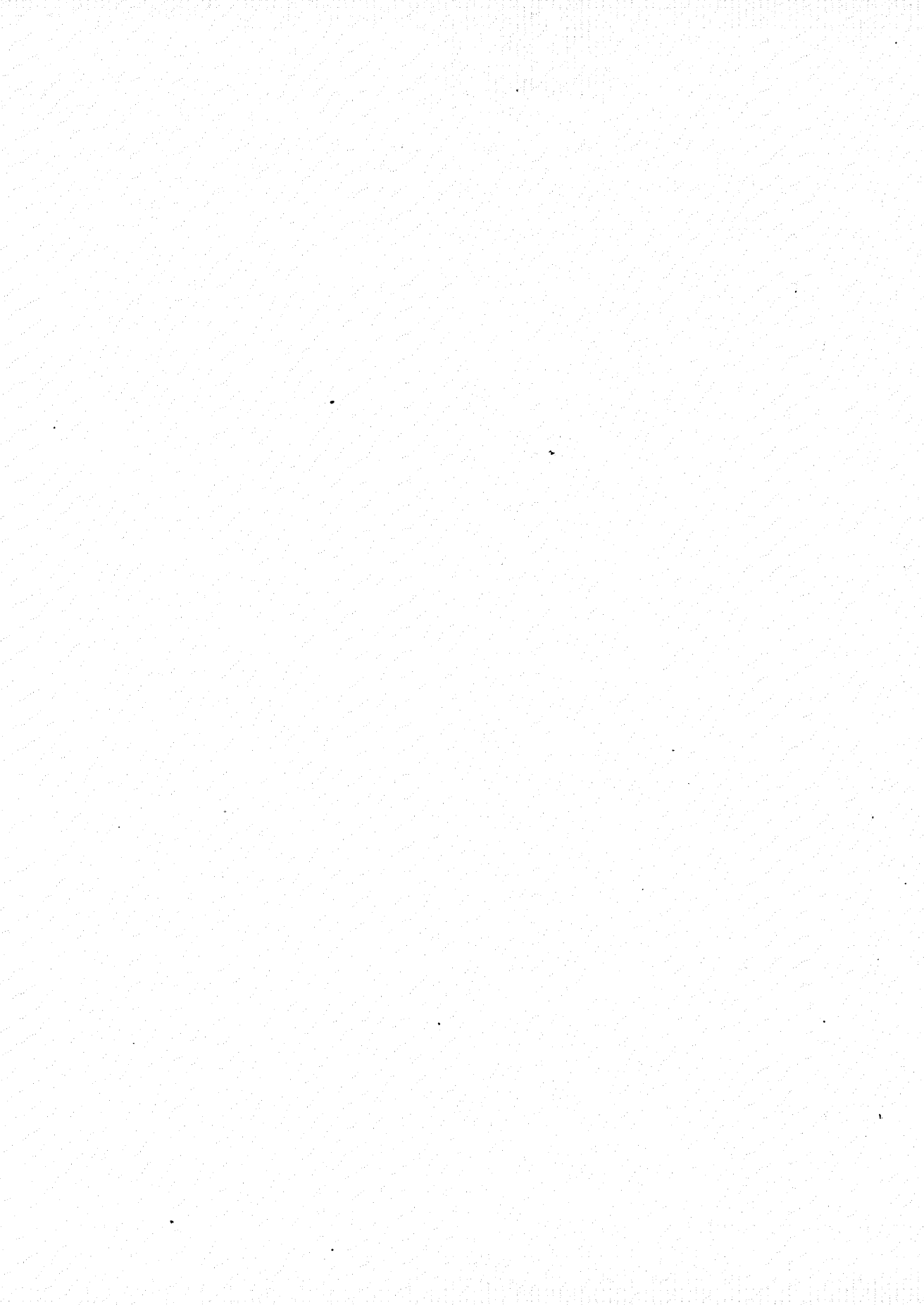
Owner of dam to have certain rights in law and equity.

IV. And be it enacted, That if the Legislature of this Province, at any time hereafter, when, in their opinion, the public interest shall require it, shall either amend or repeal this Act, such repeal or amendment shall not be deemed an infringement of the privileges hereby granted.

Act may be repealed.

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

Public Act.





ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P . X C I .

An Act to provide for the payment of the sum of money therein mentioned, for the use and support of three additional Grammar Schools in the County of York, for the year one thousand eight hundred and forty-nine.

[10th August, 1850.]

WHEREAS in and by an Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to make temporary provision for the appropriation of the funds derived from the sale of School Lands, in that part of the Province formerly Upper Canada, and for other purposes*, as amended by an Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to amend the Act therein mentioned, relating to the appropriation of Moneys derived from the Sale of School Lands, in Upper Canada*, it was, amongst other things, in effect enacted, That it should be lawful for the Governor in Council to authorize a sum not exceeding one hundred pounds per annum for each School, out of the moneys arising from the sale of the School Lands in the said first above cited Act mentioned, to be paid to the Board of Trustees for Grammar Schools in any District in Upper Canada, for the use and support of two other Schools than the one in the Town where the Court House is situated, in any Town, Township or Village within any of the Districts aforesaid, in which the inhabitants should provide a suitable School House, at which not less than thirty scholars should be educated, provided any such additional School should not be within six miles of the District Town; and provided also, that nothing in the said first above cited Act should prevent the Governor in Council from extending such aid to four Grammar Schools, (including the said two,) other than the one established in the District Town, should it be deemed expedient: And whereas His Excellency the Governor General in Council did, on the twenty-ninth day of November, one thousand eight hundred and forty-eight, authorize the Board of Trustees for Grammar Schools in the Home District, to propose a grant of seventy-five pounds to each of the Villages of Streetsville, Whitby and Newmarket, within the said District, being distant, respectively, more than six miles from Toronto, the District Town, for aiding to support Masters of Grammar Schools, provided such Masters should be established in buildings permanently appropriated to such Schools during the year one thousand eight hundred and forty-nine: And whereas such a Master was established in each of the said Villages, in a building permanently appropriated to such a School, during the year one thousand eight hundred and forty-nine, but owing to the number of Scholars educated at each of the said Schools, during the said year, having been less than thirty, the above mentioned sums of seventy-five pounds cannot lawfully be paid to the said Board of Trustees for the use and support of the said Schools, but it is just and right, under the circumstances of the case, to enable the Governor General in Council to authorize the payment thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britan and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the*

Preamble:
4 and 5 Vict. c. 19.
9 Vict. c. 19.
Case recited.

Governor in council
may authorize pay-
ment to £225.

Government of Canada, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the Governor General in Council to authorize a sum of Two hundred and twenty-five pounds, out of the moneys arising from the sale of the School Lands in the said first above cited Act mentioned, to be paid to the Board of Trustees for Grammar Schools, in the County of York, for the use and support of the three additional Grammar Schools above mentioned, for the year one thousand eight hundred and forty-nine; any thing in the said Acts, or in any other Act or law, to the contrary thereof in any wise notwithstanding.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. XCII.

An Act to repeal an Act therein mentioned, and to make provision for regulating the carting and transporting of Gunpowder within the City of Montreal.

[10th August, 1850.]

WHEREAS since the date of the Act of the Parliament of Lower Canada, passed in the thirty-third year of the Reign of His Majesty King George the Third, and intituled, *An Act to prevent the bringing of Gunpowder in ships or other vessels into the Harbour of Montreal, and to guard against the careless transporting of the same into the Powder Magazines*, great changes have taken place in the localities therein mentioned and designated, and it has accordingly become impossible to enforce the due observance of the provisions thereof; and whereas the Trinity House of Montreal have power to regulate and control the landing of Gunpowder within the Harbour of Montreal, and it is expedient to make provision for the regulation of the carting and transporting thereof within the City of Montreal: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said above cited Act of the Parliament of Lower Canada shall be, and the same is hereby repealed.

Preamble.

33 G. 3. c. 1.

The said Act repealed.

II. And be it declared and enacted, That it shall and may be lawful for the Council of the City of Montreal, at any meeting or meetings of the said Council composed of not less than two thirds of the members thereof, to make By-laws, which shall be binding on all persons, for regulating the carting and transporting of Gunpowder within the said City of Montreal; and by any such By-law the said Council may impose such fines, not exceeding five pounds, or such imprisonment, not exceeding thirty days, or both, as they may deem necessary for enforcing the same.

Corporation to make By-laws for the transport of gunpowder.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P. X C I I I .

An Act to extend the period limited for certain purposes in the Montreal Registry Act.

[24th July, 1850.]

WHEREAS it is expedient to extend and continue for a limited time, certain provisions of the Act hereinafter mentioned : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to remedy certain defects in the registration of Deeds and Instruments relating to real Property, in the Registry Office at Montreal*, the period of twelve months from the passing thereof, which is therein mentioned as the period during which the registration of certain Instruments may be efficiently completed in the manner in the said Act provided, and during which no error, omission or irregularity on the part of Edward Dowling or his Deputy shall be held to render the registration of any Instrument incomplete or void, and during which certain other things must or may be done under the said Act, shall be and is hereby extended to the period of twelve months from the passing of this Act, and the said Act and this Act, shall be construed and have effect to all intents and purposes whatsoever, and all Commissions issued under the said Act, and all things done by the Commissioners shall be valid and effectual as if the period last aforesaid had been mentioned in every part of the said Act, instead of the period therein mentioned and first aforesaid, and as if this Act had been passed before the expiration of the period first aforesaid.

Preamble.

Period fixed for certain purposes by 12 V. c. 121, extended.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. XCIV.

An Act to appropriate the moneys arising from Duties on Tavern Licenses, in the County and City of Montreal, towards defraying the cost of the new Court House to be erected in the City of Montreal.

[10th August, 1850.]

WHEREAS it is necessary to provide more ample funds for defraying the cost of erecting the new Court House at Montreal than are provided by the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to make provision for the erection or repair of Court Houses and Gaols, at certain places in Lower Canada*, under which the said Court House is to be erected: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to provide for the payment of claims arising out of the Rebellion and Invasion in Upper Canada, and to appropriate the duties on Tavern Licenses to local purposes*, the moneys arising after the passing of this Act, from the Duties on Licenses to keep Houses of Public Entertainment, within the County and City of Montreal, shall be and are hereby appropriated towards defraying the cost of erecting the new Court House in the City of Montreal, under the Act mentioned in the preamble to this Act, and the other expenses incident thereto, and the principal and interest of the Debentures issued or to be issued under the said Act, and the expenses of keeping the said Court House and its appurtenances, in thorough repair and order; and such moneys shall be paid, applied and accounted for accordingly by the proper officers, and no part thereof shall be paid over to the Treasurer of any Municipal Division whatsoever.

Preamble.
12 Vict. c. 112.

Notwithstanding any thing in 8 Vict. c. 72, the duties on certain tavern licenses shall be appropriated towards defraying charges under 12 Vict. c. 112.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. XCV.

An Act to amend the Act relating to the Trinity House at Montreal.

[10th August, 1850.]

WHEREAS that part of the River St. Lawrence, which lies between the Basin of Portneuf and the Harbour of Montreal, is now frequented by many river-craft, steamers, barges and lighters, besides those that are engaged in the navigation between Quebec and Montreal only, and it is not consistent with the spirit of the Act and Ordinance amended and consolidated by the Act hereinafter mentioned, that the masters of any such vessels should be obliged to employ Branch Pilots for and above the Harbour of Quebec, on that part of the said River: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, nothing in the twenty-first section of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to repeal a certain Act and Ordinance therein mentioned, relating to the Trinity House at Montreal, and to amend and consolidate the provisions thereof*, shall extend or be construed to extend, to any river-craft, steamer, barge or lighter, nor to any person in respect of the same, but only to ships and vessels not being such river-craft, steamers, barges or lighters, and to the masters thereof, and to all suspended Branch Pilots and other persons in respect of the same; and that it shall and may be lawful for any person to pilot or to be hired, engaged or employed to pilot any steamer, river-craft, barge or lighter on that part of the River Saint Lawrence, which lies between the Basin of Portneuf and the Harbour of Montreal, without any penalty or forfeiture being incurred thereby; any thing in the said twenty-first section of the said Act to the contrary thereof in any wise notwithstanding.

Preamble.

Sect. 21 of 12 V. c. 117, not to extend to river craft.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P . X C V I .

An Act to repeal certain provisions of an Act passed in the last Session of the Provincial Parliament, and intituled, *An Act to consolidate the Laws relative to the powers and duties of the Trinity House of Quebec, and for other purposes*, and to exempt Masters of Vessels belonging to Lower Canada from taking Pilots in certain cases.

[10th August, 1850.]

WHEREAS it is expedient to exempt Masters and persons having charge of vessels belonging to Lower Canada from the obligation to take Branch Pilots to pilot such vessels within the limits of the Port of Quebec, in certain cases: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same—*First*, That from and after the passing of this Act, nothing in the fifty-third, fifty-fourth or fifty-fifth sections of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to consolidate the Laws relative to the powers and duties of the Trinity House of Quebec, and for other purposes*, shall extend or be construed to extend to any Master or other person in charge of any vessel of and under one hundred and twenty tons measurement belonging to Lower Canada, when bound from the Port of Quebec to any port without the limits of the Province of Canada, or when returning therefrom: Provided always, that whenever any such Master or person in charge of a vessel shall be obliged to employ any person not belonging to his crew to pilot or guide his vessel, he shall in such case employ a Branch Pilot;—*Secondly*, That from and after the passing of this Act, every Master or person in charge of vessels belonging to Lower Canada, when navigating such vessels between the Port of Quebec and any Port situate out of the limits of the Province of Canada, shall, as regards the conduct and management of such vessel within the Port of Quebec, have all the powers which are by any law or usage possessed by any Branch Pilot; any law, ordinance, rule or regulation to the contrary notwithstanding.

Preamble.

Sect. 53, 54, 55, of 12 Vic. c. 114, not to apply to Masters of Vessels belonging to Lower Canada in certain cases.

Prov'iso.

Master to have all the powers of a Branch Pilot.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXVII.

An Act to amend the Acts for the improvement of the Harbour of Montreal, and provide for the improvement of the Navigation of the river Saint Lawrence, within the Port of Montreal.

[10th August, 1850]

WHEREAS by the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to amend a certain Act passed to provide for the improvement and enlargement of the Harbour of Montreal and for other purposes*, certain amendments are made in and to the Act passed in the eighth year of Her Majesty's Reign, intituled, *An Act to provide for the improvement and enlargement of the Harbour of Montreal, to authorize the Commissioners to borrow a further sum of money for that purpose, to consolidate the Laws now in force relating to the same, and for other purposes therein mentioned*, and it is expedient to make additions and amendments to the said Acts; And whereas it is expedient and necessary to provide additional wharfage accommodation for the purposes of the expected increase in the trade and business of the Harbour of Montreal, and to extend the limits of the said Harbour: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the limits of the Harbour of Montreal shall from and after the passing of this Act, extend from the present lower limits thereof (that is, from the lower extremity of Victoria Road, in the Saint Mary's Suburbs of the City of Montreal,) downwards to *Ruisseau Migeon*, and the Commissioners in the said Acts mentioned shall have and exercise over the said Harbour, with the said extended boundaries, the same control, powers, authority, rights and privileges by them now held and exercised in and over the said Harbour as now bounded.

Preamble.

10 & 11 Vict. c. 56.

8 Vict. c. 76.

Limits of the Harbour enlarged.

II. And whereas, by reason of the interest upon the Loan authorized by the third Section of the said first recited Act, having been limited to a rate not exceeding five per centum per annum, the said Commissioners have been unable to effect the said Loan: Be it therefore enacted, That the said Commissioners shall be and are hereby authorized to increase the rate of interest to be paid upon the said loan to six per centum per annum, which rate of interest they may also pay upon the sum they are authorized to borrow by the next section of this Act, the payment of the interest on which may be also guaranteed by the Governor in Council on behalf of this Province, in the manner provided by the seventh Section of the said secondly recited Act.

Rate of interest on loan under sections 3 of 10 & 11 Vic. c. 56 increased.

III. And be it enacted, That it shall and may be lawful for the said Commissioners to borrow in the manner and form provided in the said seventh Section of the said secondly recited Act, with regard to the Loan thereby authorized, (but at the rate of interest

Commissioners may borrow £2500 more, for certain purposes.

interest hereby authorized,) and either in sterling money or otherwise, the sum of Two thousand five hundred pounds, currency, by them to be applied for the acquisition of such real property, and the construction thereon of such buildings as may be deemed necessary for offices, and for the storage of the various implements, railings, bridges and utensils used by the said Commissioners for the purposes of the said Harbour; such real property to be vested in the Crown, and under the control of the Commissioners; and for such said last mentioned sum, the Commissioners are hereby authorized to issue the Debentures in the form and manner mentioned in the said seventh Section, (except as to the rate of interest,) but transferable and payable to order at such times and places as the said Commissioners may see fit therein to appoint.

New Tariff of Wharfage Rates and Dues established.

IV. And be it enacted, That from and after the day in which this Act shall have force and effect, there shall be levied and paid, under the provisions of the said firstly and secondly recited Acts, in so far as the same shall not be inconsistent with this Act, upon all ships, vessels, boats, barges, steamboats, scows, rafts or other craft, and on all goods, landed from or taken on board of any ship, vessel, boat, barge, steamboat, scow, raft or other craft, lying at or near to any part of the wharves, quays, piers or other works in the said Harbour, erected or constructed under the authority of this Act or of any Act or Ordinance heretofore passed, or at or near to any part of the shore or beach of the said Harbour wherein no such work shall have been or be so constructed, or being or lying, whether in the stream or otherwise, within any part of the said Harbour as the same is hereby declared to be extended and bounded, the several rates of wharfage and dues mentioned in the Schedule B appended to this Act, in lieu and stead of the several rates and dues mentioned in the Schedules appended to the said recited Acts, or either of them, which said rates and dues in the Schedules to the said Acts shall no longer be levied or payable; Provided, that no goods transhipped outwards (that is to say, into a vessel bound down the River to some place out of the Port of Montreal,) from one vessel to another, within the limits of the said Harbour, without being landed, shall be subject to pay any other than the outward or shipping rates and dues; and that goods transhipped from one vessel to another inwards, (that is, into a vessel bound to some place within the Port of Montreal, or up the River to some place out of the said Port,) within the limits aforesaid, without being landed, shall only be subject to pay the inward or landing rates and dues; But if any such goods be landed upon the wharves or piers, or any of them, whether for immediate re-shipment or otherwise, then such goods shall pay the inward rates and dues, and also the outward rates and dues, if re-shipped: And that all and every the provisions contained in the said recited Acts hereby amended with respect to the mode of collection and payment, and the remedy or punishment for the non-payment of the said rates and dues, and for the non-delivery or non-production of the statements thereby required, or of the declaration to the correctness of the wharfage return, and all and every the penalties imposed for such non-payment and non-delivery, and for sending in false wharfage returns, are hereby extended and expressly declared to apply to the rates and dues authorized to be levied under this Act; and the said Commissioners shall have the like remedies for the collection and enforcement of the payment of the said rates and dues and of the said penalties, as are provided in the said Acts hereby amended, the provisions of the said Acts with reference to the particulars aforesaid being hereby expressly extended and made applicable to the rates and dues contained in the said Schedule B, and to the enforcing of the payment and collection of the same.

Provisions of former Acts to apply to the new Rates.

Duty to be paid at St. Johns on goods not enumerated in the Tariff to this Act.

V. And be it enacted, That for all Goods and things not enumerated in the said Schedule B, imported from the United States into the Port of Saint Johns, in Lower Canada, there shall be paid at Saint Johns aforesaid, and before a Permit shall be granted for landing or shipping the same within the said Harbour of Montreal, a duty of one-eighth per centum upon the value thereof; which duty shall be paid at the time of making entry of such goods, to the Collector of the said Port of Saint Johns or
Officer

Officer authorized to receive the said duty, whether the Goods on which the same is payable be or be not warehoused, or the other duties thereon be or be not paid; and such duty shall be so received for the use of the said Commissioners, and the said Collector or Officer shall endorse a receipt therefor on the back of the said Permit, and sign the same; and the said Permit so endorsed and signed shall free the Goods therein mentioned from any further charge of wharfage or dues upon being landed in the said Harbour, and shall at all times, upon the landing of any of the said Goods within the said Harbour, be exhibited to the Commissioners or person authorized by them to demand the same, on their or his request; and the said Collector shall, on the first of each and every month, transmit to the said Commissioners a detailed statement of the moneys received by him under this Act, and shall deposit weekly the amount of such receipts, free from all charges of collection, in such Bank as shall be indicated to him by the said Commissioners, to their credit and subject to their order; and the said duty shall, as regards the collection thereof, be deemed a duty of Customs, and all the provisions of the Acts relative to duties of Customs shall apply to it, except in so far as they may be inconsistent with this Act.

VI. And whereas it is expedient to repeal the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to authorize the Montreal Harbour Commissioners to commute for certain Harbour Dues with the Corporations therein mentioned, and for other purposes*, and to make other provisions in lieu thereof: Be it enacted, That from and after the passing of this Act, the said last recited Act shall be and the same is hereby repealed.

Act 12 Vic. c. 119, repealed.

VII. And be it enacted, That it shall be lawful for the said Commissioners, by and with the consent of the Governor in Council, to grant and make such deductions as they may deem fair and reasonable, upon the Tariff rates of wharfage payable under this Act, upon all steamers trading and plying between the said Harbour of Montreal and the south shore of the River St. Lawrence, the River Richelieu, or other places within forty-five miles of the said Harbour.

Deductions may be made in favor of steamers plying to places within a certain distance of Montreal.

VIII. And be it enacted, That the moneys arising from the rates and dues imposed by this Act, shall be appropriated and applied by the Commissioners and their successors in office, to the purposes and in the order directed by the tenth section of the Act hereinbefore secondly recited with regard to the tolls, rates and wharfage du s therein mentioned; And all fines, forfeitures and penalties (if any) which shall be incurred under this Act, shall also be applied and accounted for, as by the said Act directed.

Moneys arising from rates, how appropriated.

IX. And whereas it is expedient that the improvements hereinafter mentioned in the navigation of the River St. Lawrence, within the Port of Montreal, should be effected under the management of the said Commissioners, Be it therefore enacted, That it shall be lawful for the said Commissioners to borrow either in this Province or elsewhere, a sum not exceeding Thirty thousand pounds, at such rate of interest not exceeding eight per centum per annum, (but upon the most advantageous terms in their power,) and for such length of time as may be agreed upon or may be deemed expedient by the said Commissioners, and to make the Debentures to be issued by them for the sums so borrowed and the interest thereon payable in this Province or elsewhere, and in Provincial currency, sterling or other currency, and at such periods as they may think best; and from time to time (if necessary) to borrow further sums under like provisions for the purpose of paying off any such Debentures which may be then payable and which the Commissioners shall not otherwise be able to pay, but for no other purpose whatever; provided the sum borrowed and owing by the Commissioners under this Section at any one time (except during such short interval as may necessarily intervene between the raising of money to pay off any Debentures and their actually being paid off)

Commissioners empowered to borrow a further sum; and on what conditions.

Proviso.

off,) shall never exceed the said sum of Thirty thousand pounds less the sum by which it ought then to be diminished by the operation of the Sinking Fund hereinafter mentioned.

Guarantee of the Province not given.

How such loan and interest shall be paid.

X. And be it enacted, That the guarantee of the Province shall not be given for the payment of either the principal or the interest of any sum to be borrowed under the next preceding Section, but the same shall be payable,—firstly, out of any surplus which may remain of the proceeds of the tonnage duty hereinafter mentioned, after defraying all expenses to be incurred in managing and keeping in repair the works also hereinafter mentioned; and secondly, out of any surplus which may remain of the moneys arising from tolls, rates and wharfage dues and other moneys coming into the hands of the Commissioners, after paying off and providing for all other charges upon and payments directed to be made out of the same.

Money so borrowed to be applied to deepening Lake St. Peter, &c.

Certain facilities granted to the Commissioners.

XI. And be it enacted, That the money to be borrowed by the said Commissioners under the authority of the Section next but one preceding, shall be by them applied to defray the expense of deepening and otherwise improving Lake St. Peter, so as to afford a safe and convenient channel through the same, with a depth of water not less than sixteen feet throughout the same, and at all times; the said channel to be made in such manner, direction and place as the said Commissioners shall deem best; and also in deepening and improving the channel of the River Saint Lawrence at and near *Isle Platte*, in such manner as the Commissioners may think best, but so as to have a depth of water not less than the depth in the said channel through Lake St. Peter: And to aid the Commissioners in performing the said work, it shall be lawful for the Commissioners of Public Works to place at the disposal of the said Harbour Commissioners all steamers, dredging vessels, machinery, tools and implements constructed or acquired for the purpose of carrying on the work connected with the improvement of Lake St. Peter, which shall be then in the possession of the said Commissioners of Public Works, and the said Harbour Commissioners shall, for the purpose of carrying on the said work, have the same powers and facilities as the Commissioners of Public Works would have if the same were carried on under their management and control.

Tonnage duty may be imposed on vessels passing the said Lake.

XII. And be it enacted, That it shall be lawful for the Governor in Council upon the application of the said Harbour Commissioners, at any time after the passing of this Act, to impose a tonnage duty not exceeding one shilling per ton of the registered tonnage of all vessels drawing ten feet of water or upwards, and passing through Lake St. Peter, such duty to be payable for each time of passing the Lake; and such duties being so imposed, shall be payable to the said Commissioners, and may be collected, recovered, and payment thereof enforced in the manner provided by the Acts hereinbefore recited, as hereby amended, with regard to the rates, tolls and wharfage dues payable to the said Commissioners, and no vessel upon which such duty shall be payable shall be entered or cleared at the Port of Montreal, or cleared at the Port of Quebec if she has left Montreal without being cleared, until the Collector or other Officer granting such Clearance shall be satisfied that such duty has been paid.

Proceeds of Tonnage duty how applied.

XIII. And be it enacted, That the proceeds of the said tonnage duty shall be applied by the said Commissioners:

Order of charges, &c.

First. To the payment of all reasonable expenses incurred in collecting the same;

Management and repair.

Secondly. To the payment of the expenses of managing and keeping in efficient repair the said improvements and works on Lake St. Peter and at *Isle Platte*, to be made and performed by and placed under the management of the said Commissioners;

Interest.

Thirdly. To the payment of the interest of the sum so borrowed as last aforesaid, and of the principal thereof, at the periods when the same shall respectively become due;

Fourthly.

Fourthly. To the payment of not less than two per centum per annum on the sum to be so borrowed as last aforesaid, for the purpose of forming a Sinking Fund towards paying off the principal of the sum so borrowed, the amount to be so paid, the officer to whom it shall be paid, and the mode of paying, managing and investing the same, to be from time to time determined by the Governor in Council: Provided always, that if the proceeds of the said tonnage duty, added to the surplus remaining out of the proceeds of the rates, tolls and wharfage dues and other moneys coming into the hands of the Commissioners, after paying all prior charges thereon, shall not at any time be sufficient to meet the charges imposed by this Section, then it shall be lawful for the Governor in Council to add such per centage to the said tonnage duty (above the rate of one shilling per ton), and to the said rates, tolls and wharfage dues, as will, in his opinion, be sufficient to enable the Commissioners to meet all the charges imposed by this Section, out of the duty and surplus hereby directed to be applied to the payment thereof.

Sinking Fund.

Tonnage duty and Tolls may be increased if found insufficient.

XIV. And be it enacted, That the said Commissioners shall keep separate accounts of all moneys borrowed, received and expended by them, under the authority of the next preceding five Sections of this Act, and shall annually account for the same and for all other moneys received and expended by them under this Act, in the manner provided by the Act secondly above cited, such accounts being rendered to the Governor in such manner and form as he shall from time to time direct, and being accompanied by a full and particular statement of the proceedings of the Commissioners under this Act.

Accounting clause.

XV. And be it enacted, That nothing in this Act contained shall extend or be construed to alter, modify or impair the force and effect of the several provisions of the Acts hereby amended, except in so far as may be expressly hereby declared and directed, or in so far as any of the said provisions may be inconsistent with this Act; and all tolls, rates and wharfage dues accrued before the passing of this Act shall be paid, collected and recovered as if this Act had not been passed.

Former Acts not affected except as expressly altered.

XVI. And be it enacted, That the word "Goods" in this Act shall include Goods, Wares, Merchandize, animals, articles and things of any description whatsoever.

Interpretation.

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

Public Act.

TARIFF B.

TOLLS, RATES AND WHARFAGES TO BE LEVIED IN THE HARBOUR OF MONTREAL, BY VIRTUE OF THIS ACT.

On Steamboats measuring 50 Tons and upwards, per Ton of their Burthen per Register, for each day of 24 hours they remain in Port, reckoned from the hour of their arrival to that of their departure.....	1/2d.
On Vessels from Sea, Steamboat-Barges, and River Craft, do. do.	1/4
On Steamboats measuring under 50 Tons, per day.....	2s.
On Vessels from Sea and River Craft, do. per day.....	1s.
On Schooners and River Craft with Fire Wood.....	6d.

ALPHABETICAL LIST OF ANIMALS, ARTICLES AND GOODS, DESCRIPTION OF PACKAGES, QUANTITIES AND THINGS, SHEWING THE RATES ON EACH, LANDED OR SHIPPED.

DESCRIPTION OF GOODS.	PACKAGES, QUANTITIES AND THINGS IN BULK.					DESCRIPTION.	RATES.
	Catty, Drum, Jar, Tin, Box or Bundle, Keg, Kit or Package not exceeding 28 lbs.	Bag, Basket, Half Barrel, Octave or Box, Bundle, Case, Keg or Package not exceeding 10 inches square, 1 Cwt. or 1 Doz. Bottles.	Barrel, Chest, Qr. Cask, Sack or Bale, Box, Bundle, Case, Cask or Package not exceeding 20 inches square, 3 Cwt. or 3 Doz. Bottles.	Cask of Liquids, Half Hoghead, Tierce or Bale, Box, Bundle, Case or Package not exceeding 30 inches square, 6 Cwt. or 6 Doz. Bottles.	Cask, Hoghead, Cart Load in Bulk, Bale, Case, Crate or Package exceeding 30 inches square, 6 Cwt. or 6 Doz. Bottles.			ANIMALS, ARTICLES AND GOODS.	PACKAGES, QUANTITIES AND THINGS IN BULK.
	Rates.	Rates.	Rat s.	Rates.	Rates.		Rates.
Almonds.....	d.	d.	1	d.	d.	Anchors.....	d.
Alum.....	+	+	1	2	3	Ashes.....	10
Apples.....	+	+	1	2	3	Per ton.....	barrel.....
Arrowroot.....	+	+	2	4	6	box.....	3
Bacon.....	+	+	1	2	3	dozen.....	1
Baggage.....	..	..	..	2	3	side.....	1
Bark.....	..	..	..	2	3	ton.....	5
Barley, Field.....	..	..	1	2	3	Bark.....	cord.....
Barley, Pot and Pearl.....	..	..	1	2	3	Barley.....	100 minots.....
						Barrels, empty.....	100.....

TARIFF B.—Continued.

DESCRIPTION OF GOODS.	PACKAGES, QUANTITIES AND THINGS IN BULK.					DESCRIPTION.	Rates.
	Catty, Drum, Jar, Tin, Box or Bundle, Keg, Kit or Package not exceeding 28 lbs.	Bag, Basket, Half Barrel, Octave or Box, Bundle, Case, Keg or Package not exceeding 10 inches square, 1 Cwt. or 1 Doz. Bottles.	Barrel, Chest, Qr. Cask, Sack or Bale, Box, Bundle, Case, Cask or Package not exceeding 20 inches square, 3 Cwt. or 3 Doz. Bottles.	Cask of Liquids, Half Hogshead, Tierce or Bale, Box, Bundle, Case or Package not exceeding 30 inches square, 6 Cwt. or 6 Doz. Bottles.	Cask, Hogshead, Cart Load in Bulk, Bale, Case, Crate or Package exceeding 30 inches square, 6 Cwt. or 6 Doz. Bottles.			ANIMALS, ARTICLES AND GOODS.	PACKAGES, QUANTITIES AND THINGS IN BULK.
	Rates.	Rates.	Rates.	Rates.	Rates.		
Batting.....	d.	d.	d.	d.	d.	Beans.....	d. 9
Beans.....	1	2	2	Biscuit.....	.. 5
Beef.....	1	2	3	Boards.....	.. 2
Biscuit.....	1	2	3	Boats.....	.. 2
Blacking.....	1	2	3	Bran.....	.. 2
Blue.....	1	2	3	Bricks, Bath & Fire.	.. 2
Bones.....	1	2	3	Do. do.	10
Bottles, Empty.....	1	2	3	Brooms, Corn.....	.. 1
Bran.....	1	2	3	Buckets.....	.. 1
Buckwheat.....	1	2	3	do. do.	9
Buffalo Skins.....	1	2	3	Buckwheat.....	.. 6
Butter.....	1	2	3	Buffalo Skins.....	.. 6
Cement.....	1	2	3	Burr Stones.....	.. 2
Candles.....	1	2	3	Calves.....	.. 2
Chains.....	1	2	3	Calf Skins.....	.. 1
Cheese.....	1	2	3	Canoes.....	.. 2
China Ware.....	1	2	3	Carriages.....	.. 2
Chocolate.....	1	2	3	Carts.....	.. 1
Cigars.....	1	2	3	Casks, empty.....	10
Clay.....	1	2	3	Cattle neat.....	.. 2
Coals.....	1	2	3	Chains.....	10
Cocoa.....	1	2	3	Chairs.....	.. 2
Coffee.....	1	2	3	Cheese.....	.. 1
Coke.....	1	2	3	Cigars.....	.. 2
Confectionary.....	1	2	3	Cinders.....	.. 6
Copperas.....	1	2	3	Clay.....	.. 5
Corn.....	1	2	3	Coals.....	.. 6
Cordage.....	1	2	3	Coke.....	.. 6
Corks.....	1	2	3	Colts.....	.. 1
Crackers.....	1	2	3	Corn.....	.. 9
Cranes.....	1	2	3	Currants.....	.. 2
Dye Stuffs.....	1	2	3	Deals.....	1s. 3
Earthenware.....	1	2	3	Do. ends.....	.. 5
Eggs.....	1	2	3	Feathers.....	.. 1
Feathers.....	1	2	3	Fish.....	.. 1
						Flax.....	.. 6
						Fluids.....	.. 6

TARIFF B.—Continued.

DESCRIPTION OF GOODS.	DESCRIPTION.					ANIMALS, ARTICLES AND GOODS.	PACKAGES, QUANTITIES AND THINGS IN BULK.	Rates.
	Caddy, Drum, Jar, Tin, Box or Bundle, Keg, Kit or Package not exceeding 28 lbs.	Bag, Basket, Half Barrel, Octave or Box, Bundle, Case, Keg or Package not exceeding 10 inches square, 1 Cwt. or 1 Doz. bottles.	Barrel, Chest, Gr. Cask, Sack or Bale, Box, Bundle, Case, Cask or Package not exceeding 20 inches square, 3 Cwt. or 3 Doz. Bottles.	Cask of Liquids, Half Hogshead, Tierce or Bale, Box, Bundle, Case or Package not exceeding 30 inches square, 6 Cwt. or 6 Doz. Bottles.	Cask, Hogshead, Cart Load in Bulk, Bale, Case, Crate or Package exceeding 30 inches square, 6 Cwt. or 6 Doz. Bottles.			
Figs.....	d.	d.	d.	d.	d.	Furniture.....	Per cwt.....	d.
Fish.....	1	1	1	4	6	Furring.....	100 pieces...	3
Flax.....	1	1	1	3	6	Glass.....	100 feet.....	1
Flour.....	1	1	1	4	6	Glue.....	cwt.....	1
Fluids.....	1	1	1	3	6	Grain.....	100 bushels..	9
Fruit.....	1	1	1	4	6	Grindstones	each.....	3
Furniture.....	1	1	1	4	6	Hams.....	do.....	3
Glassware.....	1	1	1	4	6	Do.....	Per hhd. & puns.	6
Glass.....	1	1	1	2	3	Handspikes	100.....	7 1/2
Glue.....	1	1	1	2	3	Hay.....	100 bundles..	6
Grain.....	1	1	1	2	3	Hemp.....	cwt.....	1
Grapes.....	1	1	1	4	6	Hides.....	dozen.....	3
Hams.....	1	1	1	2	3	Hogs.....	each.....	1
Hay.....	1	1	1	1	1	Horses.....	do.....	1
Hemp.....	1	1	1	4	6	Iron.....	Per ton.....	10
Hides.....	1	1	1	2	3	Lambs.....	each.....	1 1/2
Honey.....	1	1	1	2	3	Lamb Skins	Per dozen.....	1
Hops.....	1	1	1	2	3	Laths.....	bundle.....	1 1/2
Iron, of all kinds	1	1	1	2	3	Lead.....	ton.....	10
Lard.....	1	1	1	4	6	Leather.....	cwt.....	1
Lead, of all kinds	1	1	1	2	3	Do.....	side.....	1 1/2
Leather.....	1	1	1	4	6	Lime.....	barricque...	3
Lead, dry.....	1	1	1	4	6	Liqueurs	bottle.....	6
Lemons.....	1	1	1	4	6	Liquids.....	pipe.....	6
Lime.....	1	1	1	4	6	Liquors.....	puncheons...	6
Liqueurs.....	1 1/2	1 1/2	1 1/2	3	6	Luggage.....	ton.....	5
Liquids.....	1 1/2	1 1/2	1 1/2	3	6	Malt.....	Per 100 bushels..	10
Liquors.....	1 1/2	1 1/2	1 1/2	3	6	Marble.....	slab.....	1
Luggage.....	1 1/2	1 1/2	1 1/2	3	6	Medicines	puncheon...	6
Malt.....	1	1	1	2	3	Metals.....	ton.....	10
Matches.....	1	1	1	2	3	Mill Stones	each.....	2
Meal.....	1	1	1	1 1/2	3	Molasses.....	Per puncheon...	6
Medicines.....	1	1	1	3	4	Nails.....	cwt.....	1
Metals.....	1	1	1	2	3	Nuts.....	bushel.....	1 1/2
Molasses.....	1 1/2	1 1/2	1 1/2	2	4			
Mustard.....	1	1	1	4	6			
Nails.....	1	1	1	2	3			

TARIFF B.—Continued.

DESCRIPTION OF GOODS.	PACKAGES, QUANTITIES AND THINGS IN BULK.					DESCRIPTION.	RATES.
	Rates.	Rates.	Rates.	Rates.	Rates.		
	Catty, Drum, Jar, Tin, Box or Bundle, Keg, Kit or Package not exceeding 28 lbs.	Bag, Basket, Half Barrel, Octavo or Box, Bundle, Case, Keg or Package not exceeding 10 inches square, 1 Cwt. or 1 Doz. Bottles.	Barrel, Chest, Qr. Cask, Sack or Bale, Box, Bundle, Case, Cask or Package not exceeding 20 inches square, 3 Cwt. or 3 Doz. Bottles.	Cask of Liquids, Half Hogshead, Tierce or Bale, Box, Bundle, Case or Package not exceeding 30 inches square, 6 Cwt. or 6 Doz. Bottles.	Cask, Hogshead, Cart Load in Bulk, Bale, Case, Grate or Package exceeding 30 inches square, 6 Cwt. or 6 Doz. Bottles.		
Nuts	d.	d.	d.	d.	d.	Oakum	d.
Oakum	1	1	1	2	3	Oars	10
Oats	1	2	2	2	3	Oats	9
Ochres	1	1	1	2	4	Ochres	1
Oils	1	1	1	2	4	Oils	6
Oil Cake	1	1	1	2	3	Oil Cake	10
Onions	1	1	1	2	3	Ores	10
Ores	1	1	1	2	3	Oysters	1
Oranges	1	2	2	4	6	Packs of Staves	1
Oysters	1	2	2	4	6	Pails	1
Paint	1	2	2	4	6	Paper, Loose	1
Peaches	1	1	1	2	4	Peas	9
Peas	1	1	1	2	3	Pigs	1
Pickles	1	1	1	2	4	Pipes	1
Pitch	1	1	1	2	3	Planks	10
Plants	1	1	1	2	3	Powder	1
Plaster	1	1	1	2	3	Puncheons, empty	3
Pork	1	1	1	2	3	Putty	1
Powder	1	1	1	2	4	Rags	1
Preserves	1	1	1	2	4	Raisins	1
Provisions	1	1	1	2	4	Do.	1
Putty	1	1	1	2	3	Rice	1
Rags	1	1	1	2	3	Ropes	1
Raisins	1	1	1	2	4	Rosin	1
Rice	1	1	1	2	3	Salt, Loose	10
Roots	1	1	1	2	3	Sand	1
Rosin	1	1	1	2	3	Scantling	5
Sago	1	1	1	2	6	Seed	3
Salaratus	1	1	1	2	6	Sheep	1
Salt	1	1	1	2	3	Shingles	1
Saltpetre	1	1	1	2	3	Shorts	1
Sand	1	1	1	2	6	Shot	1
Sauces	1	1	1	2	3	Shovels	1
Seed	1	1	1	2	3	Skins	1
Shorts	1	1	1	2	1	Sleighs	2
Shot	1	1	1	2	6	Spades	1
Skins	1	1	1	2	6	Spikes	1
Snuff	1	1	1	2	6	Spirits	6

TARIFF B.—Continued.

DESCRIPTION OF GOODS.	PACKAGES, QUANTITIES AND THINGS IN BULK.					DESCRIPTION.	RATES.
	Catty, Drumm, Jar, Tin, Box or Bundle, Keg, Kit or Package not exceeding 28 lbs.	Bag, Basket, Half Barrel, Oelave or Box, Bundle, Case, Keg or Package not exceeding 10 inches square, 1 Cwt. or 1 Doz. Bottles.	Barrel, Chest, Qr. Cask, Sack or Bale, Box, Bundle, Case, Cask or Package not exceeding 20 inches square, 3 Cwt. or 3 Doz. Bottles.	Cask of Liquids, Half Hogshead, Tierce or Bale, Box, Bundle, Case or Package not exceeding 30 inches square, 6 Cwt. or 6 Doz. Bottles.	Cask, Hogshead, Cart Load in Bulk, Bale, Case, Crato or Package exceeding 30 inches square, 6 Cwt. or 6 Doz. Bottles.			ANIMALS, ARTICLES AND GOODS.
	Rates.	Rates.	Rates.	Rates.	Rates.		Rates.
Soap.....	d.	d.	d.	d.	d.	Staves, Barrel.....	d. 9
Soda Ash.....	1	1	1	1	4	Do. Puncheon... Per mille.....	9
Spices.....	1	1	1	1	3	Do. Standard... do.	1s. 0
Spikes.....	1	1	1	1	6	Do. Standard... do.	3s. 0
Spirits.....	1	1	1	1	4	Stones..... 100 feet.....	5
Starch.....	1	1	1	1	3	Stores, Govt..... puncheon...	6
Stone Ware.....	1	1	1	1	6	Do. ton	5
Stores, Government.....	1	1	1	1	4	Stoves..... single	5
Straw.....	1	1	1	1	4	Do. double	1
Sugar.....	1	1	1	1	1	Do. cooking	1
Salts.....	1	1	1	1	6	Do. 100 bundles..	6
Stones, Building.....	1	1	1	1	3	Tea..... half catty	5
Tallow.....	1	1	1	1	1	Timber..... 100 feet.....	1
Tar.....	1	1	1	1	3	Tin..... box	1
Tobacco.....	1	1	1	1	3	Tobacco..... cwt	1
Tongues.....	1	1	1	1	6	Tow..... do.	1
Tow.....	1	1	1	1	6	Tallow..... do.	1
Tea.....	1	1	1	1	3	Wadding..... do.	1
Vegetables.....	1	1	1	1	3	Wagons..... each	1
Wadding.....	1	1	1	1	3	Wax..... Per cwt	1
Wax.....	1	1	1	1	3	Wheat..... 100 bushels..	1s. 3
Wheat.....	1	1	1	1	3	Whet Stones..... box	3
Whet Stones.....	1	1	1	1	3	Wire..... pipe	6
Whitening.....	1	1	1	1	3	Wood, Fire..... cord	1
Wicks.....	1	1	1	1	3	Do. load	1
Wines.....	1	1	1	1	4	Wood, Hard..... 100 feet.....	3
Wire.....	1	1	1	1	3		
Wool.....	1	1	1	1	3		

Wood Fire, will be subject to an additional wharfage of One Penny per Cord for each day it remains upon the Wharf after the first week.

On Goods subject to AD VALOREM Duty, and not otherwise enumerated in this Tariff, upon every (£100) One hundred pounds currency, upon which Duty is paid at the Custom House.... 2s. 6d.

On Goods not subject to AD VALOREM Duty, nor to Specified Tolls or Dues under this Tariff, there shall be charged Rates corresponding with those on similar Articles, Packages or Quantities detailed, and according to value, weight or measurement, at the option of the Commissioners or their Collector.



ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. XCVIII.

An Act to provide for the appointment of Commissioners to inquire into the affairs and management of the Montreal Provident and Savings Bank.

[10th August, 1850.]

WHEREAS it is expedient that full enquiry should be made under Legislative authority into the affairs of the Institution known as the Montreal Provident and Savings Bank, and the causes which led to the failure of the said Institution and its inability to meet the just claims of those who have deposited money in it: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the Governor of the Province to appoint three Commissioners for the purpose of making the inquiry mentioned in the Preamble to this Act, and of reporting the result thereof to the Governor, with the evidence to be taken by them in the course of such inquiry; and for the purpose aforesaid, the said Commissioners shall have full power to summon any Trustee, Manager, Treasurer or Officer of the said Institution, or any person having been such, or any other person whomsoever, to attend before them, at such time and at such place within the City of Montreal as they shall appoint, then and there to give such evidence and information as it may be in their power respectively to give pertinent to the said inquiry, and to produce before the said Commissioners, and exhibit to them, if required, all books, documents and papers of the said Institution or relative to the matters to which the said inquiry relates, or to any of them, which shall be in the possession or subject to the control of the party summoned; and the said Commissioners shall have full power to examine any person so attending before them, on oath or solemn affirmation (as the case may be) which any one of them may administer, and to take down the evidence of such person in writing and to require them to sign the same; and if any person so summoned shall refuse to attend, or attending shall refuse or neglect to answer any question pertinent to the said inquiry, or to produce any such book, document or paper as aforesaid, the Commissioners may complain thereof to any Judge of the Superior Court, who on being satisfied by affidavit or otherwise, that such person has so refused or neglected, shall issue an order commanding the party so refusing or neglecting to attend before the said Commissioners at a time and place therein named, for the purpose mentioned in the prior summons of the Commissioners, and such order shall be held to be an order of the Court, and if any such party shall refuse or neglect to obey such order, he shall be held to have committed a contempt of the said Court, and may be dealt with and the said order may be enforced accordingly: Provided always, that no person shall be compelled to answer any question by his answer to which he might render himself liable to a criminal prosecution.

Preamble.

Governor may appoint Commissioners.

Their powers and duties.

Examination of witnesses on oath.

As to persons refusing to attend.

Provido.

Quorum.

II. And be it enacted, That any two of the said Commissioners shall be a *quorum*, and may lawfully exercise the powers vested in the said Commissioners.



ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. XCIX.

An Act to oblige the Trinity House of Quebec to lay down Buoys to mark the Shoals in the North Channel of the River St. Lawrence, and to facilitate the Traverse from Cape Tourmente to Isle-aux-Reaux.

[24th July, 1850.]

IN consideration of the rapid settlement and increasing population of the territory lying upon the banks of the Saguenay, and upon the North shore of the River St. Lawrence, from the Black River downwards as far as Pointe-des-Monts, and the urgent necessity of providing means for rendering the navigation in those parts less dangerous, both for vessels from beyond seas, and for the large number of schooners passing and repassing between the Saguenay and the Harbour of Quebec, along the north side of the said river from the Saguenay to Cape Tourmente, thence crossing to the south side by steering for Isle-aux-Reaux, and thence along the Channel on the south side of the Island of Orleans to Quebec, and *vice versa*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for the purpose of marking the Shoals in the said Channel on the north side of the said River St. Lawrence, and of warning Navigators against the dangers of a wrong course, and of facilitating the traverse from the north to the south side, and *vice versa*, between Isle-aux-Reaux and Cape Tourmente, the Trinity House of Quebec shall, so soon as may be possible after the passing of this Act, and immediately upon the opening of the navigation in each subsequent year, place Buoys in the same manner as Buoys are placed in the Traverse opposite St. Roch's Pointe, and in other parts of the said River, namely: on the sand banks below the Island of Orleans, opposite the Parish of St. Joachim, and on the sand bank of Isle-aux-Reaux, and on that of Cape Brulé, and also a Buoy to mark the Islets or rocks opposite La Gribane, another Buoy to mark the great Shoal to the north of the Isle-aux-Coudres, and another to the east of the Alouettes Shoal, at the mouth of the Saguenay.

Preamble.

Certain Buoys to be laid down by the Quebec Trinity House.

TORONTO : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.





ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P . C .

An Act to amend an Act for supplying the City of Quebec and parts adjacent thereto with water.

[10th August, 1850.]

WHEREAS by an Act of the Legislature of this Province passed in the tenth year of Her Majesty's Reign, intituled, *An Act for supplying the City of Quebec and parts adjacent thereto with water*, powers were conferred upon the Mayor and Councillors of the said City with the intention of enabling them to obtain a supply of good and wholesome water from sources in the vicinity of said City : And whereas the inhabitants of the said City, in a public meeting duly convened, as well as the said Corporation, have expressed their desire that further statutory provisions should be made by the Legislature, for the attainment of an object in a great degree conducive to the public health and at the same time affording a protection against fires and disastrous conflagrations, to which the said City hath been exposed from the want of an early supply of water : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the restriction imposed upon the said Corporation, by the twelfth section of the said Act, cited in the preamble to this Act, shall be and the same is by this Act removed ; and it shall and may be lawful for the said Corporation, when and so soon as they are prepared to supply the said City, or any parts thereof, with water, to specify and declare by a Bye-law, that the proprietors or occupiers of houses, stores and similar buildings in the said City, or in such parts thereof as they are ready to supply as aforesaid, shall be subject to the annual rate or assessment, payable at the periods to be fixed by the said Bye-law, to the said Corporation, which rate or assessment shall not however be made payable before the water is ready to be supplied to the proprietors or occupiers, by the said Corporation, and shall not exceed one shilling and three pence in the pound on the assessed annual value of the houses occupied, and one half that amount on stores and similar buildings : Provided also that no other or further charge than the said rate or assessment of one shilling and three pence in the pound shall be made for the supply of the water as aforesaid ; any thing in the said Act, or in this Act to the contrary notwithstanding.

II. And inasmuch as the establishment of the said water works will be for the advantage and protection of the said inhabitants generally, and the imposing of a general rate or assessment will render the procurement of the loan hereinafter mentioned more easy, and contribute to the reduction of the rate of interest thereon, Be it enacted, that the said rate or assessment shall be payable by such proprietors or occupiers as well by those who consent as by those who refuse to receive into their houses, stores or other buildings the water pipe to provide the same : Provided always, that the expense of introducing the said water into the said houses, stores or other buildings shall be borne by the said Corporation and the work performed by the same, but the distribution of the said water through the said houses, stores or other buildings after being introduced

Preamble.
10 Vict. 113.

Restriction in sect 12,
removed.

Water-rate may be
imposed by the
Corporation.

Proviso : water-rate
limited.

All proprietors and
occupants to be sub-
ject to water-rate.

Proviso.

introduced into them shall be borne by such proprietors or occupiers if required by them.

III. And as it is necessary to substitute other provisions in lieu of those contained in the thirteenth section of the said Act, which authorizes the issuing of Debentures or Corporation Bonds, Be it enacted, that the said thirteenth section shall be and the same is hereby repealed; and it shall and may be lawful for the said Corporation to borrow a sum of money not exceeding One hundred and twenty-five thousand pounds current money of this Province, for the purpose of establishing the said Water Works, and to issue Debentures or Corporation Bonds to that amount, under the hand of the Mayor and the Seal of the said Corporation, payable on the first day of November, in the year of our Lord one thousand eight hundred and seventy, unless the said Corporation shall see fit to redeem the same at an earlier period, with the consent of the holders thereof, upon which Debentures or Corporation Bonds interest shall be payable semi-annually on the first day of November and May in every year, which interest may amount to and shall not exceed the rate of seven per centum per annum. Provided always, that all and every the provisions in the said Act contained, relating to the issuing of the Debentures or Corporation Bonds therein mentioned, and the moneys to be obtained by means thereof, shall apply equally to the provisions of this Act and the Debentures or Corporation Bonds herein mentioned and the moneys to be obtained by means thereof, except so far as altered by this Act.

IV. And be it enacted, That the said Corporation shall have power to make special agreements with parties interested for the supply of water for any steam engine, baths, breweries, distilleries, manufactories, livery stables, hotels or other special cases.

V. And inasmuch as the establishment and management of so great an undertaking as the said Water Works are inconsistent with, and the duties connected therewith are too various and complicated for a Committee of the said Corporation to perform, and further provisions are in this behalf necessary, Be it enacted, that it shall and may be lawful for the said Corporation, by a By-law, to name and appoint a competent person to manage and superintend the construction of the said Water Works who may receive an annual salary not exceeding Three hundred pounds currency, and from time to time to remove the said Superintendent and appoint another in his place.

VI. And be it enacted, That the said Corporation shall have power to dispose of the said Debentures or Corporation Bonds upon such terms as the said Corporation shall find to be most advantageous for the said City; to enter into contracts for the purchase and acquiring of land and all necessary materials connected with the said works; to acquire the right of way when necessary; to settle and adjust the amount of land damage, and pay the amount agreed upon for the same; to contract with the parties who may agree to construct the said works, or any part thereof; to superintend and manage the works when completed; to appoint an Engineer, and all workmen found necessary; to fix their salaries or wages.

VII. And be it enacted, That if any person interested in lands or other property which the said Corporation may require or over which a right of way or servitude may be required for the said works, or in lands in relation to which the said Corporation shall order any thing to be done in their opinion necessary to give effect to the provisions of the said Act and of this Act, shall not accept a proposal in writing made by them, for compensation for his land or for damages to be occasioned by the act of the said Corporation, the said Corporation may agree with such person to refer the same to one or more disinterested persons, the award of whom, or of the majority of whom, shall be binding and final in all matters under twenty-five pounds, and in all matters when the award shall exceed twenty-five pounds, the award shall be likewise binding and final unless appealed from by one or both of the parties, by petition to the Court of Quarter Sessions for the District of Quebec, at its first sitting after the making and publishing of the award, whereat a jury shall be empanelled to decide the amount payable by the said Corporation, as and for compensation for land or damages, as the case may be, and if the verdict of the jury shall declare the sum awarded to be sufficient, the

Sect. 13 repealed.

What sum the Corporation may borrow, and on what conditions, &c.

Proviso.

Special agreements with certain parties.

Recital.

Corporation may appoint a superintendent; his Salary.

Certain powers vested in the corporation.

Compensation how determined if the corporation and any party cannot agree.

Appeal given.

the appellant shall pay the costs of the appeal, and if, on the contrary, the sum awarded shall be declared insufficient, the costs shall be payable by the respondent : Provided always, that it shall be lawful for the said Corporation to take possession of the said lands, or exercise the right of way or servitude, or perform the work required so soon as the proposal aforesaid shall be made and the money therein mentioned tendered or paid into Court as hereinafter provided.

Proviso.

VIII. And be it enacted, That if the said parties cannot agree upon referees or *experts* for the purpose aforesaid, after the proposal or offer of the said Corporation shall be made, (after which, and tender of the money or payment into Court as aforesaid, the said Corporation may enter into possession of the lands required, servitude or right of way aforesaid, or order the thing required to be done as aforesaid) the party dissatisfied with such proposal or offer, may appoint an appraiser or *expert* and notify the Corporation, and require them to name a second appraiser or *expert*, and notify the same to him, which it shall be the duty of the said Corporation to do, and in the event of neglect or refusal, after three days notice in writing from the said party so dissatisfied, or in case the said Corporation shall have named an *expert* who shall refuse to act within three days after his appointment shall have been notified to him, any one of the Judges of Her Majesty's Superior Court, residing at the City of Quebec, shall, upon the summary petition of the party dissatisfied, and proof, upon the oath of one credible witness, of the refusal or neglect aforesaid, and of the service of the petition upon the said Corporation, forthwith appoint an appraiser or *expert* to act on the behalf of the said Corporation ; and the appraisers or *experts* appointed as aforesaid, shall estimate the value or compensation to be paid by the said Corporation, and shall report the same to them in writing ; and in case of disagreement between the appraisers or *experts*, they the said appraisers or *experts* shall appoint an umpire, or if they cannot agree upon the appointment of an umpire, one of the Judges aforesaid shall, without loss of time, on the summary petition of the said appraisers or *experts*, or of the said party dissatisfied, appoint an umpire, and the report of any two of the said appraisers or *experts* and umpire shall have equal effect as if the same had been, or were made by the two appraisers or *experts*, concurrently, and upon the amount of such estimated and reported value or compensation being so established, the same shall, after due payment, be a good and valid discharge to the said Corporation : Provided always, that if either party be dissatisfied with the said report, an appeal may be made as in the foregoing section of this Act is provided, to the said Court of Quarter Sessions, at its first sitting after the making and publishing of the said Report, when a Jury shall be empanelled as aforesaid, and in case the Report shall be confirmed by the verdict of the Jury, the appellant shall recover costs, and in case of the same being set aside or altered thereby, the respondent shall recover costs, and the costs of the reference to *experts* shall be likewise borne by the unsuccessful party, when the award shall have been in accordance with the report : Provided always, that the costs may be awarded either by the Jury in cases of appeals, or by the referees, *experts* or appraisers in cases of reference.

Provision where the corporation and any party cannot agree upon referees.

Referees to report in writing.

Proviso :
Appeal given.

As to costs.

IX. And as in certain cases it may be doubtful to whom the compensation ascertained by the award of referees, *experts* or appraisers, should be paid, and to whom the said Corporation should make their proposal or offer for land, the right of way or servitude, or for damage done in the exercise of the powers vested in them by this Act, Be it enacted, That it shall be lawful for the said Corporation to cause the amount of such compensation to be lodged in the hands of the prothonotary of the said Superior Court, sitting at Quebec, to await the distribution of the said Court to the party or among the parties lawfully entitled to such compensation, or to any part thereof ; And the said Court shall prescribe the mode of calling before it all parties interested, and make such orders in relation to the same as in its discretion shall seem just.

Provision where it shall be doubtful who those acting for others ought to receive the compensation.

X. And be it enacted, That it shall be lawful for all bodies, politic or corporate, tutors, curators, tenants for life or in substitution, to agree with the said Corporation in all the matters aforesaid, in relation to the said works ; and any contracts or agreements, references, awards or verdicts rendered against or in favour of the said tenants for life

Bodies politic, and those acting for others may convey to the corporation.

or in substitution, tutors and curators, shall be equally binding on the parties represented by them or either of them, as if rendered against or in favour of the said parties whom they represent as aforesaid, and it shall be in the power of the said Corporation to act towards the said tenants for life, or in substitution, tutors or curators, in the same manner and way as if they were proprietors of the land in relation to which the Corporation desire to become proprietors, to obtain any right of way or servitude, or do any other matter or thing in furtherance of the provisions contained in the said Act and in this Act.

Public Act.

XI. And be it enacted, That this Act shall be deemed to be a Public Act.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CI.

An Act further to amend the Act for granting relief to the sufferers by the Fires at Quebec.

[10th August, 1850.]

WHEREAS in and by an Act of the Parliament of this Province, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act for enabling Her Majesty to direct the issue of Debentures to a limited amount, and for giving relief to the City of Quebec*, it was amongst other things in effect enacted, That it should be lawful for the Commissioners to be appointed under the provisions of the said Act, and they were thereby required, so long as the principal sums to be loaned under the said Act, and the interest to accrue thereon, should remain unpaid, to cause an insurance to be effected, and to be annually renewed, in proportion to the sums remaining due on all and every the buildings to be erected under the said Act; which insurance, or the sums due under the same respectively, should, in case of the destruction of the said buildings by fire, be payable to Her Majesty, Her Heirs and Successors, by the underwriters thereof, and to insert, or cause to be inserted, in the Bonds or Obligations to be entered into by any person or persons to whom any sum or sums of money might be advanced and lent under the said Act, a clause or clauses to the effect that such person or persons should bind himself or themselves to re-imburse to Her Majesty whatever sum of money or rate of insurance might thereafter be paid by such Commissioners for effecting such insurance, and at the same period at which such rate of insurance should be made payable by the respective policies: And whereas it was also in and by the said Act enacted, That all the powers and authorities of the Commissioners to be appointed as aforesaid, should, under certain circumstances, and after the observance of certain formalities, cease and determine, and such circumstances have occurred, and such formalities have been duly observed, that all the powers and authorities of the Commissioners appointed under the said Act have ceased and determined accordingly: And whereas divers sums of money and rates of insurance have, since the cessation and determination of the powers and authorities of such Commissioners, been paid by Her Majesty's Receiver General for this Province, for renewing insurances upon buildings erected under the said Act, in respect of which principal sums loaned under the said Act, and interest accrued thereon, remain unpaid, and it is expedient to enable Her Majesty to obtain re-imbusement of such sums of money and rates of insurance, in the same manner as if they had been paid by the said Commissioners: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all persons who may have entered into any Bonds or Obligations, or who may now or hereafter be in any manner or way legally bound by any Bonds or Obligations entered into in pursuance of the said Act as aforesaid, in which such clauses as aforesaid have been inserted, shall be thereby bound to re-imburse to Her

Preamble.
9 Vic. c. 62, cited.

Money paid by the Receiver General for insurance on houses built with loan, to be reimbursed by the borrowers.

Majesty

Majesty whatever sums of money or rates of insurance may heretofore have been paid or may hereafter be paid by Her Majesty's Receiver General for this Province as aforesaid, in the same manner and to the same extent as the same persons would have been or would be bound to re-imburse the same, if paid by the said Commissioners before their powers and authorities ceased and determined as aforesaid ; any thing in the said Act, or in the said or any other clauses of any such Bond or Obligation to the contrary notwithstanding.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P . C I I .

An Act to amend the Act authorizing the Quebec Turnpike Road Trustees to acquire
 Dorchester Bridge, and to make certain Roads.

[10th August, 1850.]

WHEREAS the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to authorize and enable the Trustees of the Quebec Turnpike Roads to acquire and assume the possession and property of the Bridge called Dorchester Bridge, and for other purposes*, has not attained the object the Legislature had in view, which was the immediate purchase of Dorchester Bridge and the speedy completion of the Roads mentioned in the said Act, and it is therefore necessary to amend the said Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing to the contrary in the Act above cited, the Quebec Turnpike Road Trustees are authorized forthwith after the passing of this Act, to cause the Roads mentioned in the said Act to be made, and to expend in making the said Roads the sum of Fifteen Thousand Pounds currency, out of the Twenty-five Thousand Pounds currency which they are by the said Act empowered to borrow, the balance of Ten Thousand Pounds being to be employed either in purchasing and improving Dorchester Bridge, or in constructing one or more new Draw Bridges on the River Saint Charles, within the limits situate between Saint Roch street and Dorchester street, in the City of Quebec, on the north shore of the said River Saint Charles, and two points as nearly as possible corresponding on the south shore of the said river.

Preamble,
 Act 12, V. c. 115.

The Roads mentioned
 in the said Act to be
 made forthwith.

Balance for buying
 or constructing a
 Bridge.

If the present Bridge
 be not purchased, a
 new one to be built.

II. And be it enacted, That if, at the expiration of two months, from and after the passing of this Act, the said Trustees shall not have purchased the said Dorchester Bridge, they shall immediately proceed to the construction of the above mentioned new Draw Bridge or Draw Bridges.

Trustees may purchase the necessary land.

III. And be it enacted, That the Trustees of the Quebec Turnpike Roads are expressly authorized to acquire any land or portion of beach as shall be necessary for the construction of the Draw Bridge or Draw Bridges and of the Roads leading thereto, and to take possession thereof on payment to the proprietor thereof, (in case he shall not grant the same by donation) of the whole value of such land or beach, which said value shall be regulated, paid or distributed, as the case may be, according to the terms and provisions of the Ordinance of the Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to provide for the improvement of certain Roads in the neighbourhood of and leading to the City of Quebec, and to raise a Fund for that purpose*.

Ordinance 4 V. c. —

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P . C I I I .

An Act to authorize the Exchange of certain Turnpike Road Debentures for others of the same total value but being respectively for smaller sums.

[10th August, 1850.]

WHEREAS a considerable amount of the Debentures issued by the Trustees of the Roads hereinafter mentioned are respectively for sums too large to be sold, or conveniently assigned over, as Debentures for smaller sums might advantageously be : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in any Act or Ordinance to the contrary, it shall be lawful for the Trustees of the Montreal Turnpike Roads, the Trustees of the Quebec Turnpike Roads, and for the Trustees of the Longueuil and Chambly Turnpike Road respectively, at any time within three years from the passing of this Act, to exchange any of their Debentures for Debentures amounting in the whole to a like sum, but being respectively for such sums, not less than Five pounds each, as the now holders thereof may require, bearing the same rate of interest to be reckoned from and payable at the same times, and having the same rank and priority of claim, as the Debentures for which they are exchanged, which last shall be cancelled and kept by the Trustees by whom the new Debentures shall be issued, and a memorandum shall be made upon them of the Debentures for which they were exchanged, and the new Debentures shall also be marked as having been issued in exchange for such cancelled Debentures: Provided always, that the new Debentures issued under this Act shall not be made payable at an earlier date than the Debentures in exchange for which they shall have been issued.

Preamble.

Debentures of Trustees of certain Turnpike Roads may be exchanged for others for smaller sums each.

Proviso.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CIV.

An Act to transfer to the Municipal Council of the Municipality of the Town of Three-Rivers, the administration of the Common of the said Town, and for other purposes.

[24th July, 1850.]

WHEREAS the inhabitants of the Town of Three-Rivers by their Petition to the Legislature, have prayed that the management of the Common of the Town of Three-Rivers be transferred to the Municipal Council of the Municipality of the Town of Three-Rivers, and it is of great advantage to the said Petitioners that the prayer of the said Petitioners should be granted to them: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, no Chairman or Trustees of the Common of the Town of Three-Rivers shall be hereafter chosen; and all and every the powers, functions, authority and duties vested in and to be performed by the Chairman and Trustees of the said Common, or the Chairman alone, or the Chairman and three or less of the said Trustees, or four or less of the said Trustees, under the following Acts of the Legislature of the late Province of Lower Canada, to wit: the Act passed in the forty-first year of the Reign of His late Majesty King George the Third, and intituled, *An Act for better regulating the Common belonging to the Town of Three-Rivers*; and the Act passed in the fifty-seventh year of the same Reign, and intituled, *An Act to amend an Act passed in the forty-first year of His Majesty's Reign, intituled 'An Act for better regulating the Common belonging to the Town of Three-Rivers'*; and the Act passed in the sixth year of the Reign of His late Majesty King George the Fourth, and intituled, *An Act to authorize the Chairman and Trustees of the Common of Three-Rivers to acquire and grant certain lots of ground therein mentioned*, shall be vested in and exercised by the said Municipal Council of the Municipality of the Town of Three-Rivers to all intents and purposes whatsoever, in as large and ample a manner as if the said Municipal Council were specially named in the said Acts, instead of the Chairman and Trustees of the Common of the said Town of Three-Rivers, or of the Chairman and Trustees of the said Common, or of the Chairman alone, or of the Chairman and three or less of the said Trustees, or of four or less of the said Trustees, or otherwise.

Preamble;

Powers of Chairman and Trustees of Common under—

41 Geo. 3, c. 11;

57 Geo. 3, c. 8;

And 6 Geo. 4, c. 24—vested in Municipal Council of the Town of Three-Rivers.

II. And whereas no election of Chairman and Trustees of the said Common has taken place since the first Monday in April, one thousand eight hundred and forty-one, Be it therefore enacted, That each and every of the Acts above cited shall be and remain in full force and vigour as if the said Chairman and Trustees had been regularly elected and chosen at the periods fixed by the Act first above cited, excepting such parts of the said first cited Act as are hereinafter repealed.

The above Acts to remain in force.

III. And be it enacted, That the second, third, fourth, fifth, ninth, eleventh, twelfth and thirteenth Sections of the said first recited Act shall be and are hereby repealed.

Except 2, 3, 4, 5, 9, 11, 12, & 13 Sects. of 41 Geo. 3, c. 11.

IV.

Municipal Council entrusted with management of Common.

10 & 11 Vict. c. 7 cited.

Sealing of deeds touching Common, &c. not required.

Council may concede lots without reference to a meeting of inhabitants.

Proviso.

6 Geo. 4, c. 21.

Proviso.

Persons last elected as Chairman and Trustees, to render account to Council.

Moneys from *cens et rentes*, &c. to be employed in improvement, &c., of Common.

IV. And be it enacted, That the said Municipal Council of the Municipality of the Town of Three-Rivers, may direct and manage the said Common and all the property and affairs thereof, in the same manner and with the same powers and authority as the other property, affairs and things which are now or hereafter may be under the control and jurisdiction of the said Municipal Council, under the provisions of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*; which said powers so conferred by the said Act shall extend to and apply to the said Common and the property and affairs thereof, and it shall be lawful for the said Municipal Council to make By-laws and regulations for carrying into effect such laws as it shall be their duty to enforce, and for the good management of the said Common and the property and affairs thereof, and to amend, modify, alter or repeal the same when and so often as they shall deem it expedient, and to impose fines or penalties on parties contravening such rules and regulations; provided, however, that such fines and penalties shall not, in any case, exceed Two pounds ten shillings currency.

V. And be it enacted, That it shall not be necessary to affix a seal to the deeds, titles, contracts, orders, By-laws and regulations, minutes of proceedings, documents or papers of any nature whatsoever, touching the said Common or the property and affairs thereof, nor to make use of the seal of the Corporation of the said Common or of any other seal whatsoever, with respect to the same; any law, usage or custom to the contrary notwithstanding.

VI. And be it enacted, That it shall be lawful for the said Municipal Council to concede lots on the said Common at the accustomed *cens et rentes*, dues, conditions, reservations and servitudes, without being required to cause the said lots to be fixed and determined at a General Meeting of the inhabitants of the Town; it shall also be lawful for the said Municipal Council in the same manner to lease or farm out a part of the said Common, to one or more persons, by one or more leases for rent, or to farm, for any period not exceeding nine years, on such conditions, charges, clauses and reservations as they shall think fit: Provided always, that they shall not concede a greater extent of the ground of the said Common than is determined by the said above recited Act, intituled, *An Act to authorize the Chairman and Trustees of the Common of Three-Rivers to acquire and grant certain lots of ground therein mentioned*: Provided further, that the said Municipal Council shall not lease or farm out the whole of the said Common, but shall leave and keep a sufficient portion thereof untilled, so as to allow the animals belonging to the inhabitants of the Town of Three-Rivers to graze thereon.

VII. And be it enacted, That within the space of one month after the passing of this Act, the persons who last held the offices of Chairman and Trustees of the said Common, to which said offices they were elected in the year one thousand eight hundred and forty-one, shall render to the said Municipal Council a clear and faithful account to be sworn to before a Justice of the Peace, of the revenue and expenditure of all the moneys or other things by them or any of them received, disbursed or expended, in the exercise of their duties, and of every thing which may be due and payable, and which they shall not have received, with the vouchers for such account; and shall pay and hand over to the said Municipal Council the moneys which they have or ought to have in their hands, as well as all registers, entry books, account books, land-rolls, rent-rolls and other books, orders or regulations, titles, deeds, contracts and all other papers and documents, seals, moveable property and effects whatsoever, appertaining and relative to the said Common and to the property and affairs thereof; and in default thereof they may be compelled so to do by all legal means and proceedings at law.

VIII. And be it enacted, That all moneys arising from *cens et rentes*, ground rents, *lods et ventes*, dues, profits, leases, farm rents, or from any other source now due, or which may hereafter become due to the said Common, for or by reason of the lots, land or property held thereon, or of any part of the said Common, leased or farmed, shall be employed and expended by the said Municipal Council, in maintaining, clearing and improving

improving the said Common and the property thereof, as well as for the general wants of the said Municipal Council, and for the improvement and advantage of the said Town of Three-Rivers, in the same manner as other moneys received by them, and which they may dispose of; any law to the contrary notwithstanding: Provided always, that all debts which may be due on the said Common when this Act shall come into force, shall be discharged and paid by the said Municipal Council, who may be compelled so to do by all legal means and proceedings at law.

Proviso.

IX. And whereas a great number of inhabitants holding lots of land and houses on the said Common have suffered damage by the floods which have taken place during the last years, and the majority of them are indebted in arrears of *cens et rentes* and other dues, as well as *lods et ventes*, which, if exacted, would ruin many of the said inhabitants, and considerably impoverish a great number of others: Be it therefore enacted, That the said Municipal Council shall have power and authority to remit to the *censitaires* and tenants of, and other persons indebted to the said Common, all arrears of *cens et rentes*, ground rents, dues, *lods et ventes*, and profits by them, owing to the said Common, for or in respect of the lots, ground or property which they may have held, or which they now hold on the said Common, and which shall be due and payable on the day on which this Act shall come into force, or part of the said *cens et rentes*, ground rents, dues, *lods et ventes* and profits, on such conditions as the said Municipal Council shall deem just and equitable, or even without any conditions, if they shall think proper.

Recital.

A remittance of arrears of *cens et rentes* may be made by Council.

X. And be it enacted, That the said Municipal Council shall not in any case, nor for any cause whatsoever, sell, alienate, nor hypothecate the said Common nor any portion thereof, nor the property belonging to the said Common, nor any portion thereof; and that the *cens et rentes*, ground rents, dues, *lods et ventes*, profits, leases, farm rents or other revenues of the said Common or of any property thereunto appertaining now due and payable, or which may be hereafter due and payable, shall not in any case, nor for any cause whatsoever, be seized nor arrested, the whole on pain of nullity; any law, usage or custom to the contrary notwithstanding, save and except however as regards debts contracted or incurred by the said Common before this Act shall come into force.

Council may not sell or alienate Common.

XI. And whereas several *censitaires* of the said Common abandon the lots and grounds held by them thereon, while others neglect, during several years, to pay the *cens et rentes* and other annual dues, which they owe to the said Common, so as to cause them to be lost for the past and for the future, (inasmuch as the said lots or grounds are of too little value to warrant the incurring of the costs of selling them under execution,) and retard the increase and prosperity of the Town of Three-Rivers, by depriving honest and industrious persons of the power of settling thereon and enhancing the value thereof: Be it therefore enacted, That after the expiration of at least two years after the abandonment of any lot or ground on the said Common by the proprietor thereof, or after five years arrears of *cens et rentes* or other annual dues shall be owing on any lot or ground on the said Common, it shall be lawful for the said Municipal Council, in either case, to present a petition to the Circuit Court in the Three-Rivers Circuit alleging the debt, the causes thereof and the abandonment of the lot or ground, or the default of payment of the *cens et rentes* and other annual dues, as the case may be, and praying judgment for the amount due and claimed, with interest and costs, and in default of payment thereof within two months from the date of the judgment, the proprietor shall lose all his right in the said lot or ground, and the said lot or ground shall merge in the domain of the said Common; and the said petition, together with a notice of the day on which it is to be presented, shall be served upon such proprietor in person, or at his place of residence, at least five clear days before the day appointed for presenting the same, allowing one additional day for every five leagues over and above the first five leagues out of the said Town; and if such proprietor cannot be found, or has no domicile in the District of Three-Rivers, the said Court, on the return or certificate of service thereof to be made by the Bailiff charged with the service of the same, may order that such proprietor be required, by and advertisement in the English and French

Recital.

Provision in case of abandonment of lots on Common by parties holding them, &c.

languages,

languages, to be inserted twice at least, during the course of a month, in a newspaper published in the said District, and if there be none there published, then in some newspaper published in the District of Montreal or of Quebec, to appear before the said Court, or at the office of the Clerk of the said Court, within two months from the last publication, and to plead in answer to the said petition ; and in default of his appearing within the said delay, or after appearing, to plead in answer to the said petition, he shall be foreclosed from his right so to do, and leave shall be granted to the said Municipal Council to proceed to final judgment on the said petition, as in cases by default : Provided always, that the said Municipal Council may, at the same time claim in the said petition all *lods et ventes*, profits and other rights which may be due in addition to the *cens et rentes* and other annual dues, for or in respect of any such lot or ground.

Proviso.

Court to render judgment on proof of allegations of petitions, &c.

XII. And be it enacted, That upon sufficient proof of the allegations of the petition, the said Court shall render its judgment by which it may grant the conclusions of the said petition, and the said Circuit Court shall have full jurisdiction in the matter, whatever be the amount claimed and the value of the lot or ground or lots or grounds the merging whereof in the domain of the Common shall be prayed for, as well as of the buildings and improvements thereon, and shall also have power and authority to cause the said judgment to be executed by all ordinary means as in other matters within its jurisdiction, and to cause the said Municipal Council to be put in possession of any lot or ground or lots or grounds which shall be declared to be merged in the domain of the said Common ; and the proceedings on such petition, except where defined by this Act, shall be had according to the rules and forms established by law or by the rules of practice of the said Court, as in causes and matters in which the amount claimed shall exceed fifteen pounds currency : Provided always, that an appeal from such judgment shall lie to the Superior Court sitting in the said District of Three-Rivers, under the conditions and according to the formalities prescribed in cases of appeal from other judgments of the said Circuit Court.

Proviso.

Powers hereby vested in Council to be exercised by any other Municipal Corporation for the Town.

XIII. And be it enacted, That all the powers and authority by this Act vested in and all the duties imposed upon the said Municipal Council of the Municipality of the Town of Three-Rivers, shall be exercised and performed by every other Municipal Corporation of the said Town which may be established therein by any Law or Act to be passed in the present or any future Session of the Legislature, whether in lieu of the Corporation existing under the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to divide the Municipalities of Hochelaga and of Three-Rivers respectively, into distinct Municipalities, and further to provide for the support of Schools and the management of local affairs therein*, and the said above mentioned Act, intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*, or in lieu of one another, or otherwise, in the same manner as if such other Municipal Corporations were specially named in this Act, and invested with the said powers and authority, and required to fulfil the said duties.

9 Vict. c. 78, and

10 & 11 Vict. 7 cited.

Sections above repealed of 41 Geo. 3, c. 11, to revive if Municipal Corporation of Three-Rivers cease to exist.

XIV. And be it enacted, That if the Municipal Corporation established under the Acts mentioned in the thirteenth Section of this Act, or any other Municipal Corporation of the said Town should cease to exist by the repeal or expiration of the Laws or Acts establishing the same, without any special or general Act or Law being passed to re-establish the same, then this Act shall be repealed with the exception of the proviso hereafter contained in this Section and the Sections of the above-mentioned Act, intituled, *An Act for better regulating the Common belonging to the Town of Three-Rivers*, repealed by the third Section of this Act, shall revive and be in full force and vigour as if this Act had not been passed ; Provided always, that in such case the election of a Chairman and four Trustees of the said Common may take place within the three months following the cessation of the said Municipal Corporation, in the same manner and according to the same formalities as are prescribed by the Act specially cited in the present Section of this Act, except as regards the period of such election ; and the said Chairman and Trustees shall go out of office at the end of three years to be computed from the first Monday in April immediately following their election,

Proviso.

election, so that all subsequent elections shall take place every four years, at the period fixed by the said Act.

XV. And be it enacted, That all prosecutions for fines and penalties imposed under the provisions of this Act, shall be brought in the name of the said Municipal Council of the Municipality of the Town of Three-Rivers, or in the name of any other Municipal Corporation of the said Town which may be then in existence, by the Secretary-Treasurer of the said Municipal Council, or by the Secretary or Clerk or Secretary-Treasurer of any other Municipal Corporation of the said Town, in the course of the month following the contravention for which such fines and penalties shall have been incurred, and not later, before a Justice of the Peace residing in the said Town, who shall hear and determine the case in a summary manner and on the oath of one credible witness, whether he be or be not an officer of the Municipal Council or of any Municipal Corporation of the said Town; and such Justice of the Peace shall cause the fine or penalty, with costs of suit and of execution, to be levied by seizure and sale of the moveables of the contravening party; and the whole of the said fine or penalty shall be applied to the general purposes of the Municipality of the said Town: Provided that the said Justice of the Peace shall not be related nor allied to the party sued within the degrees prohibited by law.

Prosecutions for fines, in whose name and how to be brought.

Proviso.

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

Public Act.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P . C V .

An Act to provide more fully for the incorporation of Village of St. Hyacinthe.

[10th August, 1850.]

WHEREAS it is necessary, from the considerable increase of the population and the progressing importance of the Village of Saint Hyacinthe, in the District of Montreal, to provide more ample provisions for its internal government than are now in force under the existing Laws: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the inhabitants of the said Village of Saint Hyacinthe within the limits hereinafter prescribed, and their successors, shall be and are hereby declared a body corporate and politic in fact and in law by the name of the "Mayor and Town Council of the Town of Saint Hyacinthe," and by the same name, they, and their successors, shall have perpetual succession, and shall have power to sue and be sued, implead and be impleaded, answer and be answered unto in all actions, causes and suits at law whatsoever, and shall have a Common Seal, with power to alter and modify the same at their will and pleasure, and shall be in law capable of receiving by donation, acquiring, holding and departing with any property, real or moveable, for the uses of the said Village, which is hereby declared to be a Town under the name of "The Town of Saint Hyacinthe."

II. And be it enacted, That the said town of Saint Hyacinthe shall be bounded as follows, to wit: on the south-west by a line drawn from the River Yamaska passing through the centre of Bourdages Street as far as its junction with Saint James Street, and thence, continuing along the line water-course separating the *Petit Rang* road from the *Fabrique* lands, as far as the lands in the *Petit Rang*, on the north-west by the separation line between the river lands and the lands of the *Petit Rang* from the road of the *Petit Rang* as far as the line between the lands belonging to the corporation of the College and those of Antoine Charron *dit* Cabana, on the north-east by the lands of Antoine Charron *dit* Cabana, and on the south-east by the centre of the River Yamaska; commencing on the north-west bank of the River Yamaska in the centre of Bourdages Street, thence, along the centre of the said Street, until it intersects Saint James Street, and thence continuing along the line water-course situated between the road of the *Petit Rang* to the north-east and the *Fabrique* lands to the south-west, magnetically north, thirty-two degrees ten minutes west (variation eleven degrees fifteen minutes west) for the space of thirty arpents, more or less, as far as the line separating the River lands from those of the *Petit Rang*; thence, along the said line, south, fifty-seven degrees twenty-five minutes east, four arpents and twelve feet, more or less, there forming an angle; thence, north, twenty-eight degrees twenty minutes east, two arpents six rods and nine feet, more or less, there forming an angle; thence, north, nine degrees fifty minutes east, two arpents nine rods and four feet, more

Preamble.

Town of St. Hyacinthe incorporated.

Corporate name and powers.

Boundaries of the town.

or

or less, to the south-west line of the lands belonging to the corporation of the College; thence, along the said line, north, forty-five degrees forty minutes west, seven rods and six feet, more or less, to the north-west line of the said lands belonging to the Corporation of the said College; thence, along the said line, north, eighteen degrees, five minutes east, two arpents eight rods and nine feet, more or less, to the line separating the said lands from those of Antoine Charron *dit* Cabana; thence, along the said line of separation, south, forty-five degrees forty minutes east, thirty arpents, more or less, to the River Yamaska; and thence, continuing as far as the centre of the River; thence, towards the south-west, running up the centre of the said River, to where it intersects by a prolonged line the centre of Bourdages street; and thence, following the said prolongation, north, thirty-two degrees, ten minutes west, to the bank of the river and point of departure; the said Town of Saint Hyacinthe, so bounded and limited, containing six hundred and seventy-five arpents more or less in superficies: any law, usage, or proclamation to the contrary notwithstanding.

Superficial extent.

Town divided into four wards.

Boundaries and names of the wards.

III. And be it enacted, That the said Town shall be divided into four Wards, and the same shall be respectively known and designated as "Ward Number One", "Ward Number Two", "Ward Number Three" and "Ward Number Four", and bounded as follows, that is to say:

"Ward Number One" shall be bounded in front by the River Yamaska, on the north-east and in depth by the limits of the said Town, and on the south-west by the rear line of the emplacements lying on the north-east side of Saint Marie Street;

"Ward Number Two" shall be bounded in front by the said River, in depth by the limits of the said Town, on the north-east by Ward Number One, and on the south-west by a line drawn through the centre of Mondor Street;

"Ward Number Three" shall be bounded in front by the said River, in depth by the limits of the said Town, on the north-east by Ward Number Two, and on the south-west by a line drawn through the centre of Saint Ann Street;

"Ward Number Four" shall be bounded in front by the said River, in depth and on the south-west by the limits of the said Town, and on the north-east by Ward Number Three.

Seven councillors to be elected.

Their qualification.

IV. And be it enacted, That the number of Councillors of the said Town shall be seven; and the said Councillors shall be chosen from among the inhabitant householders of the said Town who shall be subjects of Her Majesty, and of the age of twenty-one years, and freeholders therein to an assessed value of one hundred and fifty pounds currency, or such persons as shall have built on a leasehold property a dwelling house, and residing therein, which would *bonâ fide* rent for fifteen pounds currency per annum; and no person shall be capable of being elected to or of performing the duties of a member of the said Council if he shall not at the time be a resident of the said Town.

Who may vote at elections of Councillors,

V. And be it enacted, That the persons entitled to vote at the Municipal Elections of the said Town shall be the male freeholders and inhabitant householders of the said Town, residing therein, of the age of twenty-one years, and being subjects of Her Majesty possessed of real property in the said Town of the yearly value of twenty shillings currency, or tenants being like subjects of Her Majesty, of the age of twenty-one years, and rated upon the assessment roll of the said Town, and who shall have paid, six months before the said election, rent for their dwelling house within the said Town at the rate of not less than three pounds currency per annum; and leaseholders, being like subjects of Her Majesty, of the age of twenty-one years, who shall have built a dwelling house on such leasehold, and residing therein, which would *bonâ fide* rent for the sum of five pounds currency per annum.

Number of Councillors for each Ward.

VI. And be it enacted, That the resident inhabitants in each Ward who shall be entitled to vote at the said Elections, shall elect two Councillors in their respective Wards, except the inhabitants of Ward Number Two, who shall only be entitled to elect one Councillor.

Mayor and Secretary-Treasurer to be elected.

VII. And be it enacted, That the members of the said Town Council so elected, or a majority of them, shall at their first meeting choose one of their number to be Mayor, who

who shall preside and keep order at their meetings; the Town Council shall also choose a qualified person to be Secretary-Treasurer; the Mayor shall not vote on any question submitted to the Council unless there be an equal number of votes, and in such case, he shall give his casting vote.

Vote of Mayor.

VIII. And be it enacted, That the first Municipal Election for the said Town shall take place on the first Monday in the month of October next, and the annual Elections to be held thereafter shall take place on the first Monday in July of each year, and public notice thereof shall be posted up and read at the Parish Church door, after parochial High Mass, on the two Sundays preceding such Election, and shall be also read in the market place of the said Town on the two preceding Saturdays; which notice shall for the first election be signed by the senior Justice of the Peace who shall have been present at the appointment of the Returning-Officers as hereinafter provided, and for all subsequent Elections, the said notice shall be signed by the Secretary-Treasurer of the said Town Council, and shall contain the day, hour and place of holding such Election; and such Election shall be held in the respective Wards in which the said Councillors shall be respectively elected.

Times of first and subsequent elections.

Notice to be given.

IX. And be it enacted, That in order to proceed to the first Municipal Election for the said Town, the Justices of the Peace resident therein shall assemble at the Court House of the said Town at the hour of Ten in the forenoon, to appoint a Returning-Officer for each of the said Wards, and such appointment shall be made by the majority of the said Justices of the Peace, the senior whereof shall, in case of an equal division, have the casting vote, and if there be only one Justice of the Peace present, he shall proceed to appoint the said Returning-Officers: Provided always, that the said Returning-Officers shall be electors for any one of the said Wards, but they may be chosen as aforesaid in any of the said Wards, provided they be resident within the limits of the said Town.

Place of election.

Appointment of returning-officers for the first election.

Proviso.

They shall be electors.

X. And be it enacted, That at all Elections of Councillors, subsequent to the first Election, one of the Councillors then in office, who shall be appointed by the Council shall preside, and such Councillor shall have a Deputy under him for each of the said Wards in which any such Election shall be held, who shall be appointed and paid by the Council; and the Poll shall be kept open for receiving and entering votes for the Election of Members of the said Town Council, from nine o'clock in the morning until five o'clock in the evening of the said day, (in case the said Election shall not be made by acclamation,) and at the close of the Poll at the hour above mentioned, the said Deputies shall declare such person or persons duly elected as Members of the said Town Council as shall have the greatest number of votes; and in case the votes in favour of the said Candidates shall be equally divided, the Returning-Officer, or the Deputy appointed as aforesaid, shall give his vote in favour of one of the said Candidates; and the said Councillor shall give notice of their Election to the persons so elected within three days after such Election; and the said Council shall regulate from time to time the time and place at which such Elections of its Members shall be held and all other proceedings to be adopted thereat; and the Members of the said Town Council so elected shall remain in Office until the first Monday in July after such Election, and the Members elect shall take the Oath of Office hereafter mentioned before any Justice of the Peace for the District of Montreal, who is hereby authorized to administer the same, to wit:

Who shall preside at subsequent elections.

Days and hours of polling.

If the votes be equally divided, &c.

Term of office, oath, &c.

"I, A. B., do solemnly swear that I will, well, faithfully and impartially discharge the duties of a Member of the Town Council of Saint-Hyacinthe to the best of my knowledge and ability: So help me God."

The oath.

XI. And be it enacted, That whenever a vacancy shall occur in the said Council by the absence, incapacity, death of any of its Members, or otherwise, or by the removal of any of its Members out of the said Town, which shall in itself be a cause of disqualification, provided such vacancy shall occur before the first day of May in any year, it shall be lawful for the Mayor to call the electors of the said Town by notices to be posted up and read as provided by the seventh section, to fill such vacancy by the Election

Vacancies in council how filled.

Election of another Councillor, and such Election shall be conducted as above provided; and such Councillor so elected in the stead of another shall remain in Office during the whole time for which the Member in whose stead he shall have been elected would have remained in Office, and neither the Mayor or the Councillors shall receive any salary nor emolument for the time during which they shall remain in Office.

Order in which councillors shall retire from office.

XII. And be it enacted, That three Councillors, to be determined by lot, out of the seven who shall be appointed in the year one thousand eight hundred and fifty, shall go out of office on the first Monday in July of the year one thousand eight hundred and fifty-one, and shall be replaced or re-elected at the annual Municipal Elections for a period of two years; and the four remaining Councillors shall remain in office until the first Monday in July, one thousand eight hundred and fifty-two, and shall then be replaced or re-elected for two years; and the said Council shall thus be renewed in two years by following the said rotation; Provided always, that not more than one of the Councillors elected in each Ward shall go out of office in the years in which three of the said Councillors shall have to go out of office.

Proviso.

Poll Books to be certified on oath.

XIII. And be it enacted, That in all Elections held under this Act, the Poll Books containing the names of voters, and other matters, shall be certified by affidavit of each of the Officers who shall have held such elections before any Justice of the Peace for the District of Montreal, which oath such Justice is hereby empowered to administer; and the said oath of the correctness of the said Poll Books shall be in the following form:

“ I, A. B., do swear that the Poll Book kept by me at the Municipal Election for Ward No. _____ of the Town of Saint Hyacinthe, is just and correct according to the best of my knowledge and belief: So help me God.”

Oath of person presiding at any election.

XIV. And be it enacted, That before any person shall proceed to hold an Election under this Act he shall take the following oath, which any Justice of the Peace for the District of Montreal, is hereby authorized to administer, that is to say:

“ I do solemnly swear that I will faithfully and impartially to the best of my ability discharge the duty of presiding Officer at the Election which I am about to hold for a Member or Members of the Town Council of Saint Hyacinthe: So help me God.”

Powers of persons presiding at elections, for preserving order, &c.

XV. And be it enacted, That every presiding Officer at any such Election of a Member or Members, shall have power and he is hereby required to preserve peace and order at such Election, and for such purpose he shall and may, during its continuance, commit to the Common Gaol of the District of Montreal, or to the Gaol of the County of Saint Hyacinthe (so soon as the same shall be erected into a Common Gaol) any person or persons making or creating any disturbance, fighting or rioting at such election, practising any malicious mischief, or using any threats of violence to deter any Elector from coming forward to vote, retiring from voting, or remaining quietly at such Election; and shall and may require and command the assistance of all persons present at such Election, or any Constable or Peace Officer in the said Town who are hereby required to give such assistance in apprehending and committing the person or persons making or creating any such noise, interruption, disturbance or disorder as aforesaid: Provided always, that no such committal shall extend beyond the period of one month.

Electors and Candidates may be examined on oath as to their qualification.

XVI. And be it enacted, That the Officer presiding at any Election under this Act shall have authority and is hereby required, at the request of any person qualified to vote at such Election, to examine on oath or affirmation (when the party is allowed by law to affirm) any Candidate for the office of Member of the said Town Council respecting his qualification to be elected to the said office, and shall also have authority and he is hereby required upon such request as aforesaid to examine upon oath (or affirmation when the party if allowed by law to affirm) any person tendering his vote at any Election respecting his right to vote; and that the oath to be administered for either of the purposes shall and may be in the following form:

“ You

" You shall true answer make to all such questions as the Presiding Officer at this Election shall put to you respecting your qualification to be elected at this Election, (or respecting your qualification to vote at this election, as the case may be) : So help you God."

And the affirmation shall be in the common form of an affirmation to the same effect.

XVII. And be it enacted, That if any person being examined upon oath or affirmation under this Act as to his qualification to vote or to be elected, shall wilfully forswear himself, he shall be guilty of wilful and corrupt perjury, and on conviction thereof he shall suffer as in other cases of wilful and corrupt perjury.

False swearing to be perjury.

XVIII. And be it enacted, That if either or any of the members elected as aforesaid, after notice thereof, shall neglect or refuse for the space of ten days to take the oath of office herein contained, which any one of the said members so elected as aforesaid is empowered hereby to administer to the others, he shall for such neglect or refusal forfeit the sum of Five pounds currency, to be recovered with costs by information before any Justice of the Peace for the District of Montreal, who is hereby authorized to proceed in the same manner as hereinafter is provided for the recovery of any penalty for the transgressing of any order or regulation of the said Town Council; Provided that no person having been re-elected a member of the said Town Council during his absence from the Town (unless such member shall have previously given his consent to be put in nomination), nor any person who has discharged the duties of a member of the said Town Council within three years of the said election, shall be subjected to the penalty hereinbefore stated for the refusal to act.

Penalty on any person elected failing to take the oath of office.

Proviso : as to persons re-elected.

XIX. And be it enacted, That the said Town Council, as soon as they shall have chosen a Mayor, shall have the power of enacting such laws and regulations for the internal government of the Town as to them may seem expedient and necessary, and shall have the power of appointing all such Officers, Constables and Policemen as shall be required for the due execution of the laws to be by them enacted, and of requiring such security to be given by each of the said Officers as to the Town Council may seem meet, and of removing any of the said Officers at pleasure.

Security may be required from Town Officers.

XX. And be it enacted, That for the purpose of raising funds to provide for the purchase of any real estate for the use of the said Town to erect a Market-House, Town-Hall and other buildings, to procure Fire Engines, and for lighting and paving and repairing the streets and side-walks of the said Town, and also for paying the necessary expenses of the said Town Council, and for all other purposes which the said Town Council may deem expedient and necessary for the welfare and improvement of the said Town, it shall and may be lawful for the said Town Council to levy by assessment, annually, upon the persons rated or liable to be rated upon any valuation for property real and personal in the said Town, any sum not exceeding one penny in the pound; and it shall be the duty of the said Town Council to cause an assessment to be made of the property in the said Town as soon as the same shall have been organized, and thereafter, once in every three years.

Council may raise money by assessment for certain purposes.

Rate limited.

XXI. And be it enacted, That such rates as shall be so imposed shall be collected by the Officer to be appointed by such Town Council, according to such By-laws as shall be enacted for that purpose by the said Town Council, and be paid into the Treasury of the said Town Council.

Rates how collected.

XXII. And be it enacted, That the property liable to taxation within the limits of the Town of Saint Hyacinthe, shall be (except as hereinafter provided) :

What property liable to assessment.

Firstly. All lands, town lots and parts of town lots, with all buildings and erections thereon, at their real value ;

Realty.

Secondly. The following moveable property at the value herein specified :

Personalty.

Every horse kept for the purpose of covering mares, at One Hundred Pounds ;

Every horse kept for hire or gain, at Fifteen Pounds ;

Every horse, mare or gelding above the age of three years, at Seven Pounds Ten Shillings ;

Every Bull or Ram, at Five Pounds ;

All other horned cattle, except milch cows, which shall be exempt from taxation, at Two Pounds;

Every close carriage with four wheels kept for pleasure, at Fifty Pounds;

Every open carriage with four wheels kept for pleasure, at Twenty Pounds;

Every curricule or light waggon kept for pleasure, at Ten Pounds;

Every two horse sleigh kept for pleasure, at Fifteen Pounds;

Every one horse sleigh kept for pleasure, at Ten Pounds.

Stock in trade,

Proviso.

Seigniors.

Proviso.

Real value to be taken.

What property shall be exempt from taxation.

Proviso.

Appointment of Assessors.

Penalty on Assessors neglecting their duty.

Appeal given to parties assessed.

Proviso: as to property suffering diminution in value.

Proviso: as to indigent persons.

Thirdly.—The stock in trade of all descriptions, kept by Merchants and Dealers exposed for sale on shelves in shops, or kept in vaults or store houses: Provided always, that no annual rate shall be declared or collected on such stock, to exceed one fourth part of one per centum, on the estimated value of such stock, and the Seigniors of the censive within which the said Town is situate shall pay in proportion to their lucrative rights one fortieth part of the sum imposed upon the said Town, each Seignior paying in proportion to the interest held by him in the said censive: Provided always, that the total sum, the fortieth part whereof shall have been so taken, shall not include the sum which shall have been imposed upon the demesne and mills of such Seigniors.

XXIII. And be it enacted, That the land and real property in the said Town shall be valued and estimated at their real value.

XXIV. And be it enacted, That the following property shall be exempt from taxation in the Town of Saint Hyacinthe; all lands and property belonging to Her Majesty, Her Heirs and Successors, or vested in or held by any public body, office, person or party in trust for the uses or service of Her Majesty, Her Heirs and Successors, whether held in fee simple or for any less estate during the continuance of such estate, and all Provincial Property and Buildings; every place of Public Worship; every Burying-Ground; every Public School-House and School-Lands, and all other Educational Establishments as well as the ground on which the same are or shall be constructed; all buildings, ground and property occupied by Hospitals or Charitable Institutions, or for the public uses of the Corporation, or held by the Corporation, or held by the Corporation and not in the possession of the tenant or tenants of the Corporation; the Court House and Gaol and the grounds attached thereto; Provided always, this exemption shall not extend to Lots or to Buildings built upon, leased or occupied by tenants under the Government or the Ordnance Department in the said Town, but the same shall be valued and assessed in like manner as other property, and such rate or assessment shall be paid by the tenant or tenants thereof.

XXV. And be it enacted, That it shall be the duty of the Town Council, as soon as it shall have been organized, and thereafter, at the expiration of every three years, to appoint three competent persons resident free-holders whose individual property shall be worth not less than Two Hundred and Fifty Pounds, to appraise and value all the rateable property (not herein exempted) according to its real value; and when notified by the Secretary-Treasurer of the said Town of such appointment, they shall, as directed, proceed to discharge the said duties, and for every neglect, refusal or delay, shall forfeit and pay a sum not exceeding Four Pounds, except a good and sufficient excuse is offered and accepted, in which case the Town Council may appoint another valuator instead, and when the valuation or assessment Roll is placed in the hands of the Town Council it shall be deposited in the Office of the Secretary-Treasurer, and for the space of fifteen lawful days be open to public inspection; and parties within that period may record an appeal to the Town Council for excessive valuation, which appeal may be determined upon by the said Town Council at their next meeting, receiving such allegations by parties and their witnesses upon oath to be administered by the Mayor or person presiding, after which they shall declare and collect the rate for the next three years; Provided always, that if any assessed property should suffer a considerable diminution in value by fire or from any other accident or means of destruction, it shall be lawful for the said Council, on a petition from the proprietor thereof, to reduce the estimate of such property to any sum representing its then value: And provided also, that the said Council shall have power to remit a portion or even the whole of the

the amount due for assessment, by indigent or sick persons applying for such reduction or exemption.

XXVI. And be it enacted, That the said Town Council of Saint Hyacinthe shall have full power and authority from time to time to make, revise, alter and amend, administer and enforce such By-laws as they may deem proper for making, gravelling, planking, flagging, ditching, levelling, raising, repairing, mending, lighting, macadamising and cleansing and opening any of the streets, squares, lanes, alleys, walks, side-walks, cross-walks, roads, highways, bridges, public wharves, docks, slips, shores and sewers now laid out or to be erected within the limits of the said Town ; or to regulate or restrain cattle, horses, sheep, goats, swine and other animals, geese and other poultry from running at large within the limits of the said Town ; and to prevent and regulate the running at large of dogs, and to impose a reasonable tax upon the owners or possessors thereof ; to regulate or prevent the encumbering or injuring of the streets, squares, lanes, walks, side-walks, cross-walks, roads, highways, bridges, public wharves, docks and slips with any wheel-barrows, carts, carriages, lumber, stones, merchandize or other materials whatsoever ; to prevent the selling or vending by retail in the public highways, any meat, vegetables, fruits, cakes, cider, beer or other beverage whatsoever ; to prevent the sale of any strong or intoxicating drink to any child or apprentice or servant without the consent of his legal protector ; to prevent the immoderate riding or driving of horses or other cattle in any of the public highways of the said Town ; to prevent the leading, riding or driving of horses upon the side-walks of the streets or other improper places ; to regulate the standing and fastening of horses in the streets and open sheds of the said Town ; to regulate wharves or quays ; to prevent all obstructions in or on the canals, wharves, slips or bridges near or opposite to any dock, wharf or slip ; to prevent or regulate bathing and swimming in and about the docks, wharves, slips, shores and river within the limit of the said Town ; to prevent charivaris ; to enforce the due observance of the sabbath ; to regulate the licensing of or to prevent the exhibition of wax figures, wild animals, mountebanks and all other shows exhibited by common showmen ; to prevent the excessive beating or other inhuman treatment of horses, cattle or other beasts ; to regulate all games and bowling alleys, all public billiard tables, roulette-tables as well as any species of gambling apparatus whatsoever, and to regulate and license all theatres kept for profit, auctioneers, butchers, cartmen and cartage and the fares to be charged by them, hawkers and pedlers and all persons exhibiting for gain or profit any puppet show, wire dance, circus riding or any other idle acts or feats which common showmen, circus-riders, mountebanks or jugglers usually practice or perform ; and to limit the number and provide for the purpose of licensing the same ; to regulate and prevent the firing of guns, pistols and other fire arms, and to prevent the making of bonfires or the firing of squibs and crackers ; to regulate or prevent the erection of slaughter-houses and tanneries ; to abate or cause to be removed any nuisances or houses of ill-fame within the said town ; to regulate all or any taverns, ale-houses, victualling-houses, and all houses where fruit, oysters, clams or victuals may be sold to be eaten or drunk therein, and all other places for the reception and entertainment of the public, and to limit the number of them and to provide for the proper licensing of them at such rates as to the said Town Council may seem expedient—the proceeds of such licenses to form part of the public funds of the said Town, and to be disposed of in such manner as to the said Town Council may seem meet for the benefit of the said Town ; to regulate the place and manner of selling and weighing hay, and the selling of fish ; to regulate the weighing and measuring of coal, cord wood and other fuel, salt and lime exposed for sale in any part of the said Town ; to regulate and assize the price of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto ; to regulate the vending of meat, vegetables and fruit ; to regulate any market or markets that may be hereafter erected in the said Town ; to regulate and enforce the erection of party-walls and line and division fences ; to provide for the permanent improvement of the said Town in all matters whatsoever, as well ornamental as useful ; to enforce the sweeping and cleaning of chimneys, and to

- Council may make By-laws for certain purposes.
- Streets, &c.
- Animals at large.
- Incumbering streets.
- Selling in streets, &c.
- Spirituuous liquors.
- Side-walks.
- Wharves, &c.
- Bathing.
- Charivaris.
- Sabbath.
- Exhibitions.
- Cruelty to animals.
- Gaming.
- Theatres, Auctioneers, &c.
- Carters.
- Hawkers.
- Guns and fireworks.
- Nuisances.
- Taverns, &c.
- Hay and fish, coal, fuel, &c.
- Assize of bread.
- Meat, &c.
- Markets.
- Fences.
- Improvements.
- Chimneys.

regulate and license chimney sweepers, and to regulate all chimneys hereafter to be built ; and to regulate and raise one or more Fire Companies ; to regulate and require the safe construction of deposits for ashes, and to regulate the manner of depositing and keeping ashes at the time they are taken from the fire places or stoves ; to regulate, remove or prevent the construction or erection of any fire places, hearth, chimneys, stove, stove pipe, oven, boiler, kettle or apparatus used in any house, building, manufactory or business which may be dangerous in causing or promoting fires ; to regulate the keeping and transporting of gunpowder or other combustible or dangerous materials, and the use of light and candles in livery and other stables ; to regulate or prevent the keeping of smoke-houses, and the carrying on of manufactories dangerous in causing or promoting fires ; to regulate the conduct of inhabitants at fires ; to provide for the keeping of fire buckets, ladders, and fire hooks and battering rams ; to preserve, erect and regulate public wells and cisterns, and other conveniences for stopping or preventing fires ; to provide for the preservation of property exposed at fires, and to prevent goods and other effects from being purloined thereat ; to adopt and establish all such other regulations for the preservation from and suppression of fires as they may deem necessary or expedient ; to provide for the security of the public and of the property of the said Town ; to regulate all cemeteries ; to establish and regulate a town watch, and to prescribe the powers of watchmen ; to license and appoint by warrant under the common seal of the said Town, or otherwise, such and so many inferior officers other than those mentioned in this Act, as shall from time to time be found necessary or convenient, to enforce and execute such By-laws and Regulations as may hereafter be made by the said Town Council, and to displace all or any of them as often as the said Town Council shall think fit ; to prevent and remove encroachments, buildings, fences or any thing else of whatsoever nature in any street or public ground ; to establish a public library ; to regulate public hospitals ; to establish and support a house of industry, and enforce labor and discipline in the same ; to establish and regulate one or more pounds ; to provide, establish and regulate a town prison or place of confinement ; to direct the returning and keeping of bills of mortality ; to regulate the police of the Town ; to prevent the injuring or destroying of trees planted or growing for shade or ornament in the said Town ; to prevent the pulling down or defacing of sign boards and the defacing of buildings, walls, fences, gates, posts ; to prevent and punish the breaches of the peace, and generally to prevent and punish vice, drunkenness, profane swearing, obscene language and every other species of immorality, and to preserve good order in the town ; to preserve the wells, pumps and cisterns, and to provide for the supply of good and wholesome water to the said Town, and to prevent the waste of water, or the throwing or carrying of filth in the river or near thereto ; and to regulate the bonds, recognizances and other securities to be given by all Municipal Officers for the faithful discharge of their duties, and the amount for which the same shall be taken ; to inflict reasonable penalties and fines for the refusing to serve in any municipal office when duly elected or appointed thereto, and for the infringement of any and every law of the said Town ; to regulate the time and place of holding elections for such Municipal Officers as are elective, and to make provision for a register of persons qualified to vote for Members of the Town Council, whereby the right to vote at any election or elections may be determined ; to impose a duty or duties by a By-law or By-laws on all grocers, butchers, bakers, livery stable keepers or carters within the said Town, and all merchant stores or shops, and to classify the same, and all manufactories carried on or exercised or in operation within the said Town ; on all grist, flour, saw and card mills, breweries and distilleries ; on all soap and candle factories, and on all tanneries and slaughter houses within the said Town ; and provided that the said duty or duties shall in no case exceed one penny in the pound in each year, and to regulate the mode by which such assessments shall be collected and paid ; and to make regulations for governing the conduct of apprentices, domestics, servants receiving wages and daily laborers, and also the conduct of masters and mistresses towards such apprentices, domestics, servants receiving wages and daily laborers ; and generally to make all such laws as may be necessary and

Ashes.

Fire-places, &c.

Gunpowder, &c.

Fires.

Cemeteries.

Watch.

Town Officers.

Encroachments.

House of industry.

Prison.

Bills of mortality.

Trees.

Sign-boards, &c.

Breaches of the peace, &c.

Water.

Security from officers.

Penalties.

Elections.

Registry of voters.

Tax on certain trades.

Proviso : tax limited.

Apprentices and servants.

General purposes.

and proper for carrying into execution the powers hereby vested or hereafter to be vested in the said Town Council or in any department or office thereof, for the peace, welfare, safety and good government of said Town as they may from time to time deem expedient, such laws not being repugnant to this Act, or the general laws of the Province: Provided always, that no person shall be subject to be fined more than five pounds for the breach of any By-law or regulation of the said Town, and in default of payment of such fine and of a sufficient distress being found for collection thereof, to be imprisoned in the Common Gaol of the District of Montreal or in the Town Gaol or other place of confinement for a period of more than thirty days.

Proviso: fines and imprisonment limited.

XXVII. And be it enacted, That it shall be lawful for the Town Council when in session, or by any By-law enacted by them, to order and authorize the Inspector of the said Town to give notice of at least ten days to parties who may have made encroachments by buildings, fences or any other obstructions of whatsoever nature upon any of the streets or public grounds in the said Town, specifying and describing such encroachments in such order or By-law, and in such notice; and if the same be not removed by such parties within the time specified in such notice, the said Inspector shall immediately remove the same, taking with him sufficient assistance if need shall be, and shall be allowed his necessary expenses and the usual and customary fees for such services, to be paid in the first instance by the said Town Council and recovered by the Corporation from the party having made such encroachment or obstruction, in the same manner as other moneys due to the Corporation.

Proceedings for removal of encroachments on streets, &c.

XXVIII. And be it enacted, That before any By-law or regulation of the said Town Council for the infringement whereof any penalty may be incurred, shall have force or effect, such By-law or regulation shall be twice read on two consecutive Sundays at the door of the Parish Church immediately after High Mass, and in the market place on two consecutive Saturdays, and posted up in the place of holding the sittings of the Town Council during fifteen consecutive days; and that there shall also be published before the election in each and every year, a statement of all moneys received and in the Treasury shewing the amount of and the objects for which any sums shall have been expended.

Publication of By-laws;

and of statement of moneys received and expended.

XXIX. And be it enacted, That if any person shall transgress any order or regulation made by the said Town Council under the authority of this Act, such person shall for every offence, forfeit the sum which in every order, rule or regulation shall be specified, with costs, to be recovered by information before any one or more Justices of the Peace to be levied of the goods and chattels of such offender, and in default of such goods and chattels, the offender shall be liable to be committed to the Common Gaol of the District of Montreal, or to the Town Gaol, for a term not exceeding one month in the discretion of the Court before whom such offender shall have been convicted, and no person shall be deemed an incompetent witness upon any information under this Act, by reason of his being a resident of the said Town of Saint Hyacinthe: Provided always, that the information and complaint for any breach of any order or regulation of the said Town Council shall be made within fifteen days next after the time of the offence committed, and that no fine or penalty shall be inflicted for any such offence which shall be less than five shillings or more than five pounds, and that no imprisonment for any such offence shall be for more than one calendar month, and the costs of transport in effecting such imprisonment shall be made at the expense of the Corporation.

Proceedings against persons contravening By-laws.

Proviso.

XXX. And be it enacted, That all the penalties recovered under the provisions of this Act shall be paid into the Treasury of the said Town Council, and the proceeds of all Licenses granted under this Act, and any income of whatsoever nature, shall form part of the public funds of the said Town,—any law, usage or custom of this Province to the contrary notwithstanding,—and shall be applied in the same manner as other moneys coming into the said Treasury may be applied for the public uses of the said Town.

Application of penalties, proceeds of licenses, &c.

XXXI. And be it enacted, That if any person shall neglect or refuse to pay the sum or rate for which he or she stands rated in the manner hereinbefore mentioned for the space

Recovery of taxes.

space of thirty days after demand duly made of the same by the Collector or other Officer to be appointed by the said Town Council for that purpose, the said Collector or other Officer shall and he is hereby required to levy the same in the ordinary course before one or several Justices of the Peace and by distress and sale of the goods and chattels of the person so neglecting or refusing to pay, after having obtained a judgment and a warrant for that purpose from some one of the said Justices of the Peace who are by this Act authorized to grant the same after judgment as aforesaid, and to render the surplus (if any) over and above the said rate, to the owner thereof, after deducting the legal charges of the suit and of the distress and sale.

Recovery of taxes on
lands of non-residents.

XXXII. And be it enacted, That in all cases where the person who shall be rated in respect of any vacant ground or other real property within the Town shall not reside within the said Town, and the rates and assessments payable in respect of such vacant ground or property shall remain due and unpaid for the space of six years, and no distress shall be found therein (except as hereinbefore provided), then and in such case it shall and may be lawful for the said Town Council to issue a Precept under the Corporate Seal of the said Council to the Sheriff of the District of Montreal, commanding him to sell and dispose of such property by public sale, or so much thereof as shall be necessary for the payment of arrears of taxes, together with all costs accruing by reason of such default, and the Sheriff is hereby authorized and required to dispose of the whole or part of such property by public sale, in the ordinary manner; and all owners of property sold under the authority of this section of this Act shall be allowed to resume possession of the same within the space of one year next after the date of such sale, on paying or tendering to the purchaser the full amount of the purchase money, with legal interest thereon, together with the costs attendant upon the default and sale, with an additional five per centum on the purchase money.

Sale of the property or
part thereof.

Redemption allowed.

Meetings of the
Council.

XXXIII. And be it enacted, That the said Town Council shall assemble at least once in each month for the transaction of the business of the said Town, and shall hold their sittings in the Town-Hall, when such a building shall have been provided, and until such a suitable public building shall have been provided, the said Town Council shall determine on the place of meeting, and that a majority of the said Town Council shall be a quorum for the despatch of business: Provided always, that a smaller number may adjourn from time to time, and are hereby authorized to compel the attendance of absent Members in such manner and under such penalties as may be provided by any By-law of the said Town Council; And provided also, that it shall be lawful for the Mayor to call special Meetings whenever urgent business may require.

Place of meeting.

Quorum.

Proviso.

Proviso.

Gaoler to receive per-
sons committed.

XXXIV. And be it enacted, That the Sheriff and Gaoler of the District of Montreal shall be bound, and they are hereby authorized and required to receive and safely keep, until duly discharged, all persons committed to their charge by the said Town Council, or any Member or Officer thereof under the authority thereof.

Contested elections
how determined.

XXXV. And be it enacted, That any contested Election, either as to the qualification of the Members or that of the voters, or on any other ground whatsoever, shall be determined by the Member or Members whose return shall not be disputed, and the scrutiny shall take place within four days after the Election complained of, and in case of the same being declared void from any of the above causes, or from any riotous or disorderly proceeding at such Election, a new election shall take place within fifteen days thereafter—such Election to be announced, presided over and directed as provided by this Act; Provided also, that the Town Council are hereby empowered to expel, punish or fine any Member of the said Town Council for disorderly or improper conduct.

New election.

Oath of Councillors
trying the election.

XXXVI. And be it enacted, That before any Member of the said Town Council shall enter upon any such trial or scrutiny, he shall take an oath in the following form before one of the Justices of the Peace for the District of Montreal, that is to say:

“ I do solemnly swear that I will truly and impartially to the best of my judgment
“ try and determine the merits of the complaint against the Election of A. B.: So help
“ me God.”

XXXVII.

XXXVII. And be it enacted, That any witness who being duly summoned to attend upon such trial of scrutiny, or upon any complaint before the Town Council, shall wilfully neglect or refuse to attend, shall, on conviction thereof before one of Her Majesty's Justices of the Peace for the District of Montreal, having been duly summoned to answer such complaint, be liable to be imprisoned, on the commitment of such Justice in the Common Gaol of the said District or in the Gaol of the said Town for a space of time not exceeding one calendar month; and if any witness shall, upon any trial or scrutiny, wilfully and corruptly swear falsely (and the Members of the said Town Council are hereby empowered to examine all such witnesses on oath and to administer such oath), he or she shall be deemed guilty of wilful and corrupt perjury.

Penalty on witnesses summoned and not attending.

Perjury.

XXXVIII. And be it enacted, That in case it shall at any time happen that an Election of Members for the said Town Council shall not be had on any day when in pursuance of this Act it ought to have been had, the said Town Council shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other subsequent day to hold an Election of a Member or Members, in such manner as shall be regulated by this Act, or as shall have been regulated by the Laws and Ordinances of the said Town Council.

If any election be not had on the appointed day.

XXXIX. And be it enacted, That in case of a vacancy occurring in the office of Mayor of the said Town Council, either by his death, absence, or from any other cause, the Members shall elect another of their number to fill that office, and he shall hold the same until the vacancy is legally filled up.

Vacancy in the office of Mayor how filled.

XL. And be it enacted, That it shall and may be lawful for the said Town Council to borrow a sum not exceeding Five hundred pounds currency for the purpose of building a market-house or such other public buildings, improvements, or investment as the said Town Council may deem expedient.

Council may build a Market-House.

XLI. And be it enacted, That the said Town Council shall set apart so much of the assessments authorized by this Act to be raised for the use of the said Town as will be sufficient to pay the yearly interest of any such sum or sums of money as may be borrowed, and to liquidate the principal in a term not longer than ten years from and after the time when such loan shall have been made.

Provision for interest on debts contracted.

XLII. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards, and the defendant or defendants in such action or suit may plead the general issue and give this Act and the special matter in evidence on the trial.

Limitation of actions for things done under this Act.

XLIII. And be it enacted, That no Clergyman or Minister of any denomination whatever, shall be capable of being elected or serving as a Member of the said Town Council.

Clergymen not to be Councillors.

XLIV. And be it enacted, That it shall and may be lawful for the Town Council from time to time to appoint so many of the Members thereof or other fit and proper persons as they shall deem proper to form a Board of Health to aid and assist the Mayor of the Town of Saint Hyacinthe to carry into effect the provisions of the By-laws which now are or may be passed to preserve the health of the said Town, and to prevent the introduction and spreading of infectious and pestilential diseases in the same; and the said Town Council, in conjunction with the Mayor, shall have the like power and authority for the purposes aforesaid as are vested in the Boards of Health established under the provisions of the laws now in force or which may hereafter be in force in this Province relative to this subject.

Board of Health.

Powers.

XLV. And be it enacted, That all proprietors, lessees and others who shall let for rent premises in the said Town, shall themselves, as well as the occupiers of such premises, be liable and responsible for the rate and assessment aforesaid on such premises, and such assessment shall and may be recovered from the lessee or occupant if any in the first place, and in default of distress, then from the proprietor by the Collector or Collectors of the said Town under any By-law made for that purpose by the said Town Council.

Proprietors and lessees to be liable for assessments.

Poll tax imposed,

XLVI. And be it enacted, That each unmarried male inhabitant above the age of twenty-one years and below the age of sixty years, and who shall not be a proprietor nor a lessee, nor a servant, and who shall have resided above six months in the said Town, shall be assessed and taxed in the annual sum of two shillings and six pence to five shillings.

Tax on Money Brokers and Pawn-Brokers.

XLVII. And be it enacted, That the said Town Council shall have power to assess and tax, in the first place, all Money-Brokers at an annual sum not less than fifty shillings nor more than five pounds each ; secondly, all Pawn-Brokers, at an annual sum not exceeding ten pounds currency.

Penalty for granting fraudulent receipts for rent, or otherwise deceiving assessors.

XLVIII. And be it enacted, That from and after the passing of this Act, every landlord, proprietor, factor or agent, who shall wilfully grant a certificate or receipt which contains a less sum than the rent really paid or payable for the premises therein mentioned or referred to, and every tenant who shall present to the Assessor as aforesaid or otherwise alter or publish such a receipt or certificate in order to procure a lessening or abatement of such rate or assessment, shall be liable to a penalty not exceeding ten pounds currency, to be recovered and disposed of in the same manner as other penalties are recovered and disposed of in the said Town for the breach of any of the By-laws or Regulations thereof.

Apprehension of drunken or disorderly persons.

XLIX. And be it enacted, That it shall and may be lawful to and for any one of the Members of the said Town Council, individually, to order the immediate apprehension of any drunken or disorderly or riotous person or persons whom he shall find disturbing the peace within the said Town, and to confine him in a watch-house, lock-up house or other place of confinement, in order that such person may be secured until he can be brought before a Justice of the Peace to be dealt with according to law, or may give bail for his or her appearance before such Justice of the Peace.

Council may purchase lands: amount limited.

L. And be it enacted, That it shall and may be lawful for the said Town Council to purchase grounds for the use of the said Town, as well for ornament as for use, and to make such conditions with respect to the payment of the price of purchase thereof as the parties shall agree upon between themselves, so that the whole amount of such price of purchase over and above that already contracted, shall not exceed the sum of Five hundred pounds ; and the said Council shall have full power to make such By-laws, Rules and Regulations for the improvement and superintendence of any such grounds as they may from time to time deem necessary, and to enforce such By-laws, Rules and Regulations in the same manner as they are above authorized with regard to other matters.

Act of U. C. 10 & 11 Geo. 4, c. 42, repealed.

LI. And be it enacted, That from and after the passing of this Act, the Act passed in the Session held in the tenth and eleventh years of the Reign of His Majesty King George the Fourth, and intituled: *An Act to establish a Market in the Village of Saint Hyacinthe*, shall cease to be in force, and shall be and is hereby repealed, in so much as the same shall relate to the powers vested in the Trustees appointed under the said Act for the management of the said Market, and all the right and authority of the said Trustees shall vest in the said Town Council, and all sums of money (if there be any in their hands) arising from the proceeds of the said Market, shall be paid over by the said Trustees to the Secretary-Treasurer of the said Council, within eight days after the notification to that effect made to them by the said Secretary-Treasurer, and all sums due to the said Trustees in their said quality shall be collected by the said Council, who are hereby authorized to recover the same from all parties indebted therein.

Rights of Trustees transferred to the Council.

LII. And be it enacted, That all Meetings of the said Council shall be public, excepting only when the said Council shall inquire into the conduct of any of its Members, in which case it shall be lawful for the said Council to sit with closed doors ; and the said Council shall determine the mode of its proceedings, and shall have power to cause order to be observed by persons present during its sittings, and to punish by fine and imprisonment (within the limits above mentioned) all persons guilty of any contempt during any such sitting.

Meetings of Council to be public.

Exception.

Certain powers conferred.

LIII. And be it enacted, That the said Council shall have power, whenever any house shall encroach upon any of the streets of the said Town, to prevent the proprietors of such house from rebuilding a new house on the site occupied by such demolished house; and it shall be lawful for the said Council to purchase any such lot encroaching upon any street, or to require the proprietor of such lot to dispossess himself of, and abandon all such part of the said lot as shall encroach upon any street: Provided always, that whenever it shall be expedient so to dispossess any proprietor of any part whatsoever of his lot or lots, the said Council shall appoint an Arbitrator, and the party interested another Arbitrator; and it shall be lawful for the said Council, in case of a difference of opinion, to apply to the Judge of the Saint Hyacinthe Circuit Court, for the appointment of a third Arbitrator; and the said Judge is hereby authorized and required to appoint the same; and the said Arbitrators, after having been sworn before any Magistrate for the District of Montreal, shall take cognizance of the matter in dispute between the said Council and any such proprietor, and, after visiting the place in question, shall decide upon the amount of the indemnity to be granted to such proprietor; and the said Arbitrators shall be authorized, and they are hereby required to decide whether the costs of the arbitration shall be paid by the said Council or by such proprietor.

As to houses, &c., now encroaching on streets.

Proviso: arbitration allowed in certain cases.

Third arbitrator.

LIV. And be it enacted, That from and after the passing of this Act, the said Town Council shall alone be authorized to grant and deliver Certificates for obtaining Tavern Licenses, any law, usage or custom to the contrary notwithstanding; and such Certificates shall be signed by the Mayor and Secretary-Treasurer, and sealed with the Seal of the said Council.

Council to grant tavern licenses.

LV. And be it enacted, That for the purpose of watering the streets, a majority of the occupiers of houses on each street may obtain from the said Council, authority to cause such street to be watered, and to impose on all such occupiers a tax not exceeding one half-penny in the pound, of the sum at which each property situate in such street shall have been assessed.

Watering of streets.

LVI. And be it enacted, That there shall be appointed by the said Town Council at the first General Meeting of the said Town Council, after the first Municipal Election and after each Annual Election, two persons to be and be called Town-Auditors; Provided always, that no person shall be appointed or elected Auditor who shall be a Member of the Council or the Secretary-Treasurer, nor any person who shall have directly or indirectly by himself or in conjunction with any other person, any share or interest in any contract or employment, with, by, or on behalf of the said Council; And provided also, that no person appointed or elected an Auditor for the Town shall be capable of acting as such, unless he shall have previously made and subscribed before any Justice of the Peace an oath in the following words, that is to say:

Town-auditors to be appointed.

Proviso.

Qualification.

Oath of office.

“ I, A. B., having been appointed (*or elected, as the case may be*) to the office of Auditor for the Town of Saint Hyacinthe, do hereby promise and swear, that I will faithfully perform the duties thereof according to the best of my judgment and ability; and I do swear and declare, that I have not directly or indirectly any share or interest whatever in any contract or employment with, by or on behalf of the Town Council of the said Town of Saint Hyacinthe: So help me God.”

And such oath in the above form, and taken and subscribed by such Auditor before a Justice of the Peace as aforesaid, shall be deposited with and kept of record by the Secretary-Treasurer of the said Council.

How taken and recorded.

LVII. And be it enacted, That it shall be the duty of the Auditors, to examine, settle and allow, or report upon all accounts which may be chargeable upon or may concern the said Town, and which may relate to any matter or thing under the control of or within the jurisdiction of the said Town Council, and may then remain unsettled, and

Duties of auditors.

to publish a detailed statement of the receipts and expenditures and liabilities of the said Council in two newspapers published in the District of Montreal, at least a fortnight before each Annual Election.

Public Act.

LVIII. And be it enacted, That this Act shall be taken and deemed to be a Public Act, and that the interpretation Act shall apply to this Act.

TORONTO : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P . C V I .

An Act to place the Longueuil and Chambly Turnpike Road under the control of the Commissioners of Public Works.

[10th August, 1850.]

WHEREAS it is expedient that the Turnpike Road hereinafter mentioned should be placed under the control of the Commissioners of Public Works: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing to the contrary contained in the Ordinance of the Legislature of Lower Canada, passed in the fourth year of Her Majesty's Reign, intituled: *An Ordinance for establishing and maintaining better means of communication between the City of Montreal and Chambly*, or in the Act of the Parliament of this Province, passed in the eighth year of Her Majesty's Reign, and intituled: *An Act to amend and extend the Ordinance relative to the Turnpike Road from Montreal to Chambly*, the four several Roads in the said Ordinance and Act mentioned and described, shall be and they are hereby transferred from the control of the Trustees appointed under the provisions of the said Ordinance to that of the Commissioners of Public Works.

Preamble.

The roads described in 4 Vic. c. 16, and in 8 Vic. c. 56, transferred from Trustees to Commissioners of Public Works.

II. And be it enacted, That from and after the passing of this Act, all the official powers, rights, duties, obligations and liabilities as such, of the persons holding office as Trustees under the said Ordinance, shall cease and determine as to such persons and each of them, and shall thereupon immediately become and be vested in and imposed upon, and shall be exercised and enjoyed, and borne, discharged, fulfilled and incurred by the Commissioners of Public Works, in as full and ample a manner to all intents and purposes whatsoever, as if they had been expressly named in the said Ordinance and Act, and as if every thing, since the passing thereof, lawfully done by the Trustees of the Longueuil and Chambly Turnpike Road as such, under and in virtue of the provisions thereof, had been done by the said Commissioners of Public Works.

Powers, &c., of Trustees, vested in Commissioners.

III. And be it enacted, That all and every the real and personal property under the provisions of the said Ordinance and Act, or either of them, since the passing thereof lawfully acquired by, and at the time of the passing of this Act in the possession and the property of the Trustees of the Longueuil and Chambly Turnpike Road, shall be and the same is hereby vested in Her Majesty, and shall be under the control of the Commissioners of Public Works as aforesaid.

Property of Trustees, as such, vested in Her Majesty, &c.

TORONTO : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
 Law Printer to the Queen's Most Excellent Majesty.



ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CVII.

An Act to authorize the Inhabitant Householders holding Lands in the new Settlements on the borders of the Saguenay, forming the Second Municipal Division of that County, to establish a Municipal Council therein, and for other purposes.

[24th July, 1850.]

WHEREAS it is necessary to assure the benefits of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled: *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*, to inhabitant householders occupying lands on the banks of the Saguenay, and in other places forming the Second Municipal Division of the County of Saguenay, and to enable them to establish a Municipal Council therein: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that each and every inhabitant householder, resident in any of the Parishes or Townships forming the new settlements in the County of Saguenay, and lying upon the banks of the River of the same name, shall be and is hereby exempted from the necessity of having the property qualification required by the Act mentioned in the Preamble to this Act, and shall without such qualification have full right to vote at the election of any Councillor for the Parish or Township in which he shall be resident, under the Act aforesaid, or to be himself elected a Councillor.

II. And be it enacted, That all and every the provisions of the Act passed in the ninth year of Her Majesty's Reign, and intituled: *An Act to repeal certain enactments therein mentioned, and to make better provision for Elementary Education in Lower Canada*, as amended by the Act passed in the twelfth year of Her Majesty's Reign, and intituled: *An Act to amend the School Law of Lower Canada*, shall, in so far as they may be applicable, and such extension may be practicable, extend to the Municipality to be organized under the provisions of this Act, and the inhabitant householders therein, having under this Act the right of voting for any Municipal Councillor, shall accordingly be individually and collectively affected and bound by, and shall enjoy all the advantages of the two Acts last aforesaid, and may vote under the same at all elections of School Commissioners or other School Officers, under the same, as if they were therein specially mentioned and referred to; any thing in the said Acts to the contrary notwithstanding.

III. And be it enacted, That all and every the provisions of the Act passed in the seventh year of Her Majesty's Reign, and intituled: *An Act to provide for the Summary Trial of Small Causes in Lower Canada*, shall, in so far as they may be applicable, and such extension may be practicable, extend to the Second Municipality of the said County, by virtue of this Act, upon the Petition of at least one hundred resident inhabitants being householders; such Petition being certified as required in and by the
first

Preamble.
Act 10 & 11 Vic. c.
7, cited.

Inhabitants of the
second municipal di-
vision of Saguenay
exempted from prop-
erty qualification.

The said inhabitants
to enjoy all the bene-
fits of the School Act,
9 Vic. c. 27, as
amended by 12 Vic.
c. 50.

The said inhabitants
to have all the bene-
fits of the Small
Causes Act 7 Vic. c.
19.

first section of the said Act, and all the other requirements of the said Act with regard to the appointment of a Commissioner or Commissioners for the Summary Trial of Small Causes, being also complied with and observed.

The said inhabitants exempted from property qualification as Justices of the Peace under 6 Vic. c. 3.

IV. And be it enacted, That each and every person being a resident householder in the new settlements aforesaid on the banks of the River Saguenay, or any of its tributary streams, or between Tadousac and Pointe-des-Monts, who now is or hereafter shall be appointed a Justice of the Peace in and for the new settlements aforesaid, shall be and is hereby exempted from the necessity of possessing the property qualification required in and by the Act passed in the sixth year of Her Majesty's Reign, and intituled: *An Act for the qualification of Justices of the Peace*, and relieved from and indemnified against all responsibility for performing or having performed the duties and functions of a Justice of the Peace in the new settlements, without possessing the property qualification required by the said Act.

Rights of the Crown saved.

V. And be it enacted, That nothing in this Act shall be construed to derogate from or affect in any manner whatsoever, the rights of Her Majesty, Her Heirs or Successors, or of any body politic or corporate, or of any person or persons whatsoever, as having or pretending to have any right or claim against the said Second Municipal Division of the County of Saguenay, or any part or parts thereof.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CVIII.

An Act to divide the County of Huntingdon into two Districts, for the Registration of Deeds.

[24th July, 1850.]

WHEREAS the County of Huntingdon is inconveniently large for Registration purposes: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That upon, from and after the first day of November next after the passing of this Act, the County of Huntingdon shall, for all the purposes of the Ordinance and Acts relative to the Registration of Deeds and other Documents affecting real property in Lower Canada, be divided into two Registration Districts; the first of which shall be bounded on the north-west by the River St. Lawrence, on the south-east by the Township of Sherrington and part of the Barony of Longueuil, on the north-east by the County of Chambly, and on the south-west by the Seigniorie of Beauharnois, and shall comprehend the Seigniories of Laprairie de La Magdeleine, Sault St. Louis, La Salle, and Chateaugay, and the Isles in the River Saint Lawrence, nearest to the said District, and either wholly or in part opposite the same, and the Registry Office of the said Registration District shall be kept in the Village of Laprairie de La Magdeleine, where that for the whole County is now kept, and a Registrar may be appointed at any time after the passing of this Act, for the said Registration District, to enter upon the functions of his office on the said first day of November next; And the second Registration District of the said County shall include and consist of all that part of the said County not included in the first Registration District, and the Registry Office thereof shall be kept in the Parish of St. Cyprien, and the Registrar now appointed for the County shall, without any new appointment, be the Registrar of and for the said second Registration District.

Preamble.

County of Huntingdon divided into two Registration Districts.

First District described.

Registrar to be appointed.

Second District described.

Present Registrar to be Registrar thereof.



ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P. C I X .

An Act to explain and amend the Act dividing the County of Rimouski into two Districts for the Registration of Deeds.

[10th August, 1850.]

WHEREAS doubts have arisen as to the true intent and meaning of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to divide the County of Rimouski into two Districts for the Registration of Deeds*: For the removal of such doubts, Be it declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That the first Registration District mentioned in the said Act, does and shall include and consist of all that portion of the County of Rimouski lying to the south-west of the line between the Parish of Trois-Pistoles and the Parish of Saint Simon, prolonged until it strikes the line between the said County and the County of Bonaventure, including the Parishes and Townships mentioned in the said Act as being within the said first Registration District, and all other places and tracts lying in the County and within the limits aforesaid; and that the second Registration District mentioned in the said Act does and shall include and consist of all that part of the said County not included in the first Registration District as above defined; and the said Act shall be construed and have effect accordingly with regard to all things done under it, before the passing of this Act, or to be done hereafter.

Preamble.
12 V. c. 123.

The said Act explained, and the Registration Districts mentioned in it defined more clearly.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CX.

An Act to remedy an error in the Act dividing the County of Berthier into two Municipalities.

[24th July, 1850.]

WHEREAS the Parish of Saint Felix de Valois, in the County of Berthier, which it was the intention of the Legislature to include in the Municipality Number Two of the said County, is, in the Act hereinafter mentioned, erroneously called Saint Felix de Ramsay, and it is expedient to correct the said error: Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby declared and enacted by the authority of the same, That the Act passed in the twelfth year of Her Majesty's reign, and intituled, *An Act to divide the County of Berthier into two Municipalities and for other purposes relative to the County*, shall be construed and have effect as if the words "Saint Felix de Valois," had been inserted in the said Act, instead of the words "Saint Felix of Ramsay," whenever they occur in the said Act; and the Parish of Saint Felix de Valois shall be held to have been included by the said Act, in the Municipality Number Two of the said County of Berthier; And all By-laws made and things done by the Municipal Council of the said Municipality Number Two, shall have force and effect and shall, if intended to apply to the whole Municipality, apply to the Parish of Saint Felix de Valois, as if Councillors had been elected and sat for the said Parish in the said Council at the time of the making or doing of such By-laws and things.

Preamble.

Act 12 V. c. 123,
interpreted.

As to By-laws passed,
&c.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXI.

An Act to extend the period for the Election of Commissioners under the Act for the improvement of the River-du-Chêne.

[24th July, 1850.]

WHEREAS the period limited by the Act hereinafter mentioned for the first meeting of the proprietors of certain lands, for the election of Commissioners for the purposes of the said Act, had elapsed before the said Act was printed and distributed in the locality interested therein, and it is therefore right to enable the said proprietors to avail themselves of its enactments, by extending the period within which the said meeting may be held: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the period of six months from the date of the passing thereof, limited by the first section of the Act passed in the twelfth year of Her Majesty's Reign, and intituled: *An Act to provide for the improvement of the River-du-Chêne, in the County of Two Mountains*, as that within which the first Meeting of the proprietors of lands in the Parishes mentioned in the said Act, interested in the Canal or Water Course, also therein mentioned, must be held for the election of Commissioners for the purposes of the said Act, shall be and is hereby extended to the period of eighteen months from the passing of this Act; and the said Act shall be construed and have effect as if the period last aforesaid had been mentioned in the first section of the said Act instead of the period therein mentioned and first aforesaid.

Preamble.

Period limited for certain purposes by 12 V. c. 155, extended.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXII.

An Act to authorize the Union of the Montreal and Lachine Rail-road Company and the Lake St. Louis and Province Line Rail-way Company, and for other purposes connected with the said Companies.

[10th August, 1850.]

WHEREAS the Montreal and Lachine Rail-road Company, and the Lake St. Louis and Province Line Rail-road Company, have by their Petition to the Legislature represented, that it may probably be found advantageous to both Companies, and may tend to hasten the construction of the Rail-road from Lake St. Louis to the Province Line, and thereby to advance the interests of the City of Montreal and of this Province, that the said Companies should be enabled, if they see fit, to agree together for the union of the said two Companies so as to form but one Corporation, and it is expedient to make provision in that behalf: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Directors of the said Companies to meet together at such times and places as they shall see fit, and confer together as to the expediency of such Union of the two Companies, and the terms upon which it can be effected; and if a majority of the Directors of each of the said Companies shall be of opinion that such union is expedient, and shall also agree as to the conditions on which it ought to be effected as regards the following points, namely:

Preamble.

The said companies may agree upon the conditions of a union of the companies.

As to the proportion in which, during any period or periods (or for ever) and under any assigned circumstances or events or unconditionally as to future circumstances or events, the profits and income, liabilities and losses of the New Company shall be divided amongst or borne by the holders of the stock of the two Companies respectively then subscribed for, and the holders of the stock (if any) to be thereafter subscribed for the purpose of carrying into effect the Act incorporating the Company secondly above named or for any other purpose, and generally as to the advantages and liabilities which shall attach to each and every class or kind of the stock of the said New Company, which it shall be thought expedient to define for that purpose; such advantages and liabilities to be as between the Stockholders, but without reference to the rights of other parties, with regard to whom the holders of all classes of stock may be liable;

Points to be agreed upon.

Rights of stockholders respectively.

As to the number of Directors for the management of the affairs of the New Company, and the number which shall be a quorum, and as to Directors of the said Companies respectively who shall go out of office when the Union shall take effect, so that there may remain no more than the number so agreed upon, who shall be the Directors of the New Company until the next annual election of Directors;

Number of directors.

As

Qualification of Directors.

Period of union.

After such agreement, meetings of the Stockholders shall be called, and if they agree to the propositions, the union shall take place.

Name of the united company, its powers and obligations.

Name of the road.

Proviso : on certain points, the company to be governed by the Montreal and Lachine rail-road Acts.

New company may reduce qualification for directors.

Reservation of powers to the Legislature.

As to loan authorized by 10 and 11 V. c. 120, sect. 27.

As to the amount of stock which shall constitute the qualification of a Director ;
And as to the time when the said Union shall take effect.

And when the Directors of the said Companies shall have agreed upon these points and reduced the propositions agreed upon to writing, they may call a general meeting of the Stockholders of the said Companies respectively, and submit the said propositions to them, and at any such meeting the said propositions may be modified in such way as may be found expedient ; and at any such meeting the Stockholders may vote by proxy and shall have the same number of votes respectively as at meetings for the election of Directors ; and if, at any such meeting a majority of the votes of the Stockholders of either Company shall be given in favor of any such propositions as aforesaid, and at the same or any other time not more than three months afterwards, a majority of the votes of the Stockholders of the other Company shall be given for the same propositions, then the same shall take effect according to the tenor thereof, as if they formed part of this Act ; and upon, from and after the day therein appointed for that purpose, the said Companies shall be united, and shall form one Company by the name of *The Montreal and New York Rail-road Company*, and by that name shall be invested with, have, hold and exercise all the property, powers and rights, and be subject to all the duties, liabilities and obligations which before such Union were by law vested in either of the said Companies or imposed upon either of them, or to which either of them were subject, and shall *ipso facto* stand substituted in law for both the said Companies in all proceedings, contracts, agreements and obligations, express or implied, so that whatever could have been done, continued or completed by any third party with regard to either of the said Companies, or by either of them with regard to any third party, may be done, continued or completed by or with regard to the said New Company, as being in law the same Corporation with each of the said Companies respectively, notwithstanding the change of name and Union effected as aforesaid ; and the Rail-road of the said New Company from the terminus in the City of Montreal to the terminus at the Province Line, shall be known as and called *The Montreal and New York Rail-road* ; and the Directors who shall remain in office under such ratified propositions as aforesaid, shall be the Directors of the said New Company until the next election of Directors as aforesaid : Provided always, that in so far as regards the election and powers of Directors, the management and administration of the stock and affairs of the New Company, and the rights of the Stockholders as such among themselves or with regard to the said Company, and the rights of the said Company as regards the Stockholders, the said New Company shall be governed by the provisions of the Act incorporating the Montreal and Lachine Rail-road Company and the Acts amending the same, and not by those of the Act incorporating the Lake St. Louis and Province Line Rail-way Company, but subject always to the provisions of this Act and of the ratified propositions aforesaid, as to the number and qualification of Directors and the quorum, and as to all other matters provided for by this Act, and the said ratified propositions.

II. And be it enacted, That it shall be lawful for the said New Company, by any By-law to be confirmed by a majority of the votes of the Stockholders at any general meeting to be called for the purpose of considering such By-law, to reduce the amount of stock which shall thereafter form the qualification of a Director, but such amount shall never be greater than that fixed by the propositions so ratified as aforesaid.

III. And be it enacted, That no enactment which the Legislature shall deem it advisable to make for the purpose of giving effect to this Act, or to any such ratified propositions as aforesaid made under it, according to the true intention thereof, shall be deemed an infringement of the rights of the said New Company, or of either of the other Companies aforesaid, or of any Stockholder of any one of the said three Companies.

IV. And be it enacted, That it shall be lawful for the said Lake St. Louis and Province Line Rail-way Company, or for the said New Company (as the case may be) to borrow the sum which the said first named Company are empowered to borrow by the

the twenty-seventh section of their Act of Incorporation hereinafter cited, at any rate of interest not exceeding eight per cent. per annum ; but no bond, debenture, or other security issued under the said section shall be for a less sum than One hundred pounds currency ; and it shall be lawful for either of the said Companies first named, or for the New Company, to lease their Rail-road and other property to any other Company or Corporation or private party for any term not exceeding seven years, and for either of such first named Companies to accept of such lease from the other ; and by any such lease the Company making the same may transfer to the lessee such of its rights as may be necessary for the convenient working, maintaining and repairing of the Rail-road and property leased, and for the collecting and appropriating the tolls and profits thereof.

Leases may be made of the said rail-roads.

V. And whereas from the late period at which the Royal Assent to the Act passed in the session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to incorporate the Lake St. Louis and Province Line Rail-way Company*, was promulgated in this Province, the time allowed to the said Company for making and depositing the map or plan and book of reference thereby required is insufficient : Be it therefore enacted, That the said map or plan and book of reference may be made and deposited by the said Company in the manner required by the said Act, at any time within eighteen months from the passing of this Act, and the said Rail-way may be made and completed at any time within five years from the passing of this Act, with the same effect as if they had been respectively so made and deposited or made and completed at the time prescribed by the said Act ; any thing in the fifty-ninth Section, or in any other part of the said Act, to the contrary notwithstanding.

Extension of time for making rail-road, &c.

10 and 11 V. c. 20.

VI. And be it enacted, That for and notwithstanding any thing in the forty-ninth Section, or in any other part of the said Act, the said Company shall at all times when thereunto required, place their Rail-way, and all the resources of the Company, and any Magnetic Telegraph constructed by them, at the disposal of the Governor or Person administering the Government, or of the Commander of the Forces, or of Her Majesty's Deputy Postmaster-General, or of any person having the superintendance or command of any Police force, for the conveyance of Her Majesty's naval or military forces, or militia, or any police force, or any artillery, ammunition, provisions or stores for their use, or of Her Majesty's Mail, or for any other of the purposes and services in the said Section mentioned, and so much of the said Section as provides that the said Company shall not be required to start any train or steamboat at any other time than their ordinary time of starting, shall be and is hereby repealed ; and for and notwithstanding any thing in the said Act, no By-law of the said Company, by which any other party than the members, officers and servants of the Company, shall be intended to be bound, shall have force or effect until after it shall have been submitted to the Governor or Person administering the Government of this Province, and by him approved and sanctioned.

Company's works to be always at the service of the Government, &c.

Certain By-laws to be subject to approval of the Governor.

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

Public Act.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXIII.

An Act to continue and extend the Montreal and Lachine Rail-road, and to incorporate
The Saint Lawrence and Ottawa Grand Junction Rail-road Company.

[10th August, 1850.]

WHEREAS the continuation and extension of the existing Rail-road from Montreal to Lachine, from some point in the Parish of Lachine, in Lower Canada, to some point at or as near as conveniently may be to Prescott in Upper Canada, will contribute to the benefit of a populous and fertile country, and to the prosperity and advancement of both Sections of this Province; And whereas the Montreal and Lachine Rail-road Company, incorporated by an Act passed in the ninth year of Her Majesty's Reign, intituled, *An Act to incorporate the Montreal and Lachine Rail-road Company*, which Company is hereinafter spoken of as "the said Company," are desirous to make and maintain the said Rail-road from some point in the Parish of Lachine, to or as near as may conveniently be to Prescott aforesaid, which said Road is hereinafter spoken of as "the said Rail-road:" Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the said Company, and the said Company shall be and are hereby authorized and empowered from and after the passing of this Act, by themselves, their Deputies, Agents, Officers, Workmen and Servants to continue and extend their existing Rail-road, 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 any convenient place in the Parish of Lachine, to some place at or as near as conveniently may be to Prescott, in Upper Canada, either in the direction of Saint Ann's, Vaudreuil, Rigaud and towards Hawkesbury, and thence to some place at or as near as conveniently may be to Prescott, or in the direction of Saint Eustache, Saint Andrew, Grenville, and thence to some place at or as near as conveniently may be to Prescott aforesaid, in whatever line may by the said Company be found most convenient, and to make and construct all such embankments, bridges and other works, either temporary or permanent, as the said Company shall think necessary or convenient for the making and constructing of the said Rail-road across or over the River Ottawa, or across or over any other rivers, canals, brooks, streams or other waters, or across or over any hills, or valleys, and to erect and construct such buildings, engines, machinery, apparatus and other works, either temporary or permanent for the purposes of this Act, as the said Company shall think expedient; and to erect and construct such wharves, warehouses, stores and other buildings, at either termination thereof, and at such other places along the line of the said Rail-road as the said Company shall think expedient; and to built, purchase, hold and use one or more Steamboats or other Vessels to ply on the waters of the Rivers Saint Lawrence or Ottawa, or either, as the said Company may think it expedient;

Preamble.

9 V. c. 82.

Company empowered to extend their road.

In what direction they may so extend it.

Their additional powers in case of such extension.

May hold steamboats.

expedient; and the said Company shall have power and authority to purchase and hold lands, (which word shall throughout this Act be understood to include the land and all that is upon or below the surface thereof, and all the real rights and appurtenances thereunto belonging, for them and their successors and assigns for the use of the said Rail-road and works, without Her Majesty's *Lettres d'Amortissement*, (saving nevertheless to any Seignior or Seigniors within whose *censive* any such lands, tenements and hereditaments so purchased may be situate, his and their several and respective *droits d'indemnité*, and all other Seigniorial 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 re-purchase of the said Company without *Lettres d'Amortissement*.

Power to make survey, &c.

Further powers.

II. And be it enacted, That for the purposes aforesaid, the said Company, their deputies, agents, officers, workmen and servants, 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 Rail-road, 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 Rail-road 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 Rail-road 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-road or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using or completing, extending or maintaining the same respectively according to the intent and purpose of this Act; and to make, build, erect and set up, in or upon the said intended Rail-road, or upon their lands adjoining or near the same respectively, such and so many houses, warehouses, toll-houses watch-houses, telegraphs or other signals, weighing beams, cranes, fire engines, steam engines, or other engines, either stationary or locomotive, inclined planes, machines and other works, ways, roads and conveniences, as and when the said Company of Proprietors shall think requisite and convenient for the purposes of the said Rail-road 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-road, and to turn and change the course of any river not being a navigable river, or of any brooks, streams or other waters, the courses of which the said Company may find it necessary to turn and change; and to construct, erect, make and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing and easy using of the said intended Rail-road and other works, in pursuance of and according to the true intent and meaning of this Act, they the said Company, doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned to the owners or proprietors of, or the persons interested in the lands, tenements or hereditaments, water, water courses, brooks or rivers, respectively, which shall be taken, used, removed, prejudiced, or of which the course shall be altered, or for all damages to be by them sustained in or by the execution of all or any of the powers given by this Act; and this Act shall be sufficient to indemnify the said Company and their deputies, agents, officers, workmen and servants, 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.

Satisfaction to be made for damages.

III. And be it enacted, That where the said Rail-road shall cross any public highway, the ledge or flange of such Rail-way for the purpose of guiding the wheels of the carriages, shall not rise above the level of such road more than one inch, nor shall the rail or rails of the said Road be placed below the level of such road more than one inch; and that where any bridge shall be erected or made by the said Company for the purpose of carrying the said Rail-road over or across any public highway, the space of the arch of any such bridge shall be formed, and shall at all times be and be continued of such breadth as to leave a clear open space under every such arch of not less than twenty feet, and of a height from the surface of each public highway in the centre of such arch, of not less than sixteen feet; and the descent under any such bridge shall not exceed one foot in twenty feet, and that at 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 Rail-road, the ascent of every such bridge for the purpose of every such road shall not be more than one foot in twenty feet, and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the level of such bridge; 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, or along the same, the rails and other contrivances forming part of the said Rail-road, subject to the limitation mentioned in this section, or any other part of this Act.

Precautions where the road shall cross a highway.

Proviso.

IV. And be it enacted, That the said Company shall at each and every place where the said Rail-road shall cross any highway on a level, erect and keep up a sign-board, stretching across the highway at such a height as to leave sixteen feet from the highway to the lower edge of the sign-board, and having the words, "Rail-way Crossing," painted on each side of such sign-board in both the French and English languages, and in letters not less than six inches in length; and for each and every neglect to comply with this requirement, the said Company shall incur a penalty of five pounds currency.

Further precautions in crossing a highway.

V. And be it enacted, That the said lands or grounds which may be taken without the consent of the proprietor thereof, by the said Company, for the purposes of the present Act as hereinafter provided, shall not exceed thirty yards in breadth, except in such places where the said intended Rail-road 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 the offsets for the locomotives or other engines and carriages using the said intended Rail-road to lie or pass each other (and not above one hundred yards in breadth in any such place, or where any houses, warehouses, wharves, toll-houses, watch-houses, weighing-beams, cranes, fixed engines or inclined planes may be erected, or goods, wares, merchandize be delivered), and then not more than two hundred yards in length by one hundred and fifty yards in breadth.

Quantity of land which may be taken.

VI. 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 of the River Ottawa and of the River Saint Lawrence, or of the land covered with the waters of either of those rivers, as may be required for the said Rail-road and other works which they are hereby authorized to construct; Provided always, that the said Company shall not cause any obstruction in, or impede the free navigation of the said River St. Lawrence or of the said River Ottawa, or of any other navigable river to or across which their Rail-road shall be carried, and whenever their Rail-road shall be carried across any navigable river, the said Company shall adopt such means by the elevation of the bridge, or by the construction of draw-bridges or swing bridges, to ensure the passage of rafts and vessels, as the Governor in Council shall direct, upon a plan of the same being submitted and approved by the Governor in Council; nor shall the said company construct any wharf, bridge, pier or other work upon the public beach or bed of any navigable river, or upon land covered by the waters thereof, until they shall have submitted the plan of such work to the Governor of this Province in Council, nor until the same shall have been approved by him in Council as aforesaid; and

Taking beach lots, crossing rivers, &c.

Proviso: navigation not to be impeded.

Bridges made by the company may be used as toll-bridges.

and it shall be lawful for the said Company to employ and use any bridge or bridges which they may construct as a toll-bridge or toll-bridges, and from time to time, and at all times, to ask, demand, receive, recover, and take to and for the proper use, benefit and behoof of the said Company, their successors and assigns, a toll from every person passing on any such bridge or bridges, and on all carriages, animals, goods and property of any kind that may pass over any such bridge, such tolls to be imposed, regulated, recovered and received as hereinafter provided; and it shall also be lawful for the said Company to sell and alienate, or to lease such toll-bridges, or any of them, or the right to levy such tolls on the said toll-bridges, or any of them, to any party or parties whatsoever.

Parties empowered to convey to the company.

VII. And be it enacted, That 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, *femes covert*, or other persons or parties who are or shall be seized, possessed of, or interested in any lands or grounds which the said Company may require for the purposes of this Act, to contract for, sell and convey unto the said Company all or any part of such lands or grounds so required by the said Company for the purposes of this Act; 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.

Compensation to be an annual rent in certain cases.

VIII. Provided always, and be it enacted, That any body politic, community, corporation, or other person or persons whomsoever, who cannot in common course of law sell or alienate any lands or grounds so required by the said company for the purposes of this Act, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so required by the said Company for the purposes of this Act; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed; and all proceedings shall in that case be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained and to be paid by the said Company for the purchase of any lands, or for any part of the purchase money of any land which the vendor shall agree to leave in the hands of the said Company, the said Rail-road, and the tolls to be levied and collected thereon, shall be, and are hereby made liable and chargeable, in preference to all other claims or demands thereon whatsoever, created or accruing after the day of the deed creating such charge and liability being duly registered.

Certain agreements made binding.

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

Company to settle with the owners of property.

X. And be it enacted, That it shall be lawful for the said Company to apply to the several owners of, or parties hereby empowered to convey the lands through which such Rail-road is intended to be carried, or which may suffer damage from the making of the said Rail-road, or the exercise of any of the powers granted to the said Company by this Act; and to agree with such owners or parties respectively, touching the compensation to be paid to them by the said Company for the purchase thereof, and for the respective

respective damages, and to make such agreements and contracts with the said parties touching the said lands or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained as to such parties and the said Company shall seem expedient, and in case of disagreement between the said Company and the owners or parties, or any of them, then all questions which shall arise between them and the said Company shall be settled as follows, that is to say :

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 powers,—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 a Sworn Surveyor, 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 required for the said Rail-road and works, 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 ; and in any case wherein the said Company shall have given and served the notice aforesaid, it shall be lawful for the said Company to desist from such notice, and afterwards give new notice with regard to the same or other lands, to the same or any other party, but the Company 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 ownership, after the Company shall have given and served the notice aforesaid, shall affect the proceedings, but the party notified shall be still deemed the owner, except as to the payment of the sum awarded.

Arbitration if the company and parties do not agree.

If the opposite party be absent from the District or County in which the land is situate, (if the notice relate to the taking of land) or from the District or County in which the power sought to be exercised, is to be exercised, or be unknown to the said Company, then upon application either to any Justice of the Court of Queen's Bench or Common Pleas in Upper Canada, or of the Superior Court in Lower Canada, or in Upper Canada to the Judge of the County Court of such County, or in Lower Canada to any Circuit Judge, 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 or Judge shall order a notice as aforesaid (but without the certificate) to be inserted during one calendar month in the *Canada Gazette*, and in some other newspaper to be named by such Justice or Judge.

Arbitration, &c.

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 such Justice or Judge may, on the application of the said Company, appoint some Sworn Surveyor to be sole Arbitrator for determining the compensation to be paid by the Company.

Arbitration.

If the opposite party shall, within the time aforesaid, notify to the said Company the name of the person such party shall appoint as Arbitrator, then the said two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then any such Justice or Judge 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 Arbitrator of the other party,) appoint a third Arbitrator.

Arbitration.

The said Arbitrators or sole Arbitrator being sworn before a Justice of the Peace, who is hereby empowered and required to administer such oath, 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

Arbitration.

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 of 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.

Arbitration.

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 such Justice or Judge.

Arbitration.

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

Arbitration.

The Justice or Judge by whom any third Arbitrator or sole Arbitrator shall be appointed, shall at the same time fix a day on or before which the award shall be made, and if the same be not made on or before such a day or some other day to which the time for making it shall have been prolonged, either by the consent of the parties or by the order of any such Justice or Judge; (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.

Arbitration.

If The Arbitrator appointed by the said Company or by the opposite party, or any third Arbitrator, whether appointed by the two Arbitrators or by any such Justice or Judge, shall die, be or become disqualified or unable to act, then, on proof thereof to the satisfaction of any such Justice or Judge, such Justice or Judge shall authorize the Company, or the opposite party, or the two Arbitrators, to appoint another person in the place of him who shall be so deceased, disqualified or unable to act, or shall himself appoint another person as third Arbitrator, as the case may require, but no recommencement or repetition of any prior proceedings shall be necessary.

Arbitration.

It shall be no disqualification to the Surveyor or other person offered or appointed as Valuator or Arbitrator, that he be 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 any such Justice or Judge after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Justice or Judge, and no cause of disqualification shall be urged against any Arbitrator appointed by the Company or by the opposite party after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator before the appointment of a third Arbitrator shall be summarily determined by any such Justice or Judge, 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.

Arbitration.

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

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.

XI. And be it enacted, That upon payment or legal tender of the compensation or annual rent so awarded or determined, or agreed upon by the parties themselves 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 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 ; and if any resistance or forcible opposition shall be made by any person or party to their so doing, any such Justice or Judge may, on proof to his satisfaction, that the requirements of this Act have been complied with, issue his warrant to any Sheriff or to any Bailiff or other proper person, to put the said Company in possession, and to put down such resistance or opposition, which such Sheriff or Bailiff, or other proper person, taking with him sufficient assistance, shall accordingly do ; and such warrant shall also be issued by any such Justice or Judge (and shall be addressed and executed as aforesaid) on the application of the Company, before any award or agreement shall have been made, upon the affidavit of an Engineer in the employ of the said Company, that the immediate possession of any land, or the power immediately to take any materials, or to do any thing mentioned in the notice to the party interested, is necessary to the carrying on of the said works of the said Company, and upon the said Company giving security to the satisfaction of such Justice or Judge, in such sum as he shall direct (not being less than twice the sum mentioned in the certificate of the Sworn Surveyor,) to pay or deposit the amount to be awarded as compensation in such case, with interest from the date of such warrant, and all costs, within thirty days after the award shall have been made.

Possession may be taken on payment or tender ;

and before award in certain cases of necessity.

XII. 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 mortgage, hypothec or incumbrance upon the said land or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party : Provided always, that if the lands so taken be situate in Lower Canada, and if the said Company shall have reason to fear any such claims, mortgages, hypothecs or incumbrances, or if any party to whom the compensation or annual rent or any part thereof shall be payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the Superior Court for the District in which such land is situate, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award if there be no conveyance ; and such award shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that, in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company, (that is the conveyance or award,) is under this Act, and shall call upon all persons entitled to, or to any part of the lands, or representing, or being the husbands of any parties so entitled, to file their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall for ever bar all claims to the lands or any part thereof, (including dower not yet open,) as well as all mortgages, hypothecs or incumbrances upon the same ; and the Court shall make such order for the distribution,

Case of incumbrance or defect of title provided for.

Proviso : proceedings to be taken by the company if they fear incumbrances or claims.

payment or investment of the compensation, and for the security 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 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 the Prothonotary the interest for such further period as may be right.

As to costs.

Additional capital
may be raised,
£750,000.

12 Vict. c. 177.

Books of subscription.

Provisions of former
Acts extended to new
capital.How sums subscribed
may be called in, &c.Provide: calls limited
as to amount and as
to period between
them.

Notice to be given.

Calls to bear interest
if unpaid.

XIII. And be it enacted, That in order to enable the said Company to make the said Rail-road, and to carry on and complete the said undertaking, it shall be lawful for the said Company, over and above, and in addition to the sum of Seventy-five Thousand Pounds currency, which the said Company was authorized to raise by the said Act passed in the ninth year of Her Majesty's Reign, incorporating the said Company, and over and above and in addition to the sum of Forty Thousand Pounds currency, which the said Company is authorized to raise by an Act passed in the twelfth year of Her Majesty's Reign, and intituled: *An Act to further amend the Act incorporating the Montreal and Lachine Rail-road Company, and for other purposes*, to raise amongst themselves, or by the admission of new subscribers, or in both those ways, a further sum, not exceeding Seven Hundred and Fifty Thousand Pounds currency, to be divided into Sixty Thousand Shares of Twelve Pounds Ten Shillings currency each, and if it be determined to raise the said last mentioned sum of money, or any part thereof, by the admission of new subscribers, it shall be lawful for the Directors of the said Company to cause a book or books of subscription to be opened in such places as they may think fit, and every person who, or whose attorney, shall write his or her signature in any such book, shall thereby (subject to the provisions hereinafter contained) become a proprietor in the said Company to the extent of the number of shares for which he shall so subscribe; and no subscriber for, or holder of any of the shares to be so issued, shall be in any manner whatsoever, liable for or charged with the payment of any debt due by, or demand against the said Company, beyond the amount of his, her or their share in the additional capital of the said Company, not paid up by him, her or them respectively, and the shares to be subscribed for and issued under the present Act, shall be sold and transferred in the manner provided by the said Act incorporating the said Company, with respect to the shares subscribed for, and issued under that Act, and all the provisions of the said last mentioned Act shall be applicable to the shares to be subscribed for and issued under the provisions of the present Act, excepting in so far as the provisions of the said Act incorporating the said Company are inconsistent with the provisions of the present Act.

XIV. And be it enacted, That as soon as the said sum of Seven Hundred and Fifty Thousand Pounds currency, or any part thereof, shall have been subscribed for as aforesaid, it shall be lawful for the Directors of the said Company, from time to time, to call in and require the payment of the sums so subscribed for, as the same may be required for the use of the said Company: Provided however, that no call shall exceed the one tenth part of the whole of each share, and that no calls be made payable, but at a distance of at least one calendar month from each other, and the owner or owners of the shares to be so issued, shall pay any call or calls that may be so made, upon his, her or their shares, to such bank or person and persons and at such time and place as shall be appointed by the Directors of the said Company, of which three weeks notice shall be given in the *Canada Gazette*, or in any other manner that may be determined by the Directors of the said Company, and any call or calls made by the Directors of the said Company, and not paid at the time appointed for the payment thereof, shall bear interest in favor of the said Company, at the rate of six per centum per annum, from the time the same shall be made payable, until paid, and the holder of the shares in respect of which such default shall be made, shall thereby forfeit in favor

favor of the said Company a sum equal to five per centum on the amount of the calls so not paid at the time appointed for the payment thereof, and it shall be lawful for the said Company to sue for and recover the said calls with interest as aforesaid and the penalties aforesaid, together with costs of suit, in any Court having jurisdiction in civil cases to the amount sued for; and in any such action or suit at law 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 in the said Company, as the case may be, and is indebted to the said Company in the sum of money to which the call or calls in arrear and penalties shall amount, with interest as aforesaid, and in any such action it shall not be competent for 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 order to maintain any such action, it shall be sufficient for the Company to prove by any one witness, whether in the employ of the Company or not, that the defendant is indebted to the Company in the sum of money so sued for or in any less amount, and thereupon, unless legal proof to the contrary be adduced, and without any proof as to the making of the calls sued for or the giving of notice thereof, the Court shall give judgment in favor of the Company for the sum of money and interest and penalties so sued for and proved to be due, with costs of suit; and if any person or persons shall neglect to pay any such call or calls so due by him, her or them, for the space of one calendar month after the time appointed for the payment thereof, then it shall be in the power of the Directors of the said Company if they see fit so to do, to declare the share or shares in respect of which such default shall have been made, forfeited, and thereupon to cause the same to be sold by public auction, for the payment of any calls, interest or penalties due in respect thereof, and the proceeds of the sale, after deducting the costs thereof, and after the Company shall have been paid the calls, interests and penalties due in respect of the shares so sold, shall be paid over to such defaulter: and the President or Vice-President of the Company shall have power to transfer the shares so sold to the purchaser thereof, and thereupon such defaulter shall be absolved from all his obligations in respect of the shares so sold as well with respect to the said Company as with respect to the creditors thereof.

XV. And in order to facilitate the said Company in the making and completing of the Rail-road and other works which the said Company are hereby empowered to make and complete, it is hereby enacted, That it shall be lawful for the said Company to divide the said Rail-road into sections, and to make and complete any part or section of the said Road, and to receive tolls thereon, even although the other parts of the said Road be not made or commenced, and it shall be in the power of the said Company to allow any persons willing to subscribe as aforesaid for any part of the said sum of Seven hundred and fifty thousand pounds currency, on condition of the sum or sums so subscribed being appropriated to the making and completing of any particular section or part of the said Road, to subscribe on that condition for any part of the said last mentioned sum of money; and any money so subscribed for the making and completing of any particular section of the said Road, shall be laid out for the making and completing of that section of the said Road in respect of which such money may have been so subscribed, and for no other purpose whatever, unless with the consent of the shareholders who may have subscribed the same; and the shareholders who shall have subscribed for the making of any particular section of the said Road, shall not be entitled to vote as shareholders, or receive any dividends or profits, to exercise any of the rights, or to enjoy any of the advantages of shareholders, until the section of the Road for the making of which they shall have so subscribed shall have been made and completed, and be in use or fit for use as a Rail-road; but as soon as the section of the Road for the making of which they shall have so subscribed shall have been made and completed, and in use or fit for use as a Rail-road, then the said last mentioned shareholders shall forthwith be entitled to exercise all the rights of shareholders in the said Company, and as such, to participate in all the gains and profits to be made by the

May be recovered at law.

What must be alleged and proved.

Forfeiture for non-payment of calls: and how enforced.

Road may be divided into sections, and parties may subscribe for any section in particular.

Rights of parties so subscribing.

said Company, from and after the making and completing of the section of the said Road, for the making of which the said last mentioned shareholders shall have specially subscribed.

Company may borrow money.
£750,000.

Debentures may be issued.

Form of debentures secured by mortgage.

Form of debentures not secured by mortgage.

Debentures how transferable.

Proviso.

Proviso.

Tolls may be taken: how regulated.

Directors to regulate time and manner in which passengers, &c. shall be conveyed.

Recovery of tolls and charges.

XVI. And be it enacted, That the said Company may from time to time lawfully borrow, either in this Province or elsewhere, such sum or sums of money, not exceeding the sum of seven hundred and fifty thousand pounds currency, as they may find expedient, and at such a rate of interest not exceeding eight per centum per annum, and may make the bonds, debentures or other securities they shall grant for the sum so borrowed payable either in currency or sterling, and at such place or places within or without this Province, as they may deem advisable, and may by such bonds, debentures or other securities, mortgage, hypothecate or pledge the lands, tolls, revenues and other property moveable or immoveable of the said Company, for the due payment of the said sums and of the interest thereon; and any of the said debentures whereby it is intended to mortgage and hypothecate any real estate of the Company situate in Lower Canada, may be in the form Number One, annexed to this Act, or in any other form that may be determined on by the said Company, and any Registrar in whose office it may at any time hereafter be necessary to register the said debentures in order to give full effect thereto, is hereby empowered and required to enter and register at full length any of the said debentures which may be brought to be registered, on receiving the usual fee in that behalf, and on proof of the execution thereof by the oath of one witness, which oath any such Registrar is hereby authorized to administer; and any of the said debentures whereby it is not intended to mortgage and hypothecate the real estate of the said Company, may be in the form Number Two to this Act annexed, or in any other form that may be determined on by the said Company; and it shall be lawful for the said Company, if they see fit, to make the said debentures to be so issued by the said Company, or any part thereof that they may think proper, payable to bearer, and every debenture so issued, payable to bearer, shall be transferable by delivery, and shall, with all interest due thereon, be payable to the bearer thereof, who shall, until the contrary be proved, in all law proceedings and on all other occasions, be held to be the proprietor of such debenture and of the debt and interest intended to be secured thereby, with all the hypothecary and other rights and privileges attached thereto; and it shall also be lawful for the said Company to grant such debentures either in payment or as security to any person or persons, corporation or corporations, to whom the said Company may be indebted, and who may be willing to receive the same; Provided always, that nothing herein contained, shall defeat or in any way impair any bond, debenture, obligation, hypothec, mortgage, or other security heretofore granted by the said Company, and provided also that it shall not be lawful for the said company to issue any Bond, Debenture or other security payable to bearer under this Act for a less sum than One hundred pounds currency.

XVII. And be it enacted, That as soon as any part of the said Rail-road shall be so far completed as to be capable of being used, it shall and may be lawful for the Directors of the said Company, from time to time to fix and regulate the Tolls and charges to be received and taken for the transportation of all passengers, goods, merchandizes and other property of any kind thereon, or on any of the said steamboats or vessels, and also to fix and regulate the tolls to be received from any person or persons passing on any bridge to be used as a Toll-bridge as hereinbefore provided, and on any carriages, animals, goods or property of any kind that may pass over any such bridge, and it shall be lawful for the said Company to ask, demand, receive, recover and take the said tolls and charges to and for their own proper use and benefit; and the said Directors shall also have full power and authority to regulate the time and manner in which passengers, goods, merchandizes, and property of every kind shall be transported, taken and carried on the said Rail-road, steamboats, vessels and bridges, and in case of denial of payment of any such tolls or charges, or any part thereof, on demand to the person or persons appointed to receive the same, the Company may sue for the same in any Court having competent jurisdiction, or the person or persons to whom the said tolls and

and charges ought to be paid may, and he is and they are hereby empowered to seize and detain such goods, merchandizes, and property of any kind for or in respect whereof such tolls and charges ought to be paid, and to detain the same until payment thereof, and in the mean-time the said goods, merchandizes or other property shall be at the risk of the owner or owners thereof, and the said Directors shall have full power from time to time to lower or reduce all or any of the said tolls or charges, and again to raise the same as often as they may think it necessary for the interests of the said undertaking; Provided always, that the same tolls and charges shall be payable at the same time and under the same circumstances, upon all persons and upon all goods, merchandizes and other property, so that no undue advantage, privilege or monopoly, may be afforded to any person or class of persons.

Tolls may be lowered and again raised.

Proviso against monopoly.

XVIII. And be it enacted, That the number of votes to which each proprietor of shares to be issued under the present Act, shall be entitled on every occasion when in conformity with the provisions of this Act, and to the said Act incorporating the said Company, the votes of the shareholders are to be given shall be in the proportion to the number of shares held by him, that is to say: one vote for every four shares under two hundred: Provided always, that no one proprietor shall have more than fifty votes, and all proprietors of shares, whether in this Province or not, may vote by proxy, in the manner and form and with the effect mentioned in the twenty-eighth section of the said Act incorporating the said Company.

Proportion of votes to shares.

Proviso.

XIX. And be it enacted, That all the provisions contained in the twenty-first, twenty-second, thirty-ninth, fortieth, forty-third, forty-fifth, forty-seventh, forty-ninth, fifty-second, fifty-third, fifty-fourth and fifty-eighth Sections of the said Act, passed in the ninth year of Her Majesty's Reign, intituled, *An Act to incorporate the Montreal and Lachine Rail-road Company*, and also all the provisions contained in the twenty-third and thirty-eighth Sections of that Act, as amended by a certain other Act passed in the Session of Parliament of this Province, held in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to amend the Act to incorporate the Montreal and Lachine Rail-road Company, and for other purposes therein mentioned*, are hereby, in so far as they are not inconsistent with the provisions of the present Act, extended and made applicable to the Rail-road and other works which the said Company is hereby authorized to make and complete by virtue of the present Act; and all the said provisions, excepting in so far as they may be inconsistent with the provisions of the present Act, shall have the same force and effect with respect to the said Road and other works, which the said Company is empowered to make and complete by the present Act, and with respect to all the powers granted to, and all the duties and obligations imposed upon the said Company by the present Act, and with respect to the rights, obligations and liabilities of third parties, and all other respects without any exception, as if all the said provisions were repeated at full length in the present Act, and thereby, and in the most perfect form of words, extended and made applicable to all those works, powers, acts, deeds, matters and things, to which it is by the present Section declared that they shall be extended and be applicable, and in every case where a Justice of the Peace is ordered or empowered by any of the said provisions of law in the present Section above referred to, to discharge any duty, then it shall be lawful for any Justice of the Peace of any District, in which the said Company shall have made or commenced any of the works authorized to be made and completed under the present Act, to discharge such duty; and in any case where it may be the duty of any Justice of the Peace to commit any party to gaol under any provision contained in the present Act, or in the said Act incorporating the said Company, or in any Act amending the last mentioned Act, such Justice of the Peace shall cause the party, so liable, to be committed to any gaol to which such Justice of the Peace may lawfully cause such person to be committed; and in cases where an appeal to the Quarter Sessions is allowed from the judgment of such Justice, such appeal shall be to the Court of Quarter Sessions of the District in which such Justice shall have exercised his jurisdiction in the matter complained of.

Certain provisions of former Acts extended to the road, &c hereby authorized.

9 V. c. 82.

10 & 11 V. c. 63.

As to things to be done by a Justice of the Peace; committals to gaol, &c.

Appeals.

Corporations may become subscribers.

XX. And be it enacted, That it shall be lawful for all Corporations, whether ecclesiastical or civil, to subscribe for any part of the sum of money, which by virtue of the present Act may be raised by the issuing of shares as aforesaid, and for any such Corporation to exercise all the right of shareholders in the said Company, with respect to the shares for which they may so subscribe; and it shall also be lawful for any such Corporation, whether ecclesiastical or civil, to loan any part of the sum of money authorized to be borrowed by the present Act; and to receive in respect of such loan, any security or securities which the said Company is empowered to give by the present Act; any law, usage or custom to the contrary notwithstanding.

When the road must be completed.

XXI. And be it enacted, That the said Rail-road and other works which the said Company are by this Act authorized to make and complete, shall be commenced within three years from the passing of this Act, otherwise this Act and every matter and thing therein contained, shall cease and be utterly null and void, and the said Rail-road shall be completed and fit for public use within ten years from the passing of this Act, otherwise this Act shall cease to have force and effect with regard to such part of the said Rail-road and works as shall not have been then completed, but shall remain in full force and effect with regard to such parts of it as shall then be in use or fit for use; and as soon as the said Company shall have made and completed any section of the said Road, not being less than twenty-five miles in length, it shall be lawful for the said Company, if they see fit, by a resolution of the Directors, to take the name of "The St. Lawrence and Ottawa Grand Junction Rail-road Company," and thereupon they shall give public notice for the space of one month, in the *Canada Gazette*, that they have so taken such name, and from and after the giving of such notice, the name of the said Company, for all purposes whatsoever, shall be "The St. Lawrence and Ottawa Grand Junction Rail-road Company," but notwithstanding such change in the name of the said Company, it shall even after such change be lawful for the Company to sue or be sued in the original name of the said Company, namely, "The Montreal and Lachine Rail-road Company," for or with respect to any debt, contract, obligation or engagement, made or entered into before such change of name; or for, on account, or in respect of any act, matter or thing done or caused to be done, or omitted to be done before such change of name.

New name may be taken by the company.

Not to become thereby a new corporation.

Recital.

XXII. And whereas it may not be in the power of the said Montreal and Lachine Rail-road Company to make and complete the said Rail-road and other works which by the present Act they are empowered to make and complete, and the several persons hereinafter named are desirous to make and complete the said Rail-road and other works in the event of the said Montreal and Lachine Rail-road Company being unable to make and complete the same: Be it therefore enacted, That the Honorable James Ferrier, the Honorable Peter McGill, the Honorable Joseph Bourret, John Young, William Dow, John Boston, James B. Greenshields, William F. Coffin, Thomas A. Stayner, the Honorable George Moffatt, John Frothingham, J. G. Mackenzie, Hugh Taylor, W. Macdonald, D. Davidson, together with such persons as shall under the provisions of this Act become subscribers as hereinafter provided for, and proprietors of any share or shares in the Rail-road hereby authorized to be made and other works and property hereinafter mentioned, and their several and respective heirs, executors, administrators, curators and assigns, being proprietors of any such share or shares, are and shall be, and be united into a Company for carrying on, making, completing and maintaining the said intended Rail-road and other works in the event of the said Montreal and Lachine Rail-road Company being unable to commence the same within the said period of three years as aforesaid, and with all the rights and powers, and according to the rules, orders and directions hereinbefore or hereinafter expressed; and shall for that purpose be one body politic and corporate by the name of "The St. Lawrence and Ottawa Grand Junction Rail-road Company," and by that name shall have perpetual succession, and shall have a common seal, and other the usual powers and rights of bodies corporate not inconsistent with this Act, and by that name shall and may sue and be sued; and in case the said Montreal and Lachine Rail-road Company shall

Provision for the case of the present company not making the road: certain persons to be incorporated as a new company for that purpose.

Corporate name and powers.

shall be unable to commence the said Rail-road and other works within the said period of three years aforesaid, or in case of its being declared by a resolution of the Directors of that Company that the said last mentioned Company will not make and complete the said Rail-road and other works, then in either of the said two cases, the St. Lawrence and Ottawa Grand Junction Rail-road Company, for the purpose of making and completing the said Rail-road and other works and things incidental thereto, shall have and possess all the powers without any reservation, limitation or exception which the said Montreal and Lachine Rail-road Company could have had or exercised if they had made and completed the said Rail-road and other works and things incidental thereto; and the said St. Lawrence and Ottawa Grand Junction Rail-road Company shall, in the making and completing of the said Rail-road and other works and in the doing of all the matters and things incidental thereto, have the same rights, authorities and claims without any reservation, limitation or exceptions against all parties, whether individuals or corporations, that the said Montreal and Lachine Rail-road Company could have had or exercised if they had made and completed the said Rail-road and other works and things incidental thereto, and the said St. Lawrence and Ottawa Grand Junction Rail-road Company shall, in making and completing the said Rail-road and other works and matters and things incidental thereto, be subject as regards all parties, whether individuals or corporations, to all the liabilities and obligations to which the said Montreal and Lachine Rail-road Company would have been subject, had the said Montreal and Lachine Rail-road Company made and completed the said Rail-road and other works and matters and things incidental thereto, and all persons and corporations shall have the same rights and powers with respect to the said St. Lawrence and Ottawa Grand Junction Rail-road Company, and with respect to any shares they may issue or any money they may borrow, that such persons or corporations could have had or exercised with respect to the Montreal and Lachine Rail-road Company, or with respect to any shares they might have issued or any moneys they might have borrowed if they had exercised the powers which they might have exercised under the present Act, and all the provisions of law which would have been applicable to the said Montreal and Lachine Rail-road Company, if they had made, completed or commenced the said Rail-road and other works and matters and things incidental thereto, shall be applicable to, and shall and may be taken advantage of by the said St. Lawrence and Ottawa Grand Junction Rail-road Company, in commencing, making, completing or using the said Rail-road and other works and matters and things incidental thereto, and in either of the said two cases aforesaid, it shall be lawful for any three of the persons incorporated by the present Act, to cause books of subscription to be opened in the manner provided by the fourteenth section of this Act, and as soon as one thousand of the said shares shall have been subscribed, a general meeting of the subscribers to the said undertaking shall and may be held for the purpose of electing Directors in the manner and after the notice mentioned in the thirty-first section of the said Act incorporating the Montreal and Lachine Rail-road Company; and thereupon all the provisions of law applicable to and serving to regulate the affairs of the Montreal and Lachine Rail-road Company, shall be applicable to and regulate the affairs of the said St. Lawrence and Ottawa Grand Junction Rail-road Company, and the said Rail-road or any part of the said Rail-road which may be made by the last mentioned Company, shall be called The St. Lawrence and Ottawa Grand Junction Rail-road.

XXIII. And be it enacted, That it shall be lawful for the Directors of the said St. Lawrence and Ottawa Grand Junction Rail-road Company, or a majority of a *quorum* of them, to enter into and make any arrangement with the Directors of any other Rail-road Company, now or hereafter to be chartered in any portion of the country between Montreal and Prescott, and more particularly with the Directors of the Montreal and Lachine Rail-road Company, for the union, junction or purchase of any such Rail-road, and in case of purchase of such Rail-road, such road shall become to all intents and purposes a portion of the said St. Lawrence and Ottawa Grand Junction

Further powers transferred to such new Company.

Books of subscription.

General meeting.

Arrangements may be made with other companies.

Junction Rail-road, and the capital stock of the said last mentioned Company shall, if the said Company think fit to increase the same, be thereupon increased to the extent of the capital stock of the road so purchased.

Commencement and completion of road.

XXIV. And be it enacted, That the said Rail-road which the said last mentioned Company are by this Act authorized to make, shall be commenced within three years from the expiration of the time allowed to the Montreal and Lachine Rail-road Company to commence the same, and shall be completed and fit for public use within ten years from the same time, otherwise this Act shall cease to have any force or effect with respect to any part of the said Rail-road or other works which shall not then be completed, but shall remain in force with regard to such parts of it as shall then be completed and in use.

Saving of rights.

XXV. 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.

Saving of power to amend this Act.

XXVI. And be it enacted, That notwithstanding the privileges hereby conferred, the Legislature may at any time hereafter make such addition to this Act, or such alteration of any of its provisions, as they may think proper for affording just protection to the public, or to any person or persons, body politic or corporate, in respect to their estate, property or rights or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right of way, public or private, that may be affected by any of the powers given by this Act.

Public Act.

XXVII. And be it enacted, That this Act shall be deemed and taken to be a Public Act.

FORM No. 1

Referred to in the foregoing Act.

MONTREAL AND LACHINE RAIL-ROAD COMPANY LOAN,

Under the Act Vict., c. No. £ , currency,
 (or sterling, as the case may be.)

THIS DEBENTURE WITNESSETH that the Montreal and Lachine Rail-road Company, under the authority of the Provincial Statute passed in the intituled: *An Act, &c., (title of this Act,)* have received from A. B. of &c., the sum of currency, (or sterling, as the case may be) as a loan, to bear interest from the date hereof, at the rate of per cent. per annum, payable half yearly on the day of and on the day of which sum of pounds, currency, (or sterling, as the case may be,) the said Company hereby bind and oblige themselves to pay on the to the said A. B., (or to the bearer hereof,) and to pay the interest thereon half yearly as aforesaid.

And for the due payment of the said sum of money and interest, the said Company, under the power given to them by the said Statute, do hereby mortgage and hypothecate the real estate and appurtenances hereinafter described, that is to say, (*describe the premises to be hypothecated.*)

IN TESTIMONY whereof, I, (or we, give name of *President or Directors authorized as mentioned in 6th Section of 10 & 11 Vict., cap. 63,*) have hereto affixed the common seal of the said Company, at the City of Montreal, this day of one thousand eight hundred and

(L. S.)

(Signature.)

FORM No. 2

Referred to in the foregoing Act.

MONTREAL AND LACHINE RAIL-ROAD COMPANY LOAN,

Under the Act Vict., c. No. £ , currency,
 (*or sterling, as the case may be.*)

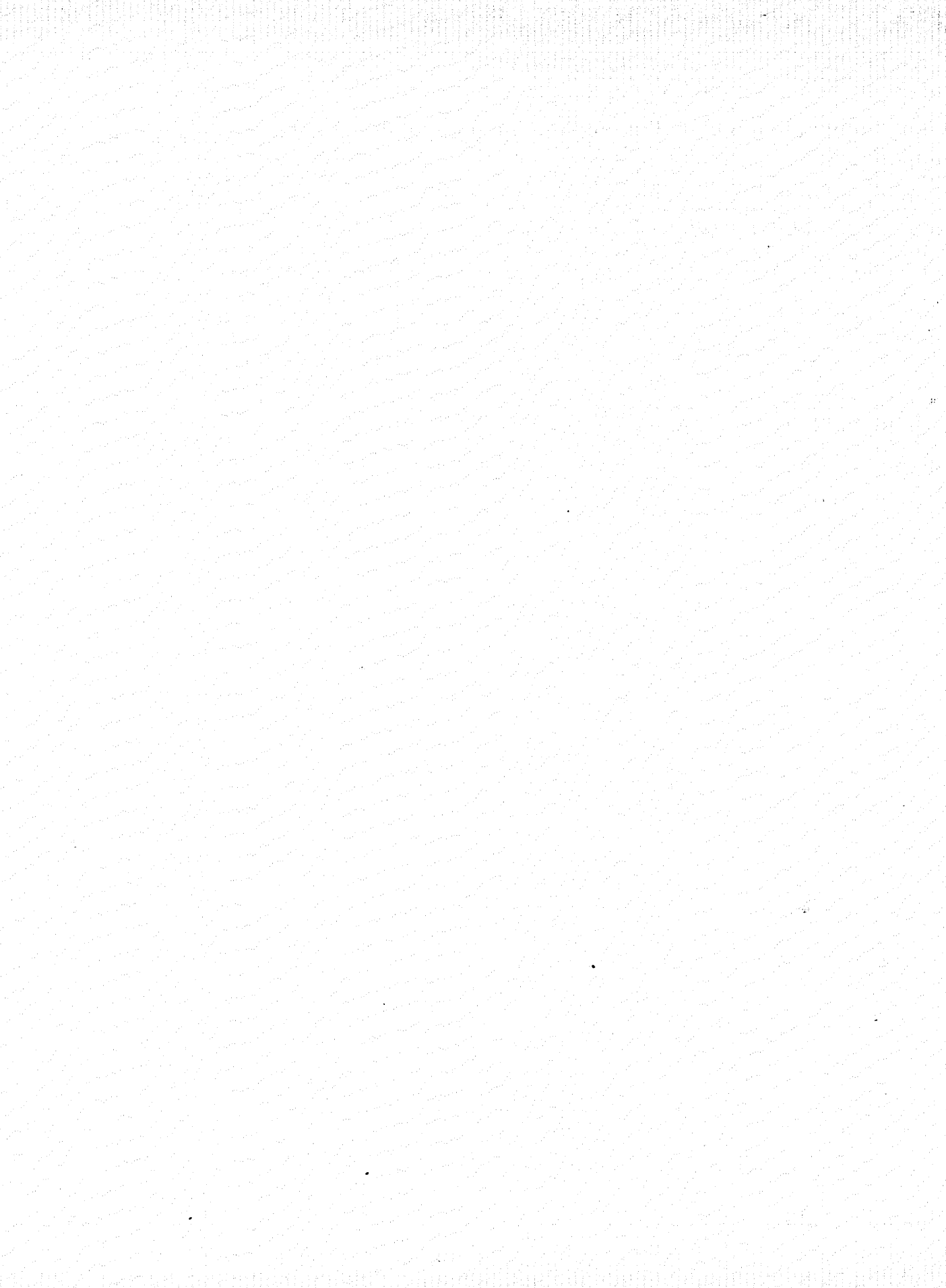
THIS DEBENTURE WITNESSETH that The Montreal and Lachine Rail-road Company, under the authority of the Provincial Statute, passed in intituled: *An Act, &c., (title of this Act,)* have received from A. B. of the sum of currency, (*or sterling, as the case may be*) as a loan, to bear interest from the date hereof, at the rate of per cent. per annum, payable half yearly on the day of and on the day of which sum of pounds currency, (*or sterling, as the case may be,*) the said Company hereby bind and oblige themselves to pay on the to the said A. B., (*or, to the bearer hereof*) and to pay the interest thereon half yearly as aforesaid.

IN TESTIMONY whereof, I, (*or we, give name of President or Directors authorized as mentioned in the 6th Section of 10 & 11 Vic., cap. 63,*) have hereto affixed the common seal of the said Company, at the City of Montreal, this day of one thousand eight hundred and

(Signature.)

(L. S.)

TORONTO: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
 Law Printer to the Queen's Most Excellent Majesty.





ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXIV.

An Act to authorize the Company of Proprietors of the Champlain and Saint Lawrence Rail-road to extend the said Road, and for other purposes.

[24th July, 1850.]

WHEREAS the Company of Proprietors of the Champlain and Saint Lawrence Rail-road, incorporated under and by virtue of an Act of the Legislature of the late Province of Lower Canada, passed in the second year of the Reign of His late Majesty King William the Fourth, and intituled: *An Act for making a Rail-road from Lake Champlain to the River Saint Lawrence*, have, by their Petition to the Legislature, represented that they are desirous of constructing a Branch of their Rail-road from some point on their present Line between Saint John's and Laprairie to some point on the River Saint Lawrence, opposite or nearly opposite the City of Montreal, and of continuing their present Rail-road from some point at or near its terminus at the village of Dorchester commonly called St. John's, to the Province Line at or near Rouse's Point, there to connect with the American Rail-roads now in progress of construction, and thereby to afford an uninterrupted line of communication from Montreal to Boston, New York or to the West, and have prayed to be authorized by Legislative enactment to effect the said improvements: And whereas the Montreal and Province Line Junction Rail-way Company have, by their Petition to the Legislature, set forth, that they consider that the interests of the public would be better served if the right granted them by the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled: *An Act to incorporate the Montreal and Province Line Junction Rail-way Company*, of constructing a Rail-way from the terminus of the Champlain and Saint Lawrence Rail-road, at the said village of Dorchester commonly called Saint John's, to or near the Province Line at Rouse's Point, were transferred to the said Company of Proprietors of the Champlain and Saint Lawrence Rail-road, and have prayed that their said right be so transferred, and it is expedient to grant the prayer of the said Petitions: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act last cited in the Preamble to this Act, and the Act passed in the twelfth year of the same Reign, and intituled: *An Act to amend and extend the Act to incorporate the Montreal and Province Line Junction Rail-way Company*, shall be and the same are hereby repealed; and the said Company of Proprietors of the Champlain and Saint Lawrence Rail-road are hereby authorized and empowered to construct a Branch of their said Rail-road from some point on its present Line to some point on the River Saint Lawrence, opposite or nearly opposite to the City of Montreal, and a continuation of their said Rail-road from some point at or near the terminus at Saint John's aforesaid, in as direct a line as may be readily practicable, to the Province Line at or near Rouse's Point, with one or more sets of rails and

Preamble.

2 Wm. 4, c. 58, and

10 and 11 Vict. c. 121, cited.

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

Champlain and St. Lawrence rail-road company empowered to extend their road.

and on the locomotive or atmospheric principle, as the said Company may deem best, and to erect wharves, warehouses, stores and other buildings at either termination, and at such other places on the line of the said Branch or continuation as they may deem expedient.

A competent sum of money to be subscribed for undertaking.

Proviso.

Books of subscription.

II. And to the end that the said Company of Proprietors of the Champlain and Saint Lawrence Rail-road may be enabled to construct the said Branch and continuation, Be it enacted, That it shall and may be lawful for the said Company from time to time to raise and contribute among themselves, or by the admission of new Subscribers, or both, in such proportions as to them shall seem meet and convenient, a competent sum of money for the making and completing the said Branch and continuation and all such other works, matters and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Branch, continuation and other works: Provided always, that the said Company shall cause Books of Subscription to be opened at their Office in the City of Montreal, for receiving the Signatures of Stockholders or others, or both, (as the case may be) willing to become Subscribers to the said additional Stock, and for this purpose they shall give public notice in some newspaper published in the City of Montreal, in the English language, and in some newspaper there published in the French language, of the time and place at which such Books will be opened and ready for receiving Signatures as aforesaid, and of the persons by them authorized to receive such subscriptions, and of the amount to be then raised, and so from time to time when more is to be raised; and every person who, or whose Attorney, shall write his signature in such a Book, as a Subscriber to the said undertaking, shall thereby become a Member of the said Company, and shall have like rights and privileges, and be subject to like obligations, as the present Members of the said Company of Proprietors of the Champlain and Saint Lawrence Rail-road, in proportion to the amount of paid up Stock held by him, her or them, and shall be bound to pay the amount of all Instalments thereon, as the same shall be called for by the Directors, and if any such Instalment be not paid at the time it shall so be called for, it may be recovered by the Company, with interest from such time, and costs, in any Court having competent jurisdiction; and in any such action, it shall be sufficient to allege, that the Defendant is the Proprietor of a Share or Shares (stating the number) of the Stock of the said Company; that certain sums of money were called for upon such Share, in conformity to the Act incorporating the Company, and remain unpaid, and that therefore an action hath accrued to the Company to recover the same; and the production of the newspapers containing notice of the Calls, shall be evidence that the same were made as therein stated; and neither in such action, nor in any other action, suit or proceeding by the Company, shall the election of the Directors, or the authority of them, or any Attorney acting in the name of the Company, be called in question, except by the Company, nor shall it be necessary to name the Directors, or any of them: Provided always, that the sums to be so raised, shall not in the whole exceed the Sum of One Hundred and Eighty-five Thousand Pounds currency, and shall be divided into Shares of Fifty Pounds each, and be subject to the same provisions, rules and regulations as to the amounts of dividends to be made thereon, and in all other respects as the original Capital Stock, which the said Company are authorized to hold by their Act of Incorporation above cited, in so far as such provisions, rules and regulations may not be inconsistent with this Act; and the said Sum of One Hundred and Eighty-five Thousand Pounds, or so much thereof as it may be found necessary to raise, shall be laid out and applied, in the first place for and towards the payment, discharge and satisfaction of all fees and disbursements for obtaining and passing this Act, and for making the Surveys, Plans and Estimates incident thereto, and all other expenses relating thereto, and all the rest, residue and remainder of such money, for and towards making, completing and maintaining the said Branch and continuation, and other the purposes of this Act and of the Act last aforesaid, and to no other use, intent or purpose whatsoever.

Proviso: sum to be raised limited.

Number of shares.

To what purposes the money may be applied.

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

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

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

Sums expended by
company, to be deem-
ed as capital.

V. And be it enacted, That for the purpose of constructing the said Branch and continuation, the said Company are hereby authorized and empowered to enter into and upon any lands and grounds of the Queen's Most Excellent Majesty, or of any person or persons, bodies politic or corporate, or collegiate, or communities or parties whatsoever, and to survey and take levels of the same or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said intended Branch and continuation and other works hereby authorized, and all such works, matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining and using the said intended Branch and continuation and other works, and also to bore, cut, dig, trench, get, remove, take, carry away, and lay earth, clay, stone, soil, rubbish, trees, roots of trees, beds of gravel or sand, or any other matters or things which may be dug or got in making the said intended Branch and continuation or other works, on or out of the lands or grounds of any person or persons adjoining or lying convenient thereto, and which may be proper, requisite or necessary for making or repairing the said intended Branch or continuation, or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using and completing, extending or maintaining the same respectively, according to the intent and purpose of this Act; and to make, build, erect and set up, in or upon the said intended Branch or continuation, or upon their lands adjoining or near the same respectively, such and so many houses, watch-houses, warehouses, toll-houses, telegraphs or other signals, weighing beams, cranes, fire engines, steam engines or other engines, either stationary or locomotive, inclined planes, machines and other works, ways, roads and conveniences, as and when the said Company shall think requisite and convenient for the purposes of the said Branch, continuation and works; and also from time to time to alter, repair, divert, widen, enlarge and extend the same, and also to make, maintain, repair and alter any fences or passages over, under or through the said intended Branch and continuation, and to construct, erect and keep in repair any bridges, arches or other works upon and across any rivers or brooks for the making, using, maintaining and repairing the said intended Branch and continuation, and to turn away any such brook, river or water course, and to change its course, and to construct, erect, make and do all other matters and things which they shall think convenient and necessary for the making, effecting,
extending,

Company may enter
upon the lands of Her
Majesty and others,
&c.

extending, preserving, improving, completing and easy using of the said intended Branch, and continuation and other works, in pursuance of and according to the true intent and meaning of this Act, they, the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned, to the owners or proprietors of, or the persons interested in the lands, tenements or hereditaments, water, water-courses, brooks or rivers respectively, which shall be taken, used, removed, prejudiced, or of which the course shall be altered, or for all damages to be by them sustained in or by the execution of all or any of the powers given by this Act; and this Act shall be sufficient to indemnify the said Company and their servants, agents or workmen, and all other persons whomsoever for what they, or any of them shall do by virtue of the powers hereby granted, subject nevertheless to such provisions and restrictions as are hereafter mentioned.

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

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

Survey and levels to be taken, &c.

VII. And be it enacted, That for the purposes of this Act, the said Company shall and may, by some sworn Land Surveyor for Lower Canada, and by an Engineer by them to be appointed, cause to be taken and made, surveys and levels of the lands through which the said intended branch and continuation are to be carried respectively, together with the maps or plans of such branch and continuation, and of the course and direction thereof, and of the said lands through which the same is to pass, and the lands intended to be taken for the several purposes authorized by this Act, so far as then ascertained; and also a book of reference for the said branch and continuation in which shall be set forth a description of the said several lands, and the names of the owners, occupiers and proprietors thereof, so far as they can be ascertained by the said Company, and in which shall be contained every thing necessary for the right understanding of such map or plan; which said map or plan and book of reference shall be examined and certified by the person performing the duties formerly assigned to the Surveyor General or his Deputies, who shall deposit a copy thereof in the Office of the Secretary of the Province, and another in the Office of the Prothonotary of the Superior Court in the District of Montreal, and shall also deliver one copy thereof to the said Company; and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts or copies thereof as occasion shall require, paying to the said Secretary of the Province, or to the said Prothonotary, at the rate of six pence current money of this Province, for every hundred words; and the said triplicates of the said map or plan, and book of reference, so certified, or a true copy or copies thereof, certified by the Secretary of the Province, or by the Prothonotary of the said Superior Court, shall severally be, and are hereby declared to be, good evidence in the Courts of Law and elsewhere; Provided always, that it shall not be necessary that the map or plan and book of reference for the said Branch be made or filed at the same time with those for the said continuation, so as they be respectively made and filed within the time hereinafter limited; nor shall it be necessary that the same or the surveys on which they are founded respectively, be made after the passing of this Act, but the said Company, if they think proper, may adopt any survey, map, plan or book, or any part thereof, made before the passing of this Act, so as the same be adopted and filed after the passing hereof, and the same shall nevertheless bind the Company, and all parties concerned, as is made after the passing hereof.

Book of reference.

Proviso: map or plan of the branch and of the continuation may be separately filed, &c.

VIII. Provided always, and be it enacted, That where the said branch or continuation shall cross or be carried along any public highway, (which word shall in this Act include all public streets, lanes or other public ways or communications,) neither the rails nor any other part of the Branch or continuation, or works connected therewith, shall rise above the level of such street or highway, or sink below the level of such street or highway more than one inch; and the said Branch or continuation may be carried across any highway within the limits aforesaid.

As to branch, &c,
crossing highways.

IX. 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 Branch or continuation over and across any highway, the space of the arch of any such bridge shall be formed and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than twenty feet in breadth, and of a height from the surface of such highway to the centre of such arch, of not less than sixteen feet, and the descent under any such bridge shall not exceed one foot in twenty feet.

Height and width of
bridges for carrying
branch, &c, over
highways.

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

Height of bridge to
carry highways over
Branch, &c.

XI. Provided always, That the first section of the Ordinance of the Special Council of Lower Canada passed in the fourth year of Her Majesty's reign, and intituled: *An Ordinance to amend an Act of the Provincial Parliament of this Province, intituled: 'An Act for making a Rail-road from Lake Champlain to the River St. Lawrence,'* shall be and is hereby repealed, and that the said Company shall, at each and every place where the said Branch or continuation, or the now existing Rail-road, shall cross any highway on a level, erect and keep up a sign-board stretching across the highway at such height as so leave sixteen feet from the highway to the lower edge of the sign-board, and having the word "RAIL-WAY CROSSING," painted on each side of such sign-board, in both languages, and in letters not less than six inches in length; and for each and every neglect to conform with the requirements of this section, the said Company shall incur a penalty not exceeding five pounds currency.

A sign-board to be
erected at each cross-
ing place.
4 V. c. 18 cited.

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

Company not to de-
viate more than a
mile from line of
branch, &c.

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

Effect of error in book
of reference.

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

Lands taken not to
exceed a certain
breadth, &c.

in such places where it shall be judged necessary to have off-sets for the locomotives, or other engines and carriages using the said intended Branch or continuation to lie or pass each other, (and not above one hundred yards in breadth in any such place,) or where any houses, warehouses, wharves, toll-houses, watch-houses, weighing-beams, cranes, fixed engines, or inclined planes, may be intended to be erected, or goods, wares, or merchandize be delivered, (and then not more than two hundred yards in length by one hundred and fifty yards in breadth,) without the consent of some party who can, under the provisions of this Act, convey such lands to the said Company; and the places at which such extra breadth is to be taken, shall be shewn on the said map or plan, so far as the same may be then ascertained; but their not being so shewn shall not prevent the Company from taking such extra breadth, provided it be taken upon the line shewn or within the distance aforesaid from such line: Provided always, that no land shall be taken by the said Company from any public highway, but their right shall be limited to the laying down across the same, (that is in the line of the said Branch or continuation, at whatever angle it may intersect such highway,) the rails and other contrivances forming part of the Rail-road, subject to the limitations mentioned in the eighth Section, or any other part of this Act.

Proviso.

Company may use beaches, &c.

Proviso.

Company may hold a ferry from the end of the branch to Montreal.

What tolls the Company may take at such Ferry.

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

XVI. And be it enacted, That the said Company shall be and are hereby authorized to hold a ferry from the point where the said branch may terminate at the River St. Lawrence, and from the land there taken by them with the consent of the Governor, and to possess, employ and use such steamboat or steamboats, barge or barges, boat or boats and other vessels which the said Company may deem convenient and useful for the said Ferry, and for the transportation, carriage and conveyance of goods, chattels, wares, commodities and passengers across the said River St. Lawrence to and from the City of Montreal, subject nevertheless to the provisions and limitations hereinafter expressed.

XVII. And be it enacted, That it shall be lawful for the said Company and they are hereby empowered to ask, demand, take, sue for and recover for the transportation and conveyance of all good, chattels, wares, commodities and passengers across the said River St. Lawrence, as ferriage, freight or passage money, rates not exceeding those hereinafter mentioned, over and above the Montreal Harbour dues on the same, that is to say:

- Ashes per barrel, Five Pence;
- Apples per barrel, Three Pence;
- Butter per keg, One Penny;
- Brooms per dozen, One Penny;
- Cart, Horse and Man, One Shilling and Six Pence;
- Double Wagon loaded, Three Shillings;
- Double Wagon light, Two Shillings;
- Calache, Horse and Man, One Shilling and Six Pence;
- Single Wagon and Man, One Shilling and Six Pence;
- Earthenware per crate, One Shilling and Six Pence;
- Other crates, in proportion;
- Candles and Soap per box, One Penny.

CATTLE.

Oxen and Cows, each, Nine Pence ;
 Calves, each, Two Pence ;
 Sheep and Lambs, each, One Penny ;
 Horses, each, Nine Pence ;
 Hogs, each, Three Pence.

GRAIN.

Of all kinds, per bushel, One Farthing ;
 Coals per chaldron, Three Shillings and Nine Pence ;
 Glass per Box, Two Pence ;
 Hops per Bale, Six Pence ;
 Hides, Green, each, One Penny ;
 Hides, dry, per hundred, One Shilling and Eight Pence ;
 Iron, ton, Two Shillings and Six Pence ;
 Iron, Sheet, box, Two Pence ;
 Leather, roll, Two Pence ;
 Molasses, puncheon, One Shilling and Six Pence ;
 Nails, keg, Three Pence ;
 Oil, hogshead, Nine Pence ;
 Oil, barrel, Five Pence ;
 Rags, bag, Six Pence ;
 Stoves, double, each, One Shilling and Three Pence ;
 Stoves, single, Seven Pence Half Penny ;
 Beef, Pork and Fish, barrel, Four Pence ;
 Flour, barrel, Three Pence ;
 Boards, one inch, one thousand feet, Two Shillings ;
 Planks, three inch, one hundred pieces, Five Shillings ;
 Scantling, one hundred feet, Two Shillings ;
 Shingles, pack, Three Pence ;
 Pipes, box, Two Pence ;
 Powder, keg, twenty-five pounds, Nine Pence ;
 Rice, tierce, Nine Pence ;
 Rosin, barrel, Three Pence ;
 Rum and other liquors, puncheon, One Shilling and Three Pence ;
 Rum and other liquors, hogshead, Nine Pence ;
 Rum and other liquors, barrel, Five Pence ;
 Salt, one hundred bushels, Six Shillings and Three Pence ;
 Salt, bag, One Penny Half Penny ;
 Sugar, hogshead, Two Shillings ;
 Tallow, barrel, Four Pence ;
 Tobacco, hogshead, One Shilling and Six Pence ;
 Tobacco, keg, Two Pence ;
 Wines, hogshead, Nine Pence ;
 Other goods and wares not enumerated, per ton weight or measurement, Two Shillings and Six Pence ;
 Passengers with baggage not exceeding thirty pounds, each, Seven Pence Half Penny ;
 Passengers without baggage, Five Pence ;
 Children, half price ;
 Parcels or packages under one hundred and twenty pounds, Six Pence.

XVIII. And be it enacted, That after any lands or grounds shall be set out and ascertained, in manner aforesaid, for making and completing the said Branch, continuation and other works, and for other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all bodies politic, corporate or collegiate, corporations aggregate or sole, communities, *grevés de substitution*, guardians, curators, executors, administrators, and all other trustees or persons whomsoever, not only for and on behalf

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

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

Proviso: certain agreements made valid.

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

XIX. Provided always, and be it enacted, That any body politic, community, corporation or other party, who cannot, in common course of law, sell or alienate any lands or grounds so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said Branch or continuation, and other the purposes and conveniences relative thereto and connected therewith; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed, and all proceedings shall in that case be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be fixed by the said Company for the purchase of any lands, or for any part of the purchase money of any land which the vendor shall agree to leave in the hands of the said Company, the said Branch or continuation, and the Tolls to be levied and collected thereon shall be and are hereby made liable and chargeable, in preference to all other claims or demands thereon whatsoever; the deed creating such charge and liability being duly registered.

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

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

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

XXI. And be it enacted, That so soon as the said Map or Plan and Book of Reference shall have been deposited as aforesaid, and notice of its being so deposited shall have been given in at least one newspaper published in the City of Montreal, in the English language, and in at least one newspaper there published in the French language, it shall be lawful for the said Company to apply to the several owners of or parties hereby empowered to convey the lands through which the said Branch or continuation is intended to be carried, or which may suffer damage from the taking of materials, or the exercise of any of the powers granted to the said Company by this Act, and to agree

agree with such owners or parties respectively, touching the compensation to be paid to them by the said Company for the purchase thereof, and for their respective damages, and to make such agreements and contracts with the said parties touching the said lands, or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained, as to such parties and the said Company shall seem expedient; and in case of disagreement between the said Company and the said owners or parties, or any of them, then all questions which shall arise between them and the said Company shall be settled as follows, that is to say:

If they cannot agree with any party.

The deposit of the Map or Plan and Book of Reference, and the notice of such deposit, given as aforesaid, shall be deemed a general notice to all such parties as aforesaid, of the lands which will be required for the said Branch or continuation and works.

Arbitration clauses.

The Company shall serve notice upon the opposite party, containing a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, (describing them),—a declaration that the Company are ready to pay some 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 Branch or continuation and works, or as being within the limits of deviation hereby allowed, 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 or for such damages as aforesaid.

Arbitration.

If the opposite party be absent from the District of Montreal, or be unknown to the said Company, then, upon application to any Judge of the Superior Court residing in the said District, accompanied by such certificate as aforesaid, and by an affidavit of some officer of the Company, that such opposite party is so absent, or that, after diligent inquiry, the party on whom the 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.

Arbitration.

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

Arbitration.

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

Arbitration.

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 Superior Court, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company in such way as they or he, or a majority of them shall deem best, and the award of such Arbitrators, or 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 at least one clear day's notice, or to which

Arbitration.

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

Arbitration.

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 less or not greater than that offered by the Company, the costs of 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 Judge of the said Superior Court.

Arbitration.

The Arbitrators, or a majority of them, or the sole Arbitrator, may in their discretion, examine on oath or solemn affirmation, the parties or such witnesses as shall voluntarily appear before him or them, and may administer such oath or affirmation.

Arbitration.

The Judge of the said Superior Court by whom any third Arbitrator or sole Arbitrator shall be appointed, shall at the same time fix a day on or before which the award shall be made, and if the same be not made on or before such day, or some other day to which the time for making it shall have been prolonged, either by the consent of the parties, or by the order of a Judge 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.

Arbitration.

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 Judge of the said Court, residing in the District of Montreal, being satisfied by affidavit or otherwise of such disqualification, refusal or failure, may in his discretion appoint another in his stead; and if the Arbitrator appointed by the said Company or by the opposite party shall die before the award shall be made, or shall leave the Province, or become unable to act within a reasonable time, (such fact being ascertained to the satisfaction of some Judge of the said Court, as aforesaid, as attested by his certificate to that 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.

Arbitration.

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 ownership after the notice shall affect the proceedings, but the party notified shall still be deemed the owner, except as to the payment of the sum awarded.

Arbitration.

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

appointment shall be null, and the party offering the person so adjudged to be disqualified, shall be held to have appointed no Arbitrator.

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

Arbitration.

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

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

Proviso: in certain cases warrant of possession may issue before award.

XXIII. And be it enacted, That the compensation awarded as aforesaid, or agreed upon by the said Company, and any party who might under this Act validly convey the lands or tenements, or then in lawful possession thereof as proprietor, for any lands which might be lawfully taken under this Act without the consent of the proprietor, shall stand in the stead of such land; and any claim to, or hypothec or incumbrance upon the said land, or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party; Provided always, that if the said Company shall have reason to fear any such claims, hypothecs or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof, shall be payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to deliver to the Prothonotary of the said Superior Court, at the City of Montreal, an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and an accepted draft on some solvent chartered Bank in the said City, for the amount of the awarded or compensation money, bearing interest, and payable to the order of such Prothonotary or his successor in office, five months after the date thereof, and such award or agreement shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company (that is, the conveyance, agreement or award) is under this Act,

Compensation to stand in place of land.

Proviso: if the Company fear incumbrances.

Act, and shall call upon all persons entitled to, or to any part of the land, or representing or being the husbands of any parties so entitled, to file their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall forever bar all claims to the lands, or any part thereof, (including dower not yet open,) as well as all hypothecs or incumbrances on the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as to right and justice according to the provisions of this Act and to law shall appertain; and the costs of the said proceedings, or any part thereof, shall be paid by the said Company, or by any other party, as the Court shall deem it equitable to order, and if judgment of confirmation be not obtained in five months from the delivery of the conveyance, agreement or award to the Prothonotary from any error, fault or neglect of the Company, the Court shall order the Company to pay to the Prothonotary the interest for such further period as may be right.

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

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

Provisions of 2 Wm. 4, c. 58, and 6 Wm. 4, c. 6, and 4 Vict. c. 18, applied to a certain extent to the branch, &c.

XXV. And be it enacted, That all the provisions of the Act first cited in the Preamble of this Act, and of the Act and Ordinance amending the same, shall, in so far as it is not otherwise specially provided in this Act, be applicable to and shall govern the Branch and continuation hereby authorized to be constructed as if such Branch or continuation had been authorized by and constructed under the authority of the said Acts and Ordinance, and the said Branch or continuation, respectively, shall when completed form part of, and together with the present Rail-road, shall be and be called *The Champlain and St. Lawrence Rail-road*: Provided always, that the forty-eighth section of the said first mentioned Act, and generally all such provisions as may be contrary to the provisions of this Act, shall be and are hereby repealed.

Proviso.

What tolls the Company may charge and take.

XXVI. And be it enacted, That it shall and may be lawful for the said Company from time to time hereafter to ask, demand, take and recover for all goods, wares, merchandize and commodities, and for every passenger conveyed over the said Branch and continuation, or either of them, the same and no higher rates for each and every mile they may be so conveyed as the said Company are empowered to ask, demand, take and recover by virtue of the said first recited Act; and that the said Company shall have power to fix the sums to be charged for the carrying of small parcels, in the manner by the said Act provided.

Small parcels.

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

XXVII. Provided always, and be it enacted, That the said Company shall at all times when thereunto required by Her Majesty's Deputy Post-Master General, the Commander of the Forces, or any person having the superintendence or command of any Police force, and with the whole resources of the Company if necessary, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all Artillery, ammunition, provisions or other stores for their use, and all Policemen, Constables, and others travelling on Her Majesty's service, on their said Rail-road, on such terms and conditions and under such regulations as the said Company and the said Deputy Post-Master General, the Commander of the Forces, or person commanding any Police Force, respectively, shall agree upon, or if they cannot agree, then on such terms and conditions, and under such regulations as the Governor in Council shall make; Provided always, that any further enactments which the Legislature of this Province may hereafter deem it expedient to make with regard to the carriage of the said Mail or Her Majesty's Forces, and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph,

Proviso.

or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

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

Her Majesty may assume possession of Rail-road on certain conditions.

XXIX. And be it enacted, That the said Company, to entitle themselves to all the benefits and advantages to them granted by this Act, shall and they are hereby required to make and deposit the maps or plans and books of reference mentioned in this Act within two years from the passing thereof, and to make and complete the said Branch and continuation in manner aforesaid within six years from the passing of this Act; and if the said maps or plans and book of reference be not so made and deposited within the space of two years, or if the said Branch and continuation shall not be so made and completed within the said period of six years, so as to be used by the public as aforesaid, then and in either case this Act and every matter and thing therein contained shall cease, and be utterly null and void in so far as regards the Branch or continuation which shall not be so completed, or with regard to which the map or plan and book of reference hereby required shall not be deposited within the period hereby limited for completing or depositing the same respectively.

Deposit of map and plan when to be made; completion of works.

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

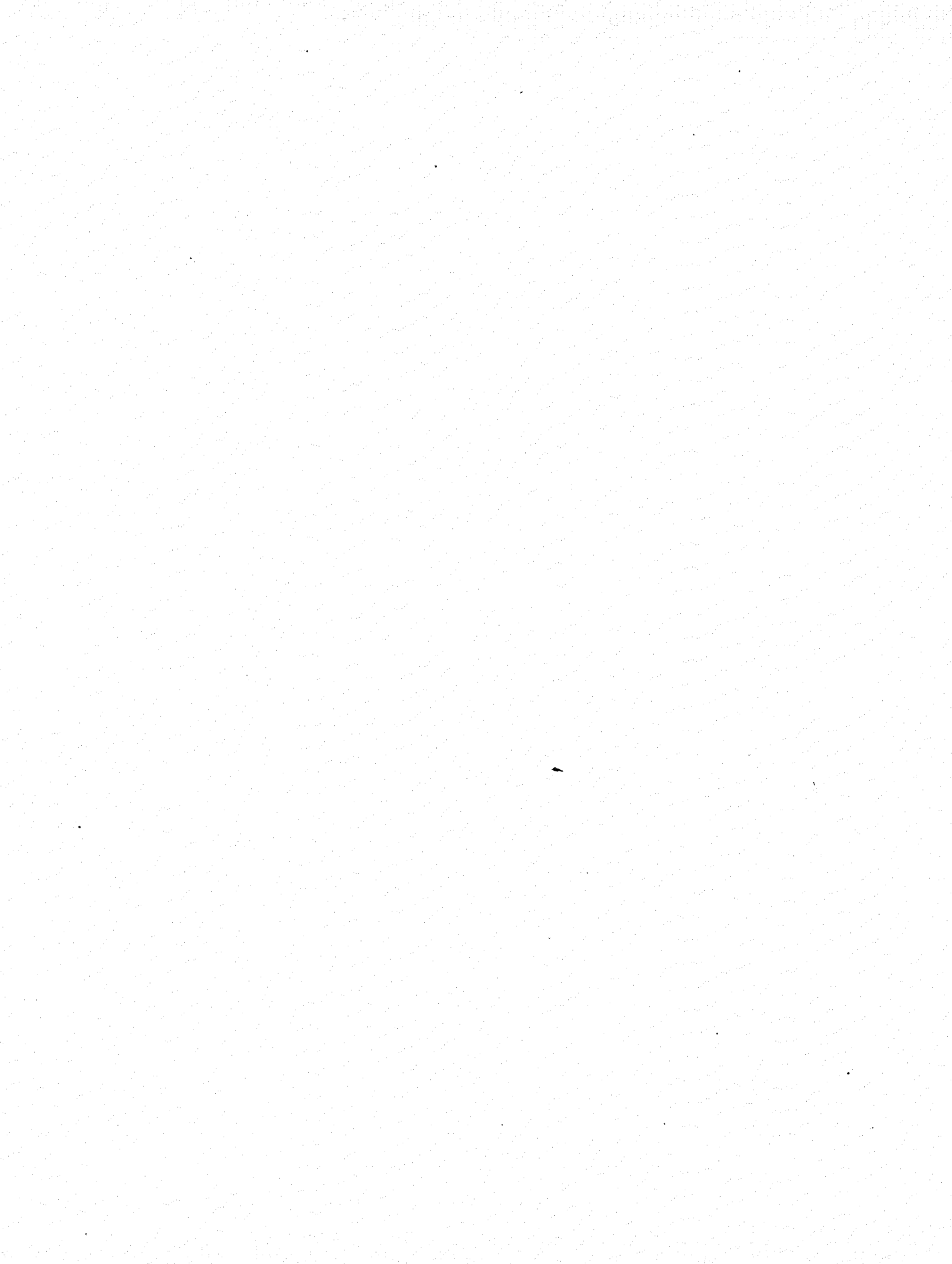
By-laws respecting tolls, &c. to be sanctioned by the Governor.

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

Branch, &c. not exempt from operation of any general Rail-way Act.

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

Public Act.





ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P. C X V .

An Act to incorporate a Company for making a Rail-road from the Village of Industry to the Township of Rawdon, in Lower Canada.

[10th August, 1850.]

WHEREAS the construction of a Rail-road from Industry Village to the Village or Township of Rawdon would greatly contribute to promote the trade and facilitate the communication between the County of Leinster and the adjacent Counties and the Cities of Montreal and Quebec, and would tend much to advance the prosperity of all those portions of this Province; and whereas the several persons hereinafter named are desirous to make and maintain the said Rail-road: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower-Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Jedediah H. Dorwin, John Jeffries, Philemon Dugar, Alexander Daly and Samuel Anderson, 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 Rail-road hereby authorized to be made and other works and property hereinafter mentioned, and their several and respective heirs, executors, administrators, curators and assigns, being proprietors of any such share or shares, are and shall be, and be united into a Company for carrying on, making, completing and maintaining the said intended Rail-road and other works, according to the rules, orders and directions hereinafter expressed, and shall for that purpose be one body politic and corporate by the name of *The Industry Village and Rawdon Rail-road Company*, and by that name shall have perpetual succession and shall have a common seal, and other the usual powers and privileges and rights of bodies corporate not inconsistent with this Act; and by that name shall and may sue and be sued, and also shall and may have power and authority to purchase and hold lands (which word shall throughout this Act be understood to include the land and all that is upon or below the surface thereof, and all the real rights and appurtenances thereunto belonging,) for them and their successors and assigns, for the use of the said Rail-road and works, without Her Majesty's *Lettres d'Amortissement*, (saving nevertheless to the Seigneur or Seigniors within whose *censive* the lands, tenements and hereditaments so purchased may be situate, his and their several and respective *droits d'indemnité*, and all other Seigniorial 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 re-purchase 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 Rail-road to be called *The Industry Village and Rawdon Rail-road*, with one or more sets of Rails or Tracks, and to be worked by locomotive engines,

Preamble.

Certain persons incorporated.

Corporate name and powers.

Word 'lands,' how understood.

Mortmain Laws not to apply.

Rights of Seigniors saved.

Rail-road may be made on any plan.

Direction of the said Rail-road.

engines, or on the atmospheric principle, or in such other mode as the said Company may deem expedient, from some place in the Village or Township of Rawdon, in the District of Montreal, to some place in the Parish of St. Charles Borromée, at or near Industry Village, and in as direct a line as may be found convenient, and to erect warehouses, stores and other buildings at either termination, and at such other places on the line of the said Rail-road as they may deem expedient.

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

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 Rail-road 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 Rail-road 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 Rail-road 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-road, or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using or completing, extending or maintaining the same respectively, according to the intent and purpose of this Act; and to make, build, erect and set up in or upon the said intended Rail-road or upon their lands adjoining or near the same respectively, such and so many houses, warehouses, toll-houses, watch-houses, telegraphs or other signals, weighing beams, cranes, fire-engines, steam-engines, or other engines, either stationary or locomotive, inclined planes, machines, and other works, ways, roads and conveniences, as and when the said Company shall think requisite and convenient for the purposes of the said Rail-road 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-road, and to construct, erect, and keep in repair any bridges, arches and other works upon and across any rivers or brooks for the making, using, maintaining and repairing the said intended Rail-road; and to turn any such brook, river or water-course, and to change its course; Provided always, that such turning or changing the course of any such brook, river or water-course shall not injuriously affect the mill streams of the Seigniories of Lavaltrie or St. Sulpice or adjoining properties, and to construct, erect, make and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing, and easy using of the said intended Rail-road and other works, in pursuance of, and according to the true intent and meaning of this Act, they, the said Company, doing as little damage as may be, in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned to the owners or proprietors of, or the persons interested in the lands, tenements or hereditaments, water, water-courses, brooks or rivers respectively, which shall be taken, used, removed, prejudiced, or of which the course shall be altered, or for all damages to be by them sustained in or by the execution of all or any of the powers given by this Act; and this Act shall be sufficient to indemnify the said Company and their servants, agents or workmen, and all other persons whatsoever for what they, or any of them, shall do by virtue of the powers hereby granted, subject nevertheless to such provisions and restrictions as are hereinafter mentioned.

To get and place materials.

Erecting buildings, machinery, &c.

Bridges and other works for passing streams, &c.

Proviso as to streams.

Other works necessary for the Rail-road.

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

How the Rail-road shall be carried across roads.

III. Provided always, and be it enacted, That the said Company shall not carry the said Rail-road along any highway, but shall merely cross the same in the line of the said road, whatsoever be the angle at which such line shall intersect the highway, and before

before they shall in any way obstruct such highway with their works, they shall turn the said highway at their own charges so as to leave an open and good passage for carriages free from obstructions, and when their works are completed, they shall replace the said highway or street, under a penalty of five pounds currency, for any contravention, over and above all damages sustained by any party; but in any case the rail itself, provided it does not raise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction.

Rail itself not to be deemed an obstruction.

IV. And be it enacted, That for the purposes of this Act, the said Company shall and may by some sworn Land Surveyor for Lower Canada, and by an Engineer or Engineers by them to be appointed, cause to be taken and made, surveys and levels of the lands through which the said intended Rail-road is to be carried, together with a map or plan of such Rail-road, and of the course and direction thereof, and of the said lands through which the same is to pass, and the lands intended to be taken for the several purposes authorized by this Act, so far as then ascertained, and also a book of reference for the said Rail-road, 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 every thing 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 Superior Court in 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 shall require, paying to the said Secretary of the Province, or to the said Prothonotary, at the rate of six pence 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, or a true copy or copies thereof, certified by the Secretary of the Province, or by the Prothonotary of the Superior Court in the said District, shall severally be, and are hereby declared to be good evidence in the Courts of Law and elsewhere.

Company to take surveys and levels of lands through which the Rail-road is to be carried.

Plan and book of reference.

To be examined and deposited.

Copies or extracts.

Certified copies to be evidence.

V. Provided always, and be it enacted, That where the said Rail-road shall cross or be carried along 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 Rail-road or works connected therewith, shall raise above the level of such street or highway, or sink below the level of such highway more than one inch; and the said Rail-road may be carried across any highway within the limits aforesaid.

When the Rail-road crosses or is carried along any highway.

VI. Provided always, and be it enacted, That the said Company shall, at each and every place where the said Rail-way shall cross any highway on a level, erect and keep up a sign-board, stretching across the highway at such height as to leave sixteen feet from the highway to the lower edge of the sign-board, and having the word "Rail-way 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 comply with the requirements of this section, the said Company shall incur a penalty not exceeding five pounds currency.

Precautions when the Rail-road crosses a highway on a level.

VII. And be it enacted, That the said Company, in making the said intended Rail-road, shall not deviate more than a mile from the line of the Rail-road, or from the places assigned to the several works of the Company, in the map or plan and book of reference, deposited aforesaid, nor cut, carry, place, lay down or convey the said Rail-road into, through, across, under or over any part of 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 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 shewn in their map.

Except by consent of parties.

Effect of errors in the books of reference.

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

Lands taken not to exceed thirty yards in breadth.

Exceptions for off-sets passing places, &c.

And for stations for machinery, &c.

IX. And be it enacted, That the lands or grounds to be taken or used for such intended Rail-road, 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 Rail-road 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 Rail-road, to be or pass each other (and not above one hundred yards in breadth in any such place,) or where any houses, ware-houses, wharves, toll-houses, watch-houses, weighing-beams, cranes, fixed engines, or inclined planes, may be intended to be erected, or goods, wares, or merchandize be delivered, (and then not more than two hundred yards in length, by one hundred and fifty yards in breadth,) without the consent of some party who can, under the provisions of this Act, convey such lands to the said Company, and the places at which such extra breadth is to be taken, shall be shewn on the said map or plan, so far as the same may be then ascertain'd, but their not being so shewn shall not prevent the Company from taking such extra breadth, provided it be taken upon the line shewn or within the distance aforesaid from such line: Provided always, that no land shall be taken by the said Company from any public highway, but their right shall be limited to the laying down across the same, that is in the line of the said Rail-road, at whatever angle it may intersect such highway, the rails and other contrivances forming part of the said Rail-road, subject to the limitations mentioned in the third and fifth Sections or any other part of this Act.

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

Company may purchase land for terminus, &c.

X. And be it enacted, That it shall be lawful for the said Company to purchase, occupy and hold as much land, either in the Village of Industry or in the Village or Township of Rawdon, or at any other place or places on the line of the said Rail-road as may be required for the purpose of constructing buildings and other works which they are hereby authorized to construct to enable the said Company to carry on their said Rail-road.

After any lands have been set out, bodies corporate, &c., may sell to the Company.

XI. 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 Rail-road 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, *femes-covert*, or other persons or parties, who are or shall be seized, possessed of, or interested in any lands or grounds which shall be so set out and ascertained as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, all or any part of such lands or grounds which shall, under this Act, be set out and ascertained as aforesaid; and that all contracts, agreements, sales, conveyances, and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in any wise notwithstanding; and that all bodies politic, corporate, or collegiate, or communities, and all persons whatsoever, so conveying as aforesaid, are hereby indemnified for what he, she, or they, or any of them shall respectively do by virtue of or in pursuance of this Act; Provided always, that before the map or plan and book of reference shall be deposited as aforesaid, and before the lands required for the said Rail-road and works shall be set out and ascertain'd, it shall be lawful for any party who might, under this Act, convey any lands to the said Company, if the same were

Proviso: parties may, before lands are so set out, agree with the Company for the price to be paid for them if afterwards required.

so set out and ascertained, to agree with the Company for the price to be paid for such lands if they shall be thereafter so set out and ascertained; and such agreement shall be binding, and the price agreed upon shall be the price to be paid by the Company for the same lands, if they shall be afterwards so set out and ascertained, within one year from the date of such agreement, and although such land may, in the mean time, have become the property of a third party; and possession of the same may be taken, and the agreement and price may be dealt with, as if such price had been fixed by an award of Arbitrators as hereinafter mentioned.

XII. Provided always, and be it enacted, That any body politic, community, corporation, or other party, who cannot, in common course of law, sell or alienate any lands or grounds so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds to set out and ascertained as necessary for making the said Rail-road, and other the purposes and conveniences relative thereto and connected therewith; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed, and all proceedings shall, in that case, be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid by the said Company for the purchase of any lands, or for any part of the purchase money of any land which the vendor shall agree to leave in the hands of the said Company, the said Rail-road, and the Tolls to be levied and collected thereon, shall be, and are hereby made liable and chargeable, in preference to all other claims or demands thereon whatsoever, created or accruing after the day of the Deed creating such charge and liability being duly registered.

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

Privilege for securing such rent or any purchase money.

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

Agreement with proprietors *par indivis* to a certain extent shall bind the rest.

XIV. And be it enacted, That so soon as the said Map or Plan and Book of Reference shall have been deposited as aforesaid, and notice of its being so deposited shall have been given during at least one calendar month, in at least one newspaper published in the City of Montreal, in the English language, and in at least one newspaper there published in the French language, it shall be lawful for the said Company to apply to the several owners of or parties hereby empowered to convey the lands through which such Rail-road is intended to be carried, or which may suffer damage from the taking of materials, or the exercise of any of the powers granted to the said Company by this Act, and to agree with such owners or parties respectively, touching the compensation to be paid to them by the said Company for the purchase thereof, and for their respective damages, and to make such agreements and contracts with the said parties touching the said lands, or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained, as to such parties and said Company shall seem expedient; and in case of disagreement between the said Company and the said owners or parties, or any of them, then all questions which shall arise between them and the said Company shall be settled as follows, that is to say:

The Company to apply to the owners of lands touching the compensation to be paid for the same, &c.

Or as to mode of establishing such compensation.

How 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 persons as aforesaid, of the lands which will be required for the said Rail-road 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

Notice to opposite party.

Offer.

damages

Name of Arbitrator.
Certificate of a surveyor.

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

If the party be absent or unknown.

If the opposite party be absent from the District of Montreal, or be unknown to the said Company, then, upon application to any Judge of the Superior Court in the said District, accompanied by such certificate as aforesaid, and by an affidavit of some Officer of the Company, that such opposite party is so absent, or that after diligent inquiry the party on whom the notice ought to be served cannot be ascertained, such Justice shall order a notice as aforesaid (but without the certificate,) to be inserted during 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.

Party not accepting and not appointing an arbitrator.

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 Judge of the Superior Court 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.

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 party shall appoint as Arbitrator, then the said two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then any Judge of the Superior Court 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 arbitrator 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 said Superior Court, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company, in such way as they or he, or a majority of them, shall deem best, and the award of such Arbitrators, or of any two of them, or of the sole Arbitrator, shall be final and conclusive: Provided that no such award shall be made or any official act done by such majority, except at a meeting held at a time and place of which the other Arbitrator shall have had at least one clear day's notice, or to which some meeting at which the third Arbitrator was present shall have been adjourned; but no notice to the Company or opposite party shall be necessary, but they shall be held sufficiently notified through the Arbitrator they shall have appointed or whose appointment they shall have required.

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

Costs how paid.

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

Arbitrators may 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.

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

Time within which award must be made,

How prolonged.

If the party appointed by any Judge as third Arbitrator or sole Arbitrator shall die before the award be made, or shall refuse to act 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 his Certificate to that effect,) the said Company or the opposite party (as the case may be) may appoint another in his stead, notifying the other Arbitrators of such appointment, and if the sole Arbitrator shall die before the award be made, any Judge of the Superior Court may, on the application of the said Company, appoint another, but no recommendation or repetition of prior proceedings shall be required.

Arbitrator dying; failing to act, &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 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.

Change of owner.

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 Judge of the Superior Court after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Judge; and no cause of disqualification shall be urged against any Arbitrator appointed by the Company, or by the opposite party, after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, shall be summarily determined by any Judge of the said Court 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.

Arbitrators not disqualified by certain circumstances.

Cause of disqualification when to be urged.

How tried and determined.

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

Awards not to be avoided by mere want of form.

Parties need not be named.

XV. 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

Possession may be taken on payment, tender or deposit.

Warrant of possession in case of resistance.

OR

or party to their so doing, any Judge of the Superior Court 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 always, that such warrant of possession may also be granted by any such Judge, 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.

Proviso:

Possession may be obtained before the award in certain cases.

Claims on lands so purchased or taken.

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 consent, &c.

XVI. 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 lands, and any claim to, or hypothec or incumbrance upon the said land, or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party : Provided always, that if the said Company shall have reason to fear any such claims, hypothecs or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof shall be payable shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the Superior Court, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award and agreement shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company, (that is the conveyance, agreement or award) is under this Act, and shall call upon all persons entitled to, or to any part of the land, or representing, or being the husband of any parties so entitled, to file their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall for ever bar all claims to the lands, or any part thereof, (including dower not yet open,) as well as all hypothecs or incumbrances upon the same ; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested, as to 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 Company, and if from any error, fault or neglect of the Company it shall not be obtained until after 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.

XVII. 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

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.

XVIII. And be it enacted, That all suits for indemnity for any damage or injury sustained by reason of the powers and authority given by this Act shall be made within six calendar months next after the time of such supposed damage sustained, or in case there shall be a continuation of damage, then within six calendar months next after the doing or 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.

XIX. 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 Rail-road, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, such person shall for every such offence incur a forfeiture or penalty of not less than 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.

XX. And be it enacted, That if any person or persons shall wilfully and maliciously, and to the prejudice of the said Rail-road 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 Rail-road or works, or shall obstruct, hinder or prevent the carrying on, completing, supporting and maintaining the said intended Rail-road, vessels or works, such person or persons shall be guilty of a misdemeanor, and being convicted thereof shall be punished accordingly.

XXI. 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 Rail-road and all such other works, matters and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Rail-road and other works: Provided always, that the before mentioned Jedediah H. Dorwin, John Jeffries, Philemon Dugar, Alexander Daly and Samuel Anderson, (being the Provisional Committee named for that purpose) shall cause books of subscription to be opened in the County of Leinster and in the City of Montreal, at such place therein 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 Nine thousand pounds currency, of this Province, in the whole, except as hereinafter mentioned, and that the

Applications for indemnity for damage to be made within a certain time.

General issue.

Penalty for obstructing the free use of the Rail-road

How recoverable and applicable.

Punishment of persons breaking down or obstructing or damaging the Rail-road, &c.

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.

Order of charges on the Capital.

Proviso: one tenth of the Capital to be paid up.

The Capital to be divided into shares.

To be personal property and transferable.

Rights of Shareholders to profit, &c.

Their liabilities.

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

Company may borrow a sum not exceeding at one time £8000 currency.

same be divided into such numbers of shares as hereinafter directed, at a price of 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 other expenses relating thereunto, and all the rest, residue and remainder of such money for and towards making, completing and maintaining the said Rail-road and other the purposes of this Act, and to no other use, intent or purpose whatsoever: And provided also, that one tenth part of the said sum of nine thousand pounds shall be paid up and shall be deposited to the credit of the said Company in some one or more of the Chartered Banks in this Province before the commencement of the said Rail-road.

XXII. And be it enacted, That the said sum of nine thousand pounds currency, or such part thereof as shall be raised by the several persons hereinbefore named, and by such other person or persons who shall or may at any time become a subscriber or subscribers to the said Rail-road, shall be divided and distinguished into one thousand eight hundred equal parts or shares, at a price not exceeding five pounds currency aforesaid, per share; and that the shares be deemed personal estate, and shall be transferable as such; and that the said one thousand eight hundred shares 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 successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of five pounds, or such sums as shall be demanded in lieu thereof, towards carrying on and completing the said Rail-road, shall be entitled to and receive, after the said Rail-road 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 of one one thousand eight hundredth part 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.

XXIII. And be it enacted, That in case the said sum of nine 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 amongst 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 Rail-road and other works or conveniences incidental or relative thereto, or hereby authorized, not exceeding the sum of four thousand pounds currency, aforesaid; and every subscriber towards raising such further or other sum of money shall be proprietor in the said undertaking, and have a like right of voting in respect of his, her or their shares in the said additional sum so to be raised, and shall also be liable to such 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 nine thousand pounds; any thing herein contained to the contrary notwithstanding.

XXIV. And be it enacted, That the said Company may from time to time lawfully borrow, either in this Province or elsewhere, such sum or sums of money, not exceeding at any time the sum of eight thousand pounds currency, as they may find expedient, and at such rate of interest not exceeding six per centum per annum, as they may think proper; and may make the bonds, debentures or other securities, they shall grant for

for the sums so borrowed, payable either in currency or in sterling, and at such place or places within or without this Province as they may deem advisable, and may hypothecate or pledge the lands, tolls, revenues, and other property of the said Company for the due payment of the said sums and the interest thereon.

And grant hypothec on their property.

XXV. And be it enacted, That the number of votes to which each Proprietor of shares in the said undertaking shall be entitled, on every occasion when in conformity to the provisions of this Act, the votes of the Members of the said Company are to be given, shall be in the proportion to the number of shares held by him, that is to say, one vote for each share less than twenty, and two votes for every five shares over twenty shares, provided no proprietor as aforesaid shall have more than one hundred 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 the effect following, that is to say:

Votes of Proprietors according to the number of their shares.

" I, _____ of _____ one of the Proprietors of the *Industry Village and Rawdon Rail-road*, do hereby nominate, constitute and appoint _____ of _____ to be my proxy, in my name, and in my absence, to vote or give my assent or dissent to any business, matter or thing relating to the said undertaking, that shall be mentioned or proposed at any meeting of the Proprietors of 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 undertaking, or any thing appertaining thereto. In witness whereof, I have hereunto set my hand and seal, the _____ day of _____ in the _____ year "

Proviso.

Proprietors may vote by proxy.

Form of appointment of proxy.

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

Questions to be decided by majority of votes.

XXVI. 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 under an Act of the British Parliament or by an Act of the Parliament of this Province, shall be elected President or Treasurer of the said Company.

None but a British subject to be President or Treasurer.

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

Non-liability of shareholders.

XXVIII. And be it enacted, That the first general meeting of the Proprietors for putting this Act in execution, may be held at the Village of Rawdon, whenever all the one thousand eight hundred shares in the said undertaking shall have been subscribed for, provided that public notice thereof be given during one week in some newspaper published in the English language, and in some newspaper published in the French language, in the District of Montreal, and signed by at least five of the subscribers to the said undertaking, holding among them at least one hundred shares; and at such said general meeting, the Proprietors assembled with such proxies as shall be present, shall choose five persons, being each a Proprietor of not less than twenty shares in the said undertaking, to be Directors of the said Company, in such manner as is hereinafter directed, and shall also proceed to pass such Rules and Regulations and By-laws as shall seem to them fit, provided they be not inconsistent with this Act.

The first General Meeting to be held in Rawdon Village.

To elect a Board of seven Directors.

XXIX. And be it enacted, That the Directors first appointed (or those appointed in their stead in case of vacancy,) shall remain in office until the election of Directors in the month of January, one thousand eight hundred and fifty-two, and that in the month of January in the said year, and each year thereafter, and on such day of the month

In Jan., 1852, and of each year thereafter, a Board of Directors to be elected.

month as shall be appointed by any By-law, an annual general meeting 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 ten or more of such Proprietors holding together five hundred 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 ten or more of them to cause fifteen days notice to be given thereof in two 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 Meeting respectively; and the Proprietors are hereby authorized to meet pursuant to such notices, and proceed to the execution of the powers by this Act given them, with respect to the matters so specified only; and all such acts of the Proprietors or the majority of them, at such Special Meetings assembled, such majority not having either as principals or proxies less than one hundred shares, shall be as valid to all intents and purposes as if the same were done at any annual meeting; Provided always, that it shall and may be lawful for the said Proprietors at such Special Meetings, (in like manner as at annual meetings,) in case of the death, absence, resignation or removal (and at any general meeting of the Proprietors, annual or special, any Director may be removed,) of any person elected as Director to manage the affairs of the said Company in manner aforesaid, to appoint another or others in the room or stead of those of the Directors who may die, or be absent, resign or be removed as aforesaid; any thing in this Act to the contrary notwithstanding; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors.

Special Meetings of Proprietors may be called.

Quorum at Special Meetings.

Proviso:
Vacancies among the Directors may be filled at Special Meetings.

Two Directors shall annually retire, but may be re-elected.

Proviso.

Directors to elect a President—

and Vice-President.

Five Directors to be a Quorum for business.

Proviso.

Casting vote of Chairman.

Proviso:
Directors subjected to the control of General Meetings.

Proviso.

No officer or contractor to be a Director.

XXX. And be it enacted, That at each of the said annual meetings of Proprietors, two of the said five Directors shall retire in rotation, the order of retirement of the said first elected five 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 shall at such annual meeting proceed to fill up the vacancies thus occurring in the direction.

XXXI. And be it enacted, That the Directors shall, at their first (or at some other) Meeting after the day appointed for the annual general Meeting in each year, elect one of their members to be the President of the said Company, who shall always (when present) be the Chairman of, and preside at all Meetings of the Directors, and shall hold his office until he shall cease to be a Director, or until another President shall be elected in his stead; and the said Directors may, in like manner, elect a Vice-President, who shall act as Chairman in the absence of the President.

XXXII. And be it enacted, That any Meeting of the said Directors at which not less than three 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, who, in case of the absence of the President and Vice-President, may be chosen by the Directors present, either of whom when, presiding at a Meeting of the Directors, shall, 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.

XXXIII. 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

under the said Company, shall be capable of being chosen a Director or of holding the office of Director.

XXXIV. 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 said Directors appointed, or by any other person or persons whatsoever, employed by, or concerned for and 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 Rail-road and other works, to defray the expense of, or to carry on the same, as they from time to time shall find necessary and wanting for those purposes: Provided, however, that no call do exceed the sum of ten shillings, current money of this Province, for every share of five 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 as 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 making all contracts and bargains touching the said undertaking: And to affix or authorize any person to affix the Common Seal of the Company to any Act, Deed, By-laws, Notice or other document whatsoever; and any such Act, Deed, By-laws, Notice or other document bearing the Common Seal of the Company, and signed by the President, Vice-President, or any Director, or by order of the Directors, shall be deemed the act of the Directors and of the Company; nor shall the authority of the signer of any document purporting to be so signed and sealed, to sign the same and affix the said Seal thereto, be liable to be called in question by any party except the Company: and the Directors shall have such other and further powers, as being vested in the Company by this Act, shall be conferred upon the said Directors by the By-laws of the Company.

XXXV. 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 money to be called for as aforesaid, to such person or persons, and at such time and place as the said Directors shall from time to time appoint and direct, of which three weeks' notice at least shall be given in two newspapers as aforesaid, or in such other manner as the said Proprietors or their successors shall by any By-law direct or appoint; and if any person or persons shall neglect or refuse to pay his, her or their rateable or proportionable part or share of the said money, to be called for as aforesaid, at the time and place so appointed, he, she or they, neglecting or refusing shall forfeit, a sum not exceeding the rate of five pounds for every twenty-five pounds of his, her or their respective share or shares in the said undertaking; and in case such person or persons shall neglect to pay his, her or their rateable calls as aforesaid, for the space of two calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit, his, her and their respective share and shares in the said undertaking, and all the profit and benefit thereof; all which forfeiture shall go to the rest of the 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 case such calls shall be payable with interest from the time the same shall be so appointed to be paid until the payment thereof.

XXXVI. 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 Directors, 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

Appointment of
auditors ;
Their duties.

Directors may make
calls.

Proviso.
Calls how to be made.
Other powers of the
Directors.

As to deeds of the
Corporation.

Shareholders bound to
pay calls.

Penalty for neglect.

Forfeiture for not
paying calls.

Forfeiture must be
declared at some
General Meeting.

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 Rail-road or undertaking.

Company may remove any person chosen a Director; and elect others in case of death, removal, &c.

And so of officers.

And may make By-laws.

Penalties under By-laws limited.

Proviso: By-laws to be subject to approval;

to be in writing, and published.

Certified copies to be evidence.

Proprietors may dispose of their shares, and how.

Transfer to be notified to the Company.

Form of the transfer of shares.

XXXVII. 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 Rail-road 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 Rail-road and other works, or transporting any goods, wares, merchandize or other commodities thereon; and by such By-laws to impose and inflict such fines or forfeitures upon the persons guilty of a breach of such By-laws or Orders, as to such General Meeting shall seem meet, not exceeding the sum of 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 hereafter mentioned: Provided always, that no such Rule, By-law or Order shall have any force or effect until the same shall have been sanctioned and confirmed by the Governor, Lieutenant-Governor, or Person administering the Government of this Province for the time being, under his hand and seal at arms, and shall thereafter have been published in the Canada Gazette; which said By-laws and Orders, being put into writing under the Common Seal of the said Company, shall be kept in the Office of the said Company, and a printed or written copy of so much of them as may relate to or affect any party other than members or servants of the Company, shall be affixed openly in the Office of the said Company, and in all and every 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, confirmed and published as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same, and any copy of the said By-laws, or any of them, certified as correct by the President or some person authorized by the Directors to give such certificate, and bearing the Common Seal of the Company, shall be deemed authentic, and shall be received as evidence of such By-laws in any Court without further proof.

XXXVIII. And be it enacted, That it shall and may be lawful to and for the several Proprietors of the said Rail-road or undertaking, to sell or dispose of his, her or their share or shares therein, subject to the rules and conditions herein mentioned; and every purchaser shall have a duplicate of the deed of bargain and sale and conveyance made unto him or her, and one part of such deed, duly executed by seller and purchaser, shall be delivered to the said Directors or their Clerk for the time being, to be 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 than one shilling and three pence shall be paid, and the said Clerk is hereby required to make such entry accordingly; and until such duplicate of such deed shall be so delivered to the said Directors or their Clerk, and filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said undertaking, nor any interest for the said share or shares, paid unto him, her or them, nor any vote as a Proprietor or Proprietors.

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

" I, A. B., in consideration of the sum of _____ paid to me by C. D.
 " of _____ do hereby bargain, sell and transfer to the said C. D. _____ share (or
 " shares) of the Stock of the Industry Village and Rawdon Rail-road Company, to hold
 " 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 imme-
 " diately before the execution hereof. And I, the said C. D. do hereby agree to accept
 " of the said _____ share (or shares) subject to the same rules, orders
 " and conditions. Witness our hands and seals, this _____ day of
 " in the year _____"

The form.

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

Proviso.

XL. And be it enacted, That it shall and may be lawful to and for the said Directors,
 and they are hereby authorized from time to time to nominate and appoint a Treasurer or
 Treasurers, and a Clerk or Clerks to the said Company, taking such security for the due
 execution of their respective offices as the said Director shall think proper; and such
 Clerk shall in a proper book or books enter and keep a true and perfect account of the
 names and places of abode of the several Proprietors of the said Rail-road and other
 works, and of the several persons who shall from time to time become owners and Pro-
 prietors of, or entitled to any share or shares therein, and of all the other acts, proceedings
 and transactions of the said Company and of the Directors for the time being, by virtue of
 and under the authority of this Act.

Directors may appoint a Treasurer and Clerks, &c.,

Duty of the Clerk.

XLI. And be it enacted, That it shall and may be lawful to and for the said Com-
 pany, from time to time, and at all times hereafter, to ask, demand, take and recover, to
 and for their own proper use and behoof, for all goods, wares, merchandize and com-
 modities, of whatever description, transported upon the said Rail-road, such Tolls as
 they may deem expedient; which said Tolls shall be from time to time fixed and
 regulated by By-laws of the Company, or by the Directors if thereunto authorized by
 the said By-laws, and shall be paid to such person or persons, and at such place or places
 near to the said Rail-road, in such manner and under such regulations as the said Com-
 pany or the said Directors shall direct and appoint; and in case of denial or neglect of
 payment of any such rates or dues, or any part thereof, on demand, to the person or
 persons appointed to receive the same as aforesaid, the said Company may sue for and
 recover the same in any Court having competent jurisdiction, or the person or persons
 to whom the said rates or dues ought to be paid, may and he is, and they are hereby
 empowered to seize and detain such goods, wares and merchandize or other commodities,
 for or in respect whereof such rates or dues ought to be paid, and detain the same until
 payment thereof; and in the mean-time the said goods, wares, 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; and provided also, that all By-laws of the said Company regulating the Tolls to
 be taken on the said Rail-road, shall be subject to the approval of the Governor in
 Council.

Company or the Directors if empowered, may establish Tolls.

How Tolls may be recovered if not duly paid.

Seizure of goods, &c.

Tolls may be lowered and again raised.

Proviso against monopoly.

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 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 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

Account of the profits to be annually made up.

Dividends to be made from time to time.

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.

Proviso: Capital not to be impaired.

A tax to be paid on all the net income above £6 per share per annum.

XLIII. Provided always, and be it enacted, That whenever the said Company shall have declared for the then preceding year a dividend or dividends exceeding One pound 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 Rail-road accruing thereafter over and above the said one pound per share, first payable to the said Proprietors: Provided always, that no such duty shall be payable until the dividends declared shall in the whole have amounted to ten per cent. per annum, on the paid up stock of the said Company from the time it was so 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.

Proviso as to the time until the work shall produce income.

As to fractions in miles and fractions in weight of goods.

XLIV. 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 Rail-road, 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, merchandize or other commodities, a proportion of the said rates shall be demanded and taken by the said Company, 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.

Company may make By-laws for the carriage of parcels.

XLV. Provided always, and be it enacted, That it 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 weight as aforesaid, upon the said Rail-road, or any part thereof, as to them may 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 the places where the Tolls are to be collected, in some conspicuous place there, a printed board or paper ascertaining all the Tolls payable under this Act, and particularising the price or sum or sums of money to be charged or taken for the carriage of such parcels not exceeding one hundred and twenty pounds weight as aforesaid.

Tables of Tolls to be publicly affixed.

Provision as to the carriage of Her M^ts. Mail, Soldiers, Police Force, &c.

XLVI. Provided always, and be it enacted, That the said Company shall at all times when thereunto required by Her Majesty's Deputy Post-Master General, the Commander of the Forces, or any person having the superintendence or command of any Police Force, and with the whole resources of the said Company if necessary, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all Policemen, Constables, and others, travelling on Her Majesty's Service, on their said Rail-road, on such terms and conditions and under such regulations as the said Company and the said Deputy Post-Master General, the Commander of the Forces, or person in command of any Police Force, respectively, shall agree upon, or if they cannot agree, then on such terms and conditions and under such regulations as the Governor or person administering the Government shall in Council make : Provided that any further enactments which the Legislature of this Province may hereafter deem it expedient to make, with regard to the carriage of the said Mail, or Her Majesty's Forces, and other persons and articles as aforesaid,

Proviso: the Legislature may make further provision.

aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph, or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

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

Company to divide their lands from lands adjoining, if required.

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

Rail-road to be measured and miles marked.

XLIX. 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.

Treasurer and Receiver and Collector to give security.

L. And be it enacted, That the several persons who shall subscribe to advance any money for and towards making and maintaining the said Rail-road 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 legally representing them, and being in lawful possession of such share or shares, (all of whom shall be deemed proprietors of such share or shares for the purpose 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.

Company may compel the persons subscribing to pay the amount of their shares.

What it shall be sufficient to aver and prove in such action.

LI. And be it enacted, That all fines and forfeitures imposed by this Act, or which shall be lawfully imposed by any By-Law, to be made in pursuance thereof, (of which By-Law, when produced, all Justices are hereby required to take notice,) the levying and recovering of which fines and forfeitures are not particularly herein directed, shall,

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

Levy by distress and sale of goods and chattels.

Imprisonment for want of sufficient chattels.

Appeal to the General Sessions given.

Limitation of actions for things done under this Act.

General issue.

Costs to defendant if the Plaintiff fail.

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

Her Majesty may assume the Rail road on certain conditions.

upon proof of the offence before any one or more Justice or Justices of the Peace for the District, either by the confession of the party or parties, or by the oath or affirmation of any one credible witness (which oath or affirmation such Justice or Justices are hereby empowered and required to administer without fee or reward,) be levied by distress and sale of the offender's goods and chattels, by Warrant under the hand and seal or hands or seals of such Justice or Justices; and all such fines, forfeitures or penalties by this Act imposed or authorized to be imposed, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer or Receiver of the moneys to be raised by virtue of this Act, and shall be applied and disposed of for the use of the said Rail-road or undertaking, 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 whereof to levy the said penalty and expenses, the offender shall be sent to the Common Jail 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 forfeiture, and all expenses attending the same, shall be sooner paid and satisfied.

LII. And be it enacted, That if any person or persons shall think himself, herself or themselves aggrieved by any thing done by any Justice or Justices of the Peace in pursuance of this Act, every such person or persons may, within four calendar months 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.

LIII. 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 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 or committing such damage shall cease, and not afterwards; and the Defendant or Defendants in such action or suit shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act, and if it shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the Plaintiff or Plaintiffs shall be nonsuited, or discontinue his, her, or their action or suit after the Defendant or Defendants shall have appeared, or if judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have full costs, and shall have such remedy for the same as any Defendant or Defendants hath or have for costs of suit in other cases by law.

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

LV. And be it enacted, That Her Majesty, Her Heirs and Successors, may at any time before or after the said Rail-road 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 of the expiration of such notice, the whole amount of their Capital Stock, then paid up and expended, 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 Rail-road.

LVI. And be it enacted, That the said Company, to entitle themselves to the benefits and advantages to them granted by this Act, shall and they are hereby required to make and deposit the map or plan and book of reference mentioned in the fourth Section of this Act within one year after the passing thereof, and to make and complete the said Rail-road from Industry Village to the Village or Township of Rawdon, in manner aforesaid, within four years from the passing of this Act; and if the said map or plan and book of reference be not so made and deposited within the said one year, or if the said Rail-road 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.

When the Map and Book of reference must be deposited, and the Rail road to be completed.

LVII. And be it enacted, That the said Company shall annually submit to the three Branches of the Legislature, within the first fifteen days after the opening of each Session of the Provincial Parliament, after the opening of the said Rail-road or any part thereof to the public, a detailed and particular account attested upon oath, of the moneys by them received and expended under and by virtue of this Act, with a classified statement of the amount of tonnage and of passengers that have been conveyed along the said Rail-road; 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 the privileges hereby granted to the Company.

Company annually to submit to the Legislature detailed accounts.

Further provision may be made touching such accounts.

LVIII. 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.

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

LIX. 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 Peace and others, without being specially pleaded.

Public Act.

LX. And be it enacted, That nothing herein contained shall be construed to except the Rail-road by this Act authorized to be made, from the provisions of any general Act relating to Rail-roads which may be passed during the present or any future Session of Parliament.

Company not exempted from any general Rail road law.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXVI.

An Act to incorporate Peter Patterson, Esquire, and others, under the name of "The Quebec and Richmond Rail-way Company."

[10th August, 1850.]

WHEREAS the construction of a Rail-road from the City of Quebec, or from a point on the South shore of the River Saint Lawrence, as nearly opposite to the said City as may be found desirable, to the village of Richmond, or the neighbourhood thereof, there to connect with the Saint Lawrence and Atlantic Rail-road, would greatly contribute to the prosperity of this Province; And whereas the several persons hereinafter named are desirous to construct and maintain the said Rail-road: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Peter Patterson, the Honorable Louis Massue, the Honorable Louis Méthot, W. J. C. Benson, Esquire, John Jones, F. R. Angers, Henry LeMesurier, James Bell Forsyth, David Ramsay Steward, W. S. Henderson, Michael Scott, F. Evanturelle, the younger, Laurent Paradis, Angus McDonald, William Lampson, Thomas W. Lloyd, 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 Rail-road hereby authorized to be made, and other works and property hereinafter mentioned, and their several and respective Heirs, Executors, Administrators, Curators and Assigns, being Proprietors of any such share or shares, are, and shall be, and be united into a Company for carrying on, making, completing and maintaining the said intended Rail-road, and other works, according to the rules, orders and directions hereinafter expressed, and shall for that purpose be one body politic and corporate, by the name of *The Quebec and Richmond Rail-road Company*, and by that name shall have perpetual succession, and shall have a common seal, and other the usual powers and rights of bodies corporate, not inconsistent with this Act, and by that name shall and may sue and be sued, and also shall and may have power and authority to purchase and hold lands, (which word shall throughout this Act be understood to include all that is above or below the surface thereof, and all the real rights or appurtenances thereunto belonging,) tenements and hereditaments, for them and their successors and assigns, for the use of the said Rail-road and works, without Her Majesty's Letters *d'Amortissement*, saving nevertheless to the Seigneur or Seigniors within whose *censive* the lands, tenements and hereditaments, so purchased, may be situate, his and their several and respective *droits d'indemnité*, and all other Seigniorial 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 of Proprietors, any lands, tenements or hereditaments, for the purposes aforesaid, and the same may re-purchase of the said Company, without *Lettres d'Amortissement*; And the

Preamble.

Certain persons incorporated.

Corporate name and powers.

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 Rail-road, to be called *The Quebec and Richmond Rail-road*, with one or more sets of rails or tracks, and to be worked by locomotive engines, or on the atmospheric principle, or in such other mode as the said Company may deem expedient, from some point on the River Saint Lawrence, as nearly opposite to the City of Quebec as may be found desirable, to the River Saint Francis, in or near the village of Richmond, in the Township of Shipton, in as direct a line as may be found convenient, there to connect with the Saint Lawrence and Atlantic Rail-road, and to erect wharves, warehouses, stores, and other buildings at either termination, and at such other place or places on the line of the said Rail-road, as they may deem expedient; and to build or purchase, hold or use one or more steamboats, or other vessels, to ply across the River Saint Lawrence, from the termination of the Rail-road on the South shore to the City of Quebec, or to such other point on the North shore of the River Saint Lawrence as may be deemed expedient, and from the wharf or landing on the North shore, to construct a Rail-road to the City of Quebec.

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

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 whatever, 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 Rail-road, and other works hereby authorized, and all such works, matters and conveniencies, as they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining and using the said intended Rail-road and other works, and also to bore, dig, cut, trench, get, remove, take, carry away, and lay earth, clay, stone, soil, rubbish, trees, roots, beds of gravel or sand, or any other matters or things which may be dug or got in making the said intended Rail-road 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-road, or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using or completing, extending or maintaining the same respectively, according to the intent and purpose of this Act; and to make, build, erect, and set up in or upon the said intended Rail-road, or upon the lands adjoining or near the same respectively, such and so many houses, warehouses, toll-houses, watch-houses, telegraphs or other signals, weighing-beams, cranes, fire-engines, steam-engines, or other engines, either stationary or locomotive, inclined planes, machines, and other works, ways, roads and conveniences, as and when the said Company of Proprietors shall think requisite and convenient for the purposes of the said Rail-road 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-road; and to construct, erect and keep in repair any bridges, arches and other works upon or across any rivers or brooks, for the making, using, maintaining and repairing the said intended Rail-road; and to turn any such brook, river or water course, and to change its course; and to construct, erect, make, and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing and easy using of the said intended Rail-road, and other works, in pursuance of and according to the true intent and meaning of this Act, they, the said Company of Proprietors, doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned, to the owners or proprietors of, or the persons interested in the lands, tenements or hereditaments, water, water-courses, brooks or rivers respectively, which shall be taken, used, removed prejudiced, or of which the course shall be altered or for all damages to be by them sustained in or by the execution of all or any of the powers given by this Act; and

Further powers.

Compensation to be made.

and this shall be sufficient to indemnify the said Company and their servants, agents or workmen, and all other persons whatsoever, for what they or any of them shall do by virtue of the powers hereby granted, subject nevertheless to such provisions and restrictions as are hereinafter mentioned.

III. Provided always, and be it enacted, That whenever the said Company shall have occasion to carry their Rail-way along or across any street or highway in the City of Quebec, they shall at all times leave at least one half the width of the road-way clear of all obstructions arising from their work, nor shall the said Company have power to lay down a rail or track in any of the streets of the said City of Quebec unless with the consent of the Corporation of the said City, and by virtue of a By-law thereof, nor when the said Rail-road shall cross any public street or highway, shall the ledge or flange of such Rail-way, for the purpose of guiding the wheels of the carriages, rise above the level of such road nor sink below the level of the same more than one inch.

Highways to be kept clear of obstructions when crossed by road.

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 or Engineers by them to be appointed, cause to be taken and made surveys and levels of the lands through which the said intended Rail-road is to be carried, together with a map or plan of such Rail-road and of the course and direction thereof, and of the said lands through which the same is to pass, and the lands intended to be taken for the several purposes authorized by this Act, so far as then ascertained, and also a book of reference for the said Rail-road 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 every thing necessary for the right understanding of such plan or map; which said plan or map 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 Superior Court for the District of Quebec, 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 shall require, paying to the said Secretary of the Province, or to the said Prothonotary, at the rate of six pence, 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, or a true copy or copies thereof, certified by the Secretary of the Province or by the Prothonotary, shall severally be, and are hereby declared to be good evidence in the Courts of Law and elsewhere.

Surveyors to take levels, &c. and make a book of reference.

V. Provided always, and be it enacted, That where the said Rail-road shall cross, or be carried along any street or public highway (which words shall in this Act include all public streets, lanes or other public ways or communications), neither the rail nor any other part of the Rail-road 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; nor shall any locomotive be worked on the Rail-road within the limits of the City of Quebec, nor shall any car or carriage be drawn or propelled within the City by steam or by any other power than that of horses or other animals, attached to the cars or carriages, except by virtue of a By-law passed by the Corporation of the said City.

Road not to sink or rise more than one inch when crossing highways.

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 Rail-road over or across any public highway, the space of the arch of any such bridge shall be formed, and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than twenty feet, and of a height from the surface of such highway to the centre of such arch of not less than sixteen feet, and the descent under any such bridge shall not exceed one foot in twenty feet.

Height of arches, &c.

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 public or carriage road, over the said Rail-road, the ascent of every such bridge, for the purpose of

Ascent of bridges, &c.

of every such road, shall not be more than one foot in twenty feet; and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the surface of such bridge.

Sign-boards to be erected at crossings, &c.

VIII. Provided always, and be it enacted, That in all cases where the said intended Rail-way shall cross any public highway on a level, the said Company shall erect, and at all times maintain a good and sufficient sign-board stretching across the highway at such height as to leave sixteen feet from the highway to the lower edge of the sign-board, and having the words "Rail-way crossing," *Traverse de Chemin à Rails*" painted in black letters not less than six inches in length, on a white ground, on each side of such sign-board, under a penalty of Five Pounds currency, for every offence, to be recovered in like manner as any other penalty under this Act may be recovered.

Errors in book of reference not to prevent company from entering upon lands.

IX. And be it enacted, That the said Company may make, carry or place their said intended Rail-road and works into, across or upon the lands of any person or party whomsoever on the line aforesaid, 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.

Company may occupy beaches, &c.

X. 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 at high tides on both the south and north shores of the said river, at the points on the said shores where the said intended Rail-road may reach the said River Saint Lawrence, or of the land covered by the waters of any other river or stream, or of their respective beds, (not exceeding the quantity limited in the next following section) as may be required for the said Rail-road and other works which they are hereby authorized to construct, doing no damage to nor causing any obstruction in the navigation of the said river or rivers.

Lands taken for rail-road not to exceed a certain breadth.

XI. And be it enacted, That the lands or grounds to be taken or used for such intended Rail-road, and the ditches, drains and fences to separate the same from the adjoining lands, shall not exceed thirty-three yards in breadth, except in such places where the said intended Rail-road shall be raised more than five feet higher or cut more than five feet deeper, than the present surface of the land, 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 Rail-road, to lie or pass each other (and not above one hundred and fifty yards in breadth in any such place), or where any houses, warehouses, wharves, toll-houses, watch-houses, weighing-beams, cranes, fixed engines or inclined planes, may be erected, or goods, wares and merchandizes be delivered, (and then not more than two hundred yards in length, by one hundred and fifty yards in breadth) without the consent of the Proprietor, or of some party who can under the provisions of this Act convey such lands to the said Company, and the places at which such extra breadth is to be taken shall be shewn upon the said plan or map; provided always, that no land shall be taken by the said Company from any public highway, but the right of the Company shall be limited to the laying down, across or along the same, the rails and other contrivances, forming part of the said Rail-road, subject to the limitations mentioned in the fifth section or any other part of this Act.

Company may contract for lands of corporations, &c.

XII. 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 Rail-road and other works, and other the purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all bodies corporate, politic 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, *femes-covert*, or other persons or parties, who are or shall be seized, possessed, 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

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 plan or map and book of reference shall be deposited, and before the lands required for the said Rail-road and works shall be set out and ascertained, it shall be lawful for any party who might under this Act convey any lands to the said Company, if the same were so set out and ascertained, to agree with the Company for the price to be paid for such lands, if they shall be thereafter so set out and ascertained; and such agreement shall be binding, and the price agreed upon shall be the price to be paid by the Company for the same lands, if they shall be afterwards so set out and ascertained, within one year from the date of such agreement, and although such land may in the mean time have become the property of a third party.

Proviso: certain agreements made valid.

XIII. Provided always, and be it enacted, That any body politic, community, corporation or other person or persons whomsoever, who cannot, in common course of law, sell or alienate any lands or grounds so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said Rail-road and other the purposes and conveniences relative thereto and connected therewith; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed, and all proceedings shall in that case be regulated as hereinafter prescribed, and for the payment of the said annual rent, and every other annual rent, agreed upon or ascertained, and to be paid by the said company for the purchase of any lands or for any part of the purchase money of any land, which the vendor of any land shall agree to leave in the hands of the said Company, the said Rail-road, and the tolls to be levied and collected thereon shall be and are hereby made liable and chargeable, in preference to all other claims or demands thereon whatsoever; the deed creating such charge and liability being duly registered.

As to corporations and parties who cannot sell.

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

As to proprietors *par indivis*.

XV. And be it enacted, That it shall be lawful for the said Company of Proprietors to apply to the several owners of the estates, lands and grounds through which such Rail-road is intended to be carried, and to agree with such owners, respectively touching the compensation to be paid to them by the said Company of Proprietors for the purchase thereof, and for their respective damages; and in case of disagreement between the said Company and the said owners, or any of them, then all questions which shall arise between the said Company, and the several proprietors of, and persons interested in any estates, lands or grounds that shall or may be taken, affected or prejudiced by the execution of any of the powers hereby granted, or any indemnification for damages which may or shall be at any time or times sustained by any bodies politic or corporate, or communities, or any other person or persons respectively, being owners of or interested in any estate, lands or grounds, for or by reason of the making, repairing or maintaining the said Rail-road or other works or machines incidental or relative thereto or connected therewith, shall and may be settled by agreement of the parties, or by arbitration, or if either of the parties shall not be inclined to make an agreement, or to appoint arbitrators, or by reason of absence shall be prevented from treating, or

As to compensation for lands, &c. taken for rail-road.

Jury to be summoned,

through disability, by non-age, coverture or other impediment, cannot treat or make such agreement, or enter into such arbitration, or shall not produce a clear title to the premises, which they claim an interest in, then, and in every such case, the said Company of Proprietors may make application to the Superior Court stating the grounds of such application, and such Court is hereby empowered and required from time to time, upon such application, to issue a Warrant, directed to the Sheriff of the District for the time being, commanding such Sheriff to impanel summon and return a jury, qualified according to the Laws of Lower Canada to be returned for trials of issues joined in civil cases in the said Court, to be and appear before the said Court at such time and place as in such Warrant shall be appointed, and all parties concerned may have their lawful challenge against any of the said jurymen, but shall not challenge the array; and the said Court is hereby empowered to summon and call before them, all and every such person or persons as it shall be thought necessary to examine as witnesses touching the matters in question, and the said Court may authorize and order the said jury, or any six or more of them, to view the place or places, or matter in controversy, which Jury upon their oaths (all which oaths, as the oaths to be taken by any person or persons who shall be called upon to give evidence, the said Court is hereby authorized to administer), shall enquire of, assess, and ascertain the distinct sum or sums of money, or annual rent to be paid for the purchase of such lands or grounds, or the indemnification to be made for the damage that may or shall be sustained as aforesaid, and in so doing the said Jury shall take into consideration the damage or inconvenience which may arise by means of any bridges, roads or other communication made necessary by reason of the said Rail-road, and may assess separate damage for the same; Provided always, that the said Jury are hereby required, authorized and empowered to take into consideration the increased value that would be given to any lands or grounds through or over which the said intended Rail-road should pass by reason of the passage of the said Rail-road through or over the same, and to set off or compensate the said increased value that would attach to the said lands or grounds, against the inconvenience, loss or damage, that might be suffered or sustained as aforesaid, and the said Jury shall distinguish the value set upon the lands, and the money assessed or adjudged for damages separate and apart from each other; and the said Court shall give judgment for such sum, rent or indemnification so to be assessed by such juries, which said verdict, and the judgment so thereupon pronounced, shall be binding and conclusive to all intents and purposes against the Queen's Majesty, Her Heirs and Successors, and against all bodies politic, corporate, or collegiate, or communities, and all persons whomsoever.

Proviso: certain rules established as to mode of calculating compensation.

As to cases in which a jury allows more money than previously offered.

XVI. And be it enacted, That in all cases where a verdict shall be given for more money as an indemnification or satisfaction, for any lands, grounds, or hereditaments or property, or for any annual rent of any lands, grounds, 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 summoning such Jury and taking such inquest, shall be settled by the Court and defrayed by the said Company of Proprietors, but if any verdict 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 given by the verdict when the dispute is for damages only, then and in every such case, the costs and expenses shall be settled in like manner by the Court, and be borne and paid by the party or parties with whom the said Company shall have had such controversy; which said costs and expenses having been so settled, shall and may be so deducted out of the money so assessed and adjudged, 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 money shall be deemed and taken, to all intents and purposes, to be a payment or tender of the whole sums so assessed or adjudged as aforesaid.

On payment, &c of sum, &c. company may take possession of lands.

XVII. And be it enacted, That upon payment or legal tender of such sum or sums of money or annual rent, as shall be contracted or agreed for between the parties, or determined by arbitrators, or assessed by such Juries in manner respectively as aforesaid

to

to the Proprietors thereof, or other person or persons entitled to receive the same, or to the principle officer or officers of any such body politic, corporate or collegiate, or community, at any time after the same shall have been so agreed for, determined or assessed, such lands, grounds or hereditaments or property respectively, may be entered upon or taken possession of by the said Company, and applied to the purpose of making and maintaining the said Rail-road and other works and conveniences thereto appertaining.

XVIII. And be it enacted, That all agreements, sales and conveyances, and all determinations by arbitration as aforesaid, or notarial copies thereof when the same may be passed before Notaries, and also the said verdicts and judgments thereupon, shall be transmitted to and kept by the Prothonotary of the Superior Court in the District of Quebec, to be kept among the records of the said Court, to all intents and purposes; and the same, or true copies thereof, shall be allowed to be good evidence in all Courts whatsoever in this Province, and all persons shall have liberty to inspect the same, paying for each inspection the sum of one shilling currency, and to have and obtain copies thereof, paying for every copy not exceeding one hundred words, the sum of six pence currency, and so in proportion for any number of words; and immediately on such payments of purchase money or rent as aforesaid, and entry of such agreements, sales, conveyances, determinations by arbitration, verdicts, judgments, and other proceedings of the said Court and Juries, all the estate, right, title, interest, use, trust, property, claim, and demand, in law and equity, of the person or persons for whose use such money or rent shall be paid into and out of the said lands, grounds and tenements, hereditaments and premises, shall vest in the said Company, and the said Company shall be deemed in law to be in actual possession and *seisin* of the same to all intents and purposes whatsoever, as fully and effectually as if every person having an estate therein, had been able to convey and had actually conveyed the same to them by the most effectual legal conveyance, and such payment shall bar all right, title, interest, claim and demand of the person or persons to whose use the same shall be made, bodies politic, corporate or collegiate, ecclesiastical or civil communities, women subject to marital authority, minors, interdicted persons or absentees, who may have or claim to have any right, title, interest, claim or demand therein, and of every other person or persons whomsoever, even for dower not yet open (*douaire non encore ouvert*); any law to the contrary notwithstanding.

Agreements, &c. to be kept of record by prothonotary.

XIX. And be it enacted, That application to the said Court for indemnity for any damage or injury sustained by reason of the powers and authority given by this Act, shall be made within six calendar months next after the time of such supposed damage sustained, or in case there shall be a continuation of damage, then within six calendar months next after the doing or 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.

Time within which indemnity for damage shall be claimed.

XX. 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 Rail-road or the carriages, vessels, engines or other works incidental or relative thereto or connected therewith, or do any other wilful hurt or mischief, 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, 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.

Penalty on persons obstructing rail-road.

XXI. And be it enacted, That if any person or persons shall wilfully or maliciously, and to the prejudice of the said Rail-road authorized to be made by this Act, break, throw down, damage or destroy the same or any part thereof, or any of the houses, warehouses, toll-houses, watch-houses, weigh-beams, cranes, carriages, vessels, engines, inclined planes,

Penalty on persons causing damage to road, &c

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 Rail-road, vessels or works, such person or persons shall be adjudged guilty of felony, and the Court by and before whom the 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 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.

Books of subscription
to be opened.

Proviso.

XXII. 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 of Proprietors 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 Rail-road and vessels, and all such other works, matters and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Rail-road, vessels and other works: Provided always, that the before mentioned Peter Patterson, the Honorable Louis Massue, the Honorable Louis Méthot, W. H. Benson, Esquire, John Jones, F. R. Angers, Henry LeMesurier, James Bell Forsyth, David Ramsay Stewart, W. S. Henderson, Michael Scott, F. Evanturelle, the younger, Laurent Paradis, Angus McDonald, William Lampson and Thomas W. Lloyd, or a majority of them, shall cause books of subscription to be opened in the Cities of Quebec and Montreal, and at the Town of Sherbrooke, and elsewhere, 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 the said City of Quebec, in some newspaper there published in the English language, and also in some newspaper there published in the French language, of the time and place in which the said 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 six hundred and fifty thousand pounds, current money of this Province, in the whole, except as is hereinafter mentioned, and that the same be divided into such number of shares as hereinafter directed, at a price of twelve pounds ten shillings currency aforesaid, per share, and the money 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 thereunto, and all other expenses relating thereunto, and all the rest, residue and remainder of such money for and towards making, completing, and maintaining the said Rail-road and other the purposes of this Act, and to no other use, intent or purpose whatever.

Proviso.

Capital not to exceed
£650,000 cy.

Capital to be divided
into 52,000 shares
of £12 10s. each.

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

respective successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of twelve pounds ten shillings, or such sum or sums as shall be demanded in lieu thereof, towards carrying on and completing the said intended Rail-road, shall be entitled to and receive, after the said Rail-road 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 of one fifty-two thousandth part 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.

XXIV. And be it enacted, That it shall and may be lawful for the said Company, at any special general meeting of the shareholders thereof convoked by public notice to that effect published, as by this Act is directed, for the space of six weeks previous to the day fixed for such special meeting, to declare that the shares or any given number of the shares of the capital Stock of the Company remaining unsubscribed for, shall, on being subscribed for, entitle the holders to the preference in the division of profits hereinafter provided ; and thereupon, the shares to be newly subscribed for, and entitled to such preference, shall be distinguished as shares of the New and Preferential Stock of the Company, and the Directors of the Company shall and may thereafter from time to time, and wheresoever in this Province or elsewhere, and under such regulations as they shall deem meet, open a book or books for the receipt of subscriptions for the shares of the New and Preferential Stock of the Company ; and subscribers therefor, and their legal representatives and assigns, shall be deemed holders of the shares subscribed for, and be liable and bound to pay the calls to be made in respect thereof, and otherwise shall be on the same footing as the holders of shares of the Old Stock, but with the said preference in the division of profits hereinafter provided ; and all transfers of shares of the capital stock of the Company shall express whether the shares transferred are shares of the Old Stock or of the New and Preferential Stock of the said Company.

Preferential stock may be created.

Rights of holders thereof.

XXV. And be it enacted, That the said Company may from time to time lawfully borrow either in this Province or elsewhere, such sum or sums of money, not exceeding at any one time the sum of one hundred and 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 bonds, debentures, or other securities they shall grant for the sums so borrowed, payable either in currency or in sterling, and at such place or places within or without this Province as they may deem advisable, and may hypothecate or pledge the lands, tolls, revenues, and other property of the said Company for the due payment of the said sums and the interest thereon.

Company may borrow money.

Sum and interest limited.

XXVI. And be it enacted, That in borrowing moneys by way of loan, and in creating mortgages or *hypothèques* for securing the same, the debentures of the said Company therefor, shall and may be in the forms contained in the Schedules numbers one and two respectively, annexed to this Act, and the registration at full length, of a debenture, in the form of the Schedule number one, in the Registry Office for the County in which the land or real estate, or any portion of the land or real estate of the Company thereby specially mortgaged and hypothecated shall lie, shall perfect the mortgage or *hypothèque* created by such debenture ; and the debenture and mortgage or *hypothèque* thereby created shall be, to all intent and purposes, binding upon the said Company, in favor of the holder of the debenture ; any law or usage to the contrary notwithstanding : Provided always, that no debenture of the said Company shall be for a less sum than one hundred pounds currency.

Debentures for money borrowed to be in form of schedules . 1 & 2.

Proviso.

XXVII. And be it enacted, That if after the registration in a County Registry Office of a debenture of the said Company creating a mortgage or *hypothèque*, such debenture shall be presented at the Registry Office at which it was registered, with the word " cancelled," and the signature of the President, or other duly authorized Director of the said Company, or of the Secretary of the said Company written across its face, the

Enregistration of cancelled debentures.

Registrar

Registrar or his deputy, on receiving the usual fee in that behalf, and on proof of the cancellation, by the oath of one credible witness, (which oath the Registrar or his deputy is authorized to administer,) shall forthwith make an entry, in the margin of the Register, against the registry of such debenture, to the effect that the same has been cancelled, adding to such entry the date thereof, and his signature, and thereupon the cancelled debenture shall be filed and remain of record in the said Registry office: Provided always, that if any such cancelled debenture shall have been registered in more than one Registry office, it shall remain of record in the Registry office of the county within which the greater part of the property mortgaged and hypothecated thereby shall lie, the other Registrar or Registrars, or his or their deputies, having first endorsed thereon a certificate of the entry by him or them made of the cancellation thereof.

Proviso.

Quebec corporation and other corporations may subscribe for shares, &c.

XXVIII. And be it enacted, That if at any time, the Mayor and Councillors of the City of Quebec, or the Ecclesiastics of the Seminary of Quebec, or the Ladies of the Ursuline Convent of Quebec, or of the Hotel-Dieu of Quebec, or any other Corporate Body, Civil, Ecclesiastical or Collegiate, in this Province, shall be desirous of subscribing for shares of the Capital stock of the said Company, or of otherwise promoting the speedy completion of the said Rail-road, by loans of money or securities for money at interest, it shall be lawful for them respectively so to do in like manner and with all the rights and privileges in respect thereof, as private individuals may do under and in virtue of this Act; any thing in any Ordinance or Act, or Instrument of Incorporation of any such body, or in any law or usage to the contrary notwithstanding: Provided always, and be it enacted, that if the Mayor and Councillors of the City of Quebec become stockholders of the said Company or loan money or securities for money to the said Company, then and in that case the Mayor shall be, *ex officio* one of the Directors of the said Company without being subject to election.

Proviso.

Order of charges on revenue of road.

Incidental expenses.

XXIX. And be it enacted, That on the completion of the said Rail-road, the revenue derived therefrom shall be applied in the following order, that is to say:

First. To the discharge of all direct and incidental expences necessary for the full and efficient working of the said Rail-road and its accessories, and keeping the same in perfect order and repair;

Secondly. To the payment of annual rents (*rentes constituées*);

Thirdly. To the payment of interest on moneys loaned to the Company under the guarantee of either the Provincial or the Imperial Government for the payment of such interest;

Fourthly. To the payment of interest on all other moneys loaned to the said Company;

Fifthly. To the appropriation of a portion not less than two per centum of the amount of the remaining revenue or profits as a sinking fund towards the discharge of the capital of moneys loaned to the Company;

Sixthly. To the payment of dividend of profits to the extent of six per centum per annum on the shares of the "New and Preferential Stock" of the Company;

Seventhly. To the payment of dividends of profits to the extent of six per centum per annum on the shares of the Old Stock of the Company;

Lastly. To the payment of dividends of profits on the Old and New and Preferential Stock of the Company without distinction.

XXX. 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 and countersigned by the Secretary and under the authority of a majority of a quorum of the Directors, is and shall be binding upon the Company, and every promissory note or bill of exchange made, drawn, accepted or endorsed by the President of the said Company, and countersigned by the Secretary as such, either before or after the passing of this Act, shall be held to have been properly made, drawn, accepted or endorsed, as the case may be, for the Company, until the contrary be shown; and in no

Company may become parties to promissory notes, &c.

Dividend on preferential stock.

On old stock.

On both stocks.

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 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 authorize 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.

Proviso.

XXXI. And be it enacted, That the number of votes to which each Proprietor of shares in the said undertaking shall be entitled on every occasion where in conformity to the provisions of this Act, the votes of the members of the said Company of Proprietors 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 one hundred and fifty; Provided always, that no one proprietor as aforesaid, shall have more than one hundred and 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 be a proprietor in the said Company, and moreover do produce from his constituent or constituents, an appointment in writing in the words or to the effect following, that is to say:

Proportion of votes to shares.

Proxies.

" I of one of the Proprietors of the Quebec and Richmond Rail-road, do hereby nominate, constitute and appoint of to be my proxy, in my name and in my absence, to vote or to give my assent or dissent to any business, matter or thing, relating to the said undertaking that shall be mentioned or proposed at any meeting of the Proprietors of 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 undertaking, or any thing appertaining thereto. In witness whereof, I have hereunto set my hand and seal, the day of in the year "

Form of proxy.

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

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

Shareholders not individually liable, &c.

XXXIII. And be it enacted, That the first general meeting of the Proprietors for putting this Act in execution may be held at the Court House in the City of Quebec, whenever fifteen hundred shares in the said undertaking shall have been subscribed for, provided that public notice thereof be given during one week in some newspaper published in the English language, and in some newspaper published in the French language, at Quebec, and signed by at least ten of the subscribers to the said undertaking holding among them at least two hundred shares; and at such general meeting the Proprietors assembled, with such proxies as shall be present, shall choose thirteen persons, being each a Proprietor of not less than ten shares in the said undertaking, to be Directors of the said Company, in such manner as is hereinafter directed, and shall also proceed to pass such Rules and Regulations and By-laws as shall seem to them fit, provided they be not inconsistent with this Act.

First general meeting of proprietors.

What may be done at it.

XXXIV. And be it enacted, That the Directors first appointed (or those appointed in their stead, in case of vacancy,) shall remain in office until the election of Directors in the month of January, one thousand eight hundred and fifty-two, and that in the month of January in the said year, and each year thereafter, and on such day of the month, as shall be appointed by any By-law, an annual general meeting of the said 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

Time of holding office of directors.

Special general meetings.

time it shall appear to any ten or more of such Proprietors, holding together two hundred 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 ten 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 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 a majority of them, at such special meetings assembled, such majority as principals or proxies not having less than two hundred shares, shall be as valid to all intents and purposes as if the same were done at annual meetings; Provided always, that it shall and may be lawful for the said Company of Proprietors at such special meetings, (in like manner as at annual meetings,) in case of the death, absence, resignation or removal of any person elected a Director to manage the affairs of the said Company in manner aforesaid, to elect another or others in the room or stead of those of the Directors who may die, or be absent, resign or be removed as aforesaid, any thing in this Act to the contrary notwithstanding; but if such election be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors.

Proviso: supplying vacancies in directorship.

Retirement of directors.

Proviso.

Quorum of directors.

Proviso.

Proviso.

Proviso.

Officers of company cannot be directors.

Appointment of auditors.

Calls for instalment.

XXXV. And be it enacted, That at each of the said annual meetings of the Proprietors, three of the said thirteen Directors shall retire in rotation, the order of retirement of the said first elected thirteen Directors being decided by lot, but the Directors then or at any subsequent time retiring shall be eligible for re-election: Provided always, that no such retirement shall have effect unless the Proprietors shall at such annual meeting proceed to fill up the vacancies thus occurring in the Direction.

XXXVI. 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 Chairman, who shall be chosen by and out of the said Directors, and who in case of a division of equal numbers, shall 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 (or five) of the Directors present at any meeting regularly held, shall be deemed the act of the Directors.

XXXVII. 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 one of the Directors for managing the affairs of the said Company.

XXXVIII. And be it enacted, That every such annual meeting shall have power to appoint, not exceeding three Auditors, to audit all accounts of money laid out and disbursed, on account of the said undertaking, by the Treasurer, Receiver or Receivers, and other Officer and Officers, to be by the said Directors appointed, or by any other person or persons whatsoever, employed by or concerned for or under them, in and about the said undertaking; and to that end, the said Auditors shall have power to adjourn themselves over from time to time, and from place to place, as shall be thought convenient by them; and the said Directors, chosen under the authority of this Act, shall have power from time to time, to make such call or calls of money from the Proprietors of the said Rail-road 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;

purposes; Provided however, that no call do exceed the sum of One Pound Five Shillings for every share of Twelve Pounds Ten Shillings: And provided also, that no calls be made, but at the distance of at least one calendar month from each other; and such Directors shall have full power and authority to direct and manage all and every the affairs of the said Company, as well in contracting for and purchasing lands, rights and materials for the use of the said Company, as in employing, ordering and directing the work and workmen, and in placing and removing under-officers, clerks, servants and agents, and in making all contracts and bargains touching the said undertaking, so that no such purchase, bargain, or other matter, be done or transacted without the concurrence of a majority of a quorum of such Directors, at a meeting of Directors, regularly held, or in conformity with some express By-law of the Company; and the owner or owners of one or more shares in the said undertaking, shall pay his, her or their shares 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 three weeks' 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 or appoint; and if any person or persons shall neglect or refuse to pay his, her or their rateable or proportionable part or share of the said money to be called for as aforesaid, at the time and place so appointed, he, she or they neglecting or refusing, shall 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 rateable calls as aforesaid for the space of two calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her and their respective share and 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.

XXXIX. 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 or actions, suits or prosecutions whatsoever, 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 Rail-road or undertaking.

XL. 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 Rail-road 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 Rail-road and other works, or transporting any goods, wares, merchandize or other commodities thereon; and by such By-laws to impose and inflict such fines or forfeitures upon the persons guilty of a breach of such By-laws, or orders as to such general meeting shall seem meet, not exceeding the sum of twenty-five pounds, current money of this Province for every offence; such fines and forfeitures to be recovered and levied by such ways and means as are hereinafter mentioned: which said By-laws and orders being put into writing, under the common seal of said Company of Proprietors, shall be published at least twice in two newspapers as aforesaid, and

Proviso.

Proviso.

Further powers of directors.

Subscribers bound to pay calls.

Forfeiture for refusing to pay calls.

No advantages to be taken of forfeiture of shares in certain cases.

Company may remove directors, &c.

Making and repealing By-laws, &c. for certain purposes.

How By-laws shall be published.

affixed in the office of the said Company, and in all and every other of the places where tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same; and the said By-laws and orders so made and published as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same; and any copy of the said By-laws, or any of them certified as correct by the President, and having the Seal of the Corporation affixed to it, shall be deemed authentic, and shall be received as evidence of such By-laws in any Court without further proof.

Copies of By-laws.

Proprietors may dispose of their shares on certain conditions.

XLI. And be it enacted, That it shall and may be lawful to and for the several Proprietors of the said Rail-road or undertaking to sell or dispose of his, her or their share or shares therein, subject to the rules and conditions herein mentioned; and every purchaser shall have a duplicate of the deed of bargain and sale and conveyance made unto him or her; and one part of such deed duly executed by seller and purchaser, shall be delivered to the said Directors or their Clerk for the time being, to be 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 than One Shilling and Three Pence shall be paid; and the said Clerk is hereby required to make such entry accordingly; and until such duplicate of such deed shall be so delivered to the said Directors or their Clerk, and filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said undertaking, nor any interest for the said share or shares, paid unto him, her or them, nor any vote as a Proprietor or Proprietors: Provided always, that an affidavit by the President or any officer of the said Company, cognizant of the fact, that the said Company is the sole owner of any vessel, shall be sufficient to warrant the registry of such vessel, under any Provincial Act, without any further allegation as to the members of the Company; any thing in any Act or Law to the contrary notwithstanding.

Proviso.

Form of sale of shares.

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

“ I, A. B. in consideration of the sum of _____ paid
 “ to me by C. D. of _____ do hereby bargain, sell and transfer
 “ to the said C. D. _____ share (or shares) of the stock of the Quebec
 “ and Richmond Rail-road Company, to hold to him the said C. D., his heirs, ex-
 “ cutors, 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 the said
 “ _____ share (or shares) subject to the same rules, orders and conditions:
 “ Witness our hands and seals, this _____ day of _____ in the
 “ year _____ ”

Certain officers may be appointed.

Duty of Clerk.

XLIII. And be it enacted, That it shall and may be lawful to and for the said Directors, and they are hereby authorized from time to time, to nominate and appoint a Treasurer or Treasurers, and a Clerk or Clerks to the said Company; taking such security for the due execution of their respective offices, as the said Directors shall think proper; and such Clerk shall in a proper book or books enter and keep a true and perfect account of the names and places of abode of the several Proprietors of the said Rail-road 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 transactions of the said Company and of the Directors for the time being, by virtue of and under the authority of this Act.

Tolls may be demanded.

How to be fixed.

XLIV. And be it enacted, That it shall and may be lawful to and for the said Company from time to time, and at all times hereafter, to ask, demand, take and recover, to and for their own proper use and behoof, for all goods, wares, merchandize and commodities of whatever description, transported upon the said Rail-road or in the said steamboats or vessels, such tolls as they may deem expedient: which said tolls shall be from time to time fixed and regulated by By-laws of the Company, and shall be paid

paid to such persons, and at such place or places near to the said Rail-road, in such manner and under such regulations as the said Company shall direct and appoint; and in case of denial or neglect of payment of any such rates or dues, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having competent jurisdiction, or the person or persons to whom the said rates or dues ought to be paid, may, and he is and they are hereby empowered to seize and detain such goods, wares, merchandize or other commodities, for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof; and in the mean-time the said goods, wares, merchandize or other commodities shall be at the risk of the owner or owners thereof; and the said Company shall have full power, from time to time 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: And provided also, that all By-laws of the said Company regulating the tolls to be taken on the said Rail-road, shall be subject to the approval of the Governor in Council.

Proviso: against monopoly.

Proviso: By-laws imposing tolls must be sanctioned.

XLV. And in order to ascertain the amount of the clear profits of the said undertaking, Be it enacted, That the said Company, or the Directors 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 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 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.

Accounts when to be balanced.

Dividends to be made.

Proviso: capital not to be impaired.

XLVI. Provided always, and be it enacted, That whenever the said Company shall have declared for the then preceding year a dividend or dividends exceeding One Pound Ten Shillings 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 Rail-road accruing thereafter over and above the said One Pound Ten Shillings, per share, first payable to the said Proprietors: Provided always, that no such duty shall be payable until the dividends declared shall in the whole have amounted to ten per cent. per annum on the paid up stock of the said Company from the time it was so 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.

Company to pay a duty to Her Majesty on excess of dividend over 12 per cent.

Proviso.

XLVII. 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 Rail-road or in the said steam-boats or vessels, 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 or measurement of any such goods, wares, merchandize or other commodities,

Fraction of a mile to be considered a whole mile, &c.

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.

Company may fix rates of carriage for parcels.

XLVIII. Provided always, and be it enacted, That it shall and may be lawful to and for the said Company from time to time at any General Meeting, to make such By-law or By-laws 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 Rail-road or any part thereof, or in the said steam-boats or vessels, as to them shall seem fit and reasonable; and that the said Company shall from time to time print and stick up, or cause to be printed and stuck up in their office, and in all and every of the places where the Tolls are to be collected, in some conspicuous place there, a printed board or paper ascertaining all the Tolls payable under this Act, and particularising the price or sum or sums of money to be charged or taken for the carriage of such parcels not exceeding one hundred and twenty pounds weight as aforesaid.

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

XLIX. Provided always, and be it enacted, That the said Company shall at all times when thereunto required, by Her Majesty's Deputy Post Master General, the Commander of the Forces, or any person having the Superintendence or Command of any Police Force, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all Artillery ammunition, provisions, or other stores for their use, and all Policemen, Constables and others, travelling, on Her Majesty's service, on their said Rail-road or in their said steamboats or vessels, on such terms and conditions and under such regulations as the said Company and the said Deputy Post-Master General, the Commander of the Forces, or person in Command of any Police Force, respectively, shall agree upon, or if they cannot agree, then on such terms and conditions, and under such regulations as the Governor or person administering the Government shall in Council make: And provided also, that any further enactments which the Legislature of this Province may hereafter deem it expedient to make, with regard to the carriage of the said Mail or Her Majesty's Forces, and other persons and articles as aforesaid, or the rates to be paid for carrying the same, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

Further provision may be made by the Legislature.

Company to erect a fence on lands near rail-road to keep off cattle.

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

Mile stones to be erected.

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

Security to be given by treasurer, &c.

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.

Subscribers may be sued for not paying their subscriptions.

LIII. And be it enacted, That the several persons who shall subscribe or advance any money for and towards making and maintaining the said Rail-road and other works connected therewith or hereby authorized, shall, and they are hereby required to pay the sum or sums of money by them respectively subscribed, or such parts or portions thereof

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 costs, in any Court of Law having competent jurisdiction.

LIV. And be it enacted, That all fines and forfeitures 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 confession of the party or parties, or by the oath or affirmation of any one credible witness (which oath or affirmation such Justice or Justices are hereby empowered and required to administer without fee or reward), be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal, or hands and seals of such Justice or Justices; and all such fines, forfeitures or penalties by this Act imposed or authorized to be imposed, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer or Receiver of the moneys to be raised by virtue of this Act, and shall be applied and disposed of for the use of the said Rail-road or undertaking; and the overplus of the moneys 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 and chattels so distrained and sold; and for want of sufficient goods and chattels whereon to levy the said penalty and expenses, the offender shall be sent to the Common Gaol for the District of Quebec, Montreal, Three-Rivers or St. Francis, 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.

Fines how recovered.

LV. And be it enacted, That if any person or persons shall think himself, herself, or themselves aggrieved by any thing done by any Justice or Justices of the Peace in pursuance of this Act, every such person or persons may within four calendar months 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.

Appeal to quarter sessions by parties aggrieved.

LVI. 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 the orders and directions hereinbefore given or granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed; or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards; and the Defendant or Defendants in such action or suit shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the Plaintiff or Plaintiffs shall be non-suit, or discontinue his, her or their action or suit, after the Defendant or Defendants shall have appeared, or if judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have full costs, and shall have such remedy for the same as any Defendant or Defendants hath or have for costs of suit in other cases of law.

Limitation of actions for things done under this Act.

LVII. And be it enacted, That the said Company of Proprietors to entitle themselves to the benefits and advantages to them granted by this Act, shall and they are hereby required to make and complete the said Rail-road from the navigable waters of the River Saint Lawrence to the Village of Richmond in the Township of Shipton on the River Saint Francis as aforesaid, in manner aforesaid, within ten years from the passing of this Act; and if the same shall not be so made and completed within the said period, so

Time limited for completion of rail-road.

as to be used by the public as aforesaid, then this Act and every other matter and thing therein contained shall cease and be utterly null and void.

Account to be submitted to Legislature.

LVIII. 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, 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 statement of the amount of tonnage and of passengers that have been conveyed along the said road.

Saving of Her Majesty's rights.

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

Company to be subject to any general rail-road Act.

LX. And be it enacted, That nothing herein contained shall be construed to exempt the said Company or the said Rail-road from the provisions of any General Act relating to Rail-roads or Rail-road Companies, which may be passed during the present or any future Session of the Parliament of this Province.

Public Act.

LXI. 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 Peace and others, without being specially pleaded.

SCHEDULE No. 1

Referred to in this Act.

QUEBEC AND RICHMOND RAIL-WAY COMPANY LOAN.

No.

£ Currency.

This Debenture witnesseth, that the Quebec and Richmond Rail-way Company, under the authority of the Provincial Statute, passed in the year of Her Majesty's Reign, intituled, *An Act to incorporate Peter Patterson, Esquire, and others, under the name of "The Quebec and Richmond Rail-way Company,"* having received from of the sum of currency, as a loan, to bear interest from the date hereof at the rate of per centum per annum, payable half yearly on the day of and on the day of which sum of currency, the said Company bind and oblige themselves to pay on the to the said or to the bearer hereof, and to pay the interest thereon half yearly as aforesaid on the production of the Coupon therefor, which now forms part of this Debenture.

And for the due payment of the said sum of money and interest, the said Company, under the power given to them by the said Statute and Acts, do hereby mortgage and hypothecate the real estate and appurtenances hereinafter described, that is to say: (the Rail-way from and all the lands of the Company within these limits.)

In testimony whereof President of the said Company, hath hereto set and affixed his signature and the Common Seal of the said Company, at the City of this day of one thousand eight hundred and

President.

Countersigned and entered,

Secretary and Treasurer.

I certify that this Debenture was duly registered in the Registry Office for the County of in the District of on the day of one thousand eight hundred and at of the clock in the noon, in Register page

Registrar.

SCHEDULE

SCHEDULE No. 2

Referred to in this Act.

QUEBEC AND RICHMOND RAIL-WAY COMPANY LOAN.

No.

£

Currency.

This Debenture witnesseth, that the Quebec and Richmond Rail-way Company, under the authority of the Provincial Statute, passed in the _____ year of Her Majesty's Reign, intituled, *An Act to incorporate Peter Patterson, Esquire, and others, under the name of "The Quebec and Richmond Rail-way Company,"* have received from _____ the sum of _____ currency, as a loan, to bear interest from the date hereof, at the rate of _____ per centum per annum, payable half yearly, on the _____ day of _____ and on the _____ day of _____ which sum of _____ pounds currency, the said Company hereby bind and oblige themselves to pay on the _____ to the said _____ or to the bearer hereof, and to pay the interest thereon, half yearly, as aforesaid, on the production of the Coupon therefor which now forms part of this Debenture.

In testimony whereof _____ President of the said Company, hath hereunto set and affixed his Signature and the Common Seal of the said Company, at the City of _____ this _____ day of _____ one thousand eight hundred and _____

President.

Countersigned and entered,

Secretary and Treasurer.

TORONTO : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXVII.

An Act to incorporate the Quebec and St. Andrews Rail-road Company.

[10th August, 1850.]

WHEREAS the construction of a Rail-road from Point Levi, opposite the City of Quebec, or any other station on the River St. Lawrence, within or below the County of Dorchester to the boundary line between Lower Canada and New Brunswick, to intersect any Rail-road line that may be made from St. Andrews or any other part of the Province of New Brunswick, would be of great public utility, and it is deemed advisable to grant encouragement to such enterprising persons as may be desirous and willing, at their own cost and charges, to make and maintain a Rail-road in the direction aforesaid, by granting to them an Act of Incorporation, with power to ply Steam Vessels between the terminus of the said Rail-road on the River Saint Lawrence and the City of Quebec: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Henry LeMesurier, W. H. Anderson, J. Bell Forsyth, Michael Stevenson, Charles S. Graddon, William Gunn, The Honorable F. W. Primrose, Joseph Morrin, Henry Atkinson, C. W. Jones, W. Stevenson, Alexander Provan, Henry Burstall, James Tibbits, H. N. Jones, A. D. Bell, Charles Gethings, Charles R. N. Sewell, David D. Young, Matthew Stevenson, and such other persons as shall from time to time become proprietors of shares in the Company hereby established, their successors and assigns, shall be and they are hereby declared, ordained and constituted to be a Corporation, Body Politic and Corporate, by the name of *The Quebec and Saint Andrews Rail-road Company*, and shall by that name have perpetual succession; and shall also have power and authority to purchase, hold and enjoy lands, tenements and hereditaments, to them and their successors and assigns, for making the said Rail-road; and also that they, the said Company, shall, from time to time, and at all times, have full power and authority to constitute, make, ordain and establish such By-laws, regulations and ordinances as may be deemed necessary for the good rule and government of the said Company, subject nevertheless to the provisions hereinafter contained, and provided that such By-laws, regulations and ordinances as may be deemed necessary be not contradictory or repugnant to the Laws of Lower Canada.

Preamble.

A Joint Stock Company incorporated.

Corporate name and powers.

II. And be it enacted, That the capital stock of the Company hereby established shall be seven hundred and fifty thousand pounds, to be paid in current money of this Province; the whole amount of the said capital stock to be divided into thirty thousand shares of twenty-five pounds each; which shares shall be vested in the persons hereinbefore named, and such other persons as may take shares in the said Company, their successors or assigns; and upon taking such shares, they shall deposit in the Quebec Bank at Quebec, the Bank of Montreal at Montreal, or at Messrs. Glynn, Halifax and Company, London, the sum of two pounds ten shillings per share, current money

Capital stock of the Company.

Number and value of shares.

Amount payable on subscribing.

aforesaid;

Proviso: amount of calls limited.

Shares to be transferable.

Proviso: application of capital.

Directors may pay interest on the shares at 4 per cent. until the Rail-road be completed.

Proviso.

Certificate of any share to be *prima facie* evidence of the title.

Transfer of shares in arrear not allowed.

Company not bound to see to the execution of any trust to which any share may be subject.

Shareholders to pay calls.

Word "shareholder" interpreted.

aforesaid ; and the remaining amount of such shares shall be called in as the work progresses, in such parts and amount per share as the Directors of the said Company may deem necessary : Provided always, that two pounds ten shillings per share shall be the greatest amount of any one call which the said Directors may make on the shareholders, and two months, at the least, shall be the interval between successive calls ; and sixty days previous notice of payment being required for any one call shall be given in one of the newspapers published at Montreal and in one or more newspapers published in the City of Quebec ; and on demand of the holder of any share, the Company shall cause a certificate of the proprietorship of such share to be delivered to such shareholder, and the same may be according to the form in the Schedule A, to this Act annexed, or to the like effect ; and the said shares shall be deemed personal estate, and transferable as such, and shall not be deemed or taken to be of the nature of real property ; and every such share shall entitle the holder thereof to a proportionate part of the profits and dividends of the said Company : Provided also that the money so to be raised as aforesaid shall be laid out in making, completing and maintaining the said Rail-road and other the purposes therewith connected, mentioned in this Act, and in payment of the legal and other expenses incurred in and about the incorporating and establishing the said Company, and to no other use or purpose whatsoever.

III. And be it enacted, That it shall be lawful for the Directors of the said Company, until said Rail-road shall be completed and opened to the public, to pay interest at any rate not exceeding four pounds per centum per annum, on all sums called up in respect of the shares, from the respective days on which the same shall be paid, such interest to accrue and be paid at such times and places as the said Directors shall appoint for that purpose : Provided always, that no interest shall accrue to the proprietor of any share upon which any call shall be in arrear in respect of such shares or any other share to be holden by the same proprietor during the period during which such call shall be unpaid.

IV. And be it enacted, That the certificate of the proprietorship of any share in the said Company, shall be admitted in all Courts as *prima facie* evidence of the title of any shareholder, his executors, administrators, successors, or assigns, to the share therein specified ; nevertheless, the want of such certificate shall not prevent the holder of any share from disposing thereof.

V. And be it enacted, That no shareholder shall be entitled to transfer any share after any call shall have been made in respect thereof, until he or she shall have paid all calls, for the time being, due on every share held by him or her.

VI. And be it enacted, That the said Company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of the said shares may be subject ; and the receipt of the party in whose name any such share shall stand in the books of the said Company, or if it stands in the name of more parties than one, the receipt of one of the parties named in the registry of shareholders, shall, from time to time, be a sufficient discharge to the said Company, for any dividends or other sum of money payable in respect of such share, notwithstanding any trusts to which such share may then be subject, and whether or not the said Company have had notice of such trusts ; and the said Company shall not be bound to see to the application of the money paid upon such receipt.

VII. And be it enacted, That the several persons who have subscribed or shall hereafter subscribe any money towards the said undertaking, or their legal representatives, respectively, shall pay the sums respectively so subscribed, or such portion thereof as shall from time to time be called for by the Directors of the said Company, at such times and places as shall be appointed by the said Directors ; and with respect to the provisions in this Act contained for enforcing the payment of the calls, the word "shareholder" shall extend to, and include the personal representatives of such shareholder.

VIII. And be it enacted, That it shall be lawful for the Directors of the said Company from time to time to make such calls of money upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they shall deem necessary, provided that sixty days' notice, at the least, shall be given of each call as aforesaid, and that no call exceed the prescribed amount aforesaid, and that successive calls be not made at less than the prescribed intervals aforesaid; and every shareholder shall be liable to pay the amount of the call so made, in respect of the shares held by him, to the persons and at the times and places, from time to time, appointed by the said Company, or the Directors thereof.

Directors may make calls for money upon the shareholders.

IX. And be it enacted, That if before, or on the day appointed for payment, any shareholder do not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same, at the rate allowed by law, from the day appointed for the payment thereof, to the time of the actual payment.

Calls in arrear to bear interest.

X. And be it enacted, That it shall be lawful for the said Company, if they think fit, to receive from any of the shareholders willing to advance the same, all, or any part of the moneys due upon their respective shares, beyond the sums actually called for, and upon the principal moneys so paid in advance, or so much thereof, as, from time to time, shall exceed the amount of the calls then made upon the shares in respect of which such advance shall be made, the Company may pay interest at such rate, not exceeding the legal rate of interest for the time being, as the shareholder paying such sum in advance may agree upon.

Company may receive in advance the whole of the respective shares.

XI. And be it enacted, That if at the time appointed by the said Company, or the Directors thereof, for the payment of any calls, any shareholder fail to pay the amount of such call, it shall be lawful for the said Company to sue such shareholder for the amount thereof, in any Court of Law or Equity having competent jurisdiction, and to recover the same, with lawful interest, from the day on which such call was payable.

Company may sue any shareholder failing to pay any call.

XII. And be it enacted, That in any action or suit to be brought by the said Company, against any shareholder, to recover any money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the said Company to declare that the Defendant is the holder of one share, or more, in the said Company, (stating the number of shares,) and is indebted to the said Company in the sum of money to which the calls in arrear shall amount, in respect to one call or more, upon one share or more, (stating the number and amount of each of such calls,) whereby any action hath accrued to the said Company by virtue of this Act.

What must be alleged in actions for calls.

XIII. And be it enacted, That on the trial or hearing of such action, it shall be sufficient to prove that the Defendant, at the time of making such call, was a holder of one share or more in the said undertaking, and that such call was in fact made, and such notice thereof given as is directed by this Act: and it shall not be necessary to prove the appointment of the Directors who made such call, nor any other matter whatsoever; and thereupon, the said Company shall be entitled to recover what shall be due upon such calls and interest thereon, unless it shall appear either that any such call exceeds the prescribed amount aforesaid, or that due notice of such call was not given, or that the prescribed interval between two successive calls had not elapsed as aforesaid.

What proof is sufficient in such action.

XIV. And be it enacted, That the production of the register of shareholders shall be *prima facie* evidence of such Defendant's being a shareholder, and of the number and amount of his shares.

Register of shareholder *prima facie* evidence.

XV. And be it enacted, That if any shareholder fail to pay any call payable by him, together with the interest, if any, that shall have accrued thereon, the Directors of the said Company, at any time after the expiration of two months from the day appointed for the payment of such call, may declare the shares in respect of which such call was payable, forfeited, and that, whether the said Company have sued for the amount of such call or not.

Directors may forfeit shares on which calls are overdue.

XVI. And be it enacted, That before declaring any share forfeited, the Directors of the said Company shall cause notice of such intention to be left, or transmitted, by the post to the usual or last place of abode of the person appearing by the register of shareholders

What is necessary before a share be declared forfeited.

shareholders to be the proprietor of such share ; and if the holder of any such share be beyond the limits of this Province, or if his usual or last place of abode be not known to the said Directors, by reason of its being imperfectly described in the shareholders' address book, or otherwise, or if the interest in any share shall be known by the said Directors to have become transmitted otherwise than by transfer, and so as the address of the parties to whom the said share or shares may, for the time being, belong, shall not be known to the said Directors, the said Directors shall give public notice of such intention in one of the newspapers published in Montreal, and in one or more of the newspapers published in the City of Quebec ; and the several notices aforesaid shall be given twenty-one days, at least, before the said Directors shall make such declaration of forfeiture.

Declaration of forfeiture not to have entire effect until confirmed at general meeting.

XVII. And be it enacted, That the said declaration of forfeiture shall not take effect so as to authorize the sale or other disposition of any share, until such declaration shall have been confirmed at the next general meeting of the said Company, to be held after such notice of intention to make such declaration of forfeiture shall have been given, and it shall be lawful for the said Company to confirm such forfeiture at any such meeting, and by an order at such meeting, or at any subsequent general meeting, to direct the share or shares so forfeited to be sold or otherwise disposed of.

After such confirmation, directors may sell the forfeited share.

XVIII. And be it enacted, That after such confirmation as aforesaid, it shall be lawful for the said Directors to sell the forfeited share by public auction, and if there be any more than one forfeited share, then either separately or together, as to them shall seem fit ; and any shareholder may purchase any forfeited share sold as aforesaid.

A affidavit of the forfeiture sufficient evidence.

XIX. And be it enacted, That an affidavit by some credible person not interested in the matter, sworn before any Justice of the Peace or before any Commissioner for taking affidavits in the Superior Court, that the call in respect of a share was made, and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated ; and such affidavit and the receipt of the Treasurer of the said Company for the price of such share shall constitute a good title to such share ; and a certificate of Proprietorship shall be delivered to such purchaser, and thereupon he shall be deemed the holder of such share, discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Affidavit with receipt of treasurer to constitute a title.

XX. And be it enacted, That the said Company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrear then due from such defaulter on account of any calls, together with interest and the expenses attending such sale and declaration of forfeiture ; and if the money produced by the sale of any such forfeited shares be more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expense attending the declaration of forfeiture and sale thereof, with the proof thereof, and certificate of proprietorship to the purchaser, the surplus shall on demand be paid to the defaulter.

Company not to sell more of the shares of defaulter than will suffice to pay arrears.

XXI. And be it enacted, That if payment of such arrears of calls, and interest and expenses, be made before any share or shares so forfeited and vested in the said Company shall have been sold by Public Auction as aforesaid, such share or shares shall revert to the party or parties to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

Shares to revert to defaulter if arrears be paid before the sale of the share.

XXII. And be it enacted, That so soon as five thousand shares of the Capital Stock of the said Company shall have been subscribed, and the deposit of two pounds ten shillings per share shall have been actually paid as aforesaid, and not before, it shall be lawful for the said Company, and they are hereby authorized and empowered, by themselves, their deputies, agents, officers, and workmen to make, construct, and finally complete, alter and keep in repair, a Rail-road with one or more sets of rails or tracks, with all suitable bridges, archways, tunnels, viaducts, turn-outs, culverts, drains, and all

After a certain number of shares subscribed and deposits made, the Company empowered to construct the Rail-road, &c.

other

other necessary appendages, and to erect such wharves, buildings, warehouses and stores on the line of the said Rail-road, and to purchase and acquire such stationary or locomotive, steam-engines, and carriages, wagons, and other machinery and contrivances, and real or personal property, as may be necessary for the making and maintaining the said Rail-road, and for the transport of passengers and merchandize thereon, and for other purposes of this Act, and may hold and possess the land over which the said Rail-road is to pass, and such adjoining lands as may be required for the use of the said Rail-road and the works connected therewith; which Rail-road is to run from the aforesaid Point Levi or some other convenient place on the shores of the St. Lawrence, within or below the County of Dorchester, to the Boundary Line between this Province and the Province of New Brunswick, on such route as the Directors of the said Company shall deem most favorable, and best calculated to promote the public convenience, and then to connect with the Rail-road from St. Andrews; Provided also that a map or plan of the route determined upon shall be deposited in the Office of the Secretary of this Province.

Direction of said Rail-road.

Proviso.

XXIII. And be it enacted, That the said Company shall be and are hereby invested with all the powers, privileges and immunities which are or may be necessary to carry into effect the intentions and objects of this Act; and for this purpose, the said Company, their successors, deputies, agents and assistants, shall have the right to enter and go into and upon the lands and grounds of all and any description lying in the said route and general direction as aforesaid, for the purpose of making surveys, examinations or necessary arrangements for fixing the site of the said Rail-road; and it shall and may be lawful for the said Company, and their successors, to take and hold so much of the land and other real estate as may be necessary for the laying out, making and constructing and convenient operation of the said Rail-road, and they shall also have the right to take, remove and use, for the necessary construction and repair of the said Rail-road and appurtenances, any earth, gravel, stone, timber, or other materials on or from the land so taken, without any previous agreement with the owner or owners, tenant or tenants of the land, and upon which such surveys, examinations or other arrangements, may be made, or through which the said Rail-road may be explored, laid out, worked, made, or constructed, or on which materials and other things shall be laid for the purposes of the said Rail-road; Provided always, that the land so taken shall not exceed in width two hundred feet; and for the purpose of this Act, the said Company shall and may, by some sworn Land Surveyor for Lower Canada, and by an Engineer or Engineers by them to be appointed, cause to be taken and made surveys and levels of the lands through which the said intended Rail-road is to be carried, together with a map or plan of such Rail-road, and of the course and direction thereof, and of the said lands through which the same is to pass, and the lands intended to be taken for the several purposes authorized by this Act, so far as then ascertained, and also a book of reference for the said Rail-road, 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 every thing 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 Superior Court, in the District of Quebec, 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 shall require, paying to the said Secretary of the Province, or to the said Prothonotary, at the rate of Six pence, 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, or a true copy or copies thereof, certified by the Secretary of the Province, or by the Prothonotary of the Superior Court in the said District, shall severally be, and are hereby declared to be good evidence in the Courts of Law and elsewhere.

Power to Company to survey lands necessary for their works, &c.

And to take and to hold real estate.

And to use and take materials, &c.

Proviso.

Survey to be made.

And a map.

And book of reference.

Examination and deposit of map and book.

Copies may be obtained.

Legal effect of originals or copies.

Extent of deviation limited.

XXIV. And be it enacted, That the said Company, in making the said intended Rail-road, shall not deviate more than a mile from the line of the Rail-road, 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 Rail-road into, through, across, under or over any part of the lands or grounds not shewn and mentioned in such map or plan and book of reference, as being within one mile of the said line, and of the places assigned therein to the said works, respectively, (save in such instances as are herein specially provided for,) without the consent of the party or parties who could, under the provisions of this Act, convey such lands.

Omissions or errors in book of reference not fatal.

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

Company to apply to the owners of the lands touching the compensation.

XXVI. And be it enacted, That so soon as the said Map or Plan and Book of Reference shall have been deposited as aforesaid, and notice of its being so deposited shall have been given during at least one calendar month in at least one newspaper published in the City of Quebec, 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 or of parties hereby empowered to convey the lands through which such Rail-road is intended to be carried, or which may suffer damage from the taking of materials, or the exercise of any of the powers granted to the said Company by this Act, and to agree with such owners or parties respectively, touching the compensation to be paid to them by the said Company for the purchase thereof, and for their respective damages, and to make such agreements and contracts with the said parties touching the said lands, or the compensation to be paid for the same, or for the damages, or as to the mode in which the said compensation shall be ascertained, as to such parties and said Company shall seem expedient; and in case of disagreement between the said Company and the said owners or parties, or any of them, then all questions which shall arise between them and the said Company shall be settled as follows, that is to say:

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 persons as aforesaid, of the lands which will be required for the said Rail-road and works.

Legal effect of map and book of reference.

Notice to opposite party.

The Company shall serve a notice upon the opposite party, containing—a description of the lands to be taken, or of the powers intended to be exercised with regard to 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, resident in the District of Quebec, 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 Rail-road and works, or as being within the limits of deviation hereby allowed from the line of the said Rail-road, 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.

Offer.

Name of arbitrator.

Certificate of a surveyor.

If the party be absent or unknown.

If the opposite party be absent from the District of Quebec, or be unknown to the said Company, then upon application to any Judge of the Superior Court in the said District, accompanied by such certificate as aforesaid, and by an affidavit of some Officer of the Company, that such opposite party is so absent, or that after diligent inquiry the party on whom the notice ought to be served cannot be ascertained, such Justice shall order a notice as aforesaid (but without the certificate,) to be inserted during one calendar

calendar month in some newspaper published in the City of Quebec, in the English language, and in some newspaper there published in the French language.

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 Judge of the Superior Court may, on the application of the said Company, appoint some sworn Surveyor for Lower Canada, resident in the District of Quebec, to be sole Arbitrator for determining the compensation to be paid by the Company.

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

The said Arbitrators, or any two of them, or the sole Arbitrator, being sworn before some Commissioner for receiving affidavits to be used in the said Superior Court, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company, in such way as they or he, or a majority of them, shall deem best, and the award of such Arbitrators, or of any two of them, or of the sole Arbitrator, shall 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.

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 Judge of the Superior Court.

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.

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

If the party appointed by any Judge as third Arbitrator or sole Arbitrator shall die before the award be made, or shall refuse to act, 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

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

Opposite party appointing an arbitrator.

Third arbitrator.

Duties of arbitrator after being sworn.

Proviso.

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

Costs how paid.

Arbitrators may examine witnesses on oath.

False statement to be perjury.

Time within which award must be made.

Time may be prolonged in certain cases.

Arbitrator dying, failing to act, &c.

as attested by his Certificate to that effect,) the said Company or the opposite party (as the case may be) may appoint another in his stead, notifying the other Arbitrators of such appointment, and if the sole Arbitrator shall die before the award be made, any Judge of the Superior Court may, on the application of the said Company, appoint another, but no recommencement or repetition of prior proceedings shall be required.

Company may desist paying costs.

Change of owner.

Arbitrators not disqualified by certain circumstances.

Cause of disqualification when to be urged.

How tried and determined.

Awards not to be avoided by want of form.

Parties need not be named.

Possession may be taken on payment, tender or deposit.

Warrant of possession in case of resistance.

Proviso:

Possession may be obtained before the award in certain cases.

As to claims upon the lands so purchased or taken.

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 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.

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 Judge of the Superior Court after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Judge; and no cause of disqualification shall be urged against any Arbitrator appointed by the Company, or by the opposite party, after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, shall be summarily determined by any Judge of the said Court on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified shall be held to have appointed no Arbitrator.

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

XXVII. And be it enacted, That upon payment or legal tender of the compensation or annual rent so awarded, agreed upon or determined as aforesaid to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the said Company the power forthwith to take possession of the lands or to exercise the right or to do the thing for which such compensation or annual rent shall have been awarded or agreed upon: and if any resistance or forcible opposition shall be made by any person or party to their so doing, any Judge of the Superior Court 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 always, that such warrant of possession may also be granted by any such Judge, 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 within a time to be appointed by the Judge, such security not being for less than twice the sum offered by the Company in the notice to such adverse party.

XXVIII. 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

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 lands and any claim to, or hypothec or incumbrance upon the said land, or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party: Provided always, that if the said Company shall have reason to fear any such claims, hypothecs or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof, shall be payable, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the hands of the Prothonotary of the Superior Court, with the interest thereon for six months, and to deliver to the said Prothonotary an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the said Company, in like manner as in other cases of confirmation of title, except that in addition to the usual contents of the notice, the Prothonotary shall state that the title of the Company, (that is the conveyance, agreement or award,) is under this Act, and shall call upon all persons entitled to, or to any part of the land, or representing, or being the husband of any parties so entitled, to file their oppositions for their claims to the compensation, or any part thereof, and all such oppositions shall be received and adjudged upon by the Court, and the judgment of confirmation shall for ever bar all claims to the lands, or any part thereof, (including dower not yet open,) as well as all hypothecs or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested, as to 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 Company, and if from any error, fault or neglect of the Company it shall not be obtained until after 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.

XXIX. 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.

XXX. And be it enacted, That when the said Company shall take any land or estate of any body corporate, aggregate or sole, guardians, committees, executors or administrators, or other trustees whatsoever, held for and on behalf of those whom they represent, whether corporations, infants, idiots, lunatics, persons deceased or beyond seas, or other person or persons whatsoever, who are or shall be possessed of or interested in the said land or estate, the respective contracts, agreements and sales of the said corporations, guardians, committees, executors, administrators or other trustees whatsoever, shall be valid and effectual in law to all intents and purposes whatsoever, and their respective receipts shall be good and valid releases and discharges therefor, and it shall be lawful for them respectively to agree and settle with the said Company for damages, (if any,) by

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 interests how paid, &c.

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

After lands have been taken, bodies corporate, &c., may sell their right of property therein.

by reason of taking such land or estate aforesaid, and in case of disagreement, such damage to be ascertained and settled as provided by this Act.

Company may take materials from adjoining lands.

XXXI. And be it enacted, That the said Company, their Superintendents, engineers, agents and workmen, may enter upon the land adjoining the said Rail-road, and from thence take and carry away any timber, stone, gravel, sand and earth or materials necessary for the construction of the said Rail-road; and in case of any slip happening, or being apprehended to any cutting, embankment or other work belonging to the said Rail-road, the said agents and workmen shall at all times hereafter have full egress and regress into and upon such adjoining lands, for the purpose of repairing and preventing such accident, and to do such works as may be necessary for the purpose; Provided always, that such works shall be as little injurious to the said adjoining land as the nature of the operations will admit of, and shall be executed with all possible despatch, in all which cases the damage incurred, if the parties cannot agree, shall be ascertained and paid in like manner in all respects as provided for in this Act.

Proviso.

Company may make branch Rail-roads.

XXXII. And be it enacted, That the said Company shall and may (if they deem it expedient) procure and own such steamboats or vessels as may be necessary to ply in connection with this Rail-road between its terminus on the River Saint Lawrence and the City of Quebec, and for that purpose shall exercise and possess all the powers, privileges and authorities necessary for the management of the same in as full and ample a manner as they are hereby authorized to do with respect to the said Rail-road.

Company to erect and maintain fences.

XXXIII. And be it enacted, That the said Company, at their own proper costs and charges, shall erect and maintain on each side of the said Rail-road, sufficient fences whenever the same may be necessary, in order to protect the public, or wherever any clear or cultivated land occurs on the line of the said Rail-road; and for neglect or failure to erect and maintain such necessary fences, the said Company shall be liable to be indicted at the Court of Queen's Bench within the District in which such fences shall be insufficient, and to be fined in such sum as shall be then and there adjudged, and such fine shall be expended for the erection or repair of such fence, and for compensation of individual damage, as the case may be; and it shall and may be lawful for the Court of Queen's Bench to make such order for levying the said fine on the property of the said Company, or otherwise, as to them shall seem most proper to the exigencies of the case, which said fine shall be exclusive of any claim for damages which any party may sustain by any such neglect or failure as aforesaid.

Penalty for neglecting so to do.

Sign-boards to be put up at crossings.

XXXIV. And be it enacted, That the said Company, shall at each and every place where the said Rail-road shall cross any highway on a level, erect and keep up a sign-board stretching across the highway at such height as to leave sixteen feet from the highway to the lower edge of the sign-board, and having the words "Rail-way Crossing" and "Traverse de Chemin à Rails," painted on each side thereof in black letters not less than six inches in length, on a white ground; and for each and every neglect to comply with the requirements of this section, the said Company shall incur a penalty not exceeding five pounds currency; Provided always, that it shall be lawful (in case it shall be more conducive for the public safety) for the said Company, at their own expense, to carry such turnpike or other road over or under such Rail-road, by means of a bridge or archway, in lieu of crossing the same on the level.

Proviso.

As to bridges over highways.

XXXV. 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 Rail-road over or across any public highway, the space of the arch of any such Bridge shall be formed and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than twenty feet, and of a height from the surface of such highway to the centre of such arch of not less than sixteen feet, and the descent under any such Bridge shall not exceed one foot in twenty feet.

As to bridges over Rail-road.

XXXVI. 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 the purpose of carrying any public highway or carriage road over the said Rail-road, the ascent of every such Bridge for the purpose of every such road, shall not be more than one foot in twenty feet; and

a good and sufficient fence shall be made on each side of every such Bridge, which fence shall not be less than four feet above the surface of such Bridge.

XXXVII. Provided always, and be it enacted, That where the said Rail-road shall cross or be carried along 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 Rail-road or works connected therewith, shall rise above or sink below the level of such highway more than one inch; and the said Rail-road may be carried across any highway within the limits aforesaid.

Rail not to sink or rise more than one inch at any crossing.

XXXVIII. Provided always, and be it enacted, That the said Company, shall not carry the said Rail-road along any highway, but shall merely cross the same in the line of the said road, whatsoever be the angle at which such line shall intersect the highway, and before they shall in any way obstruct such highway with their works, they shall turn the said highway, at their own charges, so as to leave an open and good passage for carriages, free from obstructions; and when their works are completed they shall replace the said highway, under a penalty of five pounds currency for any contravention, over and above all damages 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.

Rail-road may cross, but not be carried along any highway.

No obstruction to be made on any highway.

XXXIX. And be it enacted, That the immediate government and management of the affairs of the said Company shall be vested in eleven Directors, who shall be proprietors of at least ten shares each, and who shall be chosen by the Shareholders of the said Company in the manner hereinafter provided, and shall hold their offices until others shall have been duly elected and qualified to take their places; that not less than five Directors shall constitute a Board for the transaction of business, of which the President shall always be one, except in case of sickness or necessary absence, in which case the Directors present may choose one of their number as Chairman in his stead; that the President shall vote at the Board as a Director, and in case of there being an equal number of votes for and against any question before them, the President shall have the casting vote.

Management of the affairs of the Company to be vested in Directors.

How many to constitute a board.

XL. And be it enacted, That the number of votes which each Shareholder shall be entitled to on every occasion when in conformity to the provisions of this Act the votes of the Shareholder are to be given, shall be in the following proportions, that is to say: for one share and not more than three, one vote; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten not exceeding thirty, one vote, making ten votes for thirty shares; for every six shares above thirty and not exceeding sixty, one vote, making fifteen votes for sixty shares; and for every eight shares above sixty, and not exceeding one hundred, one vote, making twenty votes for one hundred shares; which said number of twenty votes shall be the greatest that any Shareholder shall be entitled to have: And all Shareholders may vote by proxy if they shall see fit, provided such a proxy be a shareholder, and do produce from his constituent whom he shall represent, or for whom he shall vote, an appointment in the form set forth in the Schedule B to this Act annexed, or to the like effect; and whatever question of election of public officers, or other matters or things shall be proposed, discussed or considered in any public meeting of the said Company under the authority of this Act, shall be determined and decided by the majority of votes and proxies then and there present; Provided always, that the same person shall not vote as proxy for any number of persons who together shall be proprietors of more than one hundred shares.

Manner of the choosing of directors, and mode of voting.

Shareholders may vote by proxy. Proviso.

Majority of votes to decide.

Proviso.

XLI. And be it enacted, That whenever five thousand shares shall have been subscribed and the deposits paid as aforesaid, the first General Meeting of the Shareholders shall take place at the City of Quebec to be called by notice in some one of the newspapers published at Montreal and in some one or more of the newspapers published in the City of Quebec sixty days previous to such meeting, in order to organize the said Company, and to choose the Directors thereof, who shall continue in office until re-elected or others are chosen or appointed in their stead, at any meeting

First general meeting.

Notice to be given.

Directors to be chosen.

President to be chosen.

to be held under the authority of this Act; that the Shareholders present or appearing by proxy shall choose the Directors of the said Company by a majority of votes, and the Directors so chosen shall choose, out of their numbers, one, who shall be President of the said Company; and in case of the death, resignation, removal, disqualification by sale of Stock, or incompetency of any Director, the remaining Directors if they think proper so to do, may elect in his place some other Shareholder duly qualified to be a Director, and the Shareholder so elected to fill up any vacancy shall continue in office as a Director so long only as the person in whose place he shall have been elected would have been entitled to continue if he had remained in office.

Directors to appoint officers, engineers, &c.

XLII. And be it enacted, That the said Directors shall have the power of nominating and appointing all and every the officers and engineers, and other persons connected with the said Rail-road, at such salaries or rates of remuneration as to the said Directors shall seem proper, subject to the By-Laws, Rules and Regulations of the said Company; and the Shareholders shall have the power from time to time to alter and amend, or to make such new Rules, By-Laws or Regulations for the good government of the said Company and of the said Rail-road, and of the works and property hereinbefore mentioned, and for the well governing of the engineers, workmen and other persons employed by the said Company, as to the major part of the said Shareholders shall seem meet; which said Rules, By-Laws and Regulations being put into writing, under the common seal of the said Company, shall be published in some one of the newspapers published in Montreal, and in some one or more of the newspapers published in the City of Quebec, shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law to justify all persons who shall act under the same; Provided always, that no By-Law of the said Company to be hereafter made and by which any Tolls shall be fixed or directed to be taken for the conveyance of passengers, goods, wares or merchandize on the said Rail-road, or which shall be intended to affect any party other than the members, officers and servants of the Company, shall have force or effect until it shall have been sanctioned and confirmed by the Governor of this Province, under his hand and seal at arms, and published in the Canada Gazette, a copy whereof shall be proof of such By-Law and of such sanction and confirmation, in all Courts and places whatsoever.

Company to make By-laws, &c.

By-laws to be published and to be binding, &c.

Proviso: certain By-laws must be sanctioned.

Annual meeting of shareholders.

XLIII. And be it enacted, That the said Shareholders shall meet annually at the City of Quebec, on the first Tuesday in May in each year; at which meetings the Shareholders present, personally or by proxy, may either continue in office the Directors before appointed, or any number of them, or may elect a new body of Directors to supply the places of those not continued in office; Provided always, that the omission to meet shall work no forfeiture, but the Shareholders may be afterwards called together for that purpose by the Directors of the said Company for the time being, they first giving fourteen days' previous notice in one of the newspapers published at Montreal, and in one or more of the newspapers published in the City of Quebec.

Shareholders to a certain amount may require an extraordinary meeting.

XLIV. And be it enacted, That it shall and may be lawful for any number of the Shareholders, holding in the aggregate, five hundred shares, by writing under their hands, at any time to require the said Directors to call an extraordinary meeting of the said Company, and such requisition shall fully express the object of the meeting required to be called, and shall be left at the office of the said Company, or given to at least three Directors, or left at their last or usual place of abode; and forthwith upon the receipt of such requisition, the said Directors shall convene a meeting of the Shareholders; and if for twenty-one days after such notice the Directors fail to call such meeting, the Shareholders aforesaid, qualified as aforesaid, may call such meeting by giving sixty days' public notice thereof in the newspapers hereinbefore in this Act mentioned.

Company or the directors, if empowered, may establish tolls.

XLV. And be it enacted, That it shall and may be lawful to and for the said Company from time to time, and at all times hereafter, to ask, demand, take and recover, to and

and for their own proper use and behoof, for all goods, wares, merchandize and commodities, of whatever descriptions, transported upon the said Rail-road, such Tolls as they may deem expedient; which said Tolls shall be from time to time fixed and regulated by By-laws of the Company, or by the Directors if thereunto authorized by the said By-laws, but subject to the approval of the Governor, and shall be paid to such person or persons, and at such place or places near to the said Rail-road, in such manner and under such regulations as the said Company or the said Directors shall direct and appoint; and in case of denial or neglect of payment of any such rates or dues, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having competent jurisdiction, or the person or persons to whom the said rates or dues ought to be paid, may and he is, and they are hereby empowered to seize and detain such goods, wares and merchandize or other commodities, for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof; and in the mean-time the said goods, wares, 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.

XLVI. 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 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 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.

XLVII. And be it enacted, That whatever may be the rate of divisible profits on the said Rail-road, it shall and may be lawful for Her Majesty's Government, if it shall think fit, subject to the provisions hereinafter contained, at any time after the expiration of twenty-one years, to purchase the said Rail-road with all its hereditaments, stock and appurtenances in the name and on the behalf of Her Majesty, upon giving to the said Company three calendar months' notice in writing, of such intention, and upon payment of a sum equal to twenty-five years purchase of the annual divisible profits estimated on the average of the seven then next preceeding years: Provided that if the average rate of profits for the said seven years shall be less than the rate of fifteen pounds in the hundred, it shall be lawful for the Company, if they should be of opinion that the said rate of twenty-five years purchase of the said average profits is an inadequate rate of purchase of such Rail-road, reference being had to the prospects thereof, to require that it shall be left to Arbitration, in case of difference, to determine what (if any) additional amount of purchase money shall be paid to the said Company; Provided also, that such option of purchase shall not be exercised, except with the consent

How tolls may be recovered if not duly paid.

Seizure of goods, &c.

Tolls may be lowered and again raised.

Proviso against monopoly.

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

Dividends to be made at General meetings.

Proviso. Capital not to be impaired.

Government may purchase the Rail-road.

Notice to be given, &c.

consent of the Company, while any such revised scale of tolls, fares and charges shall be in force.

Provision as to the carriage of Her M^t's mail, soldiers, police force, &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 superintendence or command of any Police Force, and with the whole resources of the said Company if necessary, carry Her Majesty's Mail, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all Policemen, Constables, and others, travelling on Her Majesty's Service, on their said Rail-road, on such terms and conditions and under such regulations as the said Company and the said Deputy Post-Master General, the Commander of the Forces, or person in command of any Police Force, respectively, shall agree upon, or if they cannot agree, then on such terms and conditions and under such regulations as the Governor or person administering the Government shall in Council make: Provided that any further enactments which the Legislature of this Province may hereafter deem it expedient to make, with regard to the carriage of the said Mail, or Her Majesty's Forces, and other persons and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph, or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

Proviso: the Legislature may make further provision.

Directors to make yearly dividends.

XLIX. And be it enacted, That the Directors of the said Company, shall make yearly dividends of the tolls, income, and profits arising to the said Company, first deducting thereout the annual costs, charges and expenses of the said Company, as well of the repairs of the works belonging to them as for the salaries and allowances of the several officers and servants, and for such other purposes connected with the said Company, as may be deemed proper by the said Directors, consistent with the By-laws, Rules and Regulations of the said Company.

Receipts of curators to be valid.

L. And be it enacted, That if any money be payable from the said Company, to any shareholder or other person being a minor, idiot or lunatic, the receipt of the guardian of such minor, or the receipt of the curator of such idiot or lunatic, shall be a sufficient discharge to the said Company for the same.

Directors, before dividing profits, may set aside certain sums to meet contingencies, &c.

LI. And be it enacted, That before apportioning the profits to be divided among the Shareholders, the said Directors may, if they think fit, set aside thereout such sum as they may think proper, to meet contingencies, or for enlarging, repairing or improving the works connected with the said Rail-road, or any of its Branches, or any part of the said undertaking, and may divide the balance only among the Shareholders.

No dividend on shares in arrear for calls.

LII. And be it enacted, That no dividend shall be paid in respect of any share, until all calls then due in respect of that and every other share held by the person to whom such dividend may be payable, shall have been paid.

Property of Company alone responsible for its debts.

LIII. And be it enacted, That the joint stock or property of the said Company, shall alone be responsible for the debts and engagements of the said Company, and that no person or persons who shall or may have dealings with the said Company, shall on any pretence whatsoever, have recourse against the separate property of any of the individual shareholders of the said Company, or against their person or persons, further than may be necessary for the faithful application of the funds of the said Company: Provided also, that no shareholder of the said Company, shall be liable for or charged with the payment of any debt or demand due from the said Company, beyond the extent of his share in the Capital of the said Company, not then paid up.

Limitation of actions under this Act.

LIV. And be it enacted, That no suit or action at law or equity shall be brought or prosecuted by any person or persons for any act, matter or thing done under the authority of this Act, unless such suit or action shall be commenced within six months next after the offence shall have been committed, or cause of action accrued, and the defendant or defendants in such suit or action may plead the general issue, and give this Act and the special matter in evidence under the said plea, and that the same was done in pursuance and by authority of this Act.

LV. And be it enacted, That if any person or persons shall wilfully and maliciously, and to the prejudice of the undertaking, break, injure or destroy any of the works to be made by virtue of this Act, every such person or persons shall be judged guilty of felony; and every person so offending, and being thereof lawfully convicted, shall be liable to the punishment prescribed for felony by the Laws of this Province.

Wilfully injuring the works, to be felony.

LVI. And be it enacted, That if any other Rail-way Company, incorporated by law, shall build and construct any other Rail-way from any other place or places in this Province, it shall be lawful for the said Rail-way Company so building and constructing the said other Rail-way, to form a junction with the Rail-road which may be built and constructed by the said Quebec and Saint Andrew's Rail-road Company, at such point or points, place or places as may be desired or considered most advantageous by such Rail-way Company; and the said Quebec and Saint Andrew's Rail-road Company shall convey and transport all passengers, goods, chattels and merchandize of every kind so arriving at the said junction, onwards and backwards, at all convenient and usual times, on the said Rail-road constructed by them, without any unnecessary delay or hinderance, to their respective destination, subject to the payment of such rates, tolls or dues per mile, as may be paid in similar cases to the said Quebec and Saint Andrew's Rail-road Company.

Any other Rail-way Company may form a junction with said Company.

LVII. And be it enacted, That nothing herein contained shall be deemed or construed to exempt the Rail-road by this Act authorized to be made, from the provisions of any general Act, relating to this Act, or of any general Act relating to Rail-ways in this Province, which may hereafter pass during the present or any future Session of the Legislature, or from any future alteration or repeal of this Act, under the authority of the Legislature.

Rail-road not exempted from any general Act relating to Rail-roads.

LVIII. And be it enacted, That the said Company, to entitle themselves to the privileges, benefits and advantages to them granted by this Act, shall, and they are hereby required to make and complete the said Rail-road within fifteen years from the passing of this Act, and to deposit the Map or Plan and Book of Reference above mentioned within two years from the passing of this Act; and if the said road shall not be so made and completed, so as to be used for the conveyance and carriage of passengers, goods, chattels, wares and merchandize thereon, and the said Map or Plan and Book of Reference shall not be deposited within the respective periods above mentioned, then this Act, and every matter and thing therein contained, shall cease and be utterly null and void.

Rail-road to be completed within fifteen years.

LIX. And be it enacted, That this Act shall be, and is hereby declared to be a Public Act.

Public Act.

SCHEDULE A.

Form of Certificate of Share.

The Quebec and St. Andrew's Rail-road Company, Number

This is to certify that A. B. of _____ is the Proprietor of the share (or shares) number _____ of the Quebec and St. Andrew's Rail-road Company, subject to the regulations of the said Company.

Given under the Common Seal of the said Company, the _____ day of _____ in the year of our Lord, one thousand eight hundred and _____

SCHEDULE B.

Form of Proxy.

I, A. B., do hereby nominate, constitute and appoint C. D. of _____ to be my proxy, in my name and in my absence to vote or give my assent to or dissent from any business, matter or thing, relative to "The Quebec and St. Andrew's Rail-road Company." In witness whereof, I, the said A. B., have hereunto set my hand (or if a Corporation, say, the Common Seal of the Corporation) the _____ day of _____ A. D. one thousand eight hundred and _____

A. B.

TORONTO : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

CAP. CXVIII.

An Act further to amend *An Act to incorporate the St. Lawrence and Atlantic Rail-road Company*, and other Acts relative to the said Company, and to extend the powers of the said Company.

[24th July, 1850.]

WHEREAS the St. Lawrence and Atlantic Rail-road Company have prayed for the amendment of their Act of Incorporation and of the Acts or Statutes of this Province heretofore passed respecting the said Rail-road, and it is expedient to grant their said prayer: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That hereafter and for so long as the Mayor, Aldermen and Citizens of the City of Montreal, shall continue to be Proprietors and Owners of Shares or Stock in the said St. Lawrence and Atlantic Rail-road Company, to the extent of twenty-five thousand pounds currency, the Mayor of the said City of Montreal, shall be *ex-officio* a Director of the said Company, and as such, entitled to act and vote, and shall be eligible for election as President of the said Company, in like manner as the other Directors.

Preamble.

Mayor of Montreal to be a Director, and eligible for President.

II. 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 do and perform all acts, and shall have all the powers vested in the Directors of the said Company.

Quorum of Directors.

III. And be it enacted, That it shall be lawful for the Directors of the said Company to sell, either by Public Auction or Private Sale, and in such manner and on such terms as to them shall seem meet, any Share or Shares which shall have been declared to be forfeited in manner provided by the said Act of Incorporation, and also any Share or Shares which shall remain unsubscribed for in the Capital Stock of the said Company, or to pledge such forfeited or unsubscribed Shares for the payment of loans or advances made or to be made thereon, or of any sums of money, borrowed or advanced or to be borrowed or advanced by or to the said Company.

Directors may sell or pledge forfeited or unsubscribed for shares.

IV. And be it enacted, That a certificate of the Treasurer of the Company that the calls in respect of any shares were made, and that default in payment of the said calls was made, and that the forfeiture of the shares was declared and confirmed in manner directed in the said Act, shall be sufficient evidence of the facts therein stated; and such certificate, and the receipts of the said Treasurer for the price of such shares shall constitute a good title to such shares; and a certificate of such shares shall be by the said Treasurer countersigned and enregistered, and the name, place of abode and occupation of the purchasers shall be entered in the book or books required to be kept by the By-laws of the Company, and such purchaser shall thereupon be deemed the holder of such shares, and shall not be bound to see to the application of the purchase money, nor shall his title to such shares be affected by any irregularity in the proceedings in reference to such sale, and any Shareholder may purchase any shares so sold.

What shall be evidence of default of payment, and forfeiture, &c. of shares on which calls are not paid.

Vice-President to act
in case of absence,
&c. of the President.

What shall be evi-
dence of such absence,
&c.

Company may detain
goods for non-pay-
ment of tolls :

Proceedings if the
same be not paid
within a certain time.

Company not bound
to carry certain dan-
gerous articles.

What proof shall be
requisite of the acqui-
sition of shares other-
wise than by transfer
as provided by Acts.

V. And be it enacted, That in case of the absence or illness of the President of the Company, the Vice-President shall have all the rights and powers of the President, and shall be competent to sign all notes, bills, debentures and other instruments, and to perform all acts which, by the Regulations and By-laws of the Company, or by the Acts incorporating and relating to the said Company, are required to be signed, performed and done by the President ; and the Directors may at any meeting require the Secretary to enter such absence or illness among the proceedings of such meeting, and a certificate thereof, signed by the Secretary, shall be delivered to any person or persons requiring the same, on payment to the Treasurer of five shillings, and such certificate shall be taken and considered as *prima facie* evidence of such absence or illness, at and during the period in the said certificate mentioned in all proceedings for or against the said Company in Courts of Justice or otherwise.

VI. And be it enacted, That if any person fail to pay the tolls or freight in respect of any carriage or goods conveyed on the said Rail-road, 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, 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 freight payable as 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 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 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 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 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.

VII. And be it enacted, That no person shall be entitled to carry or to require the Company to carry upon the said Rail-way any *aqua fortis*, oil of vitriol, gunpowder, lucifer matches, or any other goods which in the judgment of the Company may be of a dangerous nature ; and if any person send by the said Rail-way 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 servant 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.

VIII. And be it enacted, That if any share or shares in the said Company or any interest therein shall have been transmitted in consequence of the death or bankruptcy or in consequence of the last will and testament or intestacy, of any shareholder or by any lawful means other than the transfer mentioned in the Act incorporating the said Company, the party or parties to whom such share or shares or interest thereon shall have been so transmitted, shall lodge in the office of the Company a statement in writing signed by such party, declaring the manner in which such share or interest was so transmitted, and shall also produce a copy or probate of such will or sufficient extracts therefrom, and such other documents or proof as may be necessary, and deliver

deliver the same to the Secretary, and without such statement produced and authenticated as aforesaid no party claiming by virtue of such transmission shall be entitled to receive any share of the profits of the Company, nor to vote in respect of any such share or shares as the holder thereof.

IX. And be it enacted, That if any Writ of *Saisie-Arrêt* or Attachment shall be served upon the said Company, it shall be lawful for the Secretary or Treasurer in any such case to appear in obedience to the said Writ, to make the declaration in such case by law required, according to the exigency of each case; which said declaration, or the declaration of the President shall be taken and received in all Courts of Justice in Lower Canada, as the declaration of the Company; and in causes where interrogatories *sur faits et articles* or *serment décisive*, may have been or may hereafter be served upon the Company, the Directors shall have the power, by a vote or resolution entered among the minutes of the proceedings of any meeting to authorize the President or Treasurer to appear in any cause to answer such interrogatories; and the answers of the President or Treasurer so authorized, shall be held and taken to be the answers of the Company to all intents and purposes as if all the formalities by law required had been complied with; and the production of a copy of such resolution, certified by the Secretary with the said answers, shall be sufficient evidence of such authorization.

Proceedings in case of *saisie arrêt*, *faits et articles*, &c.

X. And be it enacted, That it shall be lawful for the said Company to enter into all such contracts or agreements with Her Majesty's Government, or with any person or persons duly representing Her Majesty's Government, as may be necessary for carrying into full force and effect all the provisions of the Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to provide for affording the guarantee of the Province to the Bonds of Rail-way Companies on certain conditions, and for rendering assistance in the construction of the Halifax and Quebec Rail-way.*

Company may enter into agreements with the Government under 12 Vict. c.—

12 Vict. c. 29 cited.

XI. And be it enacted, That the provisions of the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to incorporate the St. Lawrence and Atlantic Rail-road Company*, and of the Acts amending the said Act, and of any other Act or Statute in so far as they are inconsistent with the provisions of this Act, shall be and the same are hereby repealed.

Provisions of law inconsistent with this Act repealed.

XII. And be it enacted, That the eighth section of the said Act of Incorporation of the said Company, which requires the said Company to erect and at all times maintain gates at the intersections of highways by the said Rail-way, be and the same is hereby repealed: Provided always, that the said Company shall be held bound to erect and at all times maintain, good and sufficient guard-boards at such intersections of public highways by the said Rail-way, 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 *Rail-way Crossing* and *Traverse de Chemin à Rails*, painted on each side thereof, in letters not less than six inches in length.

Company exempted from having gates at crossings.

Proviso. Sign-boards to be put up.

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

Public Act.

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Law Printer to the Queen's Most Excellent Majesty.





ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXIX.

An Act to extend the period for completing the Telegraph of the British North American Electric Telegraph Association, and for other purposes relative to the said Association.

[10th August, 1850.]

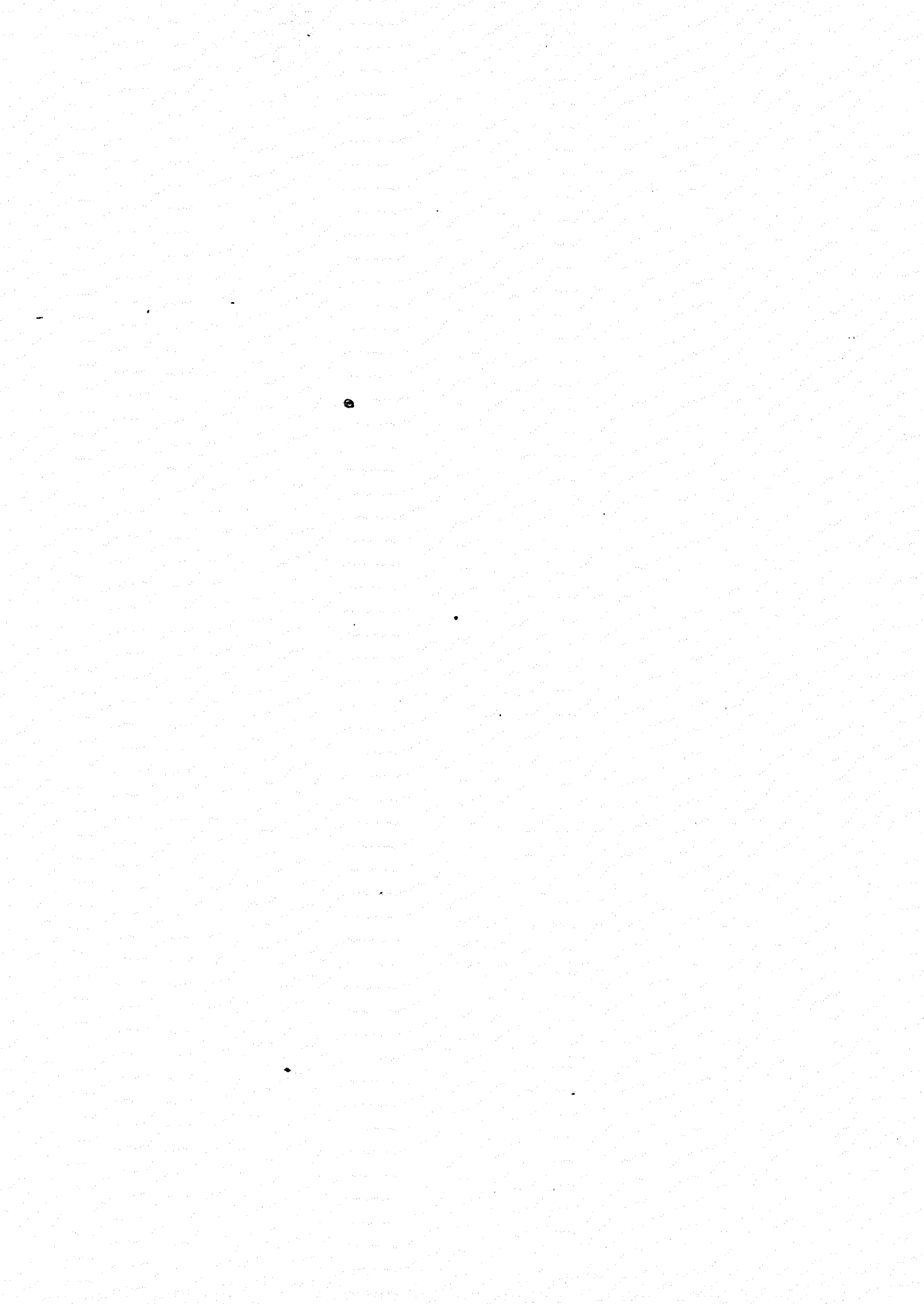
WHEREAS the British North American Electric Telegraph Association have prayed for an extension of the time allowed them by their Act of Incorporation for completing their line of Telegraph, and for the further power hereinafter conferred upon them, and it is expedient to grant their prayer: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing to the contrary in the forty-second section or in any other part of the Act passed in the session held in the tenth and eleventh years of Her Majesty's reign, and intituled: *An Act to incorporate the British North American Electric Telegraph Association*, the period therein limited for the completion of the Telegraph of the said Association shall be and is hereby extended to three years from the passing of this Act; and if the same be completed within that period, the said Act shall remain and shall be held to have remained (notwithstanding the expiration of the period therein limited before the passing of this Act) in full force and effect, otherwise it shall cease and be void.

II. And be it enacted, That the Directors of the said Association may, with the consent of a majority of the Shareholders or of the Holders of a majority of the shares of the Stock of the said Association, sell, lease or otherwise dispose of and alienate all the right, title and interest of the association in the said Telegraph, or in any other part or Section thereof, to any person or Corporation, or to any Company incorporated or to be incorporated for the purpose of acquiring the same; and such sale, lease or other conveyance shall have the effect of vesting in the party in whose favour it shall be made all such rights and powers of the Association as may be necessary for holding, using, working, protecting, repairing and improving the Telegraph or the part or section so sold, leased or conveyed, and for receiving rates, dues and remuneration from the persons requiring the use thereof for the transmission of communications.

Preamble.

Period allowed by 10 and 11 Vict. c. 82, extended.

Company may transfer their rights to a third party.





ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXX.

An Act to incorporate The Bytown and Montreal Telegraph Company.

[10th August, 1850.]

WHEREAS Joseph Aumond, John McKinnon, Alexander Workman, H. V. Noel, J. McNider, Zechariah Wilson, John Scott, John A. Torney, George Patterson, Robert Hervey, Edward Sherwood, Robert Farley, James Brough, John Atkins, Horace Merrill, O. M. Brody, Edward McGillivray, Geo. W. Baker, John O'Meara, Charles Armstrong, N. Sparks and John Rochester, Junior, and other inhabitants of this Province, having associated themselves together, have constructed and are willing to keep up an Electro-Magnetic Telegraph from Bytown to Montreal, keeping the main road as surveyed by J. West, Provincial Land Surveyor, from Bytown to the Nation River, crossing the Nation River at Jessup's Falls and keeping near it on the east side of the Village to Hatfield, joining Mr. West's said survey at that place, and following the same to Caledonia Springs; thence on the main road leading northward, passing through Hawkesbury and meeting the Ottawa River at Waddell's Ferry, and passing through the lands of John Waddell between the road and the said ferry, and then to cross the Ottawa at that place and continue through the land of the said John Waddell, in the Township of Chatham, on the north side of the Ottawa River to the mail road leading from Grenville to Carillon, thence passing along the said mail road through Chatham, passing near the Canal to Carillon, and from Carillon to Montreal, passing along the main travelled road through St. Andrews, Côte St. Pierre and Belle Rivière, thence crossing the River Des Mille-Isles on E. M. Leprohon's Bridge, and following the main road through St. Martin's, crossing the River on La Chapelle's Bridge at *L'Abord à Plouf*, and keeping the same main road into Montreal; and have prayed to be incorporated for the purposes of this Act, and it is expedient to grant the prayer of their petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the above-mentioned persons, together with all and such persons as are now Members of the Association aforesaid, or shall become Stockholders of the Company hereinafter mentioned, shall be and are hereby constituted a body politic and corporate by the name of *The Bytown and Montreal Telegraph Company*; and they and their successors shall be in law capable of purchasing, having and holding to them and their successors any lands (which word shall throughout this Act be understood to include the land and all that is upon or below the surface thereof, and all the real rights and appurtenances thereunto belonging,) for them and their successors and assigns, for the use of the said Telegraph and works, without Her Majesty's *Lettres d'Amortissement*, (saving nevertheless to the Seigneur or Seigniors within whose *censive* the lands, tenements and hereditaments so purchased may be situate, his and their several and respective *droits d'indemnité*, and all other Seigneurial rights whatever,) and also to alienate

Preamble.

Certain persons incorporated.

Corporate name and powers.

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 re-purchase of the said Company without *Lettres d'Amortissement*: Provided always, that the real estate to be held by the said Company shall be only such as may be necessary for the purpose of building, using and preserving the said Electro-Magnetic Telegraph and for objects immediately connected therewith; And provided also, that all the estate and property, real and personal, of the said Association, shall be and are hereby transferred to and vested in the said Company, which shall be deemed to be one and the same with the said Association, so that all contracts and engagements and liabilities of the said Association, shall be held to be those of the said Company, and all their rights and claims shall be held to be rights and claims of the said Company, which shall be substituted for the said Association, to all intents and purposes, by virtue of this Act, and may continue and complete any proceeding, matter or thing which the said Association might have continued or completed.

Proviso.

Proviso.

Company substituted for Association.

Company to hold, &c. a Telegraph from Bytown to Montreal.

II. And be it enacted, That the said Company shall have power to hold and complete an Electro-Magnetic Telegraph from the said Town of Bytown to the City of Montreal, following the direction mentioned in the preamble of this Act, or as near thereto as may be judged expedient to make, construct, erect and hold such works as they shall deem necessary for the said Telegraph.

Company may enter upon lands, &c.

III. And for the purposes aforesaid, Be it enacted, That 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 Telegraph 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 Telegraph 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 Telegraph 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 Telegraph, or the works incidental or relative thereto, or which may hinder, prevent or obstruct the making, using or completing, extending or maintaining the same respectively, according to the intent and purpose of this Act; and to build, erect and set up in or upon the lands to be acquired for that purpose under this Act, such and so many station-houses, observatories, watch-houses, and other works, ways, roads and conveniences as and where the said company shall think requisite and convenient for the purposes of the said Telegraph; and also from time to time to alter, repair, divert, and enlarge and extend the same, and also to construct, erect and keep in repair any bridges, arches and other works upon and across any rivers and brooks for the making, using, maintaining and repairing the said intended Telegraph, and to construct, erect, make and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing, and easy using of the said intended Telegraph and other works, in pursuance of, and according to the true intent and meaning of this Act; they, the said Company, doing as little damage as may be, in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned, to the owners or proprietors of, or the persons interested in the lands, tenements or hereditaments, water, water courses, brooks or rivers respectively, which shall be taken, used, removed, prejudiced, or of which the course shall be altered, or for all damages to be by them sustained in or by the execution of all or any of the powers given by this Act; and this Act shall be sufficient

Further powers.

Compensation to be made.

Act a sufficient indemnification.

to indemnify the said Company and their servants, agents and 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.

IV. And be it enacted, That for the purposes of this Act, the said Company shall and may by some sworn Land Surveyor, and by an Engineer or Engineers by them to be appointed, cause to be taken and made, surveys of the lands through which the said intended Telegraph is or is to be carried, together with a map or plan of the line of such Telegraph, and of the course and direction thereof, and of the lands through which the same doth or is to pass, and also a book of reference for the said Telegraph, in which shall be set forth a description of the said several lands, and the names of the owners, occupiers and proprietors thereof, and in which shall be contained every thing 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 Superior Court in the District of Montreal, and in the office of the Clerk of the Peace for the County of Carleton, 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 shall require, paying to the said Secretary of the Province, or to the said Prothonotary or Clerk of the Peace, at the rate of six pence current money of this Province, for every hundred words; and the said quadruplicates of the said map or plan and book of reference, so certified, or a true copy or copies thereof, certified by the Secretary of the Province, or by the Prothonotary of the Superior Court in the said District, or by the said Clerk of the Peace, shall severally be, and are hereby declared to be good evidence in the Courts of law and elsewhere.

Company to take surveys, &c.

And make and file a map and book of reference.

Copies.

V. Provided always, and be it enacted, That the said Company shall have full power to keep, set up or to set up posts for the supporting the wires of the said Telegraph in and upon any public road, street or highway, and to make the necessary excavations in the same for placing such posts or poles; and such posts, and all wires and other apparatus therewith connected, shall be, and be deemed to be to all intents and purposes, the property of the said Company, as shall also all such posts or poles or apparatus as have been or shall be set up by the said Company for the purposes aforesaid, although the lands on which the same are set up be not the property of the said Company.

Telegraph posts may be set up.

VI. And be it enacted, That after any lands or grounds shall be set out and ascertained, and the line of the said Telegraph designated in manner aforesaid, for making and completing the said Telegraph 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, *femes-covert*, or other persons or parties, who are and 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, or upon or across which the said Company shall have occasion to set up any posts or poles or other apparatus, or to acquire the right of way or other servitude or right, 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, or the right or servitude so required by the said Company; 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

Corporations, &c. authorized to convey lands.

Contracts, &c. to be filed of record.

that all bodies politic, corporate or collegiate, or communities, and all persons whatsoever, so contracting or 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, and that all such contracts, agreements, sales, conveyances and assurances or notarial copies thereof, shall, at the expense of the said Company or their successors, be deposited in the office of the Prothonotary and Clerk of the Peace as aforesaid, and true copies thereof shall be allowed to be good evidence in all Courts whatsoever: Provided always, that all deeds, contracts and assurances heretofore executed to or by the said Association shall remain valid, as if made to or by the said Company, but the same shall be deposited as aforesaid by the said Company.

Where there is no power to sell, an annual rent may be agreed upon.

VII. Provided always, and be it enacted, That any body politic, community, corporation, or other party, who cannot in common course of law sell or alienate any lands or grounds so set out and ascertained shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said Telegraph, and other the purposes and conveniences relative thereto and connected therewith; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, or by arbitration between the parties, it shall be fixed by a Jury, convened and qualified, in the manner hereinafter prescribed, and all proceedings and litigations in Court, shall, in that case, be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid by the said Company for the purchase of any lands, or for any part of the purchase money of any land, which the vendor shall agree to leave in the hands of the said Company, the said Telegraph and the Tolls or emoluments to be levied and collected thereon shall be, and are hereby made liable and chargeable, in preference to all other claims or demands thereon whatsoever, the deed creating such charge and liability being duly registered.

Provision in case of disagreement between Company and proprietors of lands.

VIII. And be it enacted, That it shall be lawful for the said Company to apply to Her Majesty, and all the several owners of the estates, lands and grounds through which such Telegraph is intended to be carried, and to agree with such owners respectively touching the compensation to be paid to them by the said Company for the purchase thereof, or for the right or servitude required by the said Company in or upon the same, and for their respective damages; and in case of disagreement between the said Company and the said owners, or any of them, then all questions which shall arise between the said company and the several proprietors of and persons interested in any estates, lands or grounds that shall or may be taken, affected or prejudiced by the execution of any of the powers hereby granted, or any indemnification for damages which may or shall be at any time or times sustained by any bodies politic or corporate, or communities, or any other person or persons respectively, being owners of or interested in any estate, lands or grounds, for or by reason of the making, repairing or maintaining the said Telegraph or other works incidental or relative thereto or connected therewith, shall and may be settled by agreement of the parties or by arbitration, or if either of the parties shall not be inclined to make an agreement or to appoint arbitrators, or by reason of absence shall be prevented from treating, or through disability by non-age, coverture or other impediment, cannot treat or make such agreement or enter into such arbitration, or shall not produce a clear title to the premises which they claim an interest in, then and in every such case the said Company may make application to the Superior Court in the District of Montreal, or the County Court, in the County of Carleton, stating the grounds of such application, and such Courts are hereby respectively empowered and required from time to time, upon such application, to issue warrant, directed to the Sheriff of the said District or County for the time being, commanding such Sheriff to impanel, summon and return a Jury, qualified according to the Laws of Upper or Lower Canada, as the case may be, to be returned for trials of issues joined in civil cases in the said Superior Court and County Court of the County of Carleton, to appear before the said Court at such time and

Jury to be summoned.

and place as in such warrant shall be appointed, and all parties concerned may have their lawful challenge against any of the said Jurymen, but shall not challenge the array; and the said Courts are hereby respectively empowered to summon and call before them all and every such person or persons as it shall be thought necessary to examine as witnesses touching the matters in question; and the said Courts respectively may, in their discretion, authorize and order the said Jury, or any six or more of them, to view the place or places or matter in controversy, which Jury, upon their oaths, (all which oaths, as well as the oaths to be taken by any person or persons who shall be called upon to give evidence, the said Courts are hereby respectively empowered to administer,) shall enquire of, assess and ascertain the distinct sum or sums of money, or annual rent to be paid for the purchase of such lands or grounds, or the indemnification to be made for the right or servitude, or for the damage that may or shall be sustained as aforesaid; and the said Courts respectively shall give judgment for such sum, rent or indemnification so to be assessed by such Jurors, and such said verdict, and the judgment thereon pronounced, shall be binding and conclusive to all intents and purposes against all bodies politic, corporate or collegiate, or communities, and all persons whatsoever.

Verdict to be binding.

IX. And be it enacted, That in all cases where a verdict shall be given for more money, as an indemnification or satisfaction for any lands, grounds, hereditaments or property, or for any right or servitude in or upon the same, or for any damage done to any lands, grounds, hereditaments or property, or for annual rent of any lands, grounds, 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 summoning such Jury and taking such inquest shall be settled by the said Courts respectively and defrayed by the said Company; but if any verdict 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 damage shall be given by the verdict, when the dispute is for damages only, then, and in every such case, the costs and expenses shall be settled in like manner by the said Courts respectively, and be borne and paid by the party or parties with whom the said Company shall have had such controversy, which said costs and expenses, having been so settled, shall and may be so deducted out of the money so assessed and adjudged, when the same shall exceed such costs and expenses, as so much advanced to and for the use of such person or persons, and the payment or tender of the remainder of such money shall be deemed and taken, to all intents and purposes, to be a payment or tender of the whole sums so assessed or adjudged as aforesaid.

Costs of jury, &c. by whom paid.

X. And be it enacted, That upon payment or legal tender of such sum or sums of money, or annual rent, as shall be contracted or agreed for between the parties, or determined by arbitrators, or assessed by such Juries in manner respectively as aforesaid, to the proprietors thereof, or other person or persons entitled to receive the same, or to the principal officer or officers of any body politic, corporate or collegiate, or community, at any time after the same shall have been so agreed upon, determined or assessed, such lands, grounds or hereditaments, or property respectively, may be entered upon and taken possession of by the said Company, and applied to the purpose of making and maintaining the said Telegraph, and other works and conveniencies thereunto appertaining, or such right or servitude required by the said Company.

Company may take possession of land on payment or legal tender of sum agreed upon, &c.

XI. And be it enacted, That all agreements, sales and conveyances, and all determinations by arbitration as aforesaid, or notarial copies thereof, when the same may be passed before Notaries, and also the said verdicts and judgments thereupon, shall be transmitted to and registered in the Registry Office for the County in which the lands, tenements or hereditaments shall be situated, and that the same shall be therein registered at full length; and all persons shall have liberty to inspect the same, paying for each inspection the sum of six pence currency, and to have and obtain copies thereof, paying for every copy thereof, not exceeding one hundred words, the sum of six pence currency, and so in proportion for any number

Notarial agreements, &c. to be registered.

of words; and immediately on such payments of purchase money or rent as aforesaid, and entry or registration of such agreement, sales, conveyances, determinations by arbitration, verdicts, judgments and other proceedings of the said Court and Juries, all the estate, right, title, interest, use, trust, property, claim and demand in law and equity, of the person or persons for whose use such money or rent shall be paid, in, to and out of the lands, grounds, tenements, hereditaments and premises, shall vest in the said Company and their successors, and they shall be respectively deemed in law to be in actual possession and seizin of the same, to all intents and purposes whatsoever, as fully and effectually as if every person having an estate therein had been able to convey, and had actually conveyed the same to them by the most effectual legal conveyance; and such payment shall bar all right, title, interest, claim and demand of the person or persons to whose use the same shall be made, bodies politic, corporate or collegiate, ecclesiastical or civil communities, women subject to marital authority, minors, interdicted persons or absentees, who may have a claim to have any right, title, interest, claim or demand therein, and of every other person or persons whomsoever for dower not yet open, (*douaire non encore ouvert*), any law to the contrary notwithstanding.

Applications for indemnity to be made within a certain time.

XII. And be it enacted, That applications to the said Courts respectively, for indemnity for any damage or injury sustained by reason of the power and authority given by this Act, shall be made within six calendar months next after the time of such supposed damage sustained, or in case there shall be a continuation of damage, then within six calendar months next after the doing or 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.

Penalty on persons obstructing use of Telegraph.

XIII. 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 Telegraph, or the other works incidental or relative thereto, or connected therewith, such person shall for every such offence, besides paying the amount of damages sustained by the Company by such obstructions or interruptions, 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 or County, 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.

Or destroying, &c. Telegraph and works.

XIV. And be it enacted, That if any person or persons shall wilfully and maliciously, and to the prejudice of the said Telegraph authorized to be kept up or made by this Act, break, throw down, damage or destroy the same or any part thereof, or any of the station-houses, observatories, posts, poles, wires or other apparatus, 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 Telegraph or works, or any of the appurtenances thereof, or shall obstruct, hinder or prevent the carrying on, completing, supporting and maintaining, using or working the said Telegraph, such person or persons shall be guilty of a misdemeanor, and being convicted thereof shall be punished accordingly.

Company to contribute a sum of money to carry on the undertaking.

XV. 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, completing and keeping up the said Telegraph and all such other works, matters and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Telegraph and other works: Provided always, that the sums so raised shall not exceed the sum of eight thousand pounds currency of this Province, in the whole, except as hereinafter mentioned, and that the same be divided into such number of shares as hereinafter directed, at a price of six pounds

Provided—not to exceed £8,000

Shares.

five shillings currency aforesaid, per share; and the money so to be raised is hereby directed and appointed to be laid out and applied in the first place for and towards the payment, discharge and satisfaction of all fees and disbursements for obtaining and passing this Act, and for making the surveys, plans and estimates incident thereto, and all other expenses relating thereunto, and all the rest, residue and remainder of such money, for and towards making, completing and maintaining the said Telegraph and other the purposes of this Act, and to no other use, intent or purpose whatever: Provided always, that all sums raised before the passing of this Act by the said Association shall be held to be part of the sum hereby authorized to be raised by the said Company, and all subscriptions to the stock of the said association shall be held to be subscriptions to the stock of the said Company.

Proviso.

XVI. And be it enacted, That the said sum of eight thousand pounds currency, or such part thereof as shall be raised by the several persons hereinbefore named, and by such other person or persons who shall or may at any time become a subscriber or subscribers to the stock of the said Company, shall be divided and distinguished into twelve hundred and eighty equal parts or shares, at a price not exceeding six pounds five shillings currency aforesaid, per share; and that the shares be deemed personal estate, and shall be transferable as such; and that the said twelve hundred and eighty shares 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 successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of six pounds five shillings, or such sums as shall be demanded in lieu thereof, towards carrying on and completing the said Telegraph, shall be entitled to and receive, after the said Telegraph 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 of one or more shares 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: Provided always, that every share in the stock of the said Association shall be held to be a share in the stock of the said Company.

Capital stock divided into 1,280 shares of £6 5s. each.

Proviso.

XVII. And be it enacted, That in case the said sum of Eight 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 amongst themselves, in manner and form aforesaid, and in such shares and proportion 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 Telegraph and other works or conveniences incidental or relative thereto, or hereby authorized, not exceeding the sum of Two 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 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 Two Thousand Pounds; any thing herein contained to the contrary notwithstanding.

Company authorized to raise or borrow a further sum of £2,000 if necessary.

XVIII. And be it enacted, That the number of votes to which each Proprietor of shares in the said Company 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,

Number of votes to be in proportion to number of shares.

given, shall be in the proportion to the number of shares held by him, provided no Proprietor as aforesaid shall have more than forty 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 shall be a stockholder, and do produce from his constituent or constituents, an appointment in writing, in the words or to the effect following, that is to say:

Form of proxy.

"I, _____, of _____, one of the Proprietors of *The Bytown and Montreal Telegraph Company*, do hereby nominate, constitute and appoint _____ of _____ to be my proxy, in my name, and in my absence, to vote or give my assent or dissent to any business, matter or thing relating to the said undertaking that shall be mentioned or proposed at any meeting of the Proprietors of 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 undertaking, or any thing appertaining thereto. In witness whereof, I have hereunto set my hand and seal, the _____ day of _____, in the year _____ in the presence of _____."

(Signature of Proprietor.)

(Signature of Witness.)

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

None but subjects of Her Majesty to be President, &c.

XIX. 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 under an Act of the British Parliament, or by an Act of the Parliament of this Province, shall be elected President or Treasurer of the said Company.

Stockholders not liable beyond their shares.

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

First meeting when to be held.

XXI. And be it enacted, That the first general meeting of the Proprietors for putting this Act in execution, may be held at the Town of Bytown, at any time after the expiration of one month from the passing of this Act, provided that public notice thereof be given by the Provisional Directors hereinafter named, or a majority of them, during one month in some newspaper published in the English language, and in some newspaper published in the French language, in the District of Montreal, and in one newspaper published at Bytown in the English language, and at such said general meeting the Proprietors assembled, with such proxies as shall be present, shall choose nine persons, being each a Proprietor of not less than four shares in the said undertaking, to be Directors of the said Company, in such manner as is hereinafter directed, and shall from time to time be ordered by the Proprietors, and at such general meeting the Proprietors shall also proceed to pass such Rules and Regulations and By-laws as shall seem to them fit, provided they be not inconsistent with this Act.

Who shall be Provisional Directors.

XXII. Provided always and be it enacted, That until Directors shall be chosen under and in pursuance of the power hereinbefore contained, the following persons shall be the Provisional Directors of the said Company, namely: Joseph Aumond, John McKinnon, H. V. Noel, John McNider, Robert Hervey, Robert Bell, John L. Campbell, Alexander Workman, Charles Sparrow, Nicholas Sparks, John A. Torney, and as such shall have all the powers and authority given to Directors by this Act, until they be removed or others be appointed in their stead.

Annual meetings when to be held.

XXIII. And be it enacted, That on the second Thursday in January, in each year, an annual general meeting of the said proprietors shall be held to choose Directors in the room of those whose office may at any time become vacant, and generally to transact the business of the said Company, ten days' notice of the time and place of such meeting

meeting being previously given in the *Canada Gazette*; but if at any time it shall appear to any fifteen or more of such proprietors, holding together two hundred shares at least, that for more effectually putting this Act in execution, a special meeting of proprietors is necessary to be held, it shall be lawful for such fifteen, or more of them, to cause fifteen days' notice, at least, to be given thereof in the *Canada Gazette*, or in such manner as the proprietors and their successors shall at any general meeting 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 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 meeting assembled, such majority not having, either as principals or proxies less than two hundred shares, shall be as valid to all intents and purposes, as if the same were done at general meetings: Provided always, that it shall and may be lawful for the said proprietors at such special meetings, in like manner as at general meetings, in case of the death, absence, resignation or removal of any person named as Director of the said Company in manner aforesaid, to choose and appoint another or others in the room or stead of him or those who may die or be absent, resign or be removed, as aforesaid; any thing in this Act to the contrary notwithstanding.

Special meetings may be called.

Proviso.

XXIV. 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 Chairman, who shall be chosen by and out of the said Board of Directors, and who, in case of a division of equal numbers, shall 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 General and other Meetings of the said Proprietors as aforesaid, and shall pay due obedience to all such orders and directions in and about the premises, as they shall from time to time receive from the said Proprietors at such General and other Meetings; such orders and directions not being contrary to any express directions or provisions in this Act contained.

Quorum of Directors

Proviso.

Proviso.

XXV. 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 Member of the Board of Directors for managing the affairs of the said Company.

No officer of Company to be a Director.

XXVI. And be it enacted, That every such General 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 said Directors appointed, or by any other person or persons whatsoever, employed by, or concerned for and 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 assembled by 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 undertaking, to defray the expense of, or to carry on the same, as they from time to time shall find necessary and wanting for those purposes: Provided, however, that no call do exceed the sum of two pounds ten shillings current money of this Province, for every share of six pounds five shillings: And provided also, that no calls be made but at the distance of two calendar months 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 as 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 making all contracts and bargains touching the said undertaking, so that no

Appointment of auditors.

Directors may make calls.

Proviso.

Proviso.

Further powers of Directors.

such

Calls.

such purchase, bargain or other matter be done or transacted without the concurrence of a majority of such Directors; and 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 three weeks' notice, at least, shall be given in the *Canada Gazette*, in both languages, or in such other manner as the said proprietors or their successors shall at any general meeting direct or appoint, and if any person or persons shall neglect or refuse to pay his, her or their rateable or proportionable part or share of the said moneys to be called for as aforesaid, at the time and place appointed by such general meeting or Board of Directors, he, she or they neglecting or refusing to pay his, her or their rateable calls as aforesaid, for the space of two calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her and their respective share and 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, in trust for and for the benefit of the said proprietors, in proportion to their respective interests.

Forfeiture for refusal to pay calls.

Removal of Directors, &c.

XXVII. 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 rules and directions hereinbefore 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 Telegraph and all other works connected therewith, or belonging thereto, or hereby authorized, and for the well governing of all persons whatsoever using or requiring the use of the said Telegraph or other works, or the services of the officers or persons in the employ of the said Company in the transmission of intelligence by the said Telegraph or in any other way in which the said Telegraph or works can be employed; and to impose and inflict such fines or forfeitures upon the persons guilty of a breach of such By-laws or Orders, as to such General Meeting shall seem meet, not exceeding the sum of 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 hereafter mentioned; Provided always, that no such Rule, By-law or Order shall have any force or effect until the same shall have been sanctioned and confirmed by the Governor, Lieutenant-Governor, or Person administering the Government of this Province, for the time being, under his hand and seal at arms, and shall thereafter have been published in the *Canada Gazette*; which said By-laws and Orders, being put into writing under the common seal of the said Company, shall be kept in the office of the said Company, and a printed or written copy of so much of them as may relate to or affect any party other than members or servants of the Company, shall be affixed openly in the office of the said Company, and in all and every the places where Tolls are to be gathered, and in like manner as often as any change or alterations shall be made to the same; and the said Rules, By-laws and Orders so made, confirmed and published as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same, and any copy of the said By-laws or any of them, certified as correct by the President or some person authorized by the Directors to give such certificate, and bearing the common seal of the Company, shall be deemed authentic, and shall be received as evidence of such By-laws in any Court without further proof.

Company may make By-laws, &c. for certain purposes.

Proviso: By-laws to be sanctioned.

To be affixed in certain places.

Copies.

Proprietors may dispose of their shares.

XXVIII. And be it enacted, That it shall and may be lawful to and for the several proprietors of the said Telegraph or undertaking to sell or dispose of his, her, or their share

share or shares therein, subject to the rules and conditions herein mentioned ; and every purchaser shall have a duplicate of the deed of bargain and sale and conveyance made unto him or her, and one part of such deed, duly executed by seller and purchaser, shall be delivered to the said Directors or their Clerk for the time being, to be 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 than one shilling and three pence shall be paid, and the said Clerk is hereby required to make such entry accordingly : and until such duplicate of such deed shall be so delivered to the said Directors or their Clerk, and filed and entered as above directed, such purchaser or purchasers shall have no part or share of the profits of the said undertaking, nor any interest for the said share or shares, paid to him, her or them, nor any vote as a Proprietor or Proprietors.

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

Form of sale of shares.

No.

For value received from _____ do hereby assign and transfer unto the said _____ shares (on each of which has been paid _____ currency, amounting to the sum of _____) in the capital stock of the Bytown and Montreal Telegraph Company, subject to the rules and regulations of the said Company.

Witness _____ hand _____, at the office of said Company, this _____ day of _____ one thousand eight hundred and _____ do hereby accept the foregoing assignment of _____ shares in the Stock of the Bytown and Montreal Telegraph Company, assigned to _____ as above mentioned at the office of the said Company, this _____ day of _____ one thousand eight hundred and _____

Witness,

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

Proviso.

XXX. And be it enacted, That it shall and may be lawful to and for the said Directors, and they are hereby authorized from time to time to nominate and appoint a Treasurer or Treasurers, and a Clerk or Clerks to the said Company, taking such security for the due execution of their respective offices as the said Directors shall think proper ; and such Clerk shall in a proper book or books enter and keep a true and perfect account of the names and places of abode of the several Proprietors of the said Telegraph or undertaking, and of the several persons who shall from time to time become owners and proprietors of, or entitled to any share or shares therein, and of all the other acts, proceedings and transactions of the said Company and of the Directors for the time being, by virtue of and under the authority of this Act.

Appointment of Treasurer and Clerk : their duties.

XXXI. And be it enacted, That it shall and may be lawful to and for the said Company from time to time, and at all times hereafter, to ask, demand, take and recover to and for their own proper use and behoof, for all communications transmitted through the line of Telegraph, such rates and dues as shall be from time to time fixed and appointed by the Directors, which shall be paid to such person or persons, and at such place or places near to the place where such service may have been performed, in such manner and under such regulations as the said Company shall direct and appoint ; and in case of denial or neglect of payment of any such rates or dues, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said company may sue for and recover the same in any Court having competent jurisdiction ; and the said Company shall have full power, from time to time, at any General Meeting, to lower or reduce all or any of the said rates and dues, and again to raise the same, as often as it shall be deemed necessary for the interests of the said undertaking.

Rates and dues may be demanded for transmission of communications by Telegraph.

Accounts of receipts
and expenditure to be
balanced annually.

XXXII. 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 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 the said Telegraph and works, and of all other receipts and expenditure of the said Company or the said Directors; and at the Meetings of the proprietors of the said undertaking, to be from time to time holden as aforesaid, or at some adjournment thereof, 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.

Dividends to be made.

Proviso.

Leasing of Telegraph.

XXXIII. And be it enacted, That it shall and may be lawful for the said Company, from time to time, to let, lease or confirm any lease already made of the said Telegraph Line or any part thereof: Provided always, that public notice thereof be given of such contemplated intention, during one month, in the several newspapers, as provided in the twenty-second section.

Proviso.

Security required
from Treasurer, &c.

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

Subscribers to pay
amount of their sub-
scriptions.

XXXV. And whereas several persons have subscribed, or may hereafter subscribe, to advance money towards carrying the purposes of this Act into execution, Be it therefore enacted, That the several person or persons who have subscribed, or who may or shall hereafter subscribe to advance money for and towards making and maintaining the said Telegraph and other works connected therewith, shall and they are hereby required to pay the sum and 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 by the 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 in any Court having competent jurisdiction.

They may be sued
for non-payment.

Form of declaration
in actions for recovery
of subscriptions.

XXXVI. And be it enacted, That in any action to be brought by the said Company against any proprietor or proprietors, or owner or owners of any share or shares in the said undertaking, to recover any sum or sums of money due and payable to the said Company for or by reason of any call or calls made by virtue of this Act, it shall be sufficient for the said Company to declare and allege that the defendant or defendants, being a proprietor or proprietors of such or so many shares in the said undertaking, is or are indebted to the said Company in such sum or sums of money as the call or calls in arrear shall amount to, for such and so many call or calls of such or so many sum or sums of money, upon such or so many shares belonging to the said defendant or defendants, (as the case may happen to be) whereby an action hath accrued to the said Company by virtue of this Act, without setting forth the special matter; and on

the

the trial of such action it shall only be necessary to prove that the defendant or defendants, at the time of making such call or calls, was or were a proprietor or proprietors of some share or shares in the said undertaking, and that such call or calls was or were in fact made, and that such notice thereof was given as directed by this Act, without proving the appointment of the Directors who made such call or calls, or any matter whatsoever; and the said Company shall thereupon be entitled to recover what shall appear due, unless it shall appear that any such call exceeded two pounds ten shillings at any one time upon any one share of six pounds five shillings, or was not made after the interval of two calendar months from the last preceding call, or was made without notice given in any newspapers as aforesaid.

XXXVII. And be it enacted, That if any person shall wilfully obstruct or impede any officer or agent of the said Company in the execution of his duty with regard to the said Telegraph, or the using thereof, or of any apparatus or works thereto appertaining, or upon or in any of the stations or other works or premises connected therewith; or if any person shall wilfully trespass upon the said Telegraph or any of the stations or other works or premises connected with the said Telegraph, and shall refuse to quit the same upon request to him made by any officer or agent of the said Company, every such person so offending, and all others aiding and assisting therein, shall and may be seized and detained by any such officer or agent, or any person whom he may call to his assistance, until such offender or offenders can be conveniently taken before some Justice of the Peace for the District or County wherein such offence shall be committed, and when convicted before such Justice as aforesaid, (who is hereby authorized and required, upon complaint to him upon oath, to take cognizance thereof, and to act summarily in the premises) shall, in the discretion of such Justice, forfeit to Her Majesty any sum not exceeding ten pounds; and in default of payment thereof, shall or may be imprisoned for any term not exceeding two calendar months; such imprisonment to be determined on payment of the amount of penalty.

Penalty on persons impeding officers of Company in execution of duty.

XXXVIII. And for the more easy and speedy conviction of offenders against this Act, Be it further enacted, That all and every the Justice and Justices of the Peace before whom any person or persons shall be convicted of any offence against this Act, shall and may cause the conviction to be drawn up according to the following or in any other form of words to the same effect, as the case shall happen, viz:

Form of conviction of offenders against this Act.

“ To Wit: Be it remembered, that on the _____ day of _____ in the year of Our Lord, one thousand eight hundred and _____, A. B, is convicted before me, C, D. (or before C. D. and E. F.) one (or two) of Her Majesty’s Justices of the Peace for the District (or County of _____ *specifying the offence and the time and place when and where the same was committed, as the case may be,*) contrary to an Act passed in the Session held in the thirteenth and fourteenth years of the Reign of Queen Victoria, intituled, (*here set forth the title of this Act.*)

“ Given under my hand and seal (or our hands and seals) the day and year above mentioned.”

[Seal.]

(Signature of Justice.)

XXXIX. And be it enacted, That all fines and forfeitures inflicted by this Act, or which shall be inflicted by virtue of any rule, order or by-law to be made in pursuance thereof, (of which rule, order or 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 or County, either by the confession of the party or parties, or by the oath or affirmation of any one credible witness (which oath or affirmation such Justice or Justices are hereby empowered and required to administer without fee or reward,) be levied by distress and sale of the offender’s goods and chattels, by warrant under the hand and seal, or hands and seals, of such Justice or Justices; and all such respective fines, forfeitures or penalties by this Act imposed and inflicted, or authorized to be imposed and inflicted, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer or Receiver of the

Fines, &c. under this Act, to be levied by distress and sale, &c. Imprisonment for want of distress.

moneys to be raised by virtue of this Act, and shall be applied and disposed of for the use of the said Telegraph or undertaking, and the overplus of the money raised by such distress and sale, after deducting the penalty and 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 whereof to levy the said penalty and expenses, the offender shall be sent to the Common Jail for the District of Montreal or of the County in Upper Canada where the offence shall have been committed, as the case may be, 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.

Persons aggrieved may appeal.

XL. And be it enacted, That if any person or persons shall think himself, herself or themselves aggrieved by any thing done by any Justice of the Peace, in pursuance of this Act, every such person or persons may, within four calendar months after the doing thereof, appeal to the Justices of the Superior Court in the District, or of the County Court for the County, wherein the offence shall have been committed, at the Session next after such conviction.

Limitation of actions under this Act.

XLI. 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 the orders and directions hereinbefore given or granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed; or in case there shall be a continuation of damage, then within six calendar months after the doing or committing such damage shall cease, and not afterwards; and the defendant or defendants in such action or suit shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to have been so done, or if any action or suit shall be so brought after the time so limited for bringing the same, or if the plaintiff or plaintiffs shall be non-suit, or discontinue his, her or their action or suit, after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have full costs, and shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in other cases.

Company may co-operate with other Companies.

XLII. And be it enacted, That the said Company shall be authorized to enter into arrangement and co-operate with any Telegraph Company or Companies which may be formed in this Province, and that the Company hereby incorporated shall have full power, if they shall deem it advisable, to treat with such Company or Companies, and enter into such arrangements as may be necessary to unite the several interests in one general association.

Company to place Telegraph at disposal of Governor if required.

XLIII. And be it enacted, That the said Company shall at all times when required by the Governor, or by any officer or person thereunto authorized by him, whether for any special occasion or by a general authority previously granted; place their sole Telegraph, and all the works and apparatus therewith connected, and their operators and servants at the disposal of the said Governor or such officer or person, and shall transmit such communications (and if required, such communication only) as he shall require: Provided always, that the said Company shall be reasonably remunerated for such services and for all delay and loss occasioned by their compliance with any such requisition.

Public Act.

XLIV. And be it enacted, That this Act shall be deemed and taken as a Public Act.



ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP CXXI.

An Act to grant further powers to *The Montreal Fire, Life and Inland Navigation Assurance Company*, and to change the name of the said Corporation.

[10th August, 1850.]

WHEREAS *The Montreal Fire, Life and Inland Navigation Assurance Company* have petitioned that certain further powers hereinafter mentioned be granted to them, and that the name of the said Corporation be changed as hereinafter set forth, and it is expedient to grant the prayer of the said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Corporation established by the Ordinance of the Governor and Special Council of the late Province of Lower Canada, passed in the Session held in the Third and Fourth years of Her Majesty's Reign, and intituled, *An Ordinance to incorporate certain persons therein mentioned under the name of 'The Montreal Fire Assurance Company'*, and to which Corporation further powers were granted by the Act of the Parliament of this Province, passed in the sixth year of Her Majesty's Reign, and intituled, *An Act to grant further powers to the Montreal Fire Assurance Company, and to change the name of the said Corporation*, by which last mentioned Act the name of the said Corporation was changed to *The Montreal Fire, Life and Inland Navigation Assurance Company*, shall, from and after the passing of this Act, be known and designated as *The Montreal Assurance Company*, but its powers, rights, obligations and liabilities, shall not be altered or affected by such change of name, except as expressly declared by this Act, nor shall any action, suit or proceeding by or against it, be thereby abated, discontinued or interrupted.

II. And be it enacted, That it shall be lawful for the said Corporation to make contracts and grant Policies of Assurance against all losses or damages to ships, vessels, steamboats, barges and other craft or floats of what kind soever, navigating within or without this Province, and in making voyages from any port or place in this Province, to any port or place without this Province, whether within the dominions of Her Majesty, or otherwise, and *vice versa*, and in making voyages from any British or foreign port or place, to any port or place within this Province or elsewhere, and against all losses or damages of or to the cargoes or property conveyed in or upon such ships, vessels, steamboats, barges, craft or floats, and the freight due or to grow due in respect thereof, or to timber or other property of any description conveyed in any manner, and generally to do all matters and things relating to or connected with Marine Insurance.

III. And be it enacted, That the Lists and Statements of their affairs and business, which by virtue of the Ordinance and Act aforesaid, the said Corporation have hitherto been bound to furnish to the Governor, or to any or either branch of the Provincial

Preamble.

Name of the Company changed.

Ord. 3 and 4 Vict. c. 37.

6 Vict. c. 22.

New name.

Powers of the Company extended to Marine Insurance.

Reports to the Legislature to include the new business.

Provincial

Provincial Parliament, shall be furnished as heretofore required to be done, and shall include their business and affairs transacted under the authority of this Act.

Public Act.

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

Duration of Act.

V. And be it enacted, That this Act shall remain in force until the first of May, one thousand eight hundred and eighty, and no longer.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXXII.

An Act to amend the Ordinance incorporating *The Advocates' Library of Montreal.*

[24th July, 1850.]

WHEREAS it is expedient to amend a certain Ordinance of the Governor and Special Council for the Province of Lower Canada, passed in the Fourth year of Her Majesty's Reign, intituled, *An Ordinance to incorporate the Advocates' Library of Montreal*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That at any and every meeting of the said Corporation which may be held after the passing of this Act, any ten Members of the said Corporation, present at such meeting, shall form a *quorum*, and shall be competent to exercise all and every the functions of the said Corporation, whether in the election of Officers or the making of Statutes, By-laws, Rules or Orders concerning the government of the said Corporation, or otherwise, in like manner to all intents and purposes, as the major part of the Members of the said Corporation could have done previous to the passing of this Act.

II. And be it enacted, That every thing in the said Ordinance contained, inconsistent with the foregoing enactment, is hereby repealed.

III. And be it enacted, That this Act shall be held to be a Public Act.

Preamble.

3 and 4 V. c. 48.

Ten members to form a *quorum*.

Inconsistent enactments repealed.

Public Act.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXXIII.

An Act to incorporate the Pilots for and above the Harbour of Quebec.

[10th August, 1850.]

WHEREAS the Pilots for and above the Harbour of Quebec have by their Petition represented the growing importance of their profession, and the necessity which exists that the persons exercising it should be properly qualified, both as regards their moral character and education and their professional ability, and have further represented that these objects would be best promoted by their Incorporation and by the other enactments herein made, and it is expedient to grant their prayer: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That there shall be and is hereby constituted, at the City of Montreal, in Lower Canada, a Corporation, to be called, *The Corporation of the Pilots for and above the Harbour of Quebec*, which Corporation shall include and consist of all persons licensed as Pilots for and above the Harbour of Quebec, not suspended or deprived of their branches, and contributing to the Montreal Decayed Pilots' Fund; and such Corporation shall, in addition to the powers by Law vested in Corporations, have such others as are hereby assigned to it, subject to the provisions and limitations hereinafter made: Provided always, that the total value of the real estate to be held by the said Corporation shall not at any time exceed five thousand pounds; and the total amount of personal property to be held by it shall not at any time exceed ten thousand pounds, over and above the amount of the Montreal Decayed Pilots' Fund.

Preamble:

Montreal Pilots incorporated.

Proviso: as to amount of property.

II. And be it enacted, That the first meeting of the Members of the said Corporation shall be held on the first day in October next, after the passing of this Act, in the City of Montreal, at the place where the sittings of the Trinity House shall then be held, at the hour of eleven in the forenoon, and at such meeting some member then present shall be chosen as Chairman, and some fit person to act as Secretary at such meeting, and the Members present shall then elect, by ballot and by majority of votes, (including that of the Chairman and the Secretary, if a Member) nine Members to be the Council of the Corporation, until the first day in June then next ensuing, and until their successors shall be elected: Provided always, that at the meeting aforesaid no proceeding shall be had unless or until there be at least nine Members present; and if before two o'clock in the afternoon there shall not be nine Members assembled, the meeting shall then stand adjourned for one week, when a meeting shall be again held, and so on from week to week, until the requisite number of Members shall attend and an election shall be had.

First meeting, when to be held and where.

Election.

Proviso.

III. And be it enacted, That a general meeting of the Members of the Corporation shall be held on the first day of June in each year, at such place in the said City of Montreal as shall then be appointed by the By-laws of the Corporation as the place at which

General meetings of Corporation.

which meetings are to be held ; and at such meeting the President of the Corporation for the preceding year (or in his absence the Vice-President, or if he be absent, some member chosen by the members present at the meeting) shall act as Chairman, and the Secretary of the Corporation for the time being (or in his absence his deputy or some other person) shall act as Secretary ; but if there be not nine members present at such meeting before eleven o'clock in the forenoon, the meeting shall then stand adjourned for one week, when a meeting shall be again held, and so on from week to week until the requisite number of members shall attend and an election shall be had.

Council may adjourn
from time to time.

IV. And be it enacted, That the Council of the said Corporation shall have full power to meet and adjourn from time to time, at and to such place in the City of Montreal as to them shall seem meet, until some further regulation as to the time and place of their meetings shall be made (as it may be from time to time) by the By-laws of the Corporation ; the first meeting being held at such time and place as shall be appointed by any majority of the Council, who shall give notice in writing of such time and place to the other members of the Council, by causing such notice to be served upon such other members at their respective domiciles by some Bailiff of the said Trinity House, at least three days before the time appointed for such first meeting, unless such members shall in writing acknowledge service of such notice ; and at any meeting of the Council, any five members shall be a quorum, and any majority of such quorum may exercise all the powers of the Council : Provided always, that any number of the members of the Council shall have full power to adjourn any meeting thereof, such adjournment being entered on the minutes of the meeting, and not being made within one hour after that which shall have been appointed for the meeting.

Proviso.

Election of President,
Secretary, Treasurer,
&c.

Term of office.

Casting vote.

V. And be it enacted, That at the first or some subsequent meeting of the Council, the members (being a *quorum*) shall elect a member of the Council to be President and another to be Vice-President thereof, and some fit person, not being a member of the Corporation, to be their Secretary and Treasurer ; and the President and Vice-President shall hold their offices until the next annual meeting of the Corporation, and until another Council shall be elected, but if either of them die or cease to be a member of the Corporation before his term of office shall have expired, another may be elected in his stead, the Vice-President being eligible as President : the President shall preside at all meetings of the Council if present, and shall have a casting vote in case of equal division in addition to his vote as member of the Council ; in the absence of the President the Vice-President shall have like functions and powers, or if both be absent, any member of the Council who shall be appointed by the others Chairman for the occasion : the Secretary and Treasurer shall keep the minutes of all proceedings of the Council and of all general meetings of the Corporation, and shall have the custody of the moneys of the Corporation, and may appoint a Deputy, who being approved by the Council, may, in the absence of the Secretary-Treasurer, perform his duties or any of them, which may be assigned to him by his deputation.

Deputy Secretary-
Treasurer.

Council may call ge-
neral meetings.

VI. And be it enacted, That the said Council shall have power to call general meetings of the Corporation, at such time and in such manner as they may think fit, conforming, nevertheless, to any By-law of the Corporation which may be then in force with regard to the mode of calling the same.

Council to make By-
laws for certain pur-
poses.

VII. And be it enacted, That the said Council shall have power to make By-laws for any or all of the following purposes, that is to say : the management, regulation, appropriation and disposal of its affairs, property and business,—the government of the Members thereof as such,—the remuneration of their Secretary-Treasurer, the security he shall give, the duties he shall perform, the manner of performing them, and the authority upon which he shall pay out any moneys of the Corporation,—for imposing penalties, not exceeding in any case five pounds, (and in default of payment, imprisonment for a space of time not exceeding one month) for any one offence, on any Member of the Corporation or the said Secretary-Treasurer for any contravention of any By-law,—and for repealing, amending or modifying any such By-law as aforesaid : Provided always, that no such By-law shall have force or effect except in so far

as it shall not be contrary to the Laws of Lower Canada as modified by this Act, or to any By-law of the Trinity House then in force, nor until it shall have been confirmed by the Trinity House, who may, if they shall think proper, require the said Council to call a general meeting of the Members of the Corporation, for the purpose of obtaining their opinion upon any such By-law, before confirming or refusing to confirm it: and that the said Trinity House shall assign in writing their reasons for refusing to confirm any By-law; and when any By-law shall have been delivered to the Registrar of the said Trinity House for confirmation, then, unless within ten days thereafter, the refusal of the Trinity House to confirm the same and the reasons for such refusal, be delivered to the Secretary-Treasurer of the Corporation hereby constituted, such By-law shall be heard and taken to be confirmed and have force accordingly.

Proviso: By-laws must be confirmed by Trinity House, &c.

VIII. And be it enacted, That all instruments and documents, bearing the Seal of the Corporation and the signature of the President, (or in his absence, of the Vice-President) and of the Secretary-Treasurer, and no other, shall be held to be the acts of the Corporation, or of the Council of the Corporation, as the case may be; and the By-laws and copies thereof shall be attested in like manner, and any copy thereof so attested, shall be deemed authentic and received as evidence of the contents thereof in all courts and places whatsoever, without proof of such seal or signature, unless impeached as false (*en faux*.)

What shall be acts of the Corporation.

IX. And be it enacted, That all penalties incurred under the By-laws aforesaid, shall belong to the said Corporation, for the uses thereof, and may, as may also all sums of money due to the Corporation, be recovered with costs, by civil action before any Court having jurisdiction in civil matters to the amount, on the oath of any one credible witness; and neither in any such action, or in any other to which the Corporation may be a party, shall any Member of the Corporation, or the Secretary-Treasurer be incompetent as a witness.

Application of penalties.

X. And be it enacted, That the meetings of the said Council, and the minutes of the proceedings thereof, shall be open to all Members of the Corporation, and to all Members of the Trinity House aforesaid, any of whom may, at any reasonable time, inspect the said minutes and obtain copies thereof from the Secretary-Treasurer, by paying for the same, attested as aforesaid, at the rate of six pence currency per hundred words, as may also any other party interested therein, upon like terms.

Meetings of Council, &c. open to all members of the Corporation.

XI. And be it enacted, That the Interpretation Act shall apply to this Act; that if the day on which any act or thing is or shall be appointed to be done by this Act, or any By-law made under it, shall be a holy-day, the same shall be done with like effect on the next day thereafter, not being a holy-day; that the words "Trinity House" in this Act shall mean the Corporation of the Trinity House of Montreal, and that all provisions of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to repeal a certain Act and Ordinance therein mentioned, relating to the Trinity House of Montreal, and to amend and consolidate the provisions thereof*, or of any other Act, Law or By-law, which shall be inconsistent with the provisions of this Act, shall be and are hereby repealed.

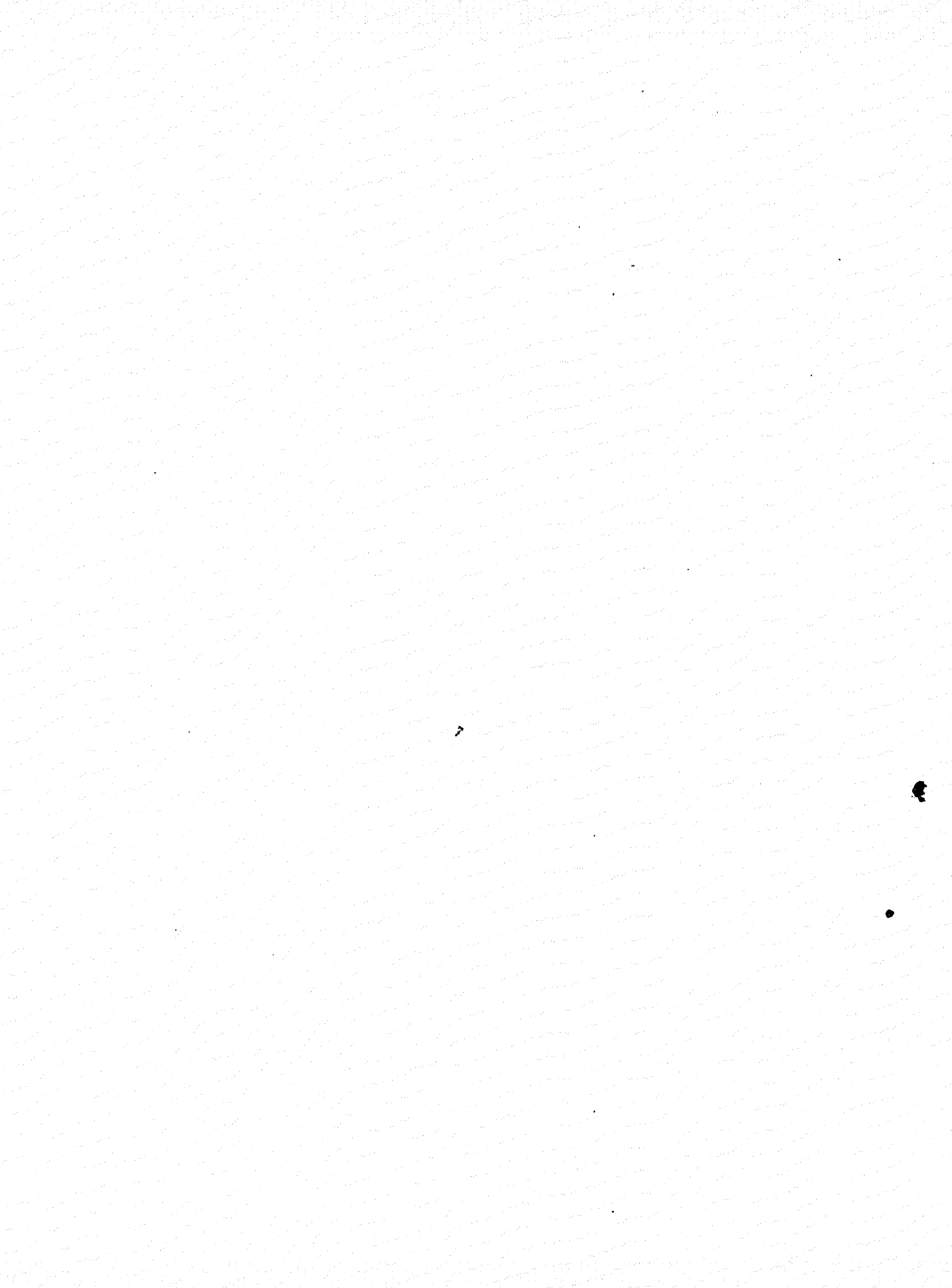
Interpretation Act to apply to this Act.

12 Vict. c. 117, cited.

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

Public Act.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXXIV.

An Act to incorporate the Saint John's Academy.

[10th August, 1850.]

WHEREAS a Petition has been presented to the Legislature of this Province by a certain number of the principal inhabitants of the Village of Saint Johns in the District of Montreal, praying that in order to the well working of a certain Educational Establishment commenced in the said Village, and for the greater advantage of Education in their locality, certain persons should be incorporated under the name of "The Saint John's Academy;" and whereas it is expedient to grant the prayer of the said Petition inasmuch as an Act of Incorporation would in fact be advantageous to the welfare and progress of Education, as well for the said locality in particular as for the Country in general: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Gabriel Marchand, Duncan McDonald, Edward Bourgeois, Thomas Maguire, Senr., Thomas Robert Jobson, Gentlemen and Burgesses, and the Reverend Charles LaRocque, all of the Parish of Saint Jean, and such other persons as shall under the provisions of this Act succeed them in the offices, duties and obligations which they shall perform and hold under this Act, shall be and they are hereby constituted a Body Politic and Corporate, in deed and in name, by the name of the "Saint John's Academy;" and shall, by the same name, from time to time, and at all times hereafter, be able and capable to purchase, acquire, hold, possess, exchange, sell, accept and receive for them and their successors, to and for the uses and purposes of the said Corporation, any lands, tenements and hereditaments situate in this Province, or any constituted rents in money also in this Province not exceeding the value of six hundred pounds currency of net annual revenue or of annual rent; and to sell and alienate the same and acquire others by any title whatsoever for the same purposes; and they shall have full power and authority to make and establish such By-laws, rules and regulations as they shall think proper, for the government of the said Academy, which shall not be altered or repealed otherwise than in such manner and by such number of votes as they shall have decided, in making and establishing the same: and on ordinary questions, any majority whatsoever of the members of the Corporation assembled at a meeting thereof, and assisted by a Secretary who shall be appointed at a Meeting of the Corporation, and who may be chosen from among the members of the Corporation, or out of the Corporation, shall be entitled to pass resolutions and give decisions, adopt plans and measures and put the same into execution in order to promote and advance Education, for which purpose they are constituted a Corporation as aforesaid: Provided always, That nothing in the aforesaid By-laws, rules and regulations, decisions, plans and measures shall be contrary to this Act nor to the laws in force in this Province.

Preamble.

Certain persons incorporated.

Corporate name and powers.

By-laws how to be made.

Rents, &c. appropriated,

II. Provided always, and it enacted, That all the rents, revenues, issues and profits whatsoever of the said Corporation shall be appropriated and exclusively applied to the support of the Academy, the welfare of Education, and to the construction, repairing or renting of buildings necessary for the purposes of the Corporation, and in such manner as the members of the Corporation shall judge best to attain the said purposes, which shall not be other than those of Education.

Appointment of attorneys, &c.

III. And be it enacted, That the members of the said Corporation for the time being, or a majority of them, in such manner as shall be provided by their By-laws, shall have power to appoint such Attorneys or persons as administrators of the property of the Corporation, and such persons as they shall think proper for the purposes of education, and to grant them respectively such salary or remuneration as they shall think proper, and to entrust such persons with the duty of teaching, on such charges and conditions and in such form and under such system as they shall deem preferable; and the members of the Corporation may enter into an agreement with the School Commissioners of their School Municipality, and the said Commissioners may under this Act also enter into an agreement with the said members of the Corporation, so as to unite their efforts and resources in order to place the Elementary Schools in connection or in relation with the Academy, and thus favor Elementary Education.

Corporation may form relation with school commissioners, &c.

Duration of membership.

IV. And be it enacted, That the aforesaid members of the Corporation created under this Act, shall act as such during five years to be computed from the day on which the first Meeting of the members of the Corporation shall take place, which Meeting may be called at any time after the passing of this Act, by any two of the above named members, and at such Meeting the Corporation shall choose a President, appoint a Secretary and may pass By-laws as above mentioned: Provided nevertheless, that any member may, even after performing his functions as such for five years, form part of the said Corporation so long as he may desire; and the said Corporation shall always be composed of six members, and no more; and the members shall, on retiring from office, which they shall in no case do unless they shall have remained in office five years, or in case they shall have permanently left the parish, or in case of their decease, be replaced by others to be elected in such manner as shall be provided for by the By-laws of the said Corporation.

Election of members in place of those retiring.

Public Act.

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

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXXV.

An Act to facilitate the recovery of sums due for Rent of Pews in St. Patrick's Church, Quebec.

[10th August, 1850.]

WHEREAS the Reverend Patrick McMahon, Chaplain of St. Patrick's Church, in the City of Quebec, and other the members of the Committee of Management thereof, have by petition represented that they have been subject to inconvenience and difficulty in enforcing the payment of pew rents, and have prayed that more ample powers be given them in that behalf: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the said Committee of Management to sue for and recover, under the name of *The Saint Patrick's Church*, and without naming the members of the said Committee, or any of them, in all Courts of Justice within this Province, all and every the sum and sums of money now due and owing or payable, or hereafter to become due and owing or payable from any person or persons whomsoever, for the use and occupation of any pew or pews or of any seat or seats in any pew or pews in the said Church, by any such person or persons, by himself or his family, for hearing and attending therein divine service performed in the said Church; or for the rent of any pew or pews or of any seat or seats in any pew in the said Church; any law, usage or custom to the contrary notwithstanding.

Preamble.

How actions may be brought for Pew Rents.

II. And be it enacted, That in any suit or action to be brought under this Act at the instance of the Committee of Management aforesaid in the name of *The Saint Patrick's Church*, it shall not be necessary to set forth or to prove that the same is brought at the instance of the said Committee, or the election or appointment of the Members of the said Committee, or of any of them, but any such suit or action shall always be presumed to be brought by the Committee of Management for the time being, and the said Committee and every member thereof shall, as to such suit or action and every matter and thing thereunto relating, be held to have been duly elected or appointed, unless and until the contrary be expressly alleged and proved.

Certain things need not be alleged and proved in such actions.

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

Public Act.



ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXXVI.

An Act to amend an Act, intituled, *An Act to incorporate 'La Société Saint Jean Baptiste de la Cité de Québec.'*

[24th July, 1850.]

WHEREAS certain Officers and Members of *La Société Saint Jean Baptiste de la Cité de Québec*, have by their petition to the Legislature, represented that owing to the prevalence of Cholera at Quebec during the greater part of the three months next ensuing the date of the Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to incorporate 'La Société Saint Jean Baptiste de la Cité de Québec,'* and other causes, the first meeting for the election of Officers, and of the General Committee of Management of the Corporation, did not take place as required by the third section of the said Act, and have prayed to be relieved from the consequences of the failure of such meeting, and also for certain amendments to the said Act: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada,* and it is hereby enacted by the authority of the same, That the third and seventh sections of the Act hereinbefore first mentioned be, and the same are hereby repealed.

Preamble.

12 V. c. 148.

II. And be it enacted, That the Officers of the said Corporation shall be a President, an Assistant President, six Vice-Presidents, a Treasurer, an Assistant Treasurer, three Sub-Treasurers, a Recording Secretary, an Assistant Secretary, a Marshall, an Assistant Marshall, and six under-Secretaries, with such other Officers as it may become necessary to appoint, and that the affairs of the said Corporation shall be managed by a General Committee of Management, consisting of the above named Officers, and of fifteen associate Members, which said Officers and General Committee of Management, shall be elected annually in conformity with the By-laws of the said Association, and at the periods fixed by the said By-laws, and the Officers and Committee so at any time elected, shall remain in office until others shall be elected to replace them, and the General Meetings for that purpose shall be called by Notices in one or more Newspapers published in the City of Quebec.

What officers the Society shall have.

Committee of management how elected, &c.

III. And be it enacted, That notwithstanding any thing in the said Act hereinbefore first mentioned, no act done in his official capacity, since the expiration of three months after the passing of the said Act, by any person who at the time of the passing of the said Act was an Officer of the Association thereby incorporated, shall be, or be held to be illegal or invalid, but the same shall be, and be held to be as good, valid and effectual, to all intents and purposes, as if the same had been done by an Officer elected at a meeting held within the said period of three months.

Acts of certain officers confirmed.

Certain officers declared to be and to have been officers of the Society.

IV. And be it declared and enacted, That all those who were Officers of the Association incorporated by the said Act at the time of the passing thereof, have ever since continued to be, and now are Officers of the said Corporation, in their several and respective capacities, and shall continue so to be, until others shall be elected in their stead, at a meeting to be held as hereinbefore provided.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXXVII.

An Act to incorporate the Quebec Workmen's Benevolent Society.

[24th July, 1850.]

WHEREAS it is expedient to encourage all associations formed for the purpose of raising by the annual subscriptions of members and otherwise, a fund out of which provision may be made for the relief and support of such members as may be afflicted with sickness, old age or infirmity; And whereas the persons hereinafter named and others, have formed such an Association at the City of Quebec for the said purpose among others, and have prayed that for better effecting the objects of the Association the same may be incorporated, and it is expedient to grant their prayer: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled: *An Act to re-unite the Provinces of Upper and Lower Canada, and for the government of Canada*, and it is hereby enacted by the authority of the same, That Pierre Gauvreau, Alexis Robitaille, Maurice Poulin, Louis Larose, and such other persons as now are members of the Association known as the The Quebec Workmen's Benevolent Society, or as may hereafter, under the provisions of this Act and the By-Laws hereinafter referred to, become members of the Corporation hereby established, shall be and are hereby constituted a body corporate by the name of The Quebec Workmen's Benevolent Society, and by that name shall and may have, hold and exercise all and every the powers by law vested in corporate bodies generally, subject always to the provisions of this Act, and with the addition of such other powers as are hereinafter vested in the Corporation; provided always, that the real property to be held by the said Corporation shall not exceed in value the sum of two thousand pounds, and that the personal property to be held by the Corporation shall not exceed the sum of five hundred pounds.

Preamble.

Certain persons incorporated.
Corporate name and powers.

Proviso.

II. And be it enacted, That the property of the said Association, real or personal, shall be and is hereby transferred to and vested in the Corporation hereby constituted, as shall also all the rights and claims of the said Association for all the liabilities and obligations whereof the said Corporation is hereby made liable, and the individual members of the Association are discharged therefrom.

Property and liability of Association transferred to Corporation.

III. And be it enacted, That the said Corporation shall, within the limits of amount aforesaid, have full power to take by donation, bequest, devise, purchase or other title, any personal property or real property within this Province, and to sell, alienate or otherwise dispose of the same, and to acquire other property instead thereof and for the purposes aforesaid.

Corporation may accept donations, &c.

IV. And be it enacted, That any majority of the members of the said Corporation, present at any meeting thereof held or called in accordance to the By-Laws of the Corporation then in force, shall have full power and authority to make all such By-Laws for the government of the Corporation, the management of its affairs, the admission of new members, the meetings of the Society or of its Managers or Officers, the fixing of the annual or monthly or other contributions to be paid by members, the

By-laws of the Corporation how to be made and for what purposes.

election or appointment of Managers, and a Secretary, Treasurer and other Officers, and defining their powers, and for the guidance and conduct of such managers, and Officers and of the members of the Society, for establishing the conditions on which any person shall remain a member, and for regulating the relief which Members shall receive in sickness, old age, or infirmity, and generally all such By-Laws as may be requisite for the well-working and efficiency of the said Corporation for all lawful purposes for which the said Association was instituted; Provided that such By-Laws shall not bind others than members of the Society, and shall not impose for any contravention a higher penalty than twenty shillings; and that no such By-Laws shall be inconsistent with this Act, the objects of the said Association, or the laws of Lower Canada; and any penalty incurred or sum payable to the Corporation under any such By-Law may be recovered as a debt due to the Corporation in any Court of competent civil jurisdiction; and any such By-Law may be repealed, altered or amended by any subsequent By-Law.

Proviso.

By-laws, &c. of the Association to be those of the Corporation until altered.

V. And be it enacted, That the By-Laws or rules of the Association shall be the By-Laws of the Corporation, in so far as they may not be inconsistent with this Act, until they be respectively repealed or altered by By-Laws under this Act, and the present Managers, (*gérans*) and officers of the Association, shall be the Managers and officers of the Corporation, and have the powers now vested in them, in so far always and no further, as such By-Laws, Rules and powers, may not be inconsistent with this Act or with the Laws of Lower Canada.

By-laws to be subject to confirmation.

VI. Provided always, That no By-Laws of the Corporation, made or to be made hereafter, shall have force or effect after the expiration of three months from the passing of this Act, unless and until they shall have been submitted to the Superior Court at Quebec, at some weekly sitting thereof, and by the said Court approved as consistent with this Act, the purposes of the Corporation and the Laws of Lower Canada.

Public Act.

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

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXXVIII.

An Act to enable Louis Comte to recover a certain amount due to him by the Parish of St. Edouard, in the District of Montreal.

[10th August, 1850.]

WHEREAS Louis Comte, of the City of Montreal, Master Mason and Contractor, did, on the Eleventh day of April, one thousand eight hundred and forty-three, obtain judgment in the Court of Queen's Bench, for the District of Montreal, against Michel Lussier, Augustin Arcouet, Joseph Gauthier dit St. Germain and Vital Coupal, being the only survivors of the Trustees elected and appointed for erecting the Church, Sacristy and Parsonage-House of the Parish of St. Edouard in the District aforesaid, for the sum of Two hundred and twenty-seven pounds twelve shillings and ten pence currency, being the balance due to the said Louis Comte, of the cost of erection of the buildings aforesaid, with interest from the Twenty-eighth day of January, one thousand eight hundred and forty-three, until payment, and costs since taxed at twelve pounds fourteen shillings and six pence currency; And whereas by an instrument made and passed in the said Parish of St. Edouard on the Tenth day of March, one thousand eight hundred and forty, before Mtre. Bisset and his colleague, Notaries, it appears that at a Meeting legally held in the said Parish, as well of the old as of the new Church-Wardens thereof, the said Church-Wardens did, in and by the instrument aforesaid, declare their opinion that the Trustees of the said Parish of St. Edouard should be released from further accountability as such Trustees, and that such accountability should thereafter be transferred to the Fabrique of the said Parish, and the said Trustees did in consequence thereof then and there deliver over their accounts as mentioned in the said last mentioned instrument to the acting Church-Warden of the *Cœuvre et Fabrique* of the said Parish, accepting the same and a party to the instrument aforesaid: And whereas since the said judgment, the said Louis Comte hath not been able to obtain payment of the sums aforesaid and of the costs by him incurred for the recovery thereof, although the said Church, Sacristy and Parsonage House have been for a long time past, that is to say, since the Fabrique of the said Parish was put in possession thereof by the said Trustees, employed for the use and service of the Catholic inhabitants of the said Parish, and are now so employed: And whereas it is expedient to provide means for enabling the said Louis Comte to obtain payment of the sum due to him by virtue of the said Judgment amounting to the sum of Two hundred and forty pounds seven shillings and four pence currency, in principal and costs, with interest as aforesaid on Two hundred and twenty-seven pounds twelve shillings and ten pence currency, to be reckoned from the said Twenty-eighth day of January, one thousand eight hundred and forty-three, until payment: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That as well the old as the new Church-Wardens of the said Parish of St. Edouard, and the Rector (Curé) of the said Parish, and their Successors in Office, (but with full power

Preamble.
Recital.

The Church-Wardens and Curé of St. Edouard appointed Trustees to make a new *répartition* in the said parish,
to

to the Survivor or Survivors of them, or to any one or more of them or of the Survivors of them) are hereby appointed Trustees, for the purpose of proceeding with all possible diligence and despatch, to cause a new Act of Assessment to be made in the said Parish of Saint Edouard for the purpose of levying and collecting from the Roman Catholic Inhabitants of the said Parish, a sum sufficient to pay to the said Louis Comte the said sum of Two hundred and forty pounds seven shillings and four pence, with the interest aforesaid, on the said sum of Two hundred and twenty-seven pounds twelve shillings and ten pence currency, to be reckoned from the said Twenty-eighth day of January, one thousand eight hundred and forty-three, until payment, and that they shall proceed to cause such Act of Assessment to be made in the manner and form prescribed by law with regard to Acts of Assessment for building, rebuilding or repairing of Churches, Parsonage-Houses and Sacristies, in Lower Canada; and they (or any, or any one of them aforesaid) shall, in order to carry this Act into effect, have all the powers vested in Trustees elected for such purposes as aforesaid; but nothing herein contained shall be construed to require that the said Trustees shall obtain any authority to make the said Act of Assessment from the Commissioners for the erection of Parishes and the building of Churches, Parsonage-Houses and Church-Yards, for the District of Montreal; and such Act of Assessment shall be made under the authority of this Act alone, but subject afterwards to the like examination, confirmation and other subsequent proceedings, as other Acts of Assessment for like purposes.

By what law such *répartition* shall be governed, &c.

If the Trustees fail to make such *répartition*, Louis Comte may sue the *Fabrique*, and sell the Church, &c.

II. And be it enacted, That if the said Church-Wardens of the said Parish of Saint Edouard, or the Survivors of them, and the Rector of the said Parish, shall fail to perform the duties assigned to them by this Act, and to pay over to the said Louis Comte the said sum of Two hundred and forty pounds seven shillings and four pence currency, with the interest aforesaid, within one year from the passing of this Act, the said Louis Comte may bring and maintain an action against the *Fabrique* of the said Parish of Saint Edouard, for the time then being, for the recovery of the said sum of Two hundred and forty pounds seven shillings and four pence currency, with the interest aforesaid, on the said sum of Two hundred and twenty-seven pounds twelve shillings and ten pence currency, to be reckoned from the said twenty-eighth day of January, one thousand eight hundred and forty-three, until payment, and that in satisfaction of the judgment to be obtained by him in such action, he may under Writ of Execution, cause to be seized and sold by the Sheriff in the usual manner the Church, Sacristy and Parsonage House of the said Parish, as well as any other immoveables belonging to the said *Fabrique*, in order that, out of the proceeds of such sale, he may be paid the said sum of Two hundred and forty pounds seven shillings and four pence currency, with the interest aforesaid; any law, custom or usage to the contrary notwithstanding.

Public Act.

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

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P. C X X I X .

An Act to empower Municipal Corporations to subscribe for Stock of the Great Western Rail-road Company, or otherwise to aid in completing that undertaking.

[24th July, 1850.]

WHEREAS the Great Western Rail-road Company and the Municipal Corporations of certain localities through which the Company are empowered to make their Rail-road, have prayed that such Corporations and all others who may be so disposed, may be enabled to subscribe for Stock of the said Company, and it is expedient to promote an undertaking so important to the interests of the Province, by granting the prayer of the said Petition : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall be lawful for the Common Council of the City of Hamilton, and for any other Municipal Corporation in this Province, to subscribe for any number of shares in the Capital Stock of the said Great Western Rail-road Company, or to lend any sum of money to the said Company, or to guarantee and 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 the passing hereof : Provided always, that nothing herein contained shall be construed to increase the total amount of the Capital Stock which the said Company is now authorized by law to raise, or the total amount of money which it is now authorized to borrow.

Preamble.

Municipal Corporation may subscribe for shares, or lend money to the Company, &c.

II. And be it enacted, That the Municipal Corporation 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 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 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 bearing or not bearing interest, as such Corporation may think meet.

And may levy moneys for meeting their engagements under this Act.

III. And be it enacted, That any Debenture which any Corporation may, under this Act, issue, indorse or guarantee, shall be valid and binding upon such Corporation, if signed and indorsed or countersigned by such officer or person, and in such manner and form as shall be directed by any By-law 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-law as aforesaid.

How debentures, &c. may be executed.

IV. And be it enacted, That it shall not be lawful for any Municipal Corporation to subscribe for stock as aforesaid or incur any debt or liability under this Act unless and

No liability to be incurred except under By-law passed with

until

the consent of a majority of the electors.

until a By-law to that effect shall have been duly made and adopted with the consent first had and obtained of a majority of the qualified Electors of the Municipality present at a meeting called for that purpose by the Mayor, Warden or Town Reeve at the request of any ten such Electors, by public advertisement containing a copy of such proposed By-law, inserted at least four times in each Newspaper printed within the limits of the Municipality, or if no newspaper be printed therein, then in some one or more newspapers printed in the immediate vicinity thereof and circulated therein.

The head of a Corporation subscribing £25,000 to be a Director.

V. And be it enacted, That the Warden, Mayor or Town Reeve, being the head of any Municipal Corporation, subscribing for and holding shares in the stock of the said Company to the amount of twenty-five thousand pounds or upwards, shall be *ex officio* one of the Directors of the said Company in addition to the number of Directors now authorized by law, and shall have the same rights, powers and duties as any of the other Directors of the said Company.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXXX.

An Act to empower the Great Western Rail-road Company to make a Branch Rail-road to the Town of Galt.

[10th August, 1850.]

WHEREAS the Townreeve of the Town of Galt, in the County of Halton, has petitioned the Legislature that the Great Western Rail-road Company may be empowered to construct a Branch Rail-road from their main line to the said Town, and the said Great Western Rail-road Company have, by petition, expressed their readiness to construct such Branch, and have prayed to be empowered to construct the same, and it is expedient to grant the prayer of the said Petitions: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said Great Western Rail-road Company shall have full power to construct and make, and to work and use a Branch Rail-road from such point on the main line of the Rail-road they are now empowered to construct, as may be found most suitable, to the said Town of Galt; and that all the privileges, powers and rights vested in the said Company with regard to the Rail-road they are now empowered to construct, and all the duties and obligations imposed upon them with regard to the same, by the Act incorporating the said Company and the Acts amending the same, and all the provisions of the said Acts which are susceptible of such extension, shall extend and are hereby extended to and with regard to the said Branch Road, as fully and effectually as to the Rail-road the said Company are now empowered to construct, to all intents and purposes, and the said Acts shall be construed and have effect as if the said Branch Rail-road had been mentioned and described in the said Act of Incorporation as part of the Rail-road and Works which the said Company were thereby empowered to construct.

Preamble.

The Company empowered to construct a Branch from their main Road to Galt.

II. And be it enacted, That nothing in the Charter of the said Great Western Rail-road Company, or in any Act of Parliament affecting the same, enacted or continued, shall be construed to prevent the said Company from crossing any Navigable Rivers or Waters with the said Rail-road, upon duly providing against any unnecessary obstruction of the navigation thereof.

Company may carry their Road across navigable Rivers.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P . C X X X I .

An Act to amend the Act intituled, *An Act to incorporate the Toronto, Simcoe, and Lake Huron Union Rail-road Company.*

[10th August, 1850.]

WHEREAS the Corporation now known as the *Toronto, Simcoe, and Huron Rail-road Union Company*, have, by their petition, prayed that their Act of Incorporation may be amended in the manner hereinafter mentioned, and it is expedient to grant their prayer: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing in the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to incorporate the Toronto, Simcoe, and Lake Huron Union Rail-road Company*, the name of the Corporation created by that Act shall henceforth be the *Ontario, Simcoe, and Huron Rail-road Union Company*, and not the "Toronto, Simcoe, and Huron Rail-road Union Company," as in the said Act mentioned; and the road to be made by the said Company shall hereafter be called the "Ontario, Simcoe and Huron Union Rail-road," and not the "Toronto, Simcoe and Huron Union Rail-road," as in the said Act mentioned; Provided always, that nothing herein contained shall be construed to make the said Corporation a new Corporation, or to make void or impair the effect of any proceeding, deed, instrument or writing, in which the Directors of the Company, or the said Corporation, shall be designated by the name assigned in the said Act, but such proceeding, deed, instrument or writing, shall and may hereafter be continued, construed, and have effect, as if the name hereby assigned to the said Corporation or Rail-road had been assigned to it by the said Act, and were inserted in such proceeding, deed, instrument or writing, instead of the name therein used.

Preamble.

Name of Company and Road altered, by substituting "Ontario" for "Toronto."

12 V. c. 196, cited.

Proviso.

II. And be it enacted, That for and notwithstanding any thing in the said Act, the Directors therein appointed, and their successors, shall have full power and authority to make and complete the said Rail-road, from any point on Lake Ontario, West of the Township of Darlington, in the County of York, to any point on the Southerly shore of Lake Huron, and touching at the Town of Barrie, or at some point on the shore of Lake Simcoe; and the said Act shall be construed and have effect as if the limits hereby assigned as those within which the said Rail-road is to be constructed, had been inserted in, and assigned by, the said Act for that purpose, instead of those mentioned in the said Act.

Within what limits the Rail-road may be made.

III. And be it enacted, That in every case in which power is given by the said Act to the Directors, or to any majority of the Directors of the said Company, to do any act or thing, such act or thing may be validly done by any five of the said Directors, or by any majority of the Directors at any meeting at which five or more Directors shall be present.

Five Directors to be a quorum.



ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXXXII.

An Act for the incorporation of a Company to construct a Rail-road between Bytown and Prescott.

[10th August, 1850.]

WHEREAS the construction of a Rail-way from some point on the River Ottawa at or near the Town of Bytown in the County of Carleton, to some point on the River Saint Lawrence, at or near the Town of Prescott in the County of Grenville, would greatly contribute to the facility of intercourse between those parts of this Province lying upon the said Rivers, and to the advancement and prosperity of the country lying upon the said Rivers and along the line of the said Rail-road, and of this Province generally : And whereas the several persons hereinafter named are desirous to make and maintain the said Rail-road : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Nicholas Sparks, Charles Sparrow, Lyman Perkins, Joseph Aumond, James Brough, Edward McGillivray, William H. Thompson, Peter A. Egilson, Peter R. Riel, Thomas Corcoran, Donald McArthur, Andrew Main, George Patterson, Workman and Griffin, John Durie, John Forgie, George W. Baker, Augustus Keefer, Agar Yielding, John Wade, Richard W. Scott, Robert Lees, John L. Campbell, Edward Masse, William Tormey, Joseph B. Turgeon, John Bedard, John Mackinnon, Richard Stethem, George R. Johnston, George Byron Lyon, John Scott, Samuel Crane, Alfred Hooker, Chauncey H. Peck, William Patrick, Justus S. Merwin, William B. Wells and Read Burritt, 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 Rail-way hereby authorized to be made and other works and property hereinafter mentioned, and their several and respective heirs, executors, administrators, curators and assigns, being proprietors of any such share or shares, are and shall be, and be united into a Company for carrying on, making, completing and maintaining the said intended Rail-way and other works, according to the rules, orders and directions hereinafter expressed, and shall for that purpose be one body politic and corporate by the name of *The Bytown and Prescott Rail-way Company*, and by that name shall have perpetual succession and shall have a common seal, and other the usual powers and rights of bodies corporate not inconsistent with this Act, and by that name shall and may sue and be sued, and also shall and may have power and authority to purchase and hold lands (which word shall throughout this Act be understood to include the land and all that is upon or below the surface thereof, and all the real rights and appurtenances thereunto belonging,) for them and their successors and assigns, for the use of the said Rail-way and works, and also to alienate and convey any of the said lands, purchased for the purposes aforesaid, and any person or persons, bodies politic or corporate, or communities may give, grant, bargain, sell or convey to the said Company any lands for the purposes aforesaid, and the same may repurchase of the said Company ;

Preamble.

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

Corporate name.

Word ' Lands ' how understood in this Act.

Rail-way may be made on any plan.

Location of the Rail-way.

Company may set out and survey lands necessary for their works, &c.

And get and place materials.

Erecting buildings, machinery, &c.

Bridges and other works necessary for the Rail-way, &c.

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

Company; and the said Company shall be and are hereby authorized and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Rail-way or Rail-ways, to be called *The Bytown and Prescott Rail-way*, with one or more setts of Rails or Tracks, and to be worked by Locomotive engines, or on the atmospheric principle, or in such other mode as the said Company may deem expedient, from some place or places on the River Ottawa, at or near Bytown, to some place or places on the River Saint Lawrence, at or near Prescott, and in as direct a line as may be found convenient; and to erect wharves, warehouses, stores and other buildings at either and each termination, and at such other places on the line of the said Rail-way or Rail-ways as they may deem expedient; and to build or purchase, hold and use one or more steamboats or other vessels to ply on the waters of the said River Ottawa and Saint Lawrence, to any place not more than twelve miles distant from either of the said termini.

II. And be it enacted, That for the purposes aforesaid, the said Company, their deputies, servants, agents and workmen, are hereby authorized and empowered to enter into and upon any lands and grounds of the Queen's Most Excellent Majesty, not hereinafter excepted, without leave or license first had and obtained from Her Majesty, or of any person or persons, bodies politic or corporate or collegiate, or communities or parties whatsoever, and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said intended Rail-way 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 Rail-way and other works, and also to bore, dig, cut, trench, get, remove, take, carry way, 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 Rail-way 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 completing, extending or maintaining the same respectively, according to the intent and purpose of this Act; and to make, build, erect and set up, in or upon the said intended Rail-way, or upon their lands adjoining or near the same respectively, such and so many houses, warehouses, toll-houses, watch-houses, telegraphs or other signals, weighing-beams, cranes, fire-engines, steam-engines, or other engines, either stationary or locomotive, inclined planes, machines and other works, ways, roads and conveniences, as and when the said Company shall think requisite and convenient for the purposes of the said Rail-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 and other works upon and across any rivers or brooks, or Rail-ways or Canals, for the making, using, maintaining and repairing the said intended Rail-way; and to turn any such brook, river or water course, and to change its course; and to construct, erect, make and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing, and easy using of the said intended Rail-way and other works, in pursuance of and according to the true intent and meaning of this Act; they, the said Company, doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned to the owners or proprietors, or the persons interested in the lands, tenements or hereditaments, water-courses, brooks or rivers respectively, which shall be taken, used, removed, prejudiced, or of which the course shall be altered, or for all damages to be by them sustained in or by the execution of all or any of the powers given by this Act; and this Act shall be sufficient to indemnify the said Company and their servants, agents or workmen, and all other persons whatsoever for what

what

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.

III. Provided always, and be it enacted, That the said Company shall not carry the said Rail-way along any street or existing highway, but merely cross the same in the line of the said Rail-way, except upon leave obtained from the proper Municipal authority of some County or Town; and before they shall in any way obstruct such street or highway with their works, they shall turn the said highway or street at their own charges so as to leave an open and good passage for carriages, free from obstruction, and when their works are completed, they shall replace the said highway or street, under a penalty of five pounds for any contravention; but in either case the rail itself, provided it does not rise above or sink below the surface of the road more than one inch, shall not be deemed an obstruction.

How the Rail-way shall be carried across roads.

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

Company to take surveys and levels, and make a map or plan.

Plan and book of reference to be made and deposited.

V. Provided always, and be it enacted, That where the said Rail-way shall cross any highway (which word shall in this Act include all public roads, streets, lanes and other public ways or communications), without being carried either over the same by a bridge or under the same by a tunnell, neither the rail nor any other part of the Rail-way 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 Rail-way may be carried across any highway or above any highway within the limits aforesaid.

Provision when the Rail-road crosses or is carried along any highway.

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

Height of bridges 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 the Rail-way, the ascent of every such bridge for the purpose of every such highway shall not be more than one foot in twenty feet increase over the natural ascent of the highway; and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the surface of such bridge.

And of bridges 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 Rail-way shall cross any highway on a level, erect and keep up a sign-board stretching across the highway at such height as to leave sixteen feet from the highway to the lower edge of the sign-board, and having the words "RAIL-WAY CROSSING" painted on each side of such sign-board, and in letters not less than

Precautions when the Rail-way crosses a highway on a level.

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

Company not to deviate more than two miles from the line in their map.

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

Exception.

As to errors in the book of reference.

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

Lands taken not to exceed 30 yards in breadth.

Exceptions.

Stations for machinery, &c.

XI. And be it enacted, That the lands or grounds to be taken or used for such intended Rail-way, 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 Rail-way shall be raised more than five feet higher, or cut more than five feet deeper than the present surface of the land, or in such places where it shall be judged necessary to have off-sets for the locomotives or other engines and carriages using the said intended Rail-way to be or pass each other (and not above one hundred yards in breadth in any such place), or where any houses, warehouses, wharves, toll-houses, watch-houses, weighing-beams, cranes, fixed engines or inclined planes, may be intended to be erected, or goods, wares or 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 shewn shall not prevent the Company from taking such extra breadth provided it be taken upon the line shewn or within the distance aforesaid from such line: Provided always, that no land shall be taken by the said Company from any public highway, (except only as hereinbefore provided), but their right shall be limited to the laying down across the same, that is in the line of the said Rail-way at whatever angle it may intersect such highway, the rails and other contrivances forming part of the said Rail-way, subject to the limitations mentioned in the third and fifth Sections or any other part of this Act; nor shall any land or property vested in Her Majesty, or in any part in trust for Her Majesty, except under the next following section, be taken by the said Company without the consent of Her Majesty or of the party in whom the same shall be vested in trust.

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

Company may use 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 of the land covered with the waters of the Rivers Ottawa and St. Lawrence (not exceeding the quantity limited in the next preceding section), as may be required for the Rail-way and other works which they are hereby authorized to construct, doing no damage to nor causing any obstruction in the navigation of the said rivers.

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

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 Rail-way 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,

sole, communities, tenants in tail or for life, guardians, curators, executors, administrators, and all other trustees or persons whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons or parties who are or shall be seized, possessed of or interested in any lands or grounds which shall be so set out and ascertained as aforesaid, or any part thereof, to contract for, sell and convey unto the said Company, all or any part of such lands or grounds which shall under this Act be set out and ascertained as aforesaid; and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law to all intents and purposes whatsoever; any law, 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 Rail-way and works shall be set out and ascertained, it shall be lawful for any party who might under this Act convey any lands to the said Company, if the same were so set out and ascertained, to agree with the Company for the price to be paid for such lands if they shall be thereafter so set out and ascertained; and such agreement shall be binding, and the price agreed upon shall be the price to be paid by the Company for the same lands, if they shall be afterwards so set out and ascertained, within one year from the date of such agreement, and although such land may in the mean-time have become the property of a third party; and possession of the same may be taken and the agreement and the price may be dealt with, as if such price had been fixed by an award of arbitrators as hereinafter mentioned, and the agreement shall be in the place of an award.

Proviso.
Parties who may convey lands may agree for the price to be paid for them if required.

XIV. Provided always, and be it enacted, That any body politic, community, corporation or other like party who cannot in common course of law sell or alienate any lands or grounds so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands or grounds so set out and ascertained as necessary for making the said Rail-way, and other the purposes and conveniences relative thereto and connected therewith; and in case the amount of such rent shall not be fixed by voluntary agreement or compromise, it shall be fixed in the manner hereinafter prescribed, and all proceedings shall in that case be regulated as hereinafter prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid by the said Company for the purchase of any lands, or for any part of the purchase money of any lands, which the vendor shall agree to leave in the hands of the said Company, the said Rail-way and the Tolls to be levied and collected thereon shall be, and are hereby made liable and chargeable, in preference to all other claims and demands thereon whatsoever, the deed creating such charge and liability being duly registered in the Registry Office of the proper County.

Where no power is vested in any body corporate or other party, to sell.

Privilege for securing rent or purchase money.

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

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

XVI. And be it enacted, That so soon as the said Map or Plan and Book of Reference shall have been deposited as aforesaid, and notice of their being so deposited shall have been given during at least one calendar month in at least one newspaper published in each of the Counties through which the said Rail-way is intended to pass, it shall be

The Company to apply to the owners of the lands through which the Rail-way is to be carried.

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

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

Legal effect of map and book of reference.

Notice to opposite party.

Offer.

Name of arbitrator.

Certificate of a surveyor.

If the party be absent or unknown.

Party not accepting nor appointing an arbitrator.

Opposite party appointing an arbitrator.

Third arbitrator.

Duties of arbitrators.

Proviso,

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 Rail-way and works.

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

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

If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party shall not notify to the Company that he accepts the sum offered by the said Company, or notify to them the name of a person whom he appoints as Arbitrator, then such County Judge as aforesaid shall, on the application of the said Company, appoint some sworn Surveyor for Upper Canada, to be sole Arbitrator for determining the compensation to be paid by the Company.

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

The said Arbitrators, or any two of them, or the sole Arbitrator, being sworn before some Justice of the Peace for the County in which the lands lie as aforesaid, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation to be paid by the Company, in such way as they or he, or a majority of them, shall deem best, and the award of such Arbitrators, or of any two of them, or of the sole Arbitrator, shall be final and conclusive: Provided that no such award shall be

made,

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.

Award not to be made except at proper meetings.

Provided always, if in any case where three Arbitrators shall have been appointed, the sum awarded be not greater than that offered by the Company, the costs of the arbitration shall be borne by the opposite party, and deducted from the compensation, otherwise they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the County Judge aforesaid.

Costs how paid.

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.

Arbitrators may examine witnesses on oath.

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

Time within which award must be made.

Time may be prolonged.

If the party appointed by such Judge as third Arbitrator or sole Arbitrator shall die before the award be made, or shall be disqualified, or refuse or fail to act, within a reasonable time, then upon the application of either party, the County Judge being satisfied by affidavit or otherwise of such disqualification, refusal or failure, may, in his discretion, appoint another in his stead; and if the Arbitrator appointed by the said Company, or by the opposite party, shall die before the award shall be made, or shall leave the Province, or become unable to act within a reasonable time, (such fact being ascertained to the satisfaction of the Judge as attested by his Certificate to that effect,) the said Company or the opposite party (as the case may be) may appoint another in his stead, notifying the other Arbitrators of such appointment; but no recommencement or repetition of prior proceedings shall be required in any case.

Arbitrator dying, &c.

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

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 the County Judge after his appointment, but shall be made before the same, and its validity or invalidity shall be summarily determined by such Judge; and no cause of disqualification shall be urged against any Arbitrator appointed by the Company, or by the opposite party, after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator, before the appointment of a third Arbitrator, shall be summarily determined by any Justice of the said Court on the application of either party, after one clear day's notice to the other, and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified shall be held to have appointed no Arbitrator.

Arbitrators not disqualified by certain circumstances.

Cause of disqualification when to be urged.

How tried and determined.

Awards not 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 or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the party or parties to whom the sum is to be paid be named in the award.

Possession may be
taken on payment or
tender, &c.

XVII. And be it enacted, That upon payment or legal tender of the compensation or annual rent so awarded, agreed upon or determined as aforesaid to the party entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the said Company the power forthwith to take possession of the lands or to exercise the right or to do the thing for which such compensation or annual rent shall have been awarded or agreed upon: and if any resistance or forcible opposition shall be made by any person or party to their so doing, the County Judge may, on proof to his satisfaction of such award or agreement, issue his Warrant to the Sheriff of the County, or to any Bailiff (as in his discretion may be most suitable), to put the said Company in possession, and to put down such resistance or opposition, which such Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do: Provided also, that such warrant may also be granted by any such Judge without such award or agreement, on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the said Rail-way or works with which the said Company are ready forthwith to proceed, and upon the said Company giving security to his satisfaction and in a sum which shall not be less than double the amount mentioned in the notice, to pay or deposit the compensation to be awarded within one month after the making of the award, with interest from the time possession shall be given and with such costs as may be lawfully payable by the Company.

Warrant of possession
in case of resistance.

Proviso.

As to incumbrances
or claims to or upon
lands.

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 lands, and any claim to, or incumbrance upon the said land, or any portion thereof, shall, as against the said Company, be converted into a claim to the said compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party: Provided always, that if the said Company shall have reason to fear any such claims or incumbrances, or if any party to whom the compensation or annual rent or any part thereof, shall refuse to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the office of the Court of Queen's Bench or of Common Pleas for Upper Canada, with the interest thereon for six months, and to deliver to the Clerk of the said Court an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the said Company to the land therein mentioned, and notice in such form and for such time as the said Court shall appoint shall be inserted in some newspaper published in the County of Carleton or in the County of Grenville, and in the Towns of Bytown and Prescott, and such notice shall state that the title of the Company, (that is the conveyance, agreement or award,) is under this Act, and shall call upon all persons entitled to, or to any part of the land, or representing, or being the husbands of any parties so entitled, to file their claims to the compensation or any part thereof, and all such claims shall be received and adjudged upon by the Court, and the said proceedings shall for ever bar all claims to the lands, or any part thereof, (including dower,) as well as all mortgages or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation,

Compensation to
stand in the place of
the land.

Proviso.
Proceedings if the
Company fear incum-
brances or claims.

Costs and interest
how paid, &c.

compensation, and for the securing of the rights of all parties interested, as to right and justice, according to the provisions of this Act and to law, shall appertain; and the costs of the said proceedings, or any part thereof, shall be paid by the said Company, or by any other party, as the Court shall deem it equitable to order; and if such order of distribution as aforesaid be obtained in less than six months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the Company, and if from any error, fault or neglect of the Company it shall not be obtained until after the six months are expired, the Court shall order the Company to pay to the proper claimants the interest for such further period as may be right.

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.

XX. And be it enacted, That all suits for indemnity for any damage or injury sustained by reason of the powers and authority given by this Act shall be made within six calendar months next after the time of such supposed damage sustained, or in case there shall be a continuation of damage, then within six calendar months next after the doing or 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.

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 Rail-way, 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.

XXII. And be it enacted, That if any person or persons shall wilfully and maliciously, and to the prejudice of the said Rail-way authorized to be made by this Act, break, throw 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 Rail-way, vessels or works, or shall obstruct, hinder or prevent the carrying on, completing, supporting and maintaining the said intended Rail-way, 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 this Province.

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 Rail-way and all such other works, matters and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Rail-way and other works: Provided always, that the before mentioned Nicholas Sparks, Charles Sparrow, Lyman Perkins, Joseph Aumond, James Brough, Edward McGillivray, William H. Thompson, Peter A. Eglison, Peter R.

Reil,

As to lands touching which this Act shall not have been complied with.

Period limited for applications for indemnity.

General issue.

Penalty for obstructing the use of the Rail-road.

Punishment for breaking down or obstructing or damaging the Rail-road.

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

Proviso.
Books of subscription to be opened.

Reil, Thomas Corcoran, Donald McArthur, Andrew Main, George Patterson, Workman and Griffin, John Durie, John Forgie, George W. Baker, Augustus Keefer, Agar Yielding, John Wade, Richard W. Scott, Robert Lees, John L. Campbell, Edward Mâsse, William Tormey, Joseph B. Turgeon, John Bedard, John Mackinnon, Richard Stethem, George R. Johnston, George Byron Lyon, John Scott, Samuel Crane, Alfred Hooker, Chauncey H. Peck, William Patrick, Justus S. Merwin, William B. Wells and Read Burritt, (being a Provisional Committee hereby appointed for that purpose) or a majority of them, shall cause books of subscription to be opened at Bytown, and at such place therein as they shall from time to time appoint, and at such other places either in or out of this Province as may be deemed expedient, until the first meeting of Shareholders hereinafter provided for, for receiving the signatures of persons willing to become subscribers to the said undertaking, and for this purpose they shall give public notice in some newspapers published in Prescott and Bytown, and at such other places as may be deemed proper, 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 and fifty thousand pounds, currency, of this Province, in the whole, except as hereinafter mentioned, and that the same be divided into such numbers of shares as hereinafter directed, at a price of ten pounds, currency aforesaid, per share.

Proviso.
Capital limited and
divided into shares.

The sum to be raised
to be divided into
shares.

To be personal pro-
perty and transferable.

Rights of Share-
holders to profits, &c.

Their liabilities.

If this sum be not
sufficient, the Com-
pany may raise a
further sum.

XXIV. And be it enacted, That the said sum of one hundred and fifty thousand pounds, currency, or such part thereof as shall be raised by the several persons hereinbefore named, and by such other person or persons who shall or may at any time become a subscriber or subscribers to the said Rail-way, shall be divided and distinguished into fifteen thousand equal parts or shares at a price not exceeding ten pounds currency aforesaid, per share; and that the said fifteen thousand shares be deemed personal estate, and shall be transferable as such; and that the said shares shall be and are hereby vested in the 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 successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of ten pounds, or such sum or sums as shall be demanded in lieu thereof, towards carrying on and completing the said Rail-way, shall be entitled to and receive, after the said Rail-way shall be completed, the entire and net distribution of the profits and advantages that shall and may arise and accrue by virtue of the sum and 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 of one fifteen thousandth part in the said undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional sum of money towards carrying on the said undertaking in manner by this Act directed and appointed.

XXV. And be it enacted, That in case the said sum of one 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 Rail-way and other works or conveniencies incidental or relative thereto, or hereby authorized, not exceeding the sum of one hundred thousand pounds currency, aforesaid; and every subscriber

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 one hundred and fifty thousand pounds; any thing herein contained to the contrary notwithstanding.

XXVI. And be it enacted, That the said Company may from time to time lawfully borrow either in this Province or elsewhere such sum or sums of money, 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.

Company may borrow money.

And grant hypothec on their property.

XXVII. And be it enacted, That the number of votes to which each Shareholder in the said undertaking shall be entitled on every occasion when in conformity to the provisions of this Act the votes of the Members of the said Company are to be given, shall be in the proportion to the number of shares held by him; and all Shareholders, whether resident in this Province or elsewhere, may vote by proxy, if he, she or they shall see fit, provided that such proxy do produce from his constituent or constituents, an appointment in writing, in the words or to the effect following, that is to say:

Votes to be according to number of shares.

Proprietors may vote by proxy.

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

Form of appointment of proxy.

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

Questions to be decided by majority of votes.

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

Non-liability of Shareholders.

XXIX. And be it enacted, That the first General Meeting of the Shareholders for putting this Act in execution, may be held at Bytown whenever two thousand and five hundred shares in the said undertaking shall have been subscribed for, provided that public notice thereof be given during one week in some newspaper or newspapers published in the County of Carleton or in the County of Grenville, and signed by subscribers to the said undertaking holding among them at least two hundred shares; and at such said General Meeting the Shareholders assembled, with such proxies as shall be present, shall choose thirteen persons, being each a Proprietor of not less than

The first general meeting to be held in Bytown.

To elect a board of thirteen Directors.

twenty

twenty shares in the said undertaking, to be Directors of the said Company, in such manner as is hereinafter directed, and shall also proceed to pass such Rules and Regulations and By-laws as shall seem to them fit, provided they be not inconsistent with this Act.

Board of Directors to be elected yearly.

XXX. And be it enacted, That the Directors first appointed (or those appointed in their stead in case of vacancy) shall remain in office until the election of Directors in the month of May next ensuing, and that in the month of May in the said year, and each year thereafter, and on such day of the month as shall be appointed by any By-law, an Annual General Meeting of the said Shareholders shall be held at the Office of the Company for the time being, to choose Directors in the room of those whose office may at that time become vacant, and generally to transact the business of the Company: Provided always, that it shall and may be lawful for the said Directors in case of the death, absence, resignation or removal of any person elected a Director to manage the affairs of the said Company in manner aforesaid, to appoint another or others in the room or stead of those of the Directors who may die, or be absent, resign, or be removed as aforesaid; any thing in this Act to the contrary notwithstanding; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors.

Proviso.
Vacancies how filled.

Directors to elect a President;

XXXI. And be it enacted, That the Directors shall, at their first (or at some other) Meeting after the day appointed for the Annual General Meeting in each year, elect one of their Members to be 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.

Seven Directors to be a quorum.

XXXII. And be it enacted, That any Meeting of the said Directors, at which not less than seven Directors shall be present, shall be a *quorum*, and shall be competent to use and exercise all and any of the powers hereby vested in the said Directors: Provided always, that no one Director, though he may be a proprietor of many shares, shall have more than one vote at any meeting of the Directors, except the President or Vice-President when acting as Chairman, or any temporary Chairman, who, in case of the absence of the President and Vice-President, may be chosen by the Directors present, either of whom when presiding at a meeting 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 Meetings of the said Shareholders as aforesaid, and shall pay due obedience to all By-laws of the Company, and to such orders and directions in and about the premises, as they shall from time to time receive from the said Shareholders at such Annual or Special Meetings; such orders and directions not being contrary to any express directions or provisions in this Act contained: and provided also, that the act of any majority of a *quorum* of the Directors present at any meeting regularly held, shall be deemed the act of the Directors.

Proviso.

Casting vote.

Proviso:
Directors subjected to the control of meetings.

Proviso.

No officer or contractor to be a Director.

XXXIII. 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.

XXXIV. 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, or Receiver or Receivers, and other Officer and Officers to be by the said Directors appointed, or by any other person or persons whatsoever, employed by, or concerned for or under them in and about the said undertaking; and to that end the said Auditors shall have power to adjourn themselves over from time to time, and from place to place, as shall be thought convenient by them; and the said Directors chosen under the authority of this Act, shall have power from time to time to make such call or calls of money from

Directors may make calls.

the

the Shareholders to defray the expense of or to carry on the Rail-way and other works, as they from time to time shall find wanting and necessary for these purposes: Provided, however, that no call do exceed the sum of one pound and five shillings current money of this Province for every share of ten 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 authorize any person to affix the common seal of the Company to any act, deed, by-laws, notice or other document whatsoever; and any such act, deed, by-laws, notice or other document, bearing the common seal of the Company, and signed by the President, Vice-President, or any Director, or by order of the Directors, shall be deemed the act of the Directors and of the Company, nor shall the authority of the signer of any document purporting to be so signed and sealed, to sign the same and affix the said seal thereto, be liable to be called in question by any party except the Company; and the Directors shall have such other and further powers as, being vested in the Company by this Act, shall be conferred upon the said Directors by the By-laws of the Company.

Proviso.

Calls how to be made.

Other powers of the Directors.

XXXV. 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 three weeks' notice at least shall be given in one newspaper as aforesaid, or in such other manner as the said Shareholders shall by any By-law direct or appoint; and if any person or persons shall neglect or refuse to pay his, her or their rateable or proportionable part or share of the said money, to be called for as aforesaid, at the time and place so appointed, he, she or they neglecting or refusing shall forfeit a sum not exceeding the rate of ten pounds for every hundred pounds of his, her or their respective share or shares in the said undertaking: and in case such person or persons shall neglect to pay his, her or their rateable calls as aforesaid for the space of two calendar months after the time appointed for the payment thereof as aforesaid, then he, she or they shall forfeit his, her or their respective share and shares in the said undertaking, and all the profit and benefit thereof; all which forfeiture shall go to the rest of the Shareholders of the said undertaking, their successors and assigns, for the benefit of the said Shareholders, in proportion to their respective interests; and in every case, such calls shall be payable with interest from the time the same shall be appointed to be paid until the payment thereof: Provided always, that it shall be lawful for the said Company to sue for and recover the amount of any such call or calls, and interest, from any subscriber of stock, or his Assignee, at the option of the Company, or the personal representatives of any Shareholder, neglecting to pay the same when due; and in any such action it shall be sufficient to state in the declaration that the defendant is a Shareholder of a certain number of shares in the stock of the said Company, or the personal representative of such Shareholder therein; that certain call or calls have been made, and that the defendant is indebted to the Company in the sum remaining due and unpaid on such calls and interest thereon, without alleging the election of the Directors, or any other special matter, or naming the Directors or any of them: and to maintain such action it shall be sufficient to prove by any one witness, whether in the service of the Company or not, that the Defendant subscribed for or accepted the transfer of so many shares of the stock of the Company, or is the personal representative of some person who subscribed for or accepted the transfer thereof, and that the calls were duly made, and that a certain sum remains unpaid thereon.

Shareholders bound to pay calls.

Penalty for neglect.

Forfeiture for not paying calls.

XXXVI. 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

Forfeiture to be declared at some general meeting.

assembled after such forfeiture shall be incurred; and every such forfeiture shall be an indemnification to and for every Shareholder so forfeiting against all action and actions, suits or prosecutions whatever, to be commenced or prosecuted for any breach of contract or other agreement between such Shareholder and the other Shareholders with regard to carrying on the said Rail-way or undertaking.

Company may remove Directors; and elect others.

XXXVII. 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 Rail-way 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 Rail-way and other works, or transporting any goods, wares, merchandize or other commodities thereon; and by such By-laws to impose and inflict such fines or forfeitures upon the persons guilty of a breach of such By-laws or Orders as to such General Meeting shall seem meet, not exceeding the sum of 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 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 all and every of the places where tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same; and the said By-laws and Orders so made and published as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same, and any copy of the said By-laws, or any of them, certified as correct by the President, or some person authorized by the Directors to give such certificate, and bearing the common seal of the Company, shall be deemed authentic, and shall be received as evidence of such By-laws in any Court without further proof.

And so of officers.
By-laws.

Penalties under By-laws limited.

By-laws to be in writing and published.

Certified copies to be evidence.

Municipalities may subscribe for stock.

XXXVIII. And be it enacted, That it shall be lawful for the Municipal Corporation of any County, City, Town, Incorporated Village or Township through or within or in the immediate vicinity of which the said Rail-way shall pass, to subscribe for Stock of the said Company; Provided a majority of the assessed inhabitants of the Municipality shall have first given their assent to such subscription and to the sum to be subscribed for at a meeting to be called by the Head of such Municipal Corporation, due notice of which shall be given in such manner as the said Corporation shall direct; and the sums required to pay the amount so subscribed, may be raised in any manner in which money may be raised for paying any lawful debt of the Corporation.

Proprietors may dispose of their shares, and how.

Transfer to be notified to the Company.

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

or purchasers shall have no part or share of the profits of the said undertaking, nor any interest for the said share or shares, paid unto him, her or them, nor any vote as a Proprietor or Proprietors.

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

"I, A. B. in consideration of the sum of _____ paid to me by C. D. of _____ do hereby bargain, sell and transfer to the said C. D. _____ share (or shares) of the " Stock of the Bytown and Prescott Rail-way Company, to hold to him the said C. D. " his heirs, executors, administrators and assigns, subject to the same Rules and Orders, " and on the same conditions that I held the same immediately before the execution " hereof. And I, the said C. D. do hereby agree to accept the said _____ share (or " shares) subject to the same rules, orders and conditions. Witness our hands and " seals, this _____ day of _____ in the year _____"

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

XLI. And be it enacted, That it shall be lawful to and for the said Directors, and they are hereby authorized from time to time to nominate and appoint a Treasurer or Treasurers, and a Clerk or Clerks, to the said Company, taking such security for the due execution of their respective offices as the said Directors shall think proper ; and such Clerk shall, in a proper book or books, enter and keep a true and perfect account of the names and places of abode of the several Shareholders in the stock of the said Company, and of the several persons who shall from time to time become owners and Proprietors of, or entitled to any share or shares therein, and of all the other acts, proceedings and transactions of the said Company and of the Directors for the time being, by virtue of and under the authority of this Act.

XLII. And be it enacted, That it shall and may be lawful to and for the said Company from time to time, and at all times hereafter, to ask, demand, take and recover, to and for their own proper use and behoof, for all goods, wares, merchandize and commodities, of whatever description, transported upon the said Rail-way or in the said steamboats or vessels, such tolls as they shall deem expedient, which said tolls shall be from time to time fixed and regulated by By-laws of the Company, or by the Directors if thereunto authorized by the said By-laws, and shall be paid to such person or persons, and at such place or places near to the said Rail-way, in such manner and under such regulations as the said Company or the said Directors shall direct and appoint ; and in case of denial or neglect of payment of any such rates or dues, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having competent jurisdiction, or the person or persons to whom the said rates or dues ought to be paid, may and he is, and they are hereby empowered to seize and detain such goods, wares, merchandize or other commodities, for or in respect whereof such rates or dues ought to be paid, and detain the same until payment thereof ; and in the mean-time the said goods, wares, merchandize or other commodities shall be at the risk of the owner or owners thereof ; and the said Company shall have full power, from time to time, by By-law to be made at any General Meeting, to lower or reduce all 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-laws relating to the said tolls ; Provided also, that no By-law respecting tolls or affecting any other persons that the Officers or Members of the said Company, shall have force or effect until the same shall have been sanctioned and confirmed by the Governor of this Province, under his hand and seal at arms, and a copy thereof published in the Canada Gazette.

XLIII. 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

Form of the transfer of shares.

The form.

Proviso.

Directors may appoint a Treasurer and Clerks, &c.

Duty of the Clerk.

Company may establish tolls.

How recovered if not duly paid.

Seizure of goods, &c.

Tolls may be lowered and again raised.

Proviso against monopoly.

Proviso : as to By-laws imposing tolls, &c.

Account of the profits to be annually made up and balanced.

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.

Dividends to be made at general meetings.

Proviso.
Capital not to be impaired.

Fractions in miles and in weight how regulated.

XLIV. 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 Rail-way, 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, merchandize or other commodities, a proportion of the said rates shall be demanded and taken by the said Company of Proprietors, to the number of quarters of a ton contained therein; and in all cases where there shall be a fraction of a quarter of a ton, such fraction shall be deemed and considered as a whole quarter of a ton.

Company may make By-laws for fixing the price for the carriage of parcels.

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

Tables of tolls to be publicly affixed.

Provision as to the carriage of Her M^ys. mail, soldiers, police force, &c.

XLVI. Provided always, and be it enacted, That the said Company shall at all times when thereunto required by Her Majesty's Deputy Post-Master General, the Commander of the Forces, or any person having the superintendence or command of any Police Force, and with the whole resources of the Company if required, carry Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all Policemen, Constables and others, travelling on Her Majesty's Service, on their said Rail-way, on such term and conditions and under such regulations as the said Company and the said Deputy Post-Master General, the Commander of the Forces, or person in command of any Police Force, respectively, shall agree upon, or if they cannot agree, then on such terms and conditions, and under such regulations as the Governor or Person administering the Government shall in Council make; and the Company may be required to provide a separate carriage for the Mail and the person or persons in charge thereof, and the said Company shall at any time when thereunto required by the Governor of this Province, or any person thereunto authorized by him, place any Electric Telegraph and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service: And provided also, that any further enactments which the Legislature of this Province may hereafter deem it expedient to make, with regard to the carriage of the said Mail or Her Majesty's Forces and other persons and

Proviso:
As to starting train, &c.

Proviso: the Legislature may make further provision.

and articles as aforesaid, or the rates to be paid for carrying the same, or in any way respecting the use of any Electric Telegraph or other service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act.

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

Treasurer and Receiver and Collector to give security.

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

Forfeitures how recovered and applied.

Levy by distress and sale of goods and chattels.

Imprisonment for want of distress.

XLIX. And be it enacted, That if any person or persons shall think himself, herself or themselves aggrieved by any thing done by any Justice or Justices of the Peace in pursuance of this Act, every such person or persons may, within four calendar months 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 County.

Appeal to General Sessions.

L. And be it enacted, That if any action or suit shall be brought or commenced against any person 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 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 or committing such damage shall cease, and not afterwards; and the defendant or defendants in such action or suit shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the plaintiff or plaintiffs shall be non-suit, or discontinue his, her or their action or suit after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have full costs, and shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in other cases by law.

Limitation of actions for things done under this Act.

General issue.

Costs to defendant.

LI. 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

Any contravention not otherwise punishable, to be a misdemeanor.

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.

Map and book of reference to be deposited and Rail-way completed within certain periods.

LII. 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 fourth Section of this Act within five years after the passing thereof, and to make and complete the said Rail-way from the River Ottawa to the River St. Lawrence in manner aforesaid, within ten years from the passing of this Act; and if the said map or plan and book of reference be not so made and deposited within the said five years, or if the said Rail-way shall not be so made and completed within the said period of ten years 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.

Company annually to submit to the Legislature detailed accounts.

LIII. And be it enacted, That the said Company shall annually submit to the three Branches of the Legislature, within the first fifteen days after the opening of each Session of the Provincial Parliament, after the opening of the said 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 of tonnage and of passengers that have been conveyed along the said Rail-way; 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 the privileges hereby granted to the Company.

Further provision may be made.

Company not exempted from any general Rail-road law.

LIV. And be it enacted, That nothing herein contained shall be construed to except the Rail-way by this Act authorized to be made, from the provisions of any general Act relating to Rail-ways which may be passed during the present or any future Session of Parliament.

Saving of Her Majesty's rights, &c.

LV. 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.

Public Act.

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



ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXXXIII.

An Act to amend the Act intituled, *An Act to incorporate certain persons as 'The Guelph and Dundas Road Company.'*

[10th August, 1850.]

WHEREAS the Municipal Councils of the United Counties of Wentworth and Halton, and of the County of Waterloo, have become the sole Shareholders of the Capital Stock of the Guelph and Dundas Road Company; And whereas it has been ascertained that the amount of the said Capital Stock is not sufficient to complete the said Road in a sufficient and proper manner, and it is desirable to amend the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to incorporate certain persons as the Guelph and Dundas Road Company*, by giving to the Municipal Councils of the said United Counties of Wentworth and Halton, and of the said County of Waterloo, a more direct control over the affairs of the said Company and the management of the said Road than they at present possess, and by increasing the said Capital Stock of the said Company, and otherwise improving the said Act of Incorporation: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That every matter and thing in the said first recited Act contained, which shall or may be repugnant to this Act, shall be and the same is hereby repealed.

Preamble.

10 & 11 Vict. c. 88.

Inconsistent provisions repealed.

II. And be it enacted, That for and notwithstanding any thing contained in the said first recited Act, the whole Capital Stock which the said Company may have or hold, shall be Twenty-two Thousand Nine Hundred Pounds, currency, and that the said Capital Stock shall be composed of Shares of the value of Five Pounds, currency, each, and that such Shares shall be personal property, and may, after the first instalment thereon shall have been paid, be transferable by the respective subscribers and holders of the same to any other parties, and every such transfer shall be entered and registered in a book to be kept for that purpose.

Amount of stock limited.

III. And be it enacted, That instead of the Board of Seven Directors appointed by virtue of the said first recited Act, for the management of the property, affairs and concerns of the said Company, there shall be appointed a Board of Eight Commissioners, four of whom shall be appointed by a By-law or Resolution of the Municipal Council of the United Counties of Wentworth and Halton, one of which four shall be the Warden, for the time being, of the said United Counties of Wentworth and Halton, and four by a like By-law or Resolution of the Municipal Council of the said County of Waterloo, one of which four shall be the Warden, for the time being, of the said County of Waterloo; and that any five Members of the said Board shall be a *quorum*.

Board of Commissioners substituted for Directors.

How appointed.

IV. And be it enacted, That the said Eight Commissioners so to be appointed by the said Councils, shall be appointed for such terms as shall be specified in the respective By-laws or Resolutions by which they shall be appointed.

Term of service of Commissioners.

V.

Commissioners may
be removed, &c.

V. And be it enacted, That it shall be in the power of either of the said Councils, at any time, by a like By-law or Resolution, to remove all or any of the said four Commissioners so to be appointed by such Council respectively, and to appoint others in their room, and in like manner to fill up any vacancy or vacancies that may occur by death, resignation or otherwise.

Who shall be Chair-
man.

VI. And be it enacted, That the Warden for the time being of the said United Counties of Wentworth and Halton, and the Warden for the time being of the said County of Waterloo, shall respectively act as Chairman of the said Board of Commissioners, alternately year about, commencing with the Warden of the said United Counties of Wentworth and Halton.

Powers of Commis-
sioners.

VII. And be it enacted, That all powers, privileges and duties of the said Board of Directors shall be transferred to, vested in, and exercised by the said Board of Commissioners, and that those of the President of the said Board of Directors shall be transferred to, vested in, and exercised by the said Chairman, for the time being, of the said Board of Commissioners.

Public Act.

VIII. And be it enacted and declared, That this Act shall come into operation on the first day of January next, and shall be a Public Act.

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Law Printer to the Queen's Most Excellent Majesty.



ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P . C X X X I V .

An Act to incorporate certain persons under the name of 'The Vaughan Road Company'.

[10th August, 1850.]

WHEREAS by a certain Act of the Parliament of this Province, passed in the ninth year of Her Majesty's reign, intituled: *An Act to incorporate certain persons under the name of 'The Albion Road Company'*, certain persons were incorporated for the purpose of constructing a Planked or Macadamized Road known as the Albion Road, with power among other things to make a branch Macadamized or Planked Road through the Townships of York and Vaughan, commencing at the line of the Township of King between the Eighth and Ninth Concessions and following the Public Highway laid out and known as the King Road to the Township of York, and to be continued through the said Township of York, so as to intersect the said Albion Road at some point between its commencement in rear of Lot number Twelve in the Fifth Concession and Conatte's Corner in Concession A, in the Township of Etobicoke: And whereas by the said Act it was provided that the proceeds of the Stock subscribed expressly for the purpose of making the said Branch Road should by the said Company be applied in constructing the said Branch Road: And whereas the proceeds of such Stock have been so applied by the said Company and the said Branch Road now greatly exceeds in length the main Road to Albion, and the Stockholders in the said Company who subscribed expressly for the purpose of making the said Branch Road can now, if they be so disposed, control the affairs of the whole Company: And whereas the said Albion Road Company, by the President and Directors and the subscribers to the Branch Road above mentioned, have, by petition to the Legislature, represented that the interests of the said Main Road and of the said Branch Road are conflicting, and that it is not beneficial to either party that their affairs should be managed by the same persons, and have prayed that the Stockholders who subscribed to the said Company for the express purpose of constructing the Branch Road above mentioned may be set off from the said Albion Road Company and be incorporated by themselves as a separate Company under the name of 'The Vaughan Road Company,' with the like powers as are by the said first mentioned Act conferred upon the said Albion Road Company: And whereas it is expedient to grant the prayer of the said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That William Richard Graham, Richard Bywater, John William Gamble, John Brown, Alexander Card, Arthur Armstrong, James Allen, James Adams, George William Allen, James Armitage, James Brown, Thomas Farr, John Haystead, Gabriel Howley, David Pinkerton, Andrew Jamieson, Edward Bull, Robert Parker, Nicholas Shaver, James Milligan, and such other persons as now are Stockholders in the said Albion Road Company, and who subscribed for such Stock expressly for the purpose of making

Preamble.
9 Vict. c. 88, cited.

Certain persons incorporated.

Their corporate name and powers.

Tolls.

Proviso.

Certain stock, &c. vested in the Company.

As to debts and liabilities of the present Company.

Members of Vaughan Road Company to cease to be members of Albion Road Company.

the said Branch Road, (hereinafter called the Vaughan Road) and all such persons as shall hereafter become Stockholders in the Company hereby constituted, shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact by the name of 'The Vaughan Road Company,' and by such 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, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, and that 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 said name of 'The Vaughan Road Company,' shall be in law capable of purchasing, having and holding to them and their successors any estate, real, personal or mixed, and which may be necessary for the use of the said Company, and of letting, conveying or otherwise parting therewith for the benefit and on account of the said Company, from time to time, as they shall deem necessary or expedient; and shall have full power and authority to macadamize or plank the remainder of the said Road to the town line of the said Township of King, as hereinbefore mentioned, and to erect Toll Gates and to take Tolls thereon in the manner hereinafter mentioned; and may for the purposes of this Act either use the road now existing between the places aforesaid or may change or alter the direction or place of the said road or any part thereof as they shall find most expedient: Provided always, that upon every additional three miles of the said road when completed, it shall and may be lawful for the Directors of the said Company to put up and erect a Toll Gate thereon, and collect such Tolls as the Directors may think expedient to be levied and taken of and from persons travelling along the said Road.

II. And be it enacted, That the Stock so subscribed as aforesaid for making the said Vaughan Road, or so much thereof as shall be unexpended at the passing of this Act, shall become the property of the said Vaughan Road Company, and shall be paid or delivered over to them, as shall also all personal property purchased or acquired with such Stock, and the same shall form part of the Stock of the said Company, and all the real estate and property forming or acquired, for the purpose of forming and being used for the said Vaughan Road, shall be and is hereby transferred to and vested in the said Vaughan Road Company, and all the right and claim of the Albion Road Company in, to or upon the said Stock, personal property and real property, shall be divested out of the said Albion Road Company and vested in the said Vaughan Road Company, which last named Company shall become liable and responsible for all claims and demands in, to or upon or in respect of the same by any other party, and shall, with regard to all such claims and demands, and all contracts entered into or subsisting between the Albion Road Company and any third party, with reference to the said Vaughan Road, or the rights and property, real or personal, hereby transferred as aforesaid, and the said Albion Road Company shall be for ever discharged from all liability therefor or thereunto relating, and all suits, actions and proceedings relating to the rights, claims and property hereby transferred, or to such contracts as aforesaid, may and shall be continued by or against the Vaughan Road Company, in the place and stead of the Albion Road Company, without discontinuance or recommencement, the name of the Vaughan Road Company being merely substituted in any subsequent paper or proceeding for that of the Albion Road Company.

III. And be it enacted, That the Members of the said Vaughan Road Company shall after the passing of this Act cease to be Members of the Albion Road Company, unless they hold other Stock therein than such as is hereby transferred to the Vaughan Road Company; and the said Albion Road Company shall thereafter consist of the proprietors of Stock not so transferred as aforesaid, and their rights shall be restricted to the Roads mentioned in the said Act of Incorporation, other than the said Vaughan Road; and if any Director of the said Albion Road Company shall by virtue of this Act cease to be qualified to remain such Director, his place may be supplied in the manner by the said Act provided for filling vacancies in the office of Director:

Provided

Provided always, that nothing herein contained shall be construed to impair or affect any of the powers of the Albion Road Company, except such only as may be inconsistent with this Act. Proviso.

IV. And be it enacted, That the whole Capital Stock of the Vaughan Road Company, (exclusive of any real estate which the said Company may have or hold by virtue of this Act,) shall not exceed in value the sum of ten thousand pounds, of lawful money of this Province, to be divided into shares of five pounds each; and that the said shares of the said Capital Stock shall be transferable, and may be from time to time transferred by the respective persons so subscribing or holding the same to any other person or persons: Provided always, that such transfer be entered or registered in a book or books to be kept for that purpose by the said Company. Capital Stock of Company limited.

V. And be it enacted, That immediately after the passing of this Act a book shall be opened by the Directors of the said Company, to be called "The Subscription Book," in which shall be entered all the names of present Stockholders in the Albion Road Company, who subscribed to the said Company expressly for the purpose of making the said Branch Road, with the number of shares belonging to each, and in which shall be entered also all the names of any additional subscribers who may from time to time become Stockholders in the said Company, with the number of shares for which they may respectively subscribe; and the parties whose names shall be so entered in the said book shall be the Stockholders of the said Company, each for the number of shares which he may now hold or hereafter subscribe for, subject always to the provisions hereinafter made, as to the transfer or forfeiture of such shares, or otherwise, regarding them. Proviso

VI. And be it enacted, That all and every additional subscriber for the said stock, or any part thereof, shall at the time of subscribing, pay a proportion of one third upon the Capital Stock of the whole number of shares for which they or any of them respectively may subscribe, and that the residue thereof shall be payable by instalments, at such times and in such proportion as the Directors of the said Company shall decide upon, provided that no one instalment shall exceed ten per cent. upon the amount subscribed, nor be payable in less than one month after notice of such call shall be given to such subscribers. Subscription book to be opened

VII. And be it enacted, That if any Stockholder shall refuse or neglect to pay at the time required, any such instalment or instalments as shall be lawfully required by the said Directors as due upon any share or shares, then such Stockholder so refusing or neglecting shall forfeit to the Company such share or shares as aforesaid, with the amount previously paid thereon, and the said share or shares may be sold by the said Directors, and the money arising therefrom, together with the amount previously paid thereon, shall be accounted for and divided or used in like manner as other moneys of the said Company, or the said Directors may sue for any such instalment or instalments and recover the same in an action of debt against such Stockholder in any Court having jurisdiction to the amount. Additional subscribers to pay down one third of the shares they subscribe for

VIII. And be it enacted, That the Stock property, affairs and concerns of the said Corporation shall be managed and conducted by five Directors, one of whom shall be the President, and shall preside at all meetings of the said Directors and hold his office for one year, and such Directors shall be Stockholders and inhabitants of the County of York, and shall be elected on the first Monday in the month of April in each year, at such time of the day and at such place in the Village of Pine Grove as the majority of the Directors for the time being, after thirty days' public notice, shall appoint: Provided always, nevertheless, that William Richard Graham, Richard Bywater, John William Gamble, John Brown, and Alexander Card, shall be the first Directors of the said Company, and shall elect a President from among themselves, and shall continue in office until the first Monday in the month of April, in the year of Our Lord one thousand eight hundred and fifty-one, and until their successors shall be appointed, and no longer, unless re-elected; and any vacancy occurring among the said Directors before the expiration of their term of office, may be filled in the manner Penalty on Stockholders neglecting to pay instalments, &c.

hereinafter appointed; and generally that all the provisions of this Act as to the Directors of the said Company and their powers and duties shall apply to the Directors aforesaid, as well as to the Directors to be elected as hereinafter mentioned.

Election of Directors.

IX. And be it enacted, That the election of Directors shall be held and made by such Stockholders of the said Company as shall attend at Pine Grove aforesaid for that purpose, in their own proper persons, or by proxy, and shall be determined by ballot, such ballot to be regulated and calculated by the number of votes allowed to such Stockholders according to the number of votes held by them respectively as follows, that is to say, one vote for one share, three votes for five shares, five votes for ten shares, seven votes for fifteen shares, ten votes for twenty shares: Provided always, that the Stockholders so voting shall have been possessed of the share or shares in respect of which they shall respectively claim to vote, at least three months before the time of election; and no person, co-partnership or body politic shall be entitled to more than one vote for each share at any such election, nor at the determination of any other matter or thing concerning the said Company or its affairs which may by the provisions of this Act be submitted to the judgment and decision of the Stockholders generally; Provided also, that the choice of the Scrutineers hereinafter mentioned and of the President be had as hereinafter expressly directed.

Proviso.

Proviso.

Directors to be Stockholders.

Proviso.

X. And be it enacted, That the Directors to be chosen shall be Stockholders in the said Company, and hold to their own use five shares at least of the Capital Stock of the said Company: Provided always, that not more than one member of any co-partnership or firm shall be capable of being nominated or chosen or of sitting as a Director at any one time, although all the members of such co-partnership may hold Stock in their private right or to their private use in the said Company.

Time during which ballot shall be kept open at elections of Directors.

XI. And be it enacted, That at each and every election of Directors to be held in manner aforesaid, the ballot shall be kept open from eleven of the clock in the forenoon, until one of the clock in the afternoon of the same day, and those persons shall be deemed elected who shall have the greatest number of votes according to the scale of votes hereinbefore mentioned, and shall as soon after the closing of the said ballot as may be convenient be declared the Directors of the said Company for the ensuing year, by any two or more Scrutineers, who shall have been previously nominated by the Stockholders at such meeting for the purpose of nomination and report of such ballot: Provided that such Scrutineers shall be appointed by the Stockholders then present *per capita* and not by shares.

Proviso.

Election of President.

XII. And be it enacted, That the said Directors on the same day when they shall have been so chosen and declared Directors shall, after all other persons have retired, choose by plurality of voices one of their number to be President, in which choice they shall vote *per capita* and not by shares; and in case of vacancy among the Directors by death or absence for more than two months from the sittings of the said Board, such vacancy shall be supplied by the said Directors electing from among the said Stockholders a new Director to fill such vacancy, who shall hold office for the then current year, and no longer, unless re-elected at the next general election of Directors of the said Company.

Powers of Directors.

XIII. And be it enacted, That the Directors for the time being or the majority of them shall have power to make and subscribe such rules and regulations and the same to alter and amend as shall appear needful, just and proper, touching the management and disposition of the stock, property, estate and effects of the said Corporation, and touching the appointment, duties and conduct of the clerks and servants employed by the said Company, and touching and regulating the imposition of tolls upon the said Road, and all other matters and things touching and concerning as well the construction of the said Road as its charges, tolls, profits, losses, dividends and revenue whatsoever, such rules and regulations not being contrary to this Act nor to the laws of Upper Canada: and shall annually, if required, exhibit an authenticated account to either or any branch of the Legislature of the Province of the tolls so regulated and the amount thereof received, and of the sums expended in keeping the said Road in repair.

To exhibit accounts to the Legislature.

XIV.

XIV. And be it enacted, That whenever the said tolls shall in the annual receipts exceed an amount or sum sufficient to defray the expenses of maintaining and repairing the said Road, and to afford an annual income to the said Company of ten per cent. on the capital stock actually expended in the construction of the said Road from the commencement of its being travelled as aforesaid, then, and in such case the increasing surplus revenue of the said tolls shall be charged against the said Company as so much by them received in the nature of a sinking fund by means whereof to purchase from the said Company the entire estate, use and property of the said Road to and for the use of the public, in such manner and form as the Legislature of this Province may by legislative enactment hereafter provide.

A sinking fund to be formed of tolls not exceeding a certain amount.

XV. And be it enacted, That if any person or persons shall cut, break down or destroy in any way, any of the gates or toll houses to be erected by virtue of this Act, every such person so offending and being lawfully convicted shall be deemed guilty of a misdemeanor and be punished by fine and imprisonment, and if any person or persons shall remove any earth, stone or timber on the said Road to the damage of the same, or shall forcibly pass or attempt to pass by force any of the gates without having first paid the legal toll at such gate, such person or persons shall pay all damages by them committed, and shall forfeit and pay a fine not exceeding five pounds nor less than ten shillings currency, to be recovered before any Justice of the Peace for the County of York.

Penalty on persons destroying gates, &c.

XVI. And be it enacted, That the fines and forfeitures authorized to be imposed by this Act shall and may be sued for and recovered in a summary way before any Justice of the Peace for the County of York, and may, if not forthwith paid on conviction, be levied and collected by distress and sale of the offender's goods and chattels under the authority of any warrant or warrants for that purpose to be issued by any one of Her Majesty's Justices of the Peace for the County of York, who are hereby authorized and empowered to grant the same, and in case there shall be no such goods and chattels to satisfy such warrant or warrants, such offender or offenders may be committed by such Justice or any other Justice of the said County to the Common Gaol of the County of York for any period not exceeding twenty days.

Fines, &c. how recovered.

XVII. And be it enacted, That if any person or persons shall after proceeding on the said road with any carriage or animal liable to pay toll, turn out of the same road into any other road, and shall enter the said road beyond any of the said gate or gates without paying toll whereby such payment shall be evaded, such person or persons shall for every such offence forfeit and pay a sum not exceeding five pounds nor less than ten shillings, which said sum shall be expended on the said road or towards the discharging of any debt or other incumbrances thereon, and any one Justice of the Peace for the County of York shall on conviction of such offender fine such offender in the said penalty, and from his judgment there shall be not appeal.

Penalty for evading tolls.

XVIII. And be it enacted, That if any person or persons occupying or possessing any enclosed lands near any toll-houses or toll-gates which shall be erected in pursuance of this Act, shall knowingly permit or suffer any person or persons to pass through such lands or through any gate, passage or way thereon with any carriage, horse, mare, gelding or other animal liable to the payment of toll, whereby such payment shall be avoided, every person or persons so offending, and also the person riding or driving the animal or animals or carriage whereon such payment is avoided, being thereof convicted, shall, for every such offence, severally forfeit and pay any sum not exceeding five pounds, which shall be laid out in improving such road: Provided always, that all persons with horses, waggons or other carriages going to or returning from Divine Service on the Lord's Day shall pass the gate free of toll.

And for allowing others to avoid payment of tolls.

Proviso.

XIX. And be it enacted, That the Executive Government of this Province may at any time whatever assume and take the entire estate, property and use of the said road from the said Company, paying to the said Company the capital so as aforesaid actually expended, together with fifteen per centum advance thereupon, to the credit of which payment all revenue exceeding ten per centum upon the *bona fide* expenditure, and over

Government may assume property of Road, &c.

over and above the expense of maintaining and repairing the said road, shall be charged and taken; and it is also hereby provided and declared, that if any deficiencies of the said ten per centum annual profit should occur at any time, such deficiencies shall be also chargeable against the increasing revenue of the subsequent years, so that the Company may fairly and actually receive ten per centum profit on their said *bona fide* expenditure for the whole time they shall enjoy the estate, rights and privileges acquired under the authority of this Act.

Company may hold real estate for purposes of Road.

XX. And be it enacted, That the said Company shall have full power and authority for the purpose of forming and completing the road, to purchase and hold in their corporate capacity such real estate as may be necessary for all the purposes of the said road and of this Act, and also to contract, compound, compromise and agree with the owners and occupiers of land through or upon which the said road may most advantageously pass and terminate.

Arbitration in case of disagreement as to compensation for land.

XXI. And be it enacted, That if in the making of such contract, composition, compromise or agreement, any obstacle should arise between the parties thereto, touching the value of the portion of the land to be bought for the purpose aforesaid, then, and in such case, it shall and may be lawful for the Directors for the time being, from time to time, as they or the majority of them may think fit, to appoint one or more person or persons as Arbitrator or Arbitrators on the part of the said Company, and also for the party or parties disagreeing as to the value as aforesaid, to appoint one or more person or persons, being an equal number with those chosen by the said Directors as Arbitrator or Arbitrators, on his, her or their part, and that the persons so chosen on both sides shall (having met for that purpose) choose by ballot one other indifferent person, and the whole number of persons so chosen shall be the Arbitrators between the parties disagreeing, and the said Arbitrators shall be sworn by a Justice of the Peace, justly, impartially and equally, as far as in them lies, and to the best of their judgment, to determine the matter to be to them referred.

If the opposite party does not appoint arbitrators.

XXII. And be it enacted, That if after eight days' notice in writing given to the party so disagreeing as to the value aforesaid, such party will not nominate or appoint an Arbitrator or Arbitrators as aforesaid on his part, it shall and may be lawful for the Directors to add to their first nomination as many others (not being Stockholders of the said Company,) as and for the Arbitrators of the party so refusing to nominate for himself, and such added Arbitrators shall have the same power as if named by the party himself, and shall meet and ballot for the additional Arbitrator.

Meetings of board of arbitrators.

XXIII. And be it enacted, That the Board of Arbitrators, so constituted, shall fix a convenient day for hearing the respective parties, and shall give eight day's notice, at least, of the day and place, and having heard the parties or otherwise examined into the merits of the matters so brought before them, the said Arbitrators or a majority of them shall make their award and arbitrament thereupon, in writing, which award or arbitrament shall be final as to the value so in dispute as aforesaid.

Directors may occupy land if party disagree to accept value ascertained by arbitrators.

XXIV. And be it enacted, That if the party so disagreeing refuse to accept the value of the land so ascertained by the Arbitrators as aforesaid till the end of the second term in Her Majesty's Court of Queen's Bench in Upper Canada, next after making the award and tender, of the value thereby ascertained, then, and in such case, the Directors for the time being shall be at liberty and shall have full power to occupy the piece of land so valued by the said Arbitrators, and to macadamize or plank it in the same manner as other portions of the said Road.

In actions of ejectment, awards may be pleaded in bar.

XXV. And be it enacted, That in any action of ejectment or other action, real, personal or mixed, for or on account of such occupation by the said Company, their Servants or Agents or other person or persons using the said road, the said award may be pleaded in Bar to such action at any time after the said two terms in the said Court of Queen's Bench, notwithstanding any defect in form or substance in the said award: Provided always, and it is hereby enacted and declared, That it shall and may be lawful to and for the party or parties interested in the land mentioned in the award, or their Agents, by counsel, at any time within the two next terms as aforesaid, after the same

Proviso.

hath

hath been made and the amount of the value awarded tendered, to move the said Court of Queen's Bench to set aside such award for corruption or any other matter or thing for which awards are now subject to be impugned by Law; Provided also, That if the first award be so set aside by the Court of Queen's Bench, the matter in difference may again be submitted to other Arbitrators, and so on till a satisfactory award be made between the parties.

Proviso.

XXVI. And be it enacted, That in case it should at any time happen that an election of Directors should not be made on the day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make an election in such manner as shall have been regulated by the rules of the said Corporation to be made for that purpose, such rules not being contrary to the provisions of this Act; and the Directors in office shall always remain in office until others are elected in their stead.

Failure to elect not to dissolve Corporation.

XXVII. And be it enacted, That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company as to them or the majority of them shall appear advisable, and an exact and particular statement shall be annually rendered of the state of their affairs, debts, credits, profits and losses, and such statements shall appear in the books of the Company and be open to the perusal of any Stockholder upon his reasonable request.

Directors to make dividends.

XXVIII. And be it enacted, That it shall and may be lawful for the said Company at any time within five years from the passing of this Act, to continue the said Plank or Macadamized Road from its present intended termination on the line of the said Township of King to Lloydtown or Bolton Mills, and as much farther as they may deem expedient, and upon completion of any three miles of such Road, to erect Toll-bars and collect tolls in the manner hereinbefore by this Act provided for that or similar purposes, and that the said Company shall have full power and authority to increase their Capital Stock to an amount sufficient for the completion of the said Road so intended to be made as aforesaid, provided the additional Capital Stock raised for such purpose do not exceed five thousand pounds.

Company may continue Road to a certain distance.

XXIX. And be it enacted, That this Act shall be deemed and taken to be a Public Act.

Public Act.

XXX. And be it enacted, That this Act, from the time of the passing thereof, shall continue in force for fifty years, and from thence to the end of the then next ensuing Session of the Provincial Parliament, at which time the estate, rights, titles, tolls and rates of the said Road, shall vest in Her Majesty, Her Heirs and Successors, to and for the public uses of this Province, unless it be otherwise provided by an Act of the Legislature, to be for that purpose at any time hereafter enacted, or unless the said Road become so vested at an earlier period by the operation of the sinking fund aforesaid.

After fifty years, Road vested in Her Majesty, &c.



ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXXXV.

An Act to prolong the time for the completion of the Grimsby Breakwater, Pier and Harbour.

[10th August, 1850.]

WHEREAS it hath been represented to the Legislature that the completion of the Grimsby Breakwater, Pier and Harbour within the period limited for that purpose in and by an Act of the Parliament of the late Province of Upper Canada, passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to incorporate certain persons therein mentioned under the style and title of the President, Directors and Company of the Grimsby Breakwater, Pier and Harbour Company*, has been prevented by unavoidable circumstances, and it is expedient to prolong the time for the completion of the said work : Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing to the contrary contained in the seventeenth or any other section of the Act hereinbefore first cited, the said Act shall not, nor shall any matter or thing therein contained, be held or deemed to have ceased, or to have become or to be null or void, but the same and every part thereof shall on the contrary be at all times held and deemed to have been and continued and to be and continue in full force and virtue from the day of the date thereof until the expiration of ten years from the passing of this Act, within which latter period the said Breakwater, Pier and Harbour may be completed with the same effect to all intents and purposes as it could, would, should or might have been at any time within the period of seven years from the passing of the said Act hereinbefore first cited : Provided always, that if the said Breakwater, Pier and Harbour be not completed within the said period of ten years from the passing of this Act, then this Act and the said Act hereinbefore first cited, and every clause, matter and thing therein and herein contained, shall cease and be utterly null and void.

Preamble.

U. C.
5 W. 4, c. 76.

The said Act declared
not to have expired.

The Breakwater, &c.
to be completed within
ten years.

Proviso.

TORONTO : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXXXVI.

An Act to incorporate the Hamilton Gas Light Company.

[24th July, 1850.]

WHEREAS it is desirable to provide a cheap and effective mode of lighting the public streets, squares and places in the City of Hamilton, as well as the shops and private dwellings therein; and whereas the several persons hereinafter named have by their petition prayed that they and such others as now are or hereafter may be associated with them in their undertaking, may be incorporated as a Company, under the name, style and title hereinafter also mentioned, for the purpose of supplying Gas Lights to the said City; and whereas the Common Council of the said City of Hamilton have signified their assent to the establishment of the said Company, and whereas a considerable proportion of the Capital Stock has already been subscribed for; and whereas at a Meeting of certain of the Inhabitants of the said City of Hamilton, held on the fourteenth day of the month of March last, the following persons were duly elected a Provisional Committee to take the necessary steps to establish the said Company, namely: William Kerr, Edward C. Thomas, John Fisher, James Osborne, Robert McIlroy, Hutchison Clark, John Young, John F. Moore, Richard Juson, James Robinson, Robert R. Smiley, William P. McLaren and Archibald Kerr, and among their number the said William Kerr was elected Chairman of the said Provisional Committee, and the said Petitioners desire that the above named Committee, together with such other persons as shall, under the provisions of this Act, become subscribers to and proprietors of any share or shares in the said undertaking, be erected into a Company for the purposes above mentioned; and whereas it is expedient to grant the prayers of the said petitioners: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That William Kerr, Edward C. Thomas, John Fisher, James Osborne, Robert McIlroy, Hutchison Clark, John Young, John F. Moore, Richard Juson, James Robinson, Robert R. Smiley, William P. McLaren, Archibald Kerr, Thomas Kerr, Thomas Davidson, Edward Glackemeyer, Thomas M. Best, Richard Hardiker, Daniel Dewey, Alexander Hamilton, James Sutherland, James Cummings, William L. Distin, Alexander Carpenter, John M. Williams, James Lynd, William Atkinson, Robert McKay and Joseph Clement, or such of them and such other persons as now are or shall hereafter become Shareholders in the said Company hereby established, shall be and are hereby ordained and constituted a Body Politic and Corporate by the name of "The Hamilton Gas Light Company," and by that name they and their successors, being such Shareholders, shall and may have perpetual succession and a common seal, with full power to make, change, break or alter the same at pleasure, and shall and may by the same name sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all Courts and places whatsoever, and shall and may have

Preamble.

Certain persons incorporated.

Corporate name and powers.

Power to acquire property.

have full power to purchase, take and hold personal property and lands, tenements and other real property, for the purposes of the said Company, and for the erection, construction and convenient use of the Gas Works hereinafter mentioned, and also to alienate such personal property, lands and other property, and others to purchase, take and hold in their stead, for the purposes and uses aforesaid, and that any person or persons, body or bodies politic or corporate may give, grant, sell, bargain or convey to the said Company, any lands, tenements or hereditaments for the purposes aforesaid, and the same may re-purchase from the said Company: Provided always, that such lands, tenements and hereditaments to be so holden by the said Company, shall be so holden for the purposes and business of the said Company as set forth in this Act, and for constructing their necessary works for and about the same, and for no other purposes whatsoever; and that the total yearly value of the lands and real property to be so holden at any one time, shall not (over and above the value of the Works thereon erected) exceed One thousand pounds currency.

Proviso: extent and purposes of real property limited.

Capital Stock £12,500, in shares of £10.

To what purposes such stock shall be applied.

Power to increase the Capital by a like amount in like shares.

Further increase allowed if necessary, for extending the works, £12,500 in £10 shares.

Company may borrow money to the amount of £10,000;

And pledge their property.

And issue Debentures,

Proviso.

Rights of the holders of Debentures.

II. And be it enacted, That the said Company may raise and contribute among themselves such sum as shall not exceed the sum of Twelve thousand five hundred pounds currency, in shares of Ten pounds currency each; and the money so raised shall be appropriated to the purpose of constructing, completing and maintaining their Gas Works and to the purposes of this Act, and to no other object or purpose whatever: Provided always, that if the said sum of Twelve thousand five hundred pounds currency should be found insufficient for the purposes of this Act, it shall be lawful for the said Company to increase their Capital Stock by a further sum not exceeding Twelve thousand five hundred pounds currency, either among themselves or by the admission of new Shareholders, such new Stock being divided into shares of Ten pounds currency each; and it is hereby provided further, that if by reason of the increase of the population or public works of the said City, or from other causes, it shall at any future time appear to the said Company, that it would be advantageous to extend the Works of the said Company beyond the means afforded by the Capital Stock hereinbefore specified, it shall and may be lawful for the said Company, by and with the consent and approbation of a General Meeting of the Shareholders, and for the purposes aforesaid, to raise and contribute among themselves, or by the admission of new Shareholders and Proprietors as aforesaid, a third and further like sum of Twelve thousand five hundred pounds currency, divided also into shares of Ten pounds currency each.

III. And be it enacted, That it shall be lawful to, and in the power of the said Company to borrow a sum or sums of money for the purpose of completing the said undertaking, if requisite, or for extending the Works of the said Company, not exceeding the sum of Ten thousand pounds currency, and to pledge and hypothecate the property, income, rents and future calls on the Shareholders of the said Company, for the re-payment of the sum or sums so borrowed and the interest thereon, as may or shall be agreed upon, at a rate even exceeding six per cent, and if, after having borrowed the whole, or any part of such money, the Company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so from time to time to borrow: Provided, that the whole amount borrowed, do not at any one time exceed the said sum of Ten thousand pounds currency, and that for the money so borrowed, with interest as aforesaid, it shall be lawful for the President and any one Director of the said Company for the time then being, to give Bonds or Debentures in such manner as shall appear most expedient, and such Bonds, Debentures or other securities to be granted may be made payable to bearer, or made transferable by simple endorsement or otherwise, as the Directors may see fit: Provided always, that no such Bond, Debenture or other security shall be made or granted for a less sum than fifty pounds currency.

IV. And be it enacted, That the respective Obligees in such Bonds or Debentures whereby the income, rents and future calls or payments due to the said Company shall be secured, shall proportionally, according to the amount of money secured thereby, be entitled to be paid out of the rents, revenues or future calls of the Company, the respective sums in such Bonds or Debentures mentioned and thereby intended to be secured,

secured, without any preference one over another by reason of priority of date of any such Bond or Debenture, or of the Meeting at which the same was authorized, or otherwise or howsoever; and no such Bonds or Debentures, although they should comprise future calls on Shareholders, shall preclude the Company from receiving and applying such future calls to the purposes of the Company, so long as the money due on all such Bonds or Debentures does not exceed the amount of all the calls still remaining unpaid.

As to Company's right to receive calls.

V. And be it enacted, That a President, Vice-President and Directors may be elected for the purposes of this Act at a Special Meeting to be called by any twenty Shareholders in the manner hereinafter provided, so soon as one fourth of the Capital Stock of the said Company shall be inscribed for, and shall continue in office until the first Monday of the month of March, one thousand eight hundred and fifty-one, or until the next General Election, if no Election be had on that day, unless they shall sooner resign, be removed, or become disqualified under the provisions of this Act.

President, Vice-President and Directors to be elected, and how and when.

VI. And be it enacted, That the first General Meeting of the Shareholders of the said Company shall be held on the first Monday of the month of March, in the year of Our Lord one thousand eight hundred and fifty-one, and a General Meeting on the first Monday of the month of March in each year thereafter, and at such place and hour as shall be appointed by the By-laws of the Company then in force, to choose by ballot and by a majority of votes seven persons, being each a proprietor of not less than ten shares in the Stock of the said Company, as Directors for managing the affairs of the said Company, which seven Directors shall continue in office until the next General Election of Directors.

First general meeting when and where to be held.

Election of Directors.

VII. And be it enacted, That any three of the said Directors shall form a *quorum* for the transaction of business, and any majority of such *quorum*, assembled according to the provisions of this Act, and the By-laws of the Company then in force, may exercise any or all of the powers hereby vested in the Directors, and the President, or in his absence, the Vice-President, or in the absence of both, the Chairman chosen by the Directors present, *pro tempore*, shall preside at the Meetings of the Directors.

Quorum of Directors: their powers.

Who shall preside.

VIII. And be it enacted, That at the General Meetings of the Shareholders, to be held annually for the purpose of electing Directors as aforesaid, on the first Monday of the month of March in each year, and before the Election of new Directors, the Directors of the then past year shall exhibit a full and unreserved statement of the affairs of the Company, and of the funds, property and debts due to and by the said Company, which said Statement shall be certified by the President or Vice-President, under his hand and seal: Provided always, that in the event of there being no election of Directors on the first Monday in March in any year, in consequence of the Shareholders neglecting to attend in conformity with the requirements of this Act, or from any other cause, then and in that case the Directors of the previous year shall continue and remain in office until an election shall take place at a future Special Meeting of the said Shareholders to be called for that purpose, in the manner provided by the By-laws of the Company then in force.

Statement of affairs to be exhibited at annual general meetings.

Proviso: as to failure of any election.

IX. And be it enacted, That the Directors elected as aforesaid, shall, at their first Meeting after such Election, choose out of their number a President and Vice-President, who shall hold their office respectively until the next Election of Directors: and it shall be lawful for the said Directors, from time to time, in case of death, resignation, absence from the Province, disqualification (and any person disqualified to be elected shall be disqualified from remaining in office) or the removal of any person so chosen to be President or Vice-President or Director, or either of them, to choose in his or their stead, from among the said Directors, another person or persons to be President or Vice-President, or from among the other qualified Shareholders, another person or persons to be Director or Directors, respectively to continue in office until the next Annual Election as aforesaid; Provided always, that on such occasions, the Directors shall always vote *per capita* and not according to the number of shares they hold, and the President or person presiding at any Meeting of the Directors or of the Shareholders, shall have a casting vote only: and it is provided further, that no Shareholder in the

Directors to choose President and Vice-President.

Vacancies among Directors how filled between elections.

Proviso: votes to be *per capita*.

Casting vote.
Proviso: Shareholders not personally liable.

said

said Company shall be in any manner whatever liable for or charged with the payment of any debt or demand due by the said Company beyond the amount of his, her or their subscribed share or shares in the Capital Stock of the said Company.

Directors to appoint
Manager, Clerks, &c.

And to make By-laws
for certain purposes ;

And to make calls on
shares ;

And contracts, or
empower the Presi-
dent to make them,
&c.

Proviso.

Proviso :
Special meetings how
called.

Shareholders may
vote by proxy.

Scale of votes.

Subscriptions to be
binding.

Subscribers bound to
pay calls.

Persons neglecting to
pay calls may be sued.

X. And be it enacted, That the Directors shall and may have the power to appoint a manager, clerk and such other persons as may appear to them necessary for carrying on the business of the said Company, with such powers and duties, salaries and allowances to each, as shall seem meet and advisable, and also shall and may have the power to make, and repeal or alter such By-laws to be binding upon Members of the Company or their servants, as shall appear to them proper and needful, touching the well ordering of the said Company, the management and disposition of its stock, property, estate and effects, the calling of Special Meetings of its Shareholders or of Meetings of the Directors, and other matters connected with the proper organisation of the said Company, and the conduct of the affairs thereof, and also shall and may have the power to make calls for instalments on shares, subject to the provisions hereinafter made, and to declare such yearly or half yearly dividends out of the profits of the said undertaking as they may deem expedient, and to make contracts on behalf of the Company, or by such By-laws to empower the President, Vice-President, or any Director or Officer to make contracts on behalf of the Company, and to affix (if need be) the Common Seal of the Company, and to do or empower others to do whatever the Company may lawfully do under this Act, unless it be otherwise herein provided : Provided always, that such By-laws shall be in no way inconsistent with the true intent and meaning of this Act and the powers hereby granted, or repugnant to the laws of this Province, and shall before they shall have force be approved by the shareholders at some annual or Special Meeting at which such shareholders shall have full power to alter or amend the same ; and provided also that until it be otherwise ordered by the By-laws of the Company, a Special Meeting of the Shareholders may be called by the Directors, or in their default on being thereunto requested by at least twenty of the Stockholders being proprietors together of not less than five hundred shares of the stock of the said Company, then by such twenty (or more, as the case may be) stockholders, giving at least four weeks' notice thereof, in at least two of the public newspapers of the City of Hamilton, and specifying in the said notice the time and place of such meeting, together with the objects thereof.

XI. And be it enacted, That Shareholders may vote by proxy duly appointed in writing or in person, and all elections shall be by ballot and all questions to be decided at any Special or Annual Meeting of the Shareholders shall be so decided by a majority of votes, and on every occasion when the votes of the Shareholders are to be given, each Shareholder or his proxy, if the Shareholder vote by proxy, shall, if he hold one share and not exceeding two shares, have one vote ; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares ; for every four shares above ten and not exceeding thirty, one vote, making ten votes for thirty shares ; for every six shares above thirty and not exceeding sixty, one vote, making fifteen votes for sixty shares ; and for every eight shares above sixty and not exceeding one hundred, one vote, making twenty votes for one hundred shares ; and no Shareholder shall be entitled to give a greater number of votes than twenty, and no Stockholder shall hold more than five hundred shares.

XII. And be it enacted, That all subscriptions for the Capital Stock of the Company or to the undertaking for carrying out which the said Company is incorporated, shall be good and valid and binding on the Shareholders whether made before or after the passing of this Act ; and the several persons who have subscribed or who may hereafter subscribe for shares in the said undertaking or Company, shall and they are hereby required to pay the sum or sums of money by them respectively subscribed or such part or portions thereof as shall from time to time be called for by the Directors of 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 or required by the Directors, and in case any person or persons shall neglect or refuse to pay the

same

same at the time and manner required for that purpose, it shall be lawful for the Directors to cause the same to be sued for and recovered in any Court of Law in this Province, having jurisdiction in civil cases to the amount, and in such action, whether for the subscriptions already made or hereafter to be made, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is the holder of one or more shares in the stock, (stating the number of shares,) and is indebted to the Company in the sum to which the calls in arrear may amount, and in any such action, it shall be sufficient to maintain the same that the signature of the defendant to some book or paper by which it shall appear that such defendant subscribed for a share or a certain number of shares of the stock of the said Company or undertaking, be proved by one witness whether in the employment of the Company or not, and that the number of calls in arrear have been made, and the suit may be brought in the corporate name of the Company.

What it shall be sufficient to allege and prove in such suits.

XIII. And be it enacted, That no one instalment to be paid on account of the shares in the Stock of the said Company, shall exceed Two Pounds and Ten Shillings Currency on each share, and notice thereof shall be given by advertisement in at least two newspapers during two consecutive weeks before such instalment shall be called for; Provided always, that no instalment shall be called for except after the lapse of at least one calendar month from the time when the last instalment was called for, and if any person or persons shall neglect or refuse to pay his, her or their share of such money to be so paid in as aforesaid, at the time and place fixed and appointed by the Directors, such person or persons so neglecting or refusing may be sued as aforesaid, or at the option of the Directors, shall thereby incur a forfeiture of not more than ten nor less than five per cent. on the amount of his, her or their respective share or shares, and if such person or persons shall refuse or neglect to pay their proportion of the instalment demanded for the space of two calendar months after the time fixed for the payment thereof, then and in that case such person or persons shall forfeit to the Company his, her or their respective shares, upon which former instalment shall have been paid, and such share or shares shall be sold by order of the Directors by public auction, and the proceeds of the sale, after deduction as well of the costs and the forfeiture above mentioned, as of all calls due in respect of such shares and interest thereon, from the times at which such calls were respectively made payable, which calls and interest the said Company is hereby authorized first to deduct and retain, shall be paid over to such defaulter, and the President or Manager of the Company shall have power to transfer the Stock to the purchaser or purchasers thereof; and it is hereby provided, that it shall and may be lawful for the Directors of the said Company to declare at any of their Meetings any such share or shares duly forfeited to the said Company, and every such forfeiture shall be an indemnification to and for every proprietor so forfeiting against all action or 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 Gas Works.

Calls limited in amount: notice, &c.

Proviso: period between calls.

Forfeiture for non-payment of calls.

Sale of forfeited shares.

Declaration of forfeiture.

XIV. And be it enacted, That the shares in the Stock of the said Company shall be assignable and transferable according to such rules, restrictions and regulations as shall from time to time be made and established by the By-laws of the Company, and shall be considered as personal property notwithstanding the conversion of the funds into real estate, and shall go to the personal representatives of such Shareholders; Provided also, that such transfer shall not be valid unless entered and registered in a book or books to be kept for that purpose, in the manner provided by the said By-laws; and it is further provided, that it shall not be lawful for any Shareholder who is or shall become indebted to the Company for Gas, Rent, Fixtures, or otherwise, to transfer any shares of Stock held by him, until payment be made to the said Company of all sums of money due by such Stockholder.

Shares to be assignable, and how.

To be personal property.

Proviso.

Proviso: as to Shareholders indebted for gas.

XV. And be it enacted, That it shall and may be lawful for the said Company, after two days' notice to the Corporation of the City of Hamilton, to break up, dig and trench so much and so many of the streets, squares and public places of the said City of
Hamilton,

Company may, after notice to the Corporation, break up streets, &c.

Hamilton, as may at any time be necessary for laying down the mains and pipes to conduct the Gas from the Works of the said Company to the Consumers thereof, or for taking up, removing, altering or repairing the same, when the said Company shall deem it expedient, doing no unnecessary damage in the premises, and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares and public places while the works are in progress, also placing guards or fences with lamps, and providing watchmen during the night, and taking all other necessary precautions for the prevention of accidents to passengers and others which may be occasioned by such openings; also finishing the work and replacing the said streets, squares and public places in as good condition as before the commencement of the work, without any unnecessary delay; and in case of any neglect of any of the duties herein provided as aforesaid, the said Company shall be subject to pay a fine of One pound currency, for every day such neglect shall continue after receiving a legal or written notice thereof, to be recovered by civil action in any Court of Law of competent jurisdiction, at the suit of any person or persons, or of the Corporation of the City of Hamilton, to and for the use of the said Corporation, over and above all such damages as may be recovered against the Company by any other party.

XVI. And be it enacted, That where there are buildings within the said City of Hamilton, the different parts whereof shall belong to different proprietors or shall be in possession of different tenants or lessces, the said Company shall have power to carry pipes to any part of any building so situate, passing over the property of one or more proprietors or in possession of one or more tenants, to convey the Gas to that of another or in the possession of another, the pipes being carried up and attached to the outside of the building, and also to break up and uplift all passages which may be a common servitude to neighbouring proprietors, and to dig and cut trenches therein, for the purpose of laying down pipes or taking up or repairing the same, the said Company doing as little damage as may be in the execution of the powers granted by this Act, and making satisfaction thereafter to the owners or proprietors of buildings or other property, or to any other party for all damages to be by them sustained in or by the execution of all or any of the said powers, subject to which provisions this Act shall be sufficient to indemnify the Company or their servants or those by them employed, for what they or any of them shall do in pursuance of the powers granted by this Act.

XVII. And be it enacted, That the said Company shall so locate their Gas Works and all apparatus thereunto appertaining or therewith connected and wheresoever situated as in no wise to endanger the public health and safety, and the said Company shall, as regards the construction of their said Gas Works, or so much thereof as shall lie within the City of Hamilton, be subject to and bound by the existing By-Laws of the Corporation of the said City for insuring the public safety and convenience of the inhabitants thereof, and the said Gas Works, apparatus and appurtenances, or so much thereof as shall be within the said City, shall moreover be at all reasonable times subject to the visit and inspection of the municipal authorities thereof or their officers, reasonable notice thereof being previously given to the said Company, and the said Company and their servants and workmen shall at all times obey all just and reasonable orders and directions they shall receive from the said Municipal authorities in that respect, under a penalty of not more than five pounds nor less than one pound currency for each offence in refusing or neglecting to obey the same, to be recovered from the said Company at the suit and for the use of the Corporation of the city of Hamilton, in any Court of competent civil jurisdiction, except a Court constituted under and by virtue of any Act or Acts incorporating the said City of Hamilton.

XVIII. And be it enacted, That it shall be lawful for the said Company to sell and dispose of Gas Meters, Gas Pipes and Gas Fittings of every description for the use of private or public houses or for any Establishment, Company or Corporation whatever, as well as coke, coal, tar, and all and every the products of their works, refuse or residuum arising or to be obtained from the materials used in or necessary for the manufacture of Gas, and the said Company shall also have power and authority to let out

Precautions to be observed by them.

Replacing streets in order.

Penalty for neglect.

How recoverable.

As to buildings in possession of several tenants;

And as to passage held in common.

Satisfaction to be made for damages.

Indemnity to Company.

Gas works to be so located as not to endanger the Public health;

And subject to inspection of municipal authorities

Company to obey the instructions of the Corporation in this behalf.

Penalty for contravention, and how recoverable.

Company may sell gas meters and other gas apparatus.

Also, coke, tar, &c.

And may hire out gas-meters, &c.

out at hire Gas Meters and Gas Fittings of every kind and descriptions at such rates and rents as may be agreed upon between the consumers or tenants and the said Company.

XIX. And be it enacted, That neither the service nor connecting pipes of the Company, nor any Meters, Lustres, Lamps, Pipes, Gas Fittings or other property of any kind whatsoever of the said Company shall be subject or liable for rent, nor liable to be seized or attached in any way by the possessor or owner of the premises wherein the same may be, nor be in any way whatsoever liable to any person for the debt of any person or persons to and for whose use or the use of whose house or building the same may be supplied by the Company, notwithstanding the actual or apparent possession thereof by such person or persons; any law, usage or custom to the contrary notwithstanding.

Pipes, &c. of the Company not to be liable for rent or debt, &c.

XX. And be it enacted, That if any person or persons shall wilfully or maliciously break up, pull down or damage, injure, put out of order or destroy any main pipe or other works or apparatus, appurtenances or dependencies thereof, or any matter or thing already made and provided, or which shall be made and provided for the purposes aforesaid, or any of the materials used and provided for the same, ordered to be erected, laid down or belonging to the said Company, or shall in any wise wilfully do any injury or damage for the purpose of obstructing, hindering, or embarrassing the construction, completion, maintaining or repairing of the said works, or shall cause or procure the same to be done, or shall increase the supply of Gas agreed for with the said Company, by increasing the number or size of the holes in the gas burners, or otherwise wrongfully, negligently or wastefully burning the same, or by wrongfully or improperly wasting the same, every such person or persons shall be guilty of a misdemeanor, and on conviction thereof, the Court before whom such person shall be tried and convicted, shall have the power and authority to condemn such person to pay a penalty not exceeding Ten Pounds currency, or be confined in the Common Gaol of the District for a space of time not exceeding three months, as to such Court shall seem meet.

Penalty on persons injuring any of the works of the Company;

Or obstructing the use thereof;

Or fraudulently increasing supply of gas.

XXI. And be it enacted, That if any person or persons, whether principal or workman, or party employing such, shall join or connect any pipe to the main or service pipes of the said Company, or shall in any way join or connect any pipe for the supply of any light or burner to any pipe whatsoever, containing gas without having first received the consent of the Company, or their Manager or Clerk, in writing, then such person or persons, or party employing such, shall for every offence forfeit and pay to the said Company, the sum of Twenty-five Pounds currency, and also a further sum of One Pound for each day such pipe shall so remain, or be imprisoned for the term of two calendar months in the Common Gaol of the County.

Penalty on persons connecting pipes, &c. with the Company's pipes without leave.

XXII. And be it enacted, That if any person shall wilfully damage or cause, or knowingly suffer to be damaged any meter, lamp, lustre, service pipe or fittings belonging to the said Company, or shall wilfully impair or knowingly suffer the same to be altered or impaired, so that the meter or meters shall indicate less Gas than actually passes through the same, every such person or persons shall incur a penalty to the use of the said Company, for every such offence, of a sum not less than One Pound nor exceeding Five Pounds currency, and shall also pay and defray all charges necessary for the repairing or replacing the said meter, pipes or fittings, and double the value of the surplus gas so consumed; such penalties, damages and charges to be recovered with costs in the manner hereinafter provided.

Penalty for wilfully damaging lamps, meters, lustres, &c.

Penalty to be in addition to damages.

XXIII. And be it enacted, That if any person or persons shall wilfully extinguish any of the public lamps or lights, or shall wilfully remove, destroy, damage, fraudulently alter or in any way injure any pipe, pedestal, post, plug, lamp or other apparatus or thing belonging to the Company, or to any person, shall forfeit and pay to the use of the said Company for every such offence, a penalty not less than one pound, nor more than five pounds, currency, and shall also be liable to make good all damages and charges to be recovered, with costs, as hereinafter provided.

Penalty for wilfully extinguishing public lamps, &c.

Company may recover damages for careless or accidental damage done.

XXIV. And be it enacted, That if any person shall carelessly or accidentally break down or damage any meter, pipe, pedestal or lamp supplied by or belonging to the Company or any other persons, or keep the light or lights burning for a longer time than he shall contract to pay for, and shall not on demand make satisfaction to the Company, or to such person, for the damage done, or the excess of gas obtained and used, such damages, loss or value may be recovered by the Company, with costs, as hereinafter provided.

Company may contract for lighting the streets, &c. at Hamilton.

XXV. And be it enacted, That it shall be lawful for the said Company to contract on such terms and for such periods as may be thought proper with the Corporation of the City of Hamilton, for lighting the streets, squares and public buildings and places of the said City with Gas, at such rates and prices, for the general benefit of the City, as may be mutually agreed on.

Secretary may appear for Company in proceedings in bankruptcy, &c.

XXVI. And be it enacted, That it shall be lawful for the Manager, Secretary or Clerk of the said Company, in all proceedings against the estate of any debtor, bankrupt or insolvent, against whom the said Company may have claims, to represent the said Company, to appear, act, prove and vote in their behalf, in all respects, as if such claim or demand were the demand of such Manager, Secretary or Clerk of the said Company.

Company may cut off the gas from the premises of parties not paying rates due to them, and may recover such rates ;

XXVII. And be it enacted, That if any person or persons, Company or Companies, or Body Corporate supplied with gas by the Company, shall neglect to pay any rate, rent or charge due to the said Hamilton Gas Light Company at any of the times fixed for the payment thereof, it shall be lawful for the said Company, or any person acting under their authority, on giving twenty-four hours previous notice to stop the gas from entering the premises, service pipes or lamps of any such person, Company or Body Corporate, by cutting off the service pipe or pipes, or by such other means as the said Company shall see fit, and to recover the said rent or charge due up to such time, together with the expenses of cutting off the gas, in any competent Court notwithstanding any contract to furnish for a longer time, and in all cases where it shall be lawful for the said Company to cut off and take away the supply of gas from any house, building or premises under the provisions of this Act, it shall be lawful for the Company, their Agents and workmen, upon giving twenty-four hours previous notice to the occupier or person in charge, to enter into any such house, building or premises between the hours of nine o'clock in the forenoon and four in the afternoon, making as little disturbance and inconvenience as possible, and to remove and take away any pipe, meter, cock, branch, lamp, fittings or apparatus the property of and belonging to the said Company ; and it shall also be lawful for any servant of the Company duly authorized to enter any house into which gas may have been or be taken, between the hours aforesaid, for the purpose of repairing and making good any such house, building or premises, or for the purposes of examining any meter, pipe or apparatus belonging to the said Company or used for supplying their gas ; and if any person or persons refuse to permit or do not permit the Servants and Officers of the said Company to enter and perform the acts aforesaid, every such person so refusing or obstructing shall incur a penalty to the said Company for every such offence of ten pounds currency, and a further penalty of one pound for every day during which such neglect, refusal or obstruction shall continue, to be recovered with costs as hereinafter provided.

And may enter premises for the purposes of removing their pipes, meters, &c ;

Or for the purpose of repairing any damaged apparatus.

Penalty for impeding the Company in the exercise of their powers under this Section.

Penalty on Company for opening streets and not adopting the necessary precautions against accidents, or not closing the same in due time.

Common Council may perform the work and recover the cost from the Company.

XXVIII. And be it enacted, That in case the said Company shall open or break up any street, square or public places in the said City, and shall neglect to keep the passage of the said street, square or public place, as far as may be, free and uninterrupted, or to place guards or fences with lamps, or to place watchmen, or to take every necessary precaution for the prevention of accidents to passengers and others, or to close and replace the said streets, squares or public places without unnecessary delay as hereinbefore provided, the City Surveyor, under the direction of the Common Council of the City, after notice in writing to the said Company, shall cause the duty so neglected to be forthwith performed, and the expense thereof shall be defrayed by the said Company, on its being demanded by the City Surveyor at any time not less than

one month after the work shall have been completed, in any case, from the President or Manager of the said Company, or in default of such payment, the amount of such claim shall and may be recovered from the said Company at the suit of the Corporation of the City of Hamilton by civil action in any Court of competent jurisdiction.

XXIX. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to prevent any person, body politic or corporate, from constructing any works for the supply of Gas to his or their own premises, or to prevent the Legislature of this Province, at any time hereafter, from altering, modifying or repealing the powers, privileges or authorities hereinbefore granted to the said Company, or from incorporating any other Company for like purposes.

Private parties may make their own gas: and the Legislature may amend this Act.

XXX. And be it enacted, That nothing herein contained shall affect or be construed to affect in any way or manner whatsoever the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any body or bodies corporate or collegiate except such only as are herein mentioned.

Rights of Her Majesty and of others saved.

XXXI. And be it enacted, That the Gas works hereinbefore mentioned shall be in operation within five years from the passing of this Act, and in default thereof the privileges and advantages granted by this Act to the said Company shall cease and be of no effect.

Gas works must be in operation in five years.

XXXII. And be it enacted, That all Acts done by any Meeting of the Directors, or by any person acting as a Director shall, notwithstanding it shall afterwards be discovered that there was some defect or error in the appointment or qualification of any person attending such meeting as a Director, or acting as aforesaid, be as valid as if such person had been duly appointed and was qualified to be a Director.

Acts of Directors *de facto* valid notwithstanding error in their election, &c.

XXXIII. And be it enacted, That the Company shall not make any dividend whereby their Capital Stock will be in any degree reduced, nor shall any dividend be paid in respect of any share, until all calls then due in respect of that or any other share held by the person to whom such dividend may be payable, shall have first been paid, and it shall be lawful for the Company to deduct from the amount of dividend payable to any person who may not have paid the instalments on the day the same were respectively called for, on any shares at any time owned by him, such sum as would be equal to interest on the unpaid call or calls, from the time at which the same ought to have been paid, until the time when the same was or were actually paid, or to the period of the payment of the first dividend from which such interest may be deducted and reserved by the Company.

Dividends not to be made to impair capital; nor paid to Stockholders in arrear for calls.

Interest allowed on unpaid calls.

XXXIV. And be it enacted, That if at any future period any person or persons, Company or Companies, or body corporate shall lay down any main pipes or pipes of any kind either for the supply of Gas or water in the said City of Hamilton, the said main pipes and pipes of any description shall be laid down at least three feet distant from those of the Hamilton Gas Light Company, under a penalty of five pounds currency for each offence or neglect thereof, and also a further sum of one pound currency for each day such pipes shall so remain, which penalty shall be paid to the said Hamilton Gas Light Company, and may be recovered in the manner hereinafter provided.

Pipes of any future Company to be laid down at a proper distance from those of the Company hereby incorporated.

XXXV. And be it enacted, That notwithstanding any thing in this Act contained, it shall and may be lawful for the Directors of the said Company from time to time and as often and when they shall see fit, without the formality of passing a By-law to that effect especially, by a resolution to that effect to be entered upon the books of the said Company, to authorize the President or Vice-President or the Manager of the said Company to sign such particular Bonds, Mortgages, Contracts or Instruments as it may in the opinion of the Directors be necessary or expedient so to sign, and to affix the common seal of the said Company thereto, and it shall also be lawful in like manner for the President or Vice-President, or the Manager of the said Company, to be from time to time authorized as aforesaid to draw, sign or accept such Promissory Notes or Bills of Exchange for the purposes of the said Company without seal, as it may in the opinion of the Directors be necessary or expedient so to sign, and all such Bonds, Contracts, Mortgages and Instrument so signed and sealed by the person authorized as aforesaid,

Directors may by resolution empower their President, &c. to sign, &c. debentures, bonds, &c.

And also promissory notes, &c.

and all such Notes and Bills so signed, drawn or accepted by the person authorized as aforesaid, shall be valid and binding on the said Company, and be held to be the act and deed of the said Company, provided that no Bond, Bill or other Instrument, signed or signed and sealed by any such officer of the said Company, shall be of any force or effect or binding upon the said Company, unless the same shall have been so signed or signed and sealed under the authority of the Directors by a Resolution as aforesaid, nor in any action, suit or proceeding to which the said Company shall be a party shall the election of the President, Vice-President or Directors, or appointment of the Manager of the said Company, be liable to be questioned by any party except the said Company, nor shall it be necessary for the said Company in any suit to prove the election or appointment or authority of any President, Vice-President, Director or Manager, but the same shall be presumed, unless disputed by the said Company; And provided also, that in any action, suit or proceeding on any such bond, bill, note, contract or other instrument so signed or signed and sealed as aforesaid, or in which the said Company may be engaged, 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, or of the Directors at their Meetings, extracted from the Minute Book kept by the Secretary or other officer of the Company, and by him duly certified on oath before any Judge of one of Her Majesty's Courts of Law, or before a Commissioner duly authorized to take affidavits, to be used in the Court in which such action, suit or proceeding is brought, to be true copies extracted from such Minute Book, and bearing the seal of the said Company, shall be held as conclusive evidence of the facts therein stated, as well as of the election of any President, Vice-President, Director or Manager therein named.

Proviso.

Election of President, &c. not to be called in question, except by the Company.

Proviso: copies of minutes of proceedings, &c. receivable in evidence;

Being properly attested.

Recovery and application of fines, penalties, &c.

XXXVI. And be it enacted, That all fines, penalties and forfeitures imposed by this Act, may be sued for and recovered with costs by the said Company, to and for their own use, or by any person whose property may be injured to and for the use of such person or persons, either in the manner hereinbefore directed or before one or more Justices of the Peace for the City of Hamilton, on the oath of any one credible witness, although such witness be a shareholder acting either as Manager or Clerk, or be a Servant in the employ of the said Company, and in all actions authorized by this Act, to be instituted or contemplated, the evidence of one credible witness shall be received as sufficient, notwithstanding such witness may be a shareholder acting as aforesaid, or be in the employ of the said Company, and all such actions shall be brought in Courts having jurisdiction to the amount involved in such suit, unless otherwise specially provided and authorized by this Act, and where damages as well as a penalty may be given, such damages and penalty may be sued for separately, and such fines, penalties and damages may be levied by distress from the goods of the defendant, and in case the defendant may have no goods to satisfy the same, then and in that case he shall be committed to the Common Gaol for such period, not exceeding two months, as the Justice or Court may direct.

Common Council of Hamilton may take the whole stock of the Company.

Upon what terms.

Charge to be made by Corporation on consumers of gas, limited. How the Corporation may pay for the stock, if they take the whole.

XXXVII. And be it enacted, That should the Common Council of the City of Hamilton decide, as they are hereby empowered to do, upon taking the whole of the Stock of the said Company, the Shareholders therein shall be and are hereby declared to be bound to surrender and transfer the whole of their respective shares unto the Corporation of the said City of Hamilton, upon the terms and conditions hereinafter set forth, that is to say: the said Corporation shall pay such an advance upon the shares as will cover the interest of the instalments paid previously to the works of the Company having gone into operation, as well as any other loss of interest which the said Shareholders may have sustained by reason of the dividends not having been equal to the legal interest on their shares; and that the Corporation of the said City consent and agree that the charge made to the consumers of Gas shall not exceed such price as will be sufficient to produce a nett profit on the works of eight per centum per annum: and if the Common Council of the said City shall so purchase the whole of the Stock of the said Company, they may, in that case, pay for the same, out of any funds at their disposal

disposal not specially appropriated, or may raise money by loan or by debentures, in like manner as they are empowered to raise money which they are duly empowered to borrow for any other purpose : Provided always, that the said Common Council, to be entitled to exercise the power hereby given them, of taking the whole of the said Stock as aforesaid, shall take the same within fifteen years from the passing of this Act : and in the event of their taking the same, the Corporation of the said City shall be and is hereby bound to fulfil all the engagements to which the said Company may have previously entered into, in respect to the carrying on of the business of the said Company, as well as its engagements with mechanics, workmen, servants and others, and the said Company shall in all those respects be entirely relieved, exonerated and held harmless from all claims, damages and demands of all persons aforesaid by the Corporation of the said City of Hamilton ; and generally, the said Corporation shall have all the rights, and be subject to all the liabilities of the said Company, imposed by this Act, or lawfully contracted under it.

Proviso: time within which they may take the said stock, limited.

Their powers and liabilities if they take the same.

XXXVIII. And be it enacted, That the word "Lands" in this Act, shall include all lands, tenements and hereditaments, real and moveable and immoveable property whatsoever ; and the word "Company" in this Act, shall mean the Corporation erected by this Act, unless some other be expressly indicated by the context ; and all words importing the singular number, or the masculine gender only, shall extend to more than one person, party or thing, and to females all well as males ; and the words "Shareholders" or "Stockholders" shall include the heirs, executors, administrators, curators, legatees or assignees of such Shareholders, or any other party having the legal possession of any share, whether in his own name or that of any other, unless the context shall be inconsistent with such construction ; and whenever power is by this Act given to do any thing, power shall be intended also to do all things which may be necessary to the doing of such thing, and all acts which the Directors or Shareholders are authorized to perform and do, shall and may be validly performed and done by a majority of the Directors, or a majority of the *quorum* of the Directors or of the Shareholders respectively, as the case may be, unless where otherwise expressly provided ; and generally, all words and clauses herein shall receive such liberal and fair construction as will best ensure the carrying into effect of this Act according to its true intent and spirit.

Interpretation clause.

XXXIX. And be it enacted, That this Act shall be deemed a Public Act, and as such shall be judicially noticed by all Judges, Justices and others whom it may concern, without being specially pleaded.

Public Act.

XL. And be it enacted, That this Act shall be and remain in force fifty years, and no longer.

Duration of Act.





ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P. C X X X V I I .

An Act further to extend the time for paying up the increased Capital Stock of the Bank of Upper Canada.

[24th July, 1850.]

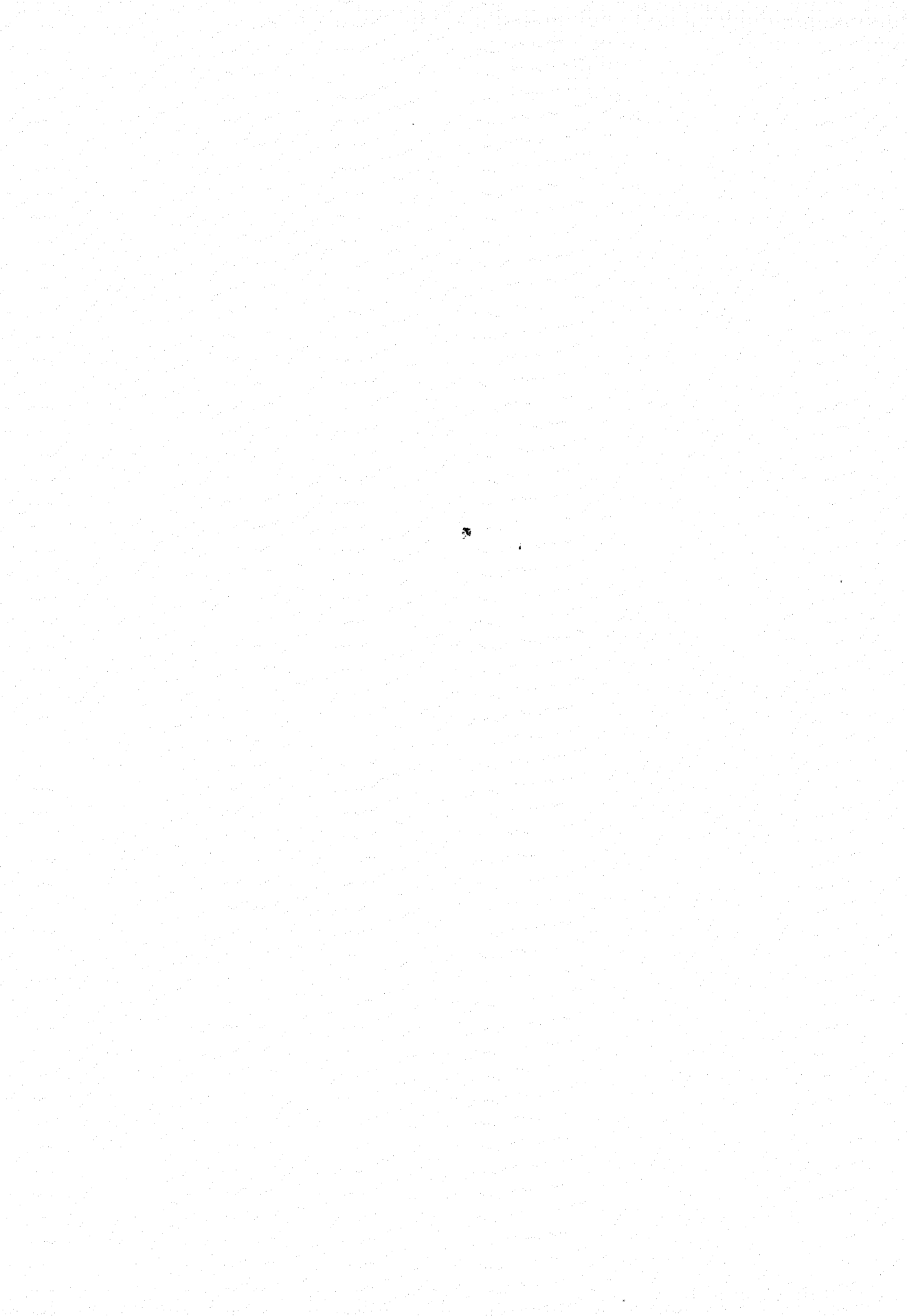
WHEREAS by an Act of the Parliament of this Province, passed in the sixth year of Her Majesty's Reign, intituled, *An Act to extend the Charter of the Bank of Upper Canada, and to increase the Capital Stock thereof*, it was among other things enacted, That the Capital Stock of the said Company should be increased by the sum of Three hundred thousand pounds, and that such additional Stock should be paid up in full, within five years from and after the passing of the said Act: And whereas by another Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to amend An Act, intituled, 'An Act to extend the Charter of the Bank of Upper Canada, and to increase the Capital Stock thereof,'* it was enacted, That the term of five years, limited in and by the first recited Act, for wholly paying up the increase of the said Stock, should be extended to four years from and after the passing of the said last mentioned Act: And whereas the Bank of Upper Canada have by Petition to the Legislature prayed for a further extension of the time within which the new shares of the Capital Stock must be fully paid up, and it is expedient to grant their prayer to the extent hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the term of four years, limited in and by the said last recited Act, for wholly paying up the said increased Capital Stock of the said Bank of Upper Canada, shall be and the same is hereby extended to five years from and after the passing of this Act.

Preamble,
6 V. c. 27.

9 V. c. 86.

Time for paying up
new Stock extended.

TORONTO : Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.





ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXXXVIII.

An Act to alter and amend two several Acts passed respectively in the seventh year and in the eighth year of Her present Majesty's Reign, relating to the Trust and Loan Company of Upper Canada.

[10th August, 1850.]

WHEREAS an Act was passed in the seventh year of the Reign of Her present Majesty, intituled, *An Act for incorporating and granting certain powers to the Upper Canada Trust and Loan Company*; And whereas another Act was passed in the eighth year of the Reign of Her said Majesty, intituled, *An Act to amend and extend certain provisions of an Act made and passed in the seventh year of Her present Majesty's Reign, intituled, 'An Act for incorporating and granting certain powers to the Upper Canada Trust and Loan Company'*; And whereas by the last recited Act, it was enacted, That the provisions in the first recited Act, as to the scale of voting of the Shareholders should be, and the same were thereby repealed, and another scale substituted; And whereas the scale so substituted has been found inconvenient, and it is expedient to authorize the said Company to adopt another scale of voting: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in case the Shareholders of the said Company, assembled at a meeting specially summoned and constituted for the purpose, shall, by a majority of the votes of the Shareholders voting at the same, declare their desire that the scale of voting established by the last above recited Act shall be altered, and the scale of voting hereby authorized, substituted for the same, the provisions in the said last recited Act establishing the said scale of voting shall be and the same are hereby repealed to all intents and purposes whatsoever; Provided always, nevertheless, that the scale of voting established by the last above recited Act shall remain and be observed at all meetings of the Shareholders of the said Company until it shall be altered in the manner mentioned and provided in this Act.

Preamble.
7 V. c. 63.

8 V. c. 96.

Scale of voting may be altered, and how.

Proviso.

New scale of voting.

II. And be it enacted, That from and after the time when the Shareholders of the said Company shall, in pursuance of and under the provisions of this Act, and in the manner herein mentioned and provided, declare their desire that the scale of voting established by the last recited Act shall be altered, the following scale shall be substituted and established in lieu thereof, that is to say, that henceforth, at all meetings of the said Company, every Shareholder shall be entitled to one vote for every five shares held by him, but no Shareholder shall be entitled to vote at any meeting unless he shall have paid all the calls then payable upon all the shares held by him.

III. And whereas many persons resident in this Province, or possessed of considerable property therein, experience great difficulty and often find it impossible to obtain loans on the security of such property, although they have connections in Great Britain disposed and able to advance loans on the security of such property, in consequence of their inability to find adequate securities in Great Britain for the regular payment there of

Recital.

the interest thereon, and of the principal when due, and it would be to the advantage of such persons and of the Province that facilities should be afforded for obtaining such securities in Great Britain; And whereas the said Company is willing to provide such securities for persons desirous of availing themselves of their assistance, provided they were authorized by an Act of the Legislature of this Province to apply and employ their capital for such purpose, and were also empowered to receive, and the persons employing them were empowered to give, or charge on their properties a remuneration to the said Company proportioned to the responsibility undertaken and the benefit conferred; And whereas it is expedient to amend and extend the provisions of the above recited Acts accordingly, Be it therefore enacted, That it shall and may be lawful for the said Company, from time to time, to negotiate loans for persons possessed of property in Canada, or resident there, with persons resident in Great Britain, or elsewhere, and to employ and apply its capital, assets and credit, in guaranteeing and securing the payment in Great Britain or elsewhere of the money advanced on such loans, and of the interest thereon.

Company may raise loans for persons resident in Canada.

And may receive remuneration for so doing.

IV. And be it enacted, That it shall and may be lawful for the said Company, to receive, and for the persons for whom the said Company may provide guarantees or securities for the payment in Great Britain or elsewhere of moneys advanced on loan, and of the interest thereon, to give for the responsibility and service undertaken and rendered by the said Company, such remuneration in the form of a per centage or commission or otherwise, as may from time to time be agreed between the said Company and such persons; and that the amount agreed to be paid to the said Company in the form of a per centage or commission or otherwise may be paid at such time or times, or the payment thereof may be charged and secured on the property mortgaged or any other property, and the agreements, contracts, deeds or instruments for securing the same may be in such form and may contain such conditions and provisions as may be settled between the said Company and such parties; any law or usage in this Province to the contrary notwithstanding.

What rate of interest the Company may take.

V. And be it enacted, That it shall be lawful for the said Company, at all times, in exercising the powers of lending and advancing money, and of borrowing money, given by the said recited Acts, or either of them, or by this Act, respectively, to receive and take, and to pay or agree to pay any rate of interest whatever for the money so to be lent or borrowed respectively, which shall not exceed the rate of eight per centum per annum.

Public Act.

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

TORONTO: Printed by STEWART DERBISHIRE & GEORGE DESBARATS,
Law Printer to the Queen's Most Excellent Majesty.



ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXXXIX.

An Act to incorporate *The Kingston Fire and Marine Insurance Company.*

[10th August, 1850.]

WHEREAS Thomas Askew, John Watkins, William Herchmer, Henry Gildersleeve, Maxwell W. Strange, John R. Forsyth, James Morton, John Counter, Alexander Campbell, William Wilson, John Fraser, James A. Harvey, George Romanes, Francis A. Harper, John Mowat, John Carruthers, Edmund Yarwood, Allan N. McLean, John Bredin, William Bredin, Horatio Yates, William Ford, junior, John Watkins and company, John Grist, Jane McLeod, Samuel Morley, James Linton, James Nickalls, Simon Sweetland, James Fraser, D. D. Calvin, W. S. Macdonald, James Gardiner, F. Kayler, Thomas Henny, Sarah McKenzie, Andrew Drummond, Philip Wenz, Abraham Foster, Thos. W. Robison, William Ferguson, Francis M. Hill, The Hon. John A. Macdonald, The Hon. John Hamilton, and others, have petitioned the Legislature of this Province, praying that an Association, under the style and title of *The Kingston Fire and Marine Insurance Company* may be incorporated for the purpose of enabling the said petitioners and others to carry on the business of Fire, Inland Navigation, and Marine Insurance with facility; And whereas it hath been considered that the establishment of such an Association would be greatly beneficial to the mercantile and agricultural interests of this Province, and tend to the retaining therein a large portion of the moneys annually sent away as premiums for such insurances: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all such persons as now are or hereafter shall become Stockholders of the said Company, shall be and are hereby ordained, constituted and declared to be, from time to time, and until the first day of January, one thousand nine hundred and fifty-one, a Body Corporate and Politic in law, in fact and in name, by the style and title of *The Kingston Fire and Marine Insurance Company*, and by that name, style and title they and their successors, until the first day of January, one thousand nine hundred and fifty-one, shall and may have continued succession, and shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever; and that they and their successors may have a Common Seal, and may change and alter the same at pleasure; and also that they and their successors, by and under the name, style and title of *The Kingston Fire and Marine Insurance Company*, shall be capable in law of purchasing, holding or conveying any estate real or personal, for the use of the said Corporation, subject to the rules and conditions hereinafter mentioned.

II. And be it enacted, That a share in the stock of the said Company shall be Twenty-five pounds, and the number of shares shall not exceed two thousand, and that

Preamble.

Certain persons incorporated.

Corporate name and powers.

Capital Stock, £50,000.

Shares £25.

books of subscription shall be opened in the principal Cities and Towns of the Province at the same time, of which public notice shall be given by such person or persons, and under such regulations as the majority of the said petitioners shall direct : Provided always, that it shall and may be lawful for the said Corporation to increase its Capital Stock to a sum not exceeding One hundred thousand pounds, as a majority of the Stockholders, at a meeting to be expressly convened for that purpose, shall agree upon.

Proviso.

Election of Directors ;

III. And be it enacted, That it shall and may be lawful as soon as one thousand five hundred, out of the aforesaid two thousand shares, shall have been taken up, or Thirty-seven thousand five hundred pounds out of the aforesaid Capital Stock of Fifty thousand pounds, shall have been subscribed, for the Shareholders or Subscribers to proceed to the election by ballot of twelve Directors, at such time and place as the majority of such Subscribers shall appoint, giving fifteen days' notice thereof in the Canada Gazette, and in one newspaper at least in each County or Union of Counties where subscription has been made, which Directors shall be subjects of Her Majesty and Stockholders at the time of their election, and during their continuance in office, to the amount of twenty shares, and shall have power to choose from among themselves a President and Vice-President, and the said Directors shall thereupon, at their first meeting thereafter, divide themselves by lot into three classes of four each, who shall go out of office in rotation as hereinafter provided for.

And of President, &c.

Proportion of votes to shares.

IV. And be it enacted, That each Stockholder shall be entitled to a number of votes proportioned to the number of shares which he or she shall have held in his or her own name at least three months prior to the time of voting, according to the following ratios, that is to say, at the rate of one vote for each share not exceeding four, five votes for six shares, six votes for eight shares, seven votes for ten shares, and one vote for every five shares above ten ; and that all votes given at any meeting, may be either personally or by proxy, the holders of such proxies being Stockholders, authorized by writing under the hands of the Stockholders nominating such proxy, and every proposition at any such meeting shall be determined by a majority of the votes of the parties present, including proxies : Provided always, that the authority to any such proxy shall bear date within six months of the time of meeting at which it is produced : And provided also, that no person or co-partnership, or body politic, shall be entitled to more than fifteen votes at any such meeting on any one proposition.

Proviso.

Time for which Directors shall hold office.

V. And be it enacted, That the persons chosen Directors of the said Corporation by the Stockholders aforesaid, shall hold their offices until the second Monday in February, one thousand eight hundred and fifty-one, or until the election hereinafter provided for takes place.

General meetings of Stockholders.

VI. And be it enacted, That a general meeting of the Stockholders of the said Corporation, shall be holden in the City of Kingston, at the place of business of the said Corporation, on the second Monday in the month of February, one thousand eight hundred and fifty-one, and thereafter on the same day in each and every year, and that at such meeting, the four Directors whose names stand first on the roll or list of Directors, shall be held to vacate their seats, and the Stockholders present at such meeting, either in person or by proxy, shall proceed to elect by ballot four Directors to serve as Directors for the ensuing three years, who shall upon election be placed at the bottom of the roll of Directors : Provided always, that nothing herein contained shall be held to render the retiring Directors ineligible to re-election.

Change of Directors.

Proviso.

Case of death, &c. of a Director provided for.

VII. And be it enacted, That if any Director of the said Corporation, die, resign or become disqualified or incompetent to act as a Director, or cease to be a Director by any other cause than that of going out of office by rotation as aforesaid, the remaining Directors, if they think proper so to do, may elect in his place any Stockholder duly qualified to be a Director, and the Stockholder so elected to fill up any such vacancy, shall continue in office until the first yearly meeting after such vacancy, and the Stockholders then present shall elect a new Director, who shall hold office for the

same

same period as the Director would have done, whose death, resignation or disqualification caused the vacancy.

VIII. And be it enacted, That the Corporation hereby created shall have power and authority to make and effect Contracts of Insurance, with any person or persons, body politic or corporate against loss or damage by fire to any houses, stores or other buildings, shipping and vessels of all kinds, and any goods, chattels or personal property whatsoever; and also against losses or damage of or to vessels, boats or other craft, either sea going or navigating upon the lakes or rivers of the Province, and against any loss or damage of or to the cargoes or property conveyed in or upon any such vessels, boats or other craft, or to timber or other property of every description conveyed in any manner upon the said waters, and generally to do all matters and things relating to such objects; and all policies, checks and all other instruments shall be subscribed by the President, or in his absence by the Vice-President, or in case of his absence, by any three of the Directors for the time being, and countersigned by the Secretary.

Corporation may insure Houses, Vessels, &c.

Policies, &c. how executed.

IX. And be it enacted, That it shall be lawful for any person or persons to subscribe for such or so many shares as he, she or they think fit, not however exceeding, during the first month after Subscription Books are opened, eighty shares, and that ten per centum be ready as a deposit to be called for by the Directors as soon as they may deem expedient, and the remainder shall be payable in such instalments as a majority of the Directors may determine upon: Provided always, that no instalments shall exceed five per centum upon the Capital Stock in any period of three months, nor be called for, nor become payable in less than thirty days after public notice shall have been given in one newspaper published in the City of Kingston, and the Canada Gazette, and by circular addressed to each Stockholder, at his, her or their last known residence; if any Stockholder or Stockholders as aforesaid shall refuse or neglect to pay to the said Directors the instalments due upon any share or shares held by him, her or them at the time required so to do, such Stockholder or Stockholders as aforesaid, shall forfeit such share or shares as aforesaid, together with the amount previously paid thereon, and such forfeited share or shares may be sold at a public sale by the Directors, after such notice as they may direct, and the moneys arising therefrom shall be applied for the purposes of this Act; Provided always, that in case the money produced by any sale of shares be more than sufficient to pay all arrears and interest, together with the expense of such sale, the surplus of such money shall be paid on demand to the owner, and no more shares shall be sold than what shall be deemed necessary to pay such arrears, interest and expenses.

Persons may subscribe for shares not exceeding 80 each, during 1st month.

Proviso.

Proviso.

X. And be it enacted, That if payment of such arrears of calls, interest and expenses be made before any share so forfeited and vested in the Company shall have been sold, such share shall revert to the party to whom the same belonged before such forfeiture, as if such calls had been duly paid; and in all actions or suits for the recovery of such arrears or calls, it shall be sufficient for the said Company to allege that the defendant, being owner of such shares, is indebted to the said Company in such sums of money as the calls in arrear amount to, for such and so many shares, whereby an action hath accrued to the Company by virtue of this Act, and on the trial it shall only be necessary to prove that the defendant was owner of some shares in the Company, that such calls were in fact made, that notice was given as directed by this Act, and it shall not be necessary to prove the appointment of the Directors who made such calls, nor any other matter whatsoever.

Provision as to arrears of calls, &c.

What must be alleged and proved in suits for instalments.

XI. Provided also, and be it enacted, That if the whole number of shares shall not be subscribed for within one month after the said Books of Subscription shall be opened, then it shall be lawful for any former Subscriber or Subscribers to increase his, her or their subscription; And provided further, that if the total amount of subscriptions, within the period aforesaid, shall exceed the Capital Stock limited by this Act to fifty thousand pounds, then and in such case, the shares of each Subscriber or Subscribers above ten shares, shall, as nearly as may be, be proportionably reduced until the total number

If all the Stock be not subscribed within a certain time, former subscribers may increase their subscription.

Proviso. number of shares be brought down to the limits aforesaid; And provided nevertheless, that the said limitation in respect to persons subscribing to the said Capital Stock, shall not extend or be construed to extend to prevent the acquisition of a greater number of shares by purchase after the said Corporation shall have commenced its operations.

Meetings of Directors. XII. And be it enacted, That the said Directors shall meet together at least once a week, at such time and place as may be designated in the By-laws, for the purpose of transacting the business of the Company, at which meeting four or more of the Directors aforesaid shall be a quorum, for the purpose of transacting and managing the details of business and affairs of the said Corporation, and all questions before them shall be decided by a majority of votes, each Director to have one vote; and in case of an equality of votes, the President, Vice-President or presiding Director, shall give the casting vote over and above his proper vote as a Director, and that at such weekly meetings of the Directors, the President or Vice-President, or in their absence the Director appointed by a majority of the Directors present, shall preside.

Who shall preside at meetings. XIII. And be it enacted, That at all meetings of the Stockholders, the President or Vice-President, or in their absence a Director chosen by the Stockholders shall preside, who in case of an equality of votes, shall give the casting vote over and above his proper vote.

Majority of Directors may make By-laws. XIV. And be it enacted, That any number of the Directors of the said Corporation being a majority of the said Directors, shall have full power and authority to make, prescribe and alter such By-laws, Rules, Regulations and Ordinances as shall appear to them proper and needful, touching the well ordering of the Corporation, the management and disposition of its stock, property, estate and effects; and also to call in any instalment or instalments of the Capital Stock of the said Corporation, at such time and season as they shall think fit, giving due notice thereof, according to the ninth section of this Act; also to declare and cause to be paid or distributed to the respective Stockholders, any dividend or dividends or profits, at such times and seasons as they shall think proper, or add the same to the paid up portion of the Capital Stock; also to appoint a Secretary, and such other persons as to them may appear necessary for carrying on the business of the said Corporation, with such salary and allowances to each as they may think meet and advisable; Provided always, that for the purposes in this section of this Act mentioned, a majority of the Directors at least shall be present and assenting; And provided further, that all such By-laws, Rules, Regulations and Ordinances made by the Directors as aforesaid, shall be subject to the control of the Stockholders, at their annual meeting, but not so as to render invalid any act done by the Directors prior to any resolution passed at such general meeting.

Other powers of Directors.

Proviso.

Proviso as to By-laws.

Corporation may acquire, &c. real property, &c.

Proviso.

Proviso.

XV. And be it enacted, That the said Corporation shall be in law capable of acquiring, by purchase, lease, mortgage or otherwise, and of holding, absolutely or conditionally, any lands, tenements, real or immoveable estate, and the same to sell, alienate, let, release, transfer and dispose of as to them shall seem expedient; Provided always, that nothing herein contained shall be considered as permission to hold any real estate beyond what may be necessary for the said Corporation to hold for its own immediate accommodation, in relation to the convenient transaction of its business, or such as shall have been *bonâ fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts; And provided also, that it shall not be lawful for the said Corporation to deal or use or employ any part of the stock, funds or moneys thereof, in buying or selling any goods, wares or merchandize, or in any banking operations whatsoever, but it shall nevertheless be lawful for the said Corporation to purchase and hold, for the purpose of investing therein any part of the said funds or money, any of the Public Securities of this Province, the Stocks of any of the Banks or other Chartered Companies, and the bonds and debentures of any of the Incorporated Cities or Towns, or Municipal Districts, and also to sell and transfer the same, and also to make loans upon or purchase bonds, mortgages and other securities, and the same to call in, sell, and re-loan, as occasion

may render expedient; And provided further, that the said Corporation shall be bound to sell or dispose of, any real estate so purchased or conveyed to it as aforesaid, (except such as may be necessary as aforesaid, for the convenient transaction of its business,) within seven years after acquiring the same.

Proviso.

XVI. And be it enacted, That no transferred share shall entitle the person to whom it is transferred to a vote, until the expiration of ninety days after such transfer.

Votes on transferred shares.

XVII. And be it enacted, That no transfer of any share of the said Corporation shall be valid until entered in the books of the Corporation, according to such form as the Directors may, from time to time, determine, and that until the whole of the Capital Stock of the said Corporation is paid up, it shall be necessary to obtain the consent of the Directors to such transfer being made; provided always, that no Stockholder indebted to the said Corporation shall be permitted to make a transfer, or receive a dividend, until such debt is paid, or secured to be paid, to the satisfaction of the Directors.

Transfers to be entered.

Proviso.

XVIII. And be it enacted, That during the hours of business, every Stockholder of the said Corporation shall have power to ask and receive from the President or Secretary, the names of all the Stockholders of the said Corporation.

Stockholders may demand names of all Stockholders.

XIX. And be it enacted, That in respect to all debts which shall be contracted by the said Corporation, or obligations incurred before the said first day of January, one thousand nine hundred and fifty-one, or whenever the said Corporation may be dissolved, the persons composing the said Corporation, at the time of its dissolution, shall be responsible, in their individual and private capacity, to the extent of their respective shares, and no further, in any suit or action to be brought or prosecuted after the dissolution of the said Corporation.

Provision with respect to debts of Corporation.

XX. And be it enacted, That it shall be the duty of the said Corporation to make a return, under the hand of the President and Secretary, to the Provincial Parliament, once a year, which return shall contain—a full and true account of the funds and property of the said Corporation—the amount of capital subscribed and paid in—the amount of property insured during the previous year—the amount of insurance charges upon the several kinds of property insured—and the amount which the Corporation have paid or are liable to pay for losses during such year; a copy of which return shall be laid before the Stockholders at their next meeting, and sent to each to their address.

Return to Provincial Parliament.

XXI. And be it enacted, That if at any time it shall happen that an election of Directors should not be made on the several days hereinbefore provided for their election, the said Corporation shall not for that cause be deemed to be dissolved; and it shall and may be lawful on any other day to hold and make an election of Directors in such manner as may be directed and required by the By-laws of the said Corporation.

Corporation not dissolved by non-election of Directors.

XXII. And be it enacted, That this Act be and is hereby declared to be a Public Act, and that the same may be construed as such in Her Majesty's Courts in this Province.

Public Act.

XXIII. And be it enacted, That the present Act shall in no wise be forfeited for non-user at any time before the first day of March, one thousand eight hundred and fifty-three.

As to forfeiture for non-user.



ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP CXL.

An Act to incorporate the Catarauqui Cemetery Company.

[10th August, 1850.]

WHEREAS it hath become necessary to the health of the City of Kingston that a Public Cemetery should be established near to, but without the limits thereof, and the persons hereinafter named have associated themselves together for the purpose of establishing such Cemetery, and have prayed that they and their successors be incorporated and divers powers conferred on them for the purpose aforesaid, and it is expedient to grant the prayer of the said Petition : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Thomas Kirkpatrick, Alexander Campbell, Samuel Rowlands, James J. Burroughs, Maxwell W. Strange, Neil McLeod, Thomas A. Corbett, William G. Hinds, William Allan Geddes, and such others as are now and may hereafter become subscribers in the undertaking hereinafter mentioned, and their successors for ever, shall be and are hereby constituted a body politic and corporate in fact and in name, by the name of "The Catarauqui Cemetery Company."

Preamble.

Certain persons incorporated.

Corporate name.

Capital limited.

II. And be it enacted, That the capital of the Company shall be Two thousand pounds, which shall be divided into shares of Twenty-five pounds each, and shall be transferable on the Books of the Corporation, in such manner as the Corporation shall by its By-laws direct.

III. And be it enacted, That it shall be lawful for the said Corporation to acquire, take, and hold a lot or tract of land within the Township of Kingston, not exceeding two hundred acres ; and to sell, or otherwise dispose of such land or lots to be used exclusively as a Cemetery or place of Burial for the dead : Provided always, that the deed of sale of any lot in the said Cemetery or place of Burial shall be in the form of the Schedule A to this Act annexed ; And provided also, that the real estate of the said Corporation, and the said lots when conveyed by the Corporation to individual proprietors, shall be exempt from assessment and taxation, and shall not be liable to be sold under execution, or to be subject to be applied to the payment of debts by any bankrupt, insolvent or other law.

What land the Corporation may hold.

Proviso.

Proviso : exemption from taxation, &c.

IV. And be it enacted, That all moneys received for or on account of the said Capital Stock, shall be first applied by the said Corporation to the payment of the purchase money of the land which may be acquired by the Corporation ; and any residue thereof, together with at least one half of the money obtained for sales of lots, shall be applied to improving or embellishing such land as a Cemetery or Burial Ground.

Application of capital.

V. And be it enacted, That the said Thomas Kirkpatrick and Alexander Campbell shall be Commissioners to receive subscriptions to the said Capital Stock ; they shall open Books at such places, and after having given such notice, as they deem expedient ; they

Commissioners for receiving subscriptions.

Election of Directors,
&c.

Votes at such elec-
tion.

they shall, when the sum of one thousand pounds currency shall have been subscribed, call a meeting of the subscribers to elect from among the Stockholders five Directors; and such election shall be made by such Stockholders, at such time and place as such Commissioners may have appointed,—each share, represented personally or by proxy, entitling the Stockholder owning it to one vote; the Commissioners shall certify under their hands the names of the parties elected Directors, and shall hand over to them the Books, Papers, Moneys and other effects of the said Corporation, which may be in their hands; the Directors then chosen shall fix the time and place of their first meeting, and a new election of five Directors shall afterwards be made annually on the same day of the week, in the same month as such first election may be made on the Directors in office fixing the day, and calling the meeting accordingly.

Powers of Directors.

VI. And be it enacted, That the Directors or a majority of them, shall call in the capital stock by such instalments and at such times as they or a majority of them shall deem fit, giving fifteen days public notice in a public newspaper, of such times of payment and the amount of instalment required; and shall manage and control all the affairs of the said Corporation until the capital stock be extinguished, and a Board of Trustees appointed as hereinafter provided.

Original stock may be
extinguished: who
shall be members of
the Corporation after-
wards.

VII. And be it enacted, That whenever the original Stockholders in the said Corporation shall have been reimbursed, either by sale to them of lots in the said Cemetery, or otherwise, in the amount of stock originally taken and paid for by them, or earlier, the said Stockholders may, if they shall see fit, surrender and extinguish their Stock in such manner as the Board of Directors shall prescribe; and all persons who, then, or thereafter, shall be or become proprietors of lots or parcels of ground conveyed to them or their predecessors in title, by the said Corporation, shall become and be members of the said Body Corporate.

Trustees to be ap-
pointed after the ex-
tinguishment of the
stock.

VIII. And be it enacted, That the estate, property and affairs of the said Corporation shall, after the said capital stock is extinguished, be managed by five Trustees, a majority of whom shall constitute a quorum capable of doing business; the persons constituting the Board of Directors at the time of the extinguishment of the said capital stock, shall constitute the first Board of Trustees, and shall remain in office until the election of a new Board; the proprietors of lots shall select from amongst themselves five Trustees on the first Monday in January in every year, to hold office until their successors shall in like manner be elected: Notice of the election shall be given in three several newspapers published in Kingstön; and shall be by ballot: Provided always, that each lot shall entitle the proprietor thereof to one vote, and such vote may be given in person or by proxy; the Trustees may fill any vacancy from amongst the proprietors of lots, should any occur during the year of office: the annual meeting of the proprietors of lots shall be held on the first Monday in January, in every year, when the Trustees going out of office shall make a full report of the management, condition and fiscal concerns of the Corporation.

Proviso.

Annual elections,
reports, &c.

Corporation to ap-
point officers, make
By-laws, &c.

Proviso as to By-laws.

IX. And be it enacted, That it shall be lawful for the said Corporation to appoint such officers and servants of the Corporation as they shall think expedient, to make and frame By-laws for the government and control of the said officers, and also to make and frame all other By-laws, Rules and Regulations for the management of the business of the Corporation in all its particulars and details whether herein specially enumerated or not, and the same at any time to alter, modify and repeal; Provided that no such By-laws shall interfere with the rules in the Schedule A to this Act annexed, nor be inconsistent with any other of the provisions of this Act; and any copy of the said By-laws purporting to be under the hand of the Clerk or Secretary of the said Corporation shall be received as *prima facie* evidence of such By-laws in all Courts in this Province.

X. And be it enacted, That all lots when conveyed and designated as lots by the said Corporation shall be indivisible, but may be owned and held in undivided shares. One half of the proceeds of all sales shall be applied towards the payment of the purchase money of the land acquired by the said Corporation, and the residue shall be applied to preserving, improving, and embellishing the said land as a Cemetery, and to the incidental expenses of a Cemetery establishment; and after payment of such purchase money, the proceeds of all future sales shall be applied to the preservation and improvement of the said Cemetery and incidental expenses thereof, and to no other purpose whatever.

Lots to be indivisible.

Application of proceeds of sale of lots.

XI. And be it enacted, That any person who shall wilfully destroy, deface, injure, or remove any Tomb, Monument, Grave-Stone, or other structure, placed in the Cemetery aforesaid, or any fence, railing, or other work for the protection or ornament of the said Cemetery, or of any Tomb, Monument, Grave-Stone, or other structure aforesaid; or any plot or parcel or ground within the Cemetery, or shall wilfully destroy, cut, break or injure any tree, shrub, or plant within the said Cemetery, or play at any game or sport, or discharge fire-arms, (save at a Military funeral) in the said Cemetery, or who shall wilfully and unlawfully disturb any persons assembled there for the purpose of burying any body therein, or who shall commit any nuisance in the aforesaid Cemetery, shall be guilty of a misdemeanor, and may, upon conviction before a Justice of the Peace, or other competent authority, be fined any sum not less than Twenty shillings nor more than Twenty pounds, and in default of payment of such fines, such person may be committed to jail for any period not less than eight days or more than one month; and may also be sued by the said Corporation for any such trespass whether committed in a private lot or otherwise; and in any case in which the corporation is a party, the Members of the said Corporation shall be competent witnesses.

Punishment of persons defacing tombs, &c.

XII. And be it enacted, That the said Corporation shall make regulations for ensuring that all burials within the said Cemetery are conducted in a decent and solemn manner.

Burials to be decently performed.

XIII. And be it enacted, That no body shall be buried in any vault under any Chapel or other building in the said Cemetery or within fifteen feet of the outer wall of any such Chapel or building.

No burial to be in the chapel, &c.

XIV. And be it enacted, That every part of the said Cemetery shall be enclosed by walls or other sufficient fences or railings of the height of eight feet at least.

Cemetery to be inclosed.

XV. And be it enacted, That the said Corporation shall keep the said Cemetery and the buildings and fences thereof in complete repair and in good order and condition out of the moneys to be received by them in virtue of this Act.

Cemetery to be kept in good repair.

XVI. And be it enacted, That the said Corporation shall make all proper and necessary Sewers and Drains in and about the said Cemetery, for draining it and keeping it dry: and they may from time to time as occasion requires, cause any such Sewer or Drain to open into any existing Sewer, with the consent in writing of the persons having the management of the street or road, and of the owners and occupiers of the lands through which such opening is made, doing as little damage as possible to the road or ground wherein such sewer or drain may be made, and restoring it to the same or as good condition as it was in before being disturbed.

Corporation to make and maintain proper sewers.

XVII. And be it enacted, That if the said Corporation at any time cause or suffer to be brought or to flow into any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place, any offensive matter from the said Cemetery, whereby the water therein shall be fouled, they shall forfeit for every such offence the sum of Twelve pounds ten shillings currency.

Penalty on the Corporation for contaminating any rivers, &c.

Penalties how recoverable.

Proviso.

XVIII. And be it enacted, That the said penalty, with full costs of suit, may be recovered by any person having a right to use the water fouled by such offensive matter, by a civil action in any Court of competent jurisdiction; Provided always, that the said penalty shall not be recoverable unless the same be sued for during the continuance of the offence, or within six months after it has ceased.

Damages may be recovered of Act from any penalty.

XIX. And be it enacted, That in addition to the said penalty of Twelve pounds ten shillings (and whether the same be recovered or not), any person having right to use the water fouled by such offensive matter, may sue the said Corporation in a civil action in any Court of competent jurisdiction, for any damage specially sustained by him by reason of the water being so fouled; or if no special damage be alleged, for the sum of Two pounds ten shillings for each day during which such offensive matter is brought or flows as aforesaid, after the expiration of twenty-four hours, from the time when notice of the offence is served on the said Corporation by such person.

Corporation may take property by devise, &c.

XX. And be it enacted, That it shall be lawful for the said Corporation to take and hold by donation, grant or devise, or bequest of property upon trust, not exceeding in value the sum of five thousand pounds currency, and to sell, exchange, convey or otherwise dispose of the same, and to apply the same or the proceeds or income thereof to the improvement or embellishment of the Cemetery, or of any lot or lots therein.

Public Act.

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

SCHEDULE A.

Form of Deed of Lot in the Cataraqui Cemetery.

Know all men by these presents, that the Cataraqui Cemetery Company, in consideration of the sum of pounds to them paid by of in the the receipt whereof is hereby acknowledged, do hereby grant, bargain and sell to the said his heirs and assigns that lot of land in the Cemetery of the said Corporation called "The Cataraqui Cemetery" situate in the Township of Kingston, in the County of Frontenac, in Canada West, delineated and laid down on the registered map or plan of the said Cemetery, as lot No. and containing superficial feet, more or less, to have and to hold the above granted premises to the said his heirs and assigns for ever, subject however, to the limitations and conditions, and with the privileges specified in the rules of the said Cemetery, on the back hereof indorsed, and the said the *Cataraqui Cemetery Company* hereby covenant with the said his heirs and assigns, that they are actually and lawfully seized of the land hereby granted, that they have a right to sell the same for the purposes expressed in the rules hereon indorsed; that the said premises are free from incumbrances, and that they will warrant and defend the same to the said his heirs and assigns for ever.

In testimony whereof, the said Corporation have caused this deed to be signed by the Chairman of their Trustees for the time being, and sealed with their corporate Seal, the day of A. D. 185

Rules to be Indorsed on Deed.

1. All lots shall be held in pursuance of the Act of Incorporation, and shall not be held or used for any other purpose than as a place of burial for the dead.
2. The proprietor of each lot shall have a right to enclose the same by any railing not composed of wood, or by a wall not thicker than one foot, nor more than two feet in height above the surface.

3. Proprietors shall not allow interments to be made in their lots for a remuneration.

4. No disinterments shall be allowed without permission from the Corporation.

5. The Proprietor of each lot shall have a right to erect any stones, monuments or sepulchral structures therein, and to cultivate trees, shrubs and plants in the same; but no trees growing within any lot shall be cut down or removed without the consent of the Trustees.

6. If any trees or shrubs situate on any lot shall, by means of their roots, branches or otherwise, become detrimental to the adjacent lots or avenues, or dangerous or inconvenient to passengers; it shall be the duty of the Corporation and they shall have the right to enter the lot and remove such trees or shrubs.

7. If any monument, effigy or enclosure, or any structure whatever, or any occupation, in or upon any lot, shall be determined by the Trustees to be improper or offensive, or injurious to the appearance of the surrounding lots, the said Trustees shall have the right to enter upon such lots and remove the said offensive or improper object or objects.

8. It shall rest with the Trustees to lay out and alter the walks and avenues, and to make rules and regulations for the government of the Grounds, with which rules and regulations all proprietors of lots shall comply.

9. Proprietors of lots and their families shall be allowed access to the Cemetery at all times, subject to the rules of the Corporation, as they may be adopted by the Trustees.





ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXLI.

An Act to incorporate the Toronto Necropolis.

[10th August, 1850.]

WHEREAS John McMurrich, Alexander McGlasher and John Shaw, inhabitants of the City of Toronto, have, by petition, set forth that owing to the increase of the inhabitants of the said City, and the small portions of land at present allotted for burying grounds free from sectarian control, it is desirable that a Cemetery be established in the vicinity of the City, as well for strangers as inhabitants of the City, of whatsoever sect or denomination they may be, and that the said Petitioners may be incorporated for that purpose: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the said John McMurrich, Alexander McGlasher and John Shaw, their heirs, devisees or assigns are hereby constituted a body corporate by the name of the Toronto Necropolis.

Preamble.

Certain persons incorporated.

II. And be it enacted, That the said Corporation may acquire, take and hold a parcel or tract of land, within the said City or in its vicinity, not exceeding fifty acres, which land, when acquired by the said Corporation or their grantees, shall be used exclusively as a Cemetery, or place for burial of the dead, and for this purpose it shall be surveyed and subdivided into lots of a convenient size, respectively designated and numbered, and with such walks, paths and avenues as may be deemed advisable, and a map of such survey shall be filed in the office of the Registrar of the County of York; and when the said Corporation shall have acquired an indefeasible title in fee to the premises, free and clear of all incumbrances, and shall have filed the said map in the office aforesaid, the said Corporation may sell, convey or otherwise dispose of the said lots (reserving a section which shall for ever be devoted free of expense for the benefit of the stranger and those who may be unable to purchase,) to any person or persons on such terms and conditions, and subject to such By-laws of the Corporation, and at such prices as shall be agreed on, to be used and appropriated exclusively for the burial of the dead; which conveyances shall be under the Seal of the Corporation and signed by the Secretary thereof.

Corporation may acquire, &c. a tract of land for a Cemetery.

May convey lots.

III. And be it enacted, That the said Corporation may enclose, lay out, improve and embellish such land, in such manner, and may erect such buildings thereon, as the nature of the establishment may require, and may also further take and hold such personal property as may be necessary and proper for attaining the objects, and carrying into effect the purposes of the said Corporation.

And may lay out their ground as they think proper.

IV. And be it enacted, That it shall not be lawful for the said Corporation at any time to make, do, commit, or cause any act, matter or thing whatsoever, whereby the said Cemetery and the land and premises appertaining thereto, or any part thereof, can or may be in any wise impeached or encumbered in title, charge, estate or otherwise.

Cemetery not to be encumbered.

Lots in Cemetery to be indivisible.

V. And be it enacted, That all lots of ground when conveyed and designated, and numbered as lots by the said Corporation, shall be indivisible, but may be held and owned in undivided shares.

Penalty on persons destroying monuments, &c.

VI. And be it enacted, That any person who shall wilfully destroy, mutilate, deface, injure or remove any tomb, monument, grave-stone or other structure placed in the Cemetery aforesaid, or any fence, railway or other wall for the protection or ornament of the said Cemetery, or of any tomb, monument or grave-stone or other structure aforesaid, or shall wilfully destroy, cut, break or injure any tree, shrub or plant or flower within the limits of the said Cemetery, or commit any other kind of trespass, or play at any game or sport, or discharge fire-arms (save at a military funeral) in the said Cemetery, or who shall wilfully and unlawfully disturb any persons assembled in the said Cemetery for the purpose of burying any body therein, or who shall commit any nuisance therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, before a Justice of the said City of Toronto or County of York, or other Court of competent jurisdiction within the said City or County, be punished by a fine not less than ten shillings, nor more than ten pounds currency, according to the nature and aggravation of the offence, and such offender shall also be liable in an action of trespass to be brought against him in any Court of competent jurisdiction, in the name of such Corporation, to pay all such damages as shall have been occasioned by his unlawful act or acts, which money when received shall be applied by the said Corporation to the reparation and restoration of the property destroyed or injured as above, and the members of the said Corporation shall be competent witnesses in such suits.

The preceding section to be posted up.

VII. And be it enacted, That it shall be the duty of the said Corporation to put up and maintain in at least three conspicuous places within the limits of the said Cemetery a printed notice containing the words of the preceding section.

Corporation may receive donations for improvement of Cemetery.

VIII. And be it enacted, That the said Corporation may take and hold any grant, donation or bequest of property upon trust, to apply the same or the income thereof for the improvement or embellishment of the said Cemetery, or for the erection of any tomb, monument or grave-stone, fence, railing or other erection, or for the planting and cultivation of trees, shrubs, flowers or plants in or around any cemetery lot, or for improving the said premises in any other manner or form consistent with the design and purposes of this Act, according to the terms of such grant, donation or bequest.

Cemetery exempt from taxes.

IX. And be it enacted, That the said Cemetery shall be and is hereby declared exempt from all public taxes, rates or assessments, and shall not be liable to be sold on execution, or be applied in payment of debts due from any individual proprietor or proprietors, but they and their heirs or devisees or assigns may for ever hold the same entirely and totally exempt therefrom as long as the same shall remain dedicated to the purposes of a Cemetery, and during which time no public street, road or avenue shall be laid through the Cemetery or any part of the lands held by the said Corporation for the purposes aforesaid, except by special permission of the Legislature.

Corporation may appoint a Secretary and make By-laws.

X. And be it enacted, That the said Corporation shall appoint a Secretary to the same, with power to dismiss and re-appoint or appoint another at pleasure, and are hereby authorized to make By-laws, and to repeal or alter the same, such By-laws not being inconsistent with any existing law, for the management of its property, the regulation of its affairs, and the transfer of the shares; right or interest of the Members of the said Corporation.

No burial in the chapel.

XI. And be it enacted, That no body shall be buried in any vault under any Chapel, or other building in the said Cemetery, or within fifteen feet of the outer wall of any such Chapel or building.

Cemetery to be inclosed.

XII. And be it enacted, That every part of the said Cemetery shall be inclosed by walls or other sufficient fences or railings of the height of eight feet at least.

And kept in good order.

XIII. And be it enacted, That the said corporation shall keep the said cemetery and the buildings and fences thereof in complete repair and in good order and condition out of the moneys to be received by them in virtue of this Act.

XIV. And be it enacted That the said Corporation shall make all necessary and proper sewers and drains in and about the said cemetery for draining it and keeping it dry, and they may from time to time as occasion requires cause any such sewer or drain to open into any existing sewer with the consent in writing of the persons having the management of the street or road and of the owners and occupiers of the lands through which such opening is made, doing as little damage as possible to the road or ground wherein such sewer or drain may be made, and restoring it to the same or as good condition as it was in before being disturbed.

Corporation to make proper sewers, &c.

XV. And be it enacted, That if the said Corporation at any time cause or suffer to be brought or to flow into any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place, any offensive matter from the said cemetery whereby the water therein shall be fouled, they shall forfeit for every such offence the sum of twelve pounds ten shillings currency.

Penalty for contaminating rivers, &c.

XVI. And be it enacted, That the said penalty, with full costs of suit, may be recovered by any person having a right to use the water fouled by such offensive matter by a civil action in any court of competent jurisdiction ; provided always that the said penalty shall not be recoverable unless the same be sued for during the continuance of the offence, or within six months after it has ceased.

How recovered.

Proviso.

XVII. And be it enacted, That in addition to the said penalty of twelve pounds ten shillings (and whether the same be recovered or not) any person having right to use the water fouled by such offensive matter, may sue the said corporation in a civil action in any Court of competent jurisdiction for any damage specially sustained by him by reason of the water being so fouled, or if no special damage be alleged, for the sum of two pounds ten shillings for each day during which such offensive matter is brought or flows as aforesaid after the expiration of twenty-four hours from the time when notice of the offence is served on the said Corporation by such person.

Damages may be recovered in addition to penalty.

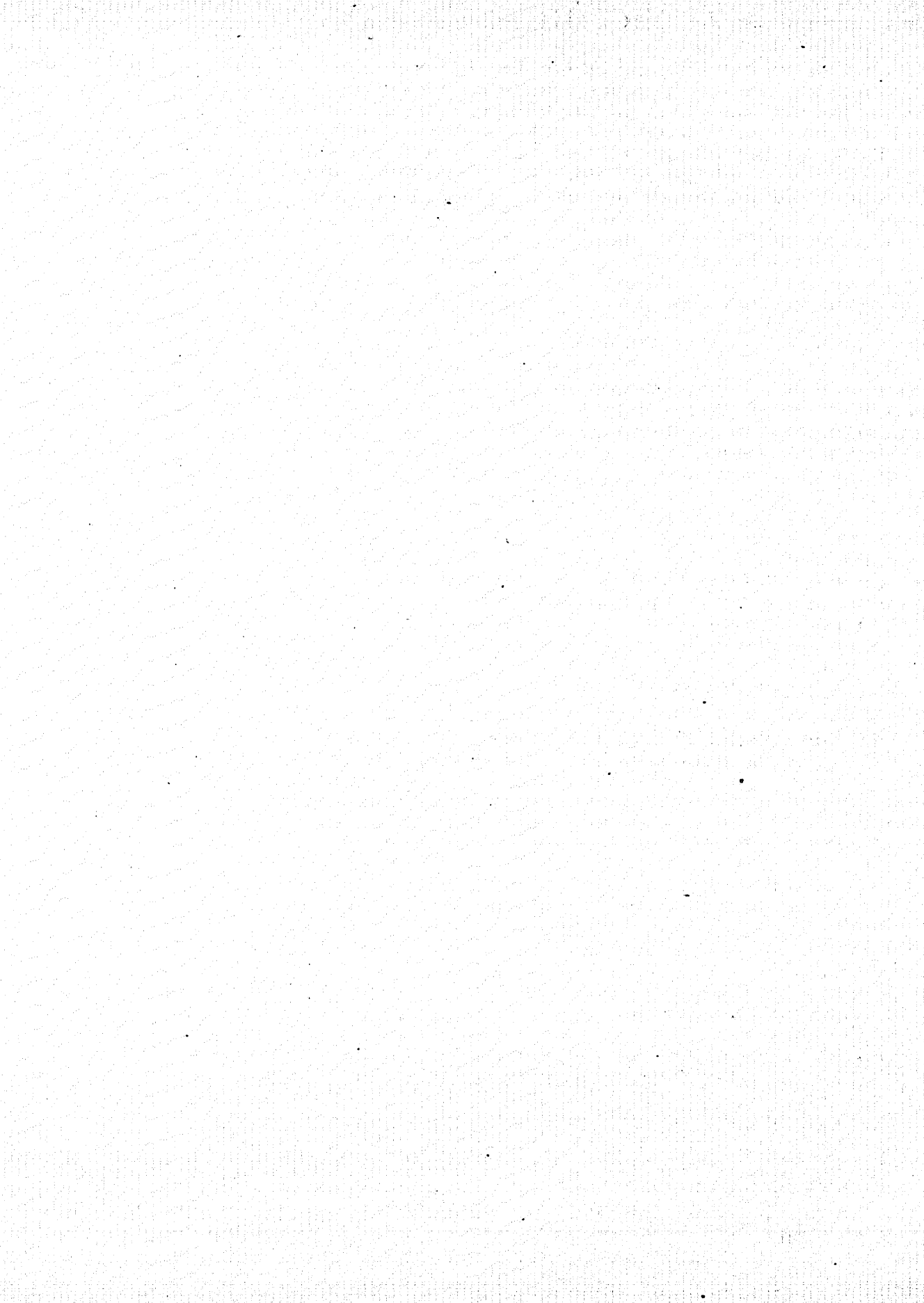
XVIII. And be it enacted That the said Corporation shall make regulations for ensuring that all burials within the said cemetery shall be conducted in a decent and solemn manner.

Burials to be properly conducted.

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

Public Act.

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Law Printer to the Queen's Most Excellent Majesty.





ANNO TERTIO-DECIMO & QUARTO-DECIMO

VICTORIÆ REGINÆ.

CAP. CXLII.

An Act to amend the Act to incorporate the Mechanics' Institute of the City of Toronto.

[10th August, 1850.]

WHEREAS for the convenience of the members of the Toronto Mechanics' Institute it is found necessary and expedient to alter the time of the annual meeting for the election of the Officers and general Committee of the said Institute: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the fourth, fifth and seventh sections of an Act passed in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to incorporate the Mechanics' Institute of the City of Toronto*, shall be, and the same are hereby repealed.

Preamble.

Certain Sections of 10 and 11 V. c. 102, repealed.

II. And be it enacted, That the annual meeting for the election of Officers and Members to compose the said General Committee of the said Corporation, shall be held at the place at which the usual meetings of the said Corporation are held, on the first Monday in May in each and every year, and not on the first Monday in November as heretofore: Provided always, that whenever the said first Monday in May shall happen on a statutory holy-day, the said annual meeting shall take place in the manner hereinafter provided, and the said Officers and Members thereat elected shall serve in the said office during the year then next ensuing, and until others being elected in their stead shall enter upon the discharge of the duties of their office as hereinafter provided; and if by reason of any unforeseen matter or thing whatsoever, the election so to be had and made on the first Monday in May as aforesaid, shall be prevented or shall not be had or made, then and in every such case it shall be competent to the members of the said Corporation and their successors, or to the major part of such as may be present at a meeting to be called by the President or Vice-Presidents for the time being, and held as soon after as shall be convenient, seven days' notice being first given, to proceed to and make the election of a President, Vice-Presidents, Secretaries, a Treasurer, a Librarian and Cabinet Keeper; and twelve of the members, with the Officers aforesaid, shall constitute and form the General Committee as aforesaid, and the election so made shall be as valid and effectual as if it had been made on such first Monday in May: Provided always, that the President, Vice-Presidents, Secretaries, Treasurer, Librarian and Cabinet Keeper, with the other twelve Members aforesaid to be elected at any general election of Officers under and by virtue of the provisions of this Act, shall not enter upon nor act in the discharge of their respective offices until the Monday next ensuing after such general election; And provided also, that the present Officers and Committee elected on the first Monday in November last, shall hold their offices until the Monday next after the first Monday in May, one thousand eight hundred and fifty-one, or until the Monday next after such general

When the annual election shall be held.

Proviso: if the day appointed be a holy-day.

Failure of election.

Proviso: when the officers shall enter upon their duties.

Proviso: as to present officers, &c.

election as hereinbefore provided; any thing in the said recited Act contained to the contrary thereof notwithstanding.

Of whom the Corporation shall consist.

Ordinary members.

Life members.

Corresponding members.

Proviso: as to present members.

III. And be it enacted, That the said Corporation shall consist of an indefinite number of ordinary, life, corresponding, and honorary Members, all of whom shall be chosen according to the form, and under the restrictions and conditions hereinafter prescribed, that is to say: the ordinary Members being those who shall pay and contribute to the funds of the said Corporation such annual subscription as may from time to time be required by the By-laws, rules and regulations of the said Corporation; the life Members being those who shall pay or contribute to the funds of the said Corporation the sum of ten pounds in one sum, or who shall make a donation to the Institute of Books, Apparatus, or other useful articles equal at least to that amount; the corresponding Members, being those who reside at a distance from the City of Toronto, but who shall have no vote at any of the Meetings of the said Corporation and shall not be eligible to any of the offices thereof; and honorary Members being those only who being distinguished for scientific attainments shall be admitted without payment, to all the privileges enjoyed by ordinary Members except the right of voting at the election of the said General Committee; provided always, that all such persons as shall be now Members of the said Corporation shall continue to be such, and shall be ordinary, life, corresponding or honorary Members of the said Corporation according as they shall respectively be within the provisions of this section as respects their admission as Members of the said Corporation.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
V I C T O R I Æ R E G I N Æ .

C A P. C X L I I I .

An Act to authorize the removal of the Site of Victoria College from Cobourg to Toronto.

[10th August, 1850.]

WHEREAS it hath been represented to this Legislature that the objects and usefulness of Victoria College would be greatly promoted by the site of the said College being removed from the Town of Cobourg or its vicinity to the City of Toronto or its vicinity: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for the Board of Trustees and Visitors of the College incorporated by an Act of the Parliament of this Province passed in the Session held in the fourth and fifth years of Her Majesty's reign, and intituled: *An Act to incorporate the Upper Canada Academy, under the name and style of 'Victoria College'*, if at any time they shall deem it expedient, to remove the site of the said College from the Town of Cobourg or its vicinity, to the City of Toronto or its vicinity, and to establish the same at or near the said City of Toronto; and all the provisions of the above cited Act of the Parliament of this Province, shall be and remain in full force, and shall apply to the said College at or near the City of Toronto, as they have heretofore applied and do now apply to the said College at or near the Town of Cobourg.

Preamble.

The College incorporated by 4 and 5 V. c. 37, may be removed to Toronto.

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ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXLIV.

An Act to incorporate *The Elgin Association*, for the settlement and moral improvement of the Coloured Population of Canada.

[10th August, 1850.]

WHEREAS an Association has been formed in Upper Canada, by divers persons resident therein, under the name of the *Elgin Association*, for the settlement and moral improvement of the Coloured Population of Canada, for the purpose of purchasing Crown or Clergy Reserve Lands in the Township of Raleigh, in the County of Kent, and settling the same with coloured families resident in Canada of approved moral character; and whereas the persons hereinafter named, office bearers and members of the said Association, and acting on behalf of the members thereof, have by Petition prayed to be incorporated for the purposes aforesaid: And whereas it is expedient to grant the prayer of the said Petitioners, subject to the provisions and enactments hereinafter made: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Skeffington Connor, Michael Willis, William King, Charles Berczy, John Thomas Matthews, John Scott Howard, Walter Macfarlane, Ezekiel F. Whittemore, Andrew T. McCord, Peter Freeland, John Ewart, John Laidlaw, James Brown, Andrew Hamilton, Peter Brown, James Osborne, Edward Cartwright Thomas, John Fisher, William P. McLaren, William Miller, George Davidson, John McLean, A. D. Ferrier, John Fraser, John Mechie, A. B. Jones, Donald McCaul, Archibald McKellar, Thomas Campbell, Henry Garratt, Bernard Foley, Andrew Shaw, J. B. Osborne, James Duggall, Robert Watson, Rufus Holden, James Harvey, and Andrew Jaffray, with all other such persons as are now or being duly competent may hereafter be associated for the purposes hereinbefore mentioned, and their successors for ever, shall be one body politic and corporate in deed and by name, by the name and style of *The Elgin Association*, and shall by that name have perpetual succession and a common seal, and shall have power from time to time to alter, renew or change such common seal at their pleasure, and shall by the same name from time to time and at all times hereafter be able and capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, and answering and being answered unto in all Courts and places whatsoever, and also that they and their successors by the same name from time to time and at all times hereafter shall be able and capable of purchasing and holding to them and their successors Crown and Clergy Reserve Lands in the Township of Raleigh in the County of Kent, not exceeding nine thousand acres, to and for the use of the said Company, and of letting, conveying and otherwise disposing of the same to Colored persons of Canada: provided always nevertheless, that the real estate to be held by the said Company shall be only such as shall be required to be held by them for the purposes aforesaid, and that nothing herein contained shall extend to authorize the said Association to become a Land Company in that sense of the term.

Preamble.

Certain persons incorporated.

Corporate name and powers.

Proviso: as to real estate.

II And be it enacted, That in all and every suit or suits in Law which hereafter may be instituted against the said Corporation, service of Process at the residence of the President or Secretary, shall be sufficient to compel the said Corporation to appear and plead

Service of process how made.

plead to such suit or suits; any law, custom or usage to the contrary in any wise notwithstanding.

Officers of Corporation.

III. And be it enacted, That the property, affairs and concerns of the said Corporation shall be managed and conducted by the following officers, elected by the members of the said Corporation, at an annual meeting hereinafter provided for; a President, first and second Vice-Presidents, a Secretary, Treasurer, and twenty-four Directors, five of whom shall form a quorum for the transaction of business; the President, Vice-Presidents, and Treasurer being also Directors *ex officio*.

Annual meeting for election of officers.

IV. And be it enacted, That the annual meeting for the election of said Officers shall be held at Toronto, at the place where the usual meetings of the said Corporation are held on the first Wednesday in September in each and every year, at the hour of twelve o'clock; and the said election shall be held and made by such of the Stockholders of the said Corporation as shall attend for that purpose in their own proper persons, or by proxy, and all the elections for such Officers shall be by ballot; and if any vacancy or vacancies shall at any time happen among the Directors by death, resignation, or removal from the Province, such vacancy or vacancies shall be filled, for the remainder of the year in which they may happen, by a person or persons to be nominated by the Directors at any of their regular meetings.

Proportion of votes to shares.

V. And be it enacted, That each Stockholder shall be entitled to a number of votes in proportion to the number of shares which he or she shall have in his own or her own name, and shall have had at least twenty days previous to the time of voting, according to the following rules, that is to say: One vote for each share to the extent only of two shares, and one vote for every two shares above two.

Failure to elect not to dissolve Corporation.

VI. And be it enacted, That in case it should at any time happen that an election of officers should not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any day to hold and make an election of officers in such manner as shall be regulated by the By-laws and Ordinances of the said Corporation.

Present officers to remain until first election.

VII. And be it enacted, That until the first election of officers shall take place as hereinbefore provided, the present officers of the said Association shall be and continue to be the officers of the Corporation hereby created, and that the President, or in his absence from the City of Toronto, either of the Vice-Presidents of the said Corporation shall, within one month after the passing of this Act, cause notice to be given to the members of the said Corporation by public advertisement, to be published ten days at least previously in four newspapers published in different parts of the Province, to meet at the place in which the usual meetings of the Corporation are held at such time as he shall in and by such notice appoint, and the said members or the major part of them as shall be then present, shall, at the time so appointed, proceed to the election of a President, a First Vice-President, a Second Vice-President, a Secretary, a Treasurer, and twenty-four Directors, which said officers from the time of their election to their respective offices, shall continue therein till the first Wednesday in June then next ensuing, and from thenceforth until others be chosen in their place, and the new officers shall enter on the duties of their office the first Monday after their election.

Capital stock of Corporation.

VIII. And whereas the sum of four thousand pounds currency, or thereabout, has been subscribed by the members of the said Association as the Capital Stock of the same, in Shares of ten pounds each, and whereas it may be necessary to increase the said Stock by the additional sum of one thousand pounds: Be it therefore enacted, That the said shares so subscribed as aforesaid, shall constitute the Capital Stock of the said Corporation, with power to the said Corporation to increase the same by one thousand pounds in like shares of ten pounds each, if they shall think it necessary for carrying out the purposes of the said Corporation, and that the aforesaid Capital Stock may, after twenty per cent. has been paid thereon, be transferable by the respective persons subscribing and holding the same, to any other person or persons, and such transfer shall be entered and registered in a book or books to be kept for that purpose by the said Corporation.

IX. And be it enacted, That immediately after the passing of this Act it shall and may be lawful for the Directors to call upon the Stockholders of the said Corporation, by giving sixty days' notice thereof in four newspapers published one in London, one in Hamilton, one in Toronto, and one in Kingston, for an instalment of twenty per centum upon each share, which they or any of them may respectively have subscribed for in the Association aforesaid, and that the residue of the sums or shares of the stockholders shall be payable by annual instalments of ten per centum, the first thereof to be payable upon the first day of July, one thousand eight hundred and fifty-one, until the whole sum or such part of the whole sum as the Directors shall deem necessary for carrying out the objects of the Association, shall be paid: Provided always, that the payments upon shares heretofore made by any of the shareholders aforesaid, shall be credited by the Directors, on the call of twenty per cent. so to be made as aforesaid.

Instalments to be called for.

X. And be it enacted, That if any Stockholder or Stockholders as aforesaid shall neglect to pay at the time required any instalment or instalments which shall be lawfully required by the Directors as due upon any share or shares, such Stockholder or Stockholders so refusing or neglecting shall forfeit such share or shares as aforesaid with any amount which shall have been previously paid thereon, and the said share or shares 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 instalment required over and above the purchase money of the share or shares so purchased 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 purchased as aforesaid: Provided always, that fifteen days' notice of the sale of such forfeited shares shall be given in any newspaper or newspapers published in the City of Toronto, and that the instalments due may be received in redemption of any such forfeited share at any time before the day appointed for the sale thereof: Provided also, that the shareholders may at their next general meeting, after any forfeiture, restore any forfeiture, or a portion of any forfeiture, by a resolution in writing, to be passed at such meeting, and not at any other time or in any other manner.

Proviso:

Stockholders neglecting to pay instalments.

Proviso.

Proviso.

Proviso.

XI. And be it enacted, That the several persons who have subscribed any money towards the Association, or their personal representatives respectively, shall pay the sums respectively so subscribed or such portions thereof as shall be from time to time called for by the Directors; and with respect to the provisions in this Act contained for enforcing the payment of calls on instalments, the word Stockholder shall extend to and include any person who holds stock in the said Corporation or who may have subscribed the original prospectus of the Association or agreement to take stock therein, and shall also extend to and include the legal personal representative of such stockholders or person aforesaid.

Subscribers to pay subscriptions.

XII. And be it enacted, That if any default shall be made by any stockholder in the payment of any call at the time appointed by the Directors for the payment thereof, then it shall be lawful for the Company to sue such stockholders for the amount of such call, in any Court of Law in this Province (having competent jurisdiction in regard to the amount to be recovered) and to recover the same with lawful interest, and if the Company shall sue any stockholder under the authority of this Act, such suit shall not in any way interfere with the forfeiture of the share or shares of such stockholders.

Stockholders may be sued in default of payment.

XIII. And be it enacted, That on the trial or hearing of such action, it shall be sufficient for the Company to prove that the defendant, at the time of making such call, was a holder of one share or more in the undertaking (and when there has been no transfer of the shares, then the proof of subscription to the original agreement to take stock shall be sufficient evidence of holding stock to the amount subscribed) and that such call was in fact made, and such notice thereof given as required, and it shall not be necessary for the Association to prove the appointment of the Directors who made such call or any other matter whatever, and thereupon the Company shall be entitled to recover what shall be due on such call, with interest thereon.

What it shall be sufficient to allege and prove.

Calls payable to
Treasurer.

XIV. And be it enacted, That when calls shall be made by the Directors, all such calls shall be taken and meant to be payable to the Treasurer of the Association for the time being.

Stockholders com-
petent witnesses.

XV. And be it enacted, That in any action or suit brought by or against the Association upon any contract or for any matter or thing whatsoever, any stockholder shall be competent as a witness, and his testimony shall not be deemed inadmissible on account of interest.

Directors to make
rules and regulations,
&c.

XVI. And be it enacted, That the Directors for the time being, or a quorum of them, shall have power to make and subscribe all such rules and regulations touching the purchase, management and disposition of the lands, properties, estate and effects of the said Association, and the settlement and improvement of the said lands, and so touching the duties of the officers and servants of the said Corporation, and also such other matters or things as appertain to the business of the said Corporation, and also shall have power to appoint as many officers and servants for carrying on the business of the said Corporation, with such salaries as they shall think fit; Provided always, that the price fixed by the said Directors for the lands of the said Corporation shall not exceed the prices paid the Government, to any greater amount than is sufficient for the expenses of the said Corporation for any of the purchases hereinbefore mentioned, and six per cent. interest per annum upon the stock subscribed; Provided also, that if upon the final winding up of the affairs of the Corporation as hereinafter provided, any surplus should be found remaining after paying off the shares subscribed for and six per cent. interest, such surplus shall be applied in the improvement of the said settlement in such manner as the Directors shall appoint.

Proviso.

Proviso.

When the affairs of
the Corporation are to
be wound up.

XVII. And be it enacted, That whenever and so soon as all the land so purchased by the said Corporation, shall be settled and paid for to the said Corporation, the affairs of the said Corporation shall be wound up and the stockholders thereof shall receive the amount of their shares or of such instalments as shall have been actually paid thereon, together with six per cent. interest; Provided always, that nothing herein contained shall be held to prevent the Directors at any time or times, after the Government price of the said lands shall be paid in full by the said Corporation, and all the existing debts and liabilities thereof fully discharged, to repay to the stockholders, rateably, any proportion of the stock actually paid up, and interest that the Directors shall deem expedient, without waiting for the final winding up of the affairs of the said Corporation.

Proviso.

Statement of receipts,
&c. on oath may be
required by Governor.

XVIII. And be it enacted, That it shall and may be lawful for the Governor or person administering the Government of the Province for the time being, to require from the said Corporation true statements under oath, (which oath any Justice of the Peace is hereby authorized to administer,) of the receipts and expenditure of the said Corporation, and a statement of the real and personal estate held and enjoyed by the said Corporation shall be laid before each branch of the Provincial Legislature, within fifteen days after the opening of each Session thereof.

Property of Associa-
tion vested in Corpo-
ration.

XIX. And be it enacted, That the property real and personal now held by the Association hereby incorporated, or by any party in trust for them, shall be and is hereby vested in the said Corporation, which shall be responsible for all debts and obligations of the said Association, and may recover and enforce all claims and obligations in favor thereof.

Members not indi-
vidually liable.

XX. And be it enacted, That no member of the said Corporation shall in his private or natural capacity be liable for any debt or obligation contracted by the said Corporation.

Her Majesty's rights
saved, &c.

XXI. And be it enacted, That nothing in the present Act contained shall affect in any manner or way whatsoever the right of Her Majesty, Her Heirs and Successors, or of any person or persons of any kind, body politic or corporate, such only excepted as are herein mentioned.

Public Act.

XXII. And be it enacted, That this Act shall be held and considered to be a Public Act.



ANNO TERTIO-DECIMO & QUARTO-DECIMO
VICTORIÆ REGINÆ.

CAP. CXLV.

An Act to enable John Counter to obtain a Patent for making Stoves of a new pattern, and on a new principle.

[10th August, 1850.]

WHEREAS John Counter, of the City of Kingston, has by his petition to the Legislature, represented that he is proprietor of the Iron Works and Foundry at Kingston, called the Ontario Foundry, and carries on business at such Foundry to a large extent; that he has invested upwards of one thousand pounds in the manufacture of stoves of a new pattern and on a new principle, discovered and invented in this Province by one Charles Tripp, a citizen of the United States of America, employed by the said John Counter as his foreman in the said Foundry, and that the said Charles Tripp has assigned to him the said John Counter all his interest in the said discovery or invention, and is willing and desirous that he should obtain a patent for the same: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That for and notwithstanding any thing to the contrary contained in the Act of the Parliament of this Province, passed in the Twelfth year of Her Majesty's Reign, intituled: *An Act to consolidate and amend the Laws of Patents for Inventions in this Province*, it shall and may be lawful for the Governor General, if he shall see fit, to grant a patent to the said John Counter for the said discovery or invention, in the same manner and to the same effect as the same might have been granted to him under the said last mentioned Act, if he had been the discoverer and inventor of the said new pattern and new principle.

II. And be it declared and enacted, That this Act is a Public Act.

Preamble.

Governor may grant a Patent to John Counter, for a Stove invented by Charles Tripp.
12 V. c. 24.

Public Act.

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