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To the Hon. Gen. Brown  
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STATUTES  
RELATING TO  
THE MIDLAND RAILWAY  
OF CANADA.

# STATUTES

SPECIAL AND GENERAL AFFECTING

## The Midland Railway of Canada,

ITS BRANCHES AND EXTENSIONS,

COMPILED WITH

NOTES AND INDEX.

BY

F. J. JOSEPH, Esq.

(OF OSGOOD HALL, BARRISTER-AT-LAW.)

UNDER THE DIRECTION OF

ADOLPH HUGEL, Esq.

(PRESIDENT OF THE MIDLAND RAILWAY OF CANADA.)

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# STATUTES

RELATING TO THE

## MIDLAND RAILWAY OF CANADA.

9 VICT., CAP. CIX.

An Act to incorporate the Peterborough and Port Hope Railway Company.

*Reserved for the signification of Her Majesty's pleasure, 9th June, 1846.*

*The Royal Assent given by Her Majesty in Council on the 30th October following, and Proclamation made thereof by His Excellency Earl Cathcart, in the "Canada Gazette" of December 26, 1846.*

**W**HEREAS it is desirable for the general benefit of the Districts of Newcastle and Colborne, that a railway should be constructed from the town of Peterborough to lake Ontario, at or near Port Hope; And whereas it is expedient to incorporate a joint stock company for the purposes hereinafter named;

*Preamble.*

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,

1. That George Barker Hall, David Smart, James Hall, Frederick Ferguson, Marcus F. Whitehead, Francis Burton, Henry H. Meredith, Joseph Graham, Robert Waddell, James Smith, James Harvey, William H. Wrighton, Thomas Benson, Thomas Ward, Nesbitt Kirchhoffer, Francis Beamish, John David Smith, Edward Hickman, and Elias P. Smith, with all such other persons as shall become stockholders in such joint stock or capital as is hereinafter mentioned shall be and are hereby ordained, constituted and declared to be a body corporate and politic in fact, by and under the name and style of (a) The Peterborough and Port Hope Railway Company; and by that name they and their successors shall and may have continued succession, and by that name shall be capable of contracting and being contracted with, of suing and

*Certain persons incorporated as the Peterborough and Port Hope Railway Company.*

*Corporate powers.*

(a) By 18 Vict., c. 36, s. 1, p. 21, the name of the Company was changed to "The Port Hope, Lindsay and Beaverton Railway Company," and by 33 Vict., c. 31, s. 1 (Ont.), p. 47, to "The Midland Railway of Canada."

Common Seal.

May hold real and personal estate.

Proviso: real estate limited.

being sued, pleading and being impleaded, answering and being answered unto in all courts and places whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever; and they and their successors may and shall have a common seal, and may change and alter the same at their will and pleasure; and also that they and their successors, by the same name of The Peterborough and Port Hope Railway Company, shall by law be capable of purchasing, having and holding to them and their successors, any estate, real or personal or mixed, to and for the use of the said company, and of letting, conveying and otherwise departing therewith, for the benefit and on account of the said company, from time to time as they shall deem necessary and expedient: Provided always, nevertheless, that the real estate to be held by the said company shall be only such as may be required to be held by them for the purpose of making, using and preserving the said railroad, and for objects immediately connected therewith.

Company may construct railroad over any part of the country between Peterborough and Lake Ontario.

2. And be it enacted, That the said company and their agents or servants shall have full power under this Act to lay out, construct, make and finish a double or single iron or wooden railroad or way, at their own costs and charges, on and over any part of the country lying between the said town of Peterborough and lake Ontario, (a) and to take, convey and transport thereon passengers, goods (b) and property, either in carriages used and propelled by the force of steam, or by the force of animals, or any other mechanical or other power, or by any combination of power which the said company may choose to employ.

Company may contract, &c., with land-owners.

3. And be it enacted, That the said company are hereby empowered to contract, compound, compromise and agree with the owner or owners, occupier or occupiers of any lands (c) upon which they may determine to construct the said railroad, either for the purchase of so much of the said land and privileges as they shall require for the purposes of the said company, or for the damages which he, she or they shall and may be entitled to receive of the said company in consequence of the said in-

(a) By sec. 35, p. 14, power is given to extend the Railway from Peterborough to Chemong Lake.—Power to construct branch line from the main line through the townships to Cavan, Emily, Manvers, Ops and Mariposa to western limit of Mariposa, and from thence to the line of the Ontario, Simcoe and Huron Union Railroad, (now the Northern Railway of Canada.) 16 Vict., c. 241, s. 2, p. 17.—Power to connect the Millbrook and Peterborough Branch with the Peterborough and Chemong Lake Railway. 29 & 30 Vict., c. 98, s. 6, p. 61.—Power to acquire the Millbrook and Peterborough branch. 29 & 30 Vict., c. 99, s. 2, p. 40.—Power to construct a branch to connect with the Peterborough and Chemong Lake Railway. 29 & 30 Vict., c. 99, s. 5, p. 41.—Power to construct branch to mills within four miles of line of railway. 29 & 30 Vict., c. 99, s. 6, p. 42.—Power to extend from Beaverton to the Georgian Bay. 33 Vict., c. 31, s. 2 (Ont.), p. 47.—Power to the Midland Extension Railway Company, (the Omeesee, Bobcaygeon and North Peterborough Junction Railway Company) to construct a line from the line of the Midland Railway between Millbrook and Peterborough to Bobcaygeon. 37 Vict., c. 55, s. 1 (Ont.), p. 71. As to the power to build branches. See C. S. C. c. 66, s. 9, subs. 8, p. 77; *ib.* s. 128, p. 109. As to changing line of Railway. See C. S. C. c. 66, ss. 129, 130, p. 109.

(b) See C. S. C. c. 66, s. 9, sub-s. 10, p. 77.

(c) See 16 Vict., c. 241, s. 8, p. 19.—Power to sell lands not required by the Company. 29 & 30 Vict., c. 99, s. 7, p. 42. See also C. S. C. c. 66, s. 9, p. 75.

tended railroad being made and constructed in and upon his, her or their respective lands; and in case of any disagreement (a) between the said company and the owner or owners, occupier or occupiers as aforesaid, it shall and may be lawful from time to time for such owner or occupier, so disagreeing with the said company, either upon the value of the lands and tenements, or private privileges proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one indifferent person, and for the said company to nominate one other indifferent person, who, together with one other person to be chosen by the persons so named, before proceeding to business, or, in the event of their disagreeing as to the choice of such other person, to be appointed by the Judge of the District Court (b) for the district in which the lands are situate before the others proceed to business, shall be arbitrators to award, determine, order and adjudge the respective sums of money which the said company shall pay to the respective persons entitled to receive the same, the award of the majority of whom shall be final; and the said arbitrators shall be and are hereby required to attend at some convenient place in the vicinity of the said intended railroad to be appointed by the said company, after eight days' notice given for that purpose by the said company, then and there to arbitrate and award, adjudge and determine such matters and things as shall be submitted to their consideration by the parties interested (c); and that each arbitrator shall be sworn (before some one of Her Majesty's Justices of the Peace, in and for the district in which the subject matters of the said disagreement shall originate, any of whom may be required to attend the said meeting for that purpose,) well and truly to assess the damages between the parties according to the best of his judgment; (d) Provided always, that any award made under this Act shall be subject to be set aside on application to the court of Queen's Bench, (e) in the same manner, and on the same grounds as in ordinary cases of submission by the parties; in which case a reference may be again made to arbitration as hereinbefore provided.

Arbitrators to be appointed if the company and the parties cannot agree.

Third arbitrator.

Meetings of arbitrators.

Arbitrators to be sworn.

Proviso: Awards may be set aside in certain cases.

4. (f) And be it enacted, That whatever sum of money may be finally awarded to any person or persons for compensation for property required to be occupied, or for damages occasioned by the interference of the said company with his or their rights or privileges, shall be paid within three months from the time of the same being awarded; and in case the said company shall fail to pay the same within that period, then their right to assume any such property or commit any act in respect of which such sum of money was awarded, shall wholly cease, and it shall be lawful for the proprietor to resume his occupation of such property,

Sum of money awarded to be paid within three months, on pain of forfeiture of the right to take the land.

(a) See C. S. C. c. 66, s. 11, sub-s. 9 *et seq.* p. 83.

(b) When the Judge is interested in the lands, a Superior Court Judge shall exercise his powers. 23 Vict., c. 29, s. 10, p. 126; 24 Vict., c. 17, s. 3, p. 128.

(c) Compelling attendance of witnesses, &c. See 38 Vict., c. 15, p. 137.

(d) As to mode of determining value. See C. S. C. c. 66, s. 11, p. 80; 35 Vict., c. 25, s. 5 (Ont.), p. 136.

(e) Appealing from award. See 38 Vict., c. 15, ss. 4, 5 & 6, p. 138.

(f) Repealed by 18 Vict., cap. 36, s. 2, p. 21.

and to possess fully his rights and privileges in respect thereof, free from any claim or interference from the said Company.

Expenses of the award to be defrayed by Company in certain cases, and *vice versa*.

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

And if payable by the opposite party, may be deducted by the Company from the compensation.

Proceedings when lands required by Company may belong to parties not residing in the Province, refusing to appoint Arbitrators, &c.

6. And be it enacted, That whenever any lands or grounds required by the said company for the purposes of the said railroad are held or owned by any person or persons, bodies politic, corporate or collegiate, whose residence may not be within this Province, or unknown to the said company, or where the titles to any such lands or grounds may be in dispute, or when the owner or owners of such lands or grounds are unwilling or unable to treat with the said company for the sale thereof, or to appoint arbitrators as aforesaid, or refuse or neglect so to do for the space of one calendar month after having been thereunto required by the said company, it shall and may be lawful for the said company to nominate one indifferent person and for the judge of the District Court for the district in which the lands are situate, on the application of the said company, to nominate and appoint one other indifferent person, who, together with one other person to be chosen by the persons so named before proceeding to business, or, in the event of their disagreeing as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be arbitrators, to award, determine and adjudge and order the respective sums of money which the said company shall pay to the respective persons entitled to receive the same for the said lands or grounds or damages as aforesaid, and the decision of the majority of such arbitrators shall be final; which said amount so awarded the said company are to pay or cause to be paid to the several parties entitled to the same when demanded: and also, that a record of such award or arbitration shall be made

Award to be registered.

up and signed by the said arbitrators, or a majority of them, specifying the amount of such award and the costs of such arbitration which may be settled by the said arbitrators, or a majority of them, which record shall be deposited in the registry office (a) of the county in which such lands or grounds are situate: And also, that the expenses or the said arbitration shall be paid by the said company and by them deducted from the amount of such award on payment thereof to the parties entitled to receive the same.

Costs how paid.

7. And be it enacted, That whenever any lands or grounds required to be used or occupied by the said company, shall be held under mortgage, it shall and may be lawful to and for the said company to nominate one indifferent person, and for the judge of the District Court for the district in which such lands are situate, on the application of the said company, to nominate and appoint one other indifferent person, who together with one other person, to be chosen by the persons so named before proceeding to business, or, in the event of their disagreeing as to the choice of such other person, to be appointed by the said Judge before the others proceed to business, shall be arbitrators to decide on and assess the value of the said lands or grounds, or the amount of damages to be paid to the owners thereof as aforesaid, and upon such decision or award the said company shall pay or cause to be paid the amount of such award to the mortgagee as a payment for and on account of the said mortgage: And upon such payment being so made, the mortgagor and mortgagee are hereby required and compelled to join in conveying the said lands or grounds to the said company and their successors; Provided always, that when the amount of such award shall exceed the amount secured or payable on such mortgage, the said company after the amount due on such mortgage shall pay or cause to be paid the balance of the said award to the mortgagor, or other party entitled to receive the same.

Proceedings when lands are held under mortgage.

Proviso: When the compensation exceeds the mortgage money.

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

When the road shall pass through lands belonging to any tribe of Indians, compensation to be paid and Arbitrator to be appointed by the Chief Officer of the Department.

(a) The record of the award, upon being deposited in the registry office, shall, on payment of the amount of such award, be a valid title to the company for the lands therein mentioned. 18 Vict., c. 36, s. 4, p. 21.

(b) See C. S. C. c. 66, s. 11, sub-s. 13, p. 87.

Lands belonging to Her Majesty, &c., not to be taken except by permission.

9. (a) And be it enacted, That whenever it shall be necessary for the said company to occupy any part or parts of the land or ground belonging to the Queen's Majesty, or which may at any time heretofore have been specially set apart and reserved, or which are designated or commonly known as Crown Lands, or lands reserved for military purposes, they shall first apply for and obtain the license or consent of Her said Majesty, her heirs, or successors, under the hand and seal of the Governor or person administering the Government of this Province for the time being, and having obtained such license and consent, it shall and may be lawful for them at any time or times, to enter into and upon, have, hold, use, occupy and enjoy any part or parts of the said lands or grounds for the purposes of this Act, or for any other purpose connected therewith.

Certain parties who could not otherwise alienate enabled to convey lands to the Company.

10. And be it enacted, That after any lands or grounds shall be set out or taken as aforesaid by the said company, for the purpose of making and completing the said double or single wooden or iron railroad or way, or for other purposes and conveniences aforesaid, it shall and may be lawful for all (b) bodies politic, corporate or collegiate, corporations, communities, guardians, executors, administrators, and all other trustees or persons whomsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those they represent, whether infants, issue unborn, lunatics, idiots, females-covert, or other person or persons, who are or shall be seized, possessed of, or interested in any lands or grounds which shall be required as aforesaid, or any part thereof, to contract for, sell and convey unto the said company, their successors, or assigns, all or any part of such lands or grounds, which may from time to time be required as aforesaid, and that all contracts, agreements, sales, conveyances and assurances so to be made, shall be valid and effectual in law, to all intents and purposes whatsoever; any law, statute, usage or custom to the contrary thereof in anywise notwithstanding; and all bodies politic, corporate or collegiate, and all persons whatsoever so conveying as aforesaid, are hereby indemnified for what he, she or they, or any of them, shall respectively do by virtue of or in pursuance of this Act.

Deeds and conveyances to be in form of Schedule A.

11. And be it enacted, That all deeds and conveyances for lands to be conveyed to the said company for the purposes of this Act, shall and may be, as far as the title to the said land or the circumstances of the party making such conveyance will admit, be made in the form given in the schedule of this Act, marked A, and all registrars are hereby required and authorized to enter in their register book, such deeds on the production thereof, and proof of execution without any memorial, and to minute such entry on the said deed, and the said company are to pay to the said registrar for so doing the sum of two shillings and sixpence, and no more.

(a) Repealed by 18 Vict., c. 36, s. 2. See C. S. C. c. 66, s. 9, sub-s. 3, p. 76, *Ib.* s. 11, sub-s. 31, p. 88, *Ib.* s. 133, p. 110.

(b) See 24 Vict., c. 17, s. 1, p. 127.



**12.** And be it enacted, That the said company shall have full power and authority to explore the country lying between the said town of Peterborough and lake Ontario, and to designate and to establish, and for the said company to take, appropriate, have, and hold, to and for the use of them and their successors the line and boundaries of a double or single railroad, with the necessary railways to connect the said town of Peterborough and lake Ontario; and for the purposes aforesaid, the said company and their agents, servants and workmen are hereby authorized and empowered to enter into and upon the lands and grounds of or belonging to Her Majesty, (a) her heirs and successors, or any other person or persons, bodies politic or corporate, and to survey (b) and take levels of the same, or any part thereof and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said double or single railroad and all such matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing and using the said intended railroad, and also to make, build, erect and set up in and upon the route of the said railroad, or upon the line adjoining or near the same, all such works, (c) ways, roads and conveniences as the said company shall think requisite and necessary for the purposes of the said railroad, and also from time to time to alter, repair, amend, widen or enlarge the same, or any other of the conveniences above-mentioned, as well as for carrying and conveying all manner of materials necessary for making, erecting, furnishing, altering, repairing, widening or enlarging the works of or belonging to the said railroad, and also to place, lay, work and manufacture the said materials on the ground near to the place or places where the said works or any of them are or shall be intended to be made, erected, repaired or done, and to build and construct the several works and erections belonging thereto, and also to make, maintain, repair and alter any fences or passages under or through the said railroad, or which shall communicate therewith, and to construct, erect and keep in repair any piers, arches or other works, in and upon and across any rivers or brooks, for making, using, maintaining and repairing the said railroad and side paths, and also to construct, make and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving and improving, completing and using the said railroad in pursuance of and within the true meaning of this Act, they the said company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinbefore mentioned, for all damages to be sustained by the owners or occupiers of such lands, tenements and hereditaments

Power given to explore the country and hold boundaries of the said road.

And to enter for the purpose of making survey.

And to erect buildings, &c. necessary for the road.

And to place materials.

To build bridges, and do other necessary things, making satisfaction for damages.

**13.** (d) And be it enacted, That the said company or their agents or servants, at any time after the passing of this Act

Company not to interfere with any fee simple, except by permission or under the

(a) See C. S. C. c. 66, s. 9, sub-s. 12, p. 77.

(c) See C. S. C. c. 66, s. 9, sub-s. 7, p. 76.

(b) See C. S. C. c. 66, s. 9, sub-s. 13, p. 77.

(d) Repealed by 18 Vict., c. 36. s. 2, p. 21.

provisions of  
this Act.

under and by virtue of its provisions, shall not, in constructing, building and finishing a double or single railroad or way, as aforesaid, on any part or portion of the country lying between the said town of Peterborough and lake Ontario, in any degree interfere with or encroach on any fee simple, right or private easement or privilege of any individual now holding or enjoying the same, or entitled thereto, without permission first had and obtained either by consent of the owner thereof, or by virtue of the reference authorised by this Act.

Railroad, &c.  
vested in Com-  
pany.

**14.** And be it enacted, That the said double or single railroad or way, and all materials which shall from time to time be got or provided for constructing, building or repairing the same, and all tolls on goods, wares and merchandise, or passengers as hereinafter mentioned, shall be, and the same are hereby vested in the said company, and their successors for ever.

Tolls may be  
collected.

**15.** And be it enacted, That so soon as the said double or single iron or wooden railroad or way, shall be so far completed so as to be capable of being used, it shall and may be lawful for the said company through their president and directors, from time to time to fix and regulate the tolls (a) and charges to be received for transportation of all goods, wares, merchandise and passengers thereon, or any other convenience, erection, or improvement, built, occupied or owned by the said company, to be used therewith, and it shall and may be lawful for them to ask, demand, receive, recover and take the said tolls, dues, or charges, to and for their own proper use and benefit, and also that they shall have full power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the said double or single iron or wooden Railroad or way, as well as the manner of collecting all tolls and dues on account of transportation and carriage, and shall have power to erect and maintain such toll-houses and other buildings for the accommodation and proper transaction of their business, as to them may seem necessary.

Regulations  
may be made.

Railroad may  
cross any  
stream or high-  
way, &c.

**16.** And be it enacted, That whenever it shall be necessary for the said single or double Railroad or way, to intersect or cross any stream of water, or water course, (b) or any road or highway (c) lying in the route thereof, between the said town of Peterborough and lake Ontario, it shall and may be lawful for the said company to construct their single or double railroad across or upon the same : (d) Provided always, that the company shall restore the stream or water course, or road or highway thus intersected to its former state, or in a sufficient manner not to impair its usefulness, and shall moreover, during the continuance of this company, make and repair sufficient fences upon the line or route of their said single or double railroad or way.

Proviso.

When Rail-  
way crosses a  
highway the

**17.** And be it enacted, That when the said single or double Railroad or way shall cross any public highway, the ledge or

(a) See C. S. C. c. 66, s. 9, sub-s. 10, p. 77.

*Id.* s. 20, et seq. p. 90.

(b) See C. S. C. c. 66, s. 136 et seq. p. 111.

(c) See C. S. C. c. 66, s. 9, sub-s. 5, p. 76.

(d) See C. S. C. c. 66, s. 12 et seq. p. 83.

flange of such Railway for the purpose of guiding the wheels of the carriages shall not rise above the level of such road, nor sink below the level of such road, more than one inch; (a) and that when any bridge shall be erected or made by the said company, for the purpose of carrying the said double or single railroad or way over or across any public way, (b) the span of the arch of such bridge shall be formed, and shall at all times be and be continued of such breadth as to leave a clear and open space under every such arch of not less than fourteen feet, and of a height from the surface of such public highway to the centre of such arch of not less than twelve feet, and the descent under any such bridge shall not exceed one foot in ten feet, and that in all places where it may be necessary to erect, build, or make any bridge or bridges, for carrying any public carriage road or highway, over the said double or single railroad or way, the ascent of every such bridge, for the purpose of every such road, shall not be more than one foot in ten feet, and a good and sufficient fence shall be made on each side of every such bridge, which fence shall not be less than four feet above the level of such bridge.

flange not to sink nor rise more than one inch. Dimensions of bridges prescribed.

Bridges to have fences.

**18.** (c) And be it enacted, That in all cases where the said intended double or single railroad or way shall cross any public highway on a level, the said company shall erect, and at all times maintain a good and sufficient gate on each side of the said public highway where the said double or single railroad or way shall communicate with such public highway, which gates shall be constantly kept shut, except at such times as waggons, carts and other carriages passing along the said double or single railroad or way, shall have to cross such public highway, and they shall be opened only for the purpose of letting such waggons, carts, or other carriages pass through; and every driver, or person entrusted with the care of any waggon, cart, or other carriage shall, and is hereby directed to cause the said gates and each of them to be shut as soon as such waggon, cart, or other carriage shall be passed through, under the penalty of five shillings currency, to be recovered before any magistrate.

When Railroad crosses a highway Company to erect gates.

Penalty for neglecting to shut such gates.

**19.** And be it enacted, That if any person or persons shall do or cause to be done, any act or acts whatsoever whereby any building, work or construction of the said company, or any engine, machine or structure, or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending (d) shall forfeit and pay unto the said company, double the amount of damage sustained by means of such offence or injury, to be recovered in the name of the said company, by action of debt to be brought in any court of record in that part of the province formerly Upper Canada.

Penalty on persons injuring or obstructing the Railroad or other works.

(a) See C. S. C. c. 66, s. 12, sub-s. 2, p. 88. (c) Repealed by 16 Vict., c. 241, s. 3. See C. S. C. c. 66, s. 19, p. 90.  
 (b) See C. S. C. c. 66, s. 12, sub-ss. 3 & 4, p. 88, 89; *Id.* s. 185, p. 120. (d) See C. S. C. c. 66, s. 84 *et seq.* p. 101.

The affairs of the Company to be managed by nine Directors, one of whom shall be President.

Day of election.

Elections to be by ballot.

Election of President.

Default to elect not to operate a dissolution of Company.

**20.** And be it enacted, That the property, affairs and concerns of the said company, shall be managed and conducted at the said town of Peterborough (*a*) by nine (*b*) directors, (*c*) one of whom shall be chosen president, (*d*) who shall hold their office for one year, which said directors shall be stockholders to the amount of at least twenty-five shares, (*e*) and who shall be elected on the first Monday in July (*f*) in each and every year, at the town of Peterborough, at such time of the day as a majority of the directors for the time being shall appoint, and public notice thereof shall be given in any newspaper or newspapers published in the Colborne and Newcastle districts at least one month previous to the time of holding the said election, and the said election shall be held and made by such of the stockholders (*g*) of the said company as shall attend for that purpose in their own proper persons or by proxy, (*h*) and all elections for such directors shall be by ballot, (*i*) and the persons who shall have the greatest number of votes at any election shall be directors, and if it shall happen at any such election that two or more shall have an equal number of votes in such manner that a greater number of persons than nine shall by a plurality of votes appear to be chosen directors, then the said Stockholders hereinbefore authorized to hold such election shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be director or directors so as to complete the whole number of nine, and the said directors so chosen, as soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be president, (*j*) 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 a majority of the directors. (*k*)

**21.** And be it enacted, That in case it should happen that an election of directors should not be made on any day when pursuant to this Act it ought to have been, the said company shall not for that cause be dissolved, but it shall and may be

(*a*) By 16 Vict., c. 49, s. 3, p. 16, the election in 1853 was to be held on the second Monday in January, in the township of Cavan, and by sec. 4 of the same Act, the affairs of the company shall be conducted at such place as the directors may appoint.

(*b*) 27 & 28 Vict., c. 86, s. 4, p. 30, the number of directors to be elected by the shareholders and bondholders shall be five, exclusive of *ex-officio* directors for municipalities.

(*c*) Majority to form a quorum. 16 Vict., c. 241, s. 6, p. 19. C. S. C. c. 66, s. 42, p. 94.

(*d*) Paid Director. See 16 Vict., c. 241, s. 6, p. 19.

(*e*) The holder of bonds or shares or both to the nominal amount of £250 Cy., qualified as a director under 27 & 28 Vict., c. 86, s. 4, p. 30.

(*f*) By 27 & 28 Vict., c. 86, s. 4, p. 30, the annual meeting is to be held on the third Tuesday in January in every year; and by 37 Vict., c. 52, s. 2, p. 53, the annual meeting is to take place on the third Tuesday in February in every year.

(*g*) Bondholders may vote with shareholders. 27 & 28 Vict., c. 86, s. 1, p. 29. Aliens and non-resident stockholders may vote. 16 Vict., c. 241, s. 7, p. 11; 33 Vict., c. 31, s. 6, p. 48.

(*h*) Form of Proxy. C. S. C. c. 66, s. 37, p. 93. See also *ib.* 3. 38, p. 93.

(*i*) Shareholders to have one vote for every share. 37 Vict., c. 52, s. 3, p. 54.

(*j*) Chairman at Board to have a casting vote. C. S. C. c. 66, s. 44, p. 94. Absence of President. See C. S. C. c. 66, ss. 69, 70, p. 98.

(*k*) The act of a majority of a quorum to be deemed the act of the directors. C. S. C. c. 66, s. 43, p. 94.

lawful on any day to hold and make an election of directors in such manner as shall have been regulated by the by-laws and ordinances of the said corporation.

**22.** And be it enacted, That each stockholder shall be entitled to the number of votes proportioned to the number of shares which he or she shall have had in his or her own name at least one month prior to the time of voting, according to the following rates, that is to say : 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. (a)

*Ratio of votes to shares.*

**23.** 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 (b) as to them shall appear needful and proper touching the management and disposition of the stock, property, estate and effects of the said company, and touching the duty of the officers, clerks and servants, and all such other matters and things as appertain to the business of the said company, and shall also have power to appoint as many officers, (c) clerks, and servants for carrying on the said business, with such salaries and allowances as to them shall seem fit.

*Directors to make Rules and Regulations*

*And to appoint Officers and servants.*

**24.** And be it enacted, That on the second Monday of the month of September next, a meeting of the stockholders shall be held at the town of Peterborough, who in the manner hereinbefore provided shall proceed to elect nine persons to be directors, who shall elect by ballot one of their number to be their President, and who shall continue in office until the next annual meeting of the said company, and who during such continuance in office shall discharge the duties of directors in the same manner as if they had been elected at the annual election : Provided always, that if shares to the amount of two thousand five hundred pounds shall not be taken, then the said meeting shall not be held until that amount of stock shall have been taken up, and at least thirty days' notice thereof given in any paper or papers published in the Colborne or Newcastle Districts.

*First Meeting of Stockholders.*

*Proviso.*

*Election not to be held unless a certain amount of stock be taken up.*

**25.** And be it enacted, That the whole capital stock of the said company, inclusive of any real estate which the said company may have or hold by virtue of this Act, shall not exceed in value one hundred thousand pounds, (d) or such sum as shall be sufficient for the purposes contemplated by this Act, (e) which amount shall be raised by the several parties hereinbefore named, and by such other person or persons who may after the passing of this Act become subscriber or subscribers towards such stock, (f) and be held in ten thousand shares of ten pounds

*Amount of Capital Stock.*

*Division of shares.*

(a) Shareholders to have one vote for every share. 37 Vict., c. 52, s. 3, p. 54.

(b) See C. S. C. c. 66, s. 91 *et seq.* p. 103.

(c) See C. S. C. c. 66, s. 68, p. 98. Power to appoint agents. See 18 Vict., c. 36, s. 5, p. 22.

(d) Increased by 16 Vict., c. 241, s. 1, p. 17, to £250,000, and 18 Vict., c. 36, s. 6, p. 22, to £250,000 Cy. additional.

(e) See C. S. C. c. 66, s. 81, p. 101.

(f) Power to Municipal Corporations to subscribe for stock. C. S. C. c. 66, ss. 75 to 78, p. 99.

Transfer of shares.

each, (a) and that the shares of the capital stock be deemed personal property, and may after the first instalment thereon shall have been paid, be transferred 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 company. (b)

Stockholders not to be liable beyond extent of their shares respectively.

**26.** And be it enacted, That no stockholder in the said company shall be in any manner whatsoever liable (c) 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 of the capital of the said company not paid up. (d)

Calls for instalments upon shares how to be made.

**27.** And be it enacted, That so soon as directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the stockholders of the said company by giving sixty days' notice thereof in any newspaper published in the said districts for an instalment of five per cent. upon each share which they or any of them may respectively subscribe for, and that the residue of the amount of the shares of the stockholders shall be payable by instalments, at such times and in such proportions as the directors of the said company may see fit, so as no such instalment shall exceed five per cent. (e) nor become payable in less than thirty days after public notice in the newspaper aforesaid: Provided always, that the said directors shall not commence the construction of the said railroad or way until the said first instalment shall be paid in.

Proviso: When the work may be commenced.

Forfeitures of shares upon non-payment.

**28.** (f) And be it enacted, That if any stockholder or stockholders as aforesaid, shall refuse or neglect to pay at the time required, any such instalment or instalments as shall be lawfully required by the directors as due and payable upon any share or shares such stockholder or stockholders so refusing or neglecting shall forfeit such share or shares as aforesaid, with any amount that shall have been previously paid thereon; and that the share or shares so forfeited may be sold by the said directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and applied in like manner as other moneys of the said company: Provided always, that the purchaser or purchasers shall pay the said company the amount of the said 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 so purchased as aforesaid: Provided always that thirty days' notice of the sale of such forfeited shares shall be given in any newspaper published in each of the

Proviso.

Proviso.

(a) Calls on stock. See 16 Vict., c. 241, s. 4, p. 18. See also C. S. C. c. 66, s. 48 et seq. p. 95.

(b) Issue of new scrip. 37 Vict., c. 52, s. 4, p. 54.

(c) See C. S. C. c. 66, s. 80, p. 100.

(d) Liability of stockholders varied. 16 Vict., c. 241, s. 4, p. 18.—27 & 28 Vict., c. 86, s. 17, p. 35.

(e) Calls to the amount of ten per cent. authorized. 16 Vict., c. 241, s. 4, p. 18. See C. S. C. c. 66, s. 51 et seq. p. 95.

(f) Repealed by 18 Vict., c. 36, s. 2, p. 31.

said districts, and that the instalments due may be received in redemption of such forfeited shares, at any time before the day appointed for the sale thereof.

**29.** (a) And be it enacted, That it shall be the duty of the directors to make annual or semi-annual dividends (b) of so much of the profits of the said company as to them or a majority of them shall seem advisable; and that once in each year an exact and particular statement (c) shall be rendered of the state of their affairs, debts, credits, profits and losses; such statement to appear in the books, and to be open to the perusal of any stockholder at his or her reasonable request; which said statement, attested on oath, shall be submitted annually to the three branches of the Legislature (d) within thirty days after the opening of each session of the provincial parliament, as also a statement of the tonnage of goods, and number of passengers that have been conveyed along the said road.

Directors to declare annual or semi-annual dividends.

And to render accounts and submit the same to the stockholders and to the Legislature.

**30.** And be it enacted, That whenever the sum of fifteen thousand pounds of the capital stock of the said company shall have been paid up and expended in the construction of some part or parts of the said railroad, it shall and may be lawful for the president and directors of the said company being thereto authorized by a general meeting of the shareholders to be called for that purpose, to borrow by way of loan from such party or parties as shall be willing to advance the same, and at the lowest rate of interest for which it can be got or procured, such sum or sums of money as shall not exceed the balance of the stock not paid in, for the purpose of carrying on and completing the said railroad; (e) and the said road or such parts thereof as may be constructed, with the income of tolls arising therefrom, after paying the necessary expenses of conducting the business thereof, as also the repairs thereof, may be pledged as security for the payment of the principal money so borrowed and the interest thereof.

Company may borrow a further sum of money when £15,000 of Capital Stock is paid up.

And may mortgage the road and works &c. for security of such loan.

**31.** And be it enacted, That the said road which the said company are by this Act authorized to make, shall be commenced within in four years (f) from the passing of the said Act;

Road to be commenced and completed within a certain time, on pain of forfeiture of charter

(a) Repealed by 18 Vict., c. 36, s. 2, p. 21.

(b) See C. S. C. c. 66, ss. 63 to 65, p. 97.

(c) See C. S. C. c. 66, s. 62, p. 97.

(d) As to returns to the Dominion Parliament. See 38 Vict. c. 25, p. 138.

(e) Issue of bonds to the extent of £250,000. 18 Vict., c. 36, s. 7, p. 22.

Issue of bonds for £30,000 stg. to Grand Trunk Railway. 22 Vict., c. 93, s. 1, p. 24.

Registration of bonds. 27 & 28 Vict., c. 86, s. 2, p. 29.

Upon amalgamation of Railway with Port Hope Harbour Company, bonds issued by the Company and debentures issued by the Port Hope Harbour may be called in, and new bonds issued, secured upon the whole amalgamated property. 27 & 28 Vict., c. 86, s. 7, p. 31.

Issue of preferential bonds for £110,000 on completion of purchase of Peterborough and Millbrook branch. 29 & 30 Vict., c. 99, s. 4, p. 41.

Issue of bonds for £100,000 upon extension from Beaverton to the Georgian Bay. 33 Vict., c. 31, s. 5, p. 48.

Issue of new consolidated bonds for £335,000 stg. 34 Vict., c. 51, s. 1, p. 50.

Issue of second mortgage bonds for £150,000 stg. 36 Vict., c. 90, s. 2, p. 52.

Power to mortgage bonds. 36 Vict., c. 90, s. 3, p. 52.

Guarantee of the Omamee, Bobcageon and North Peterborough Railway bonds. 37 Vict., c. 52, s. 1, p. 53.

Forging debentures a felony. C. S. C. c. 66, s. 121, p. 108.

(f) Further extended by 15 Vict., c. 49, s. 2, p. 16, to four years, from 10th Nov., 1852.

otherwise the said Act, and every matter and thing therein contained shall cease and be utterly void; and the said railroad shall be completed and fit for public use within twenty years (a) from the passing of this Act, otherwise this Act shall cease to have force and effect with regard to such parts of the said railroad as 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.

Limitation of actions.

**32.** 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 (b) 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 matters in evidence on the trial.

Public Act.

**33.** And be it enacted, That this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all judges, justices of the peace and other persons without being specially pleaded.

The Legislature may alter or amend this Act.

**34.** And be it enacted, That notwithstanding the privileges hereby granted and confirmed, the Legislature may at any time hereafter make such addition to this Act, or such alterations of any of the provisions thereof as they may think fit and proper for affording just protection to the public, or to any person or persons, bodies 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, public or private, that may be affected by any of the powers given by this Act.

After a certain time company may extend their line of road.

**35.** And be it enacted, That the company by this Act incorporated, may at any time within ten years from the day of the passing of this Act, extend their line of railway from the said town of Peterborough to any point on Chemong Lake in the Colborne District.

First giving thirty days' notice of their intention so to extend the same.

**36.** And be it enacted, That if the said company shall determine to extend their line of road as provided for in the foregoing section, they shall cause thirty days' public notice to be given in all the newspapers printed and published in the town of Peterborough, of such intention, and the line of road shall be thereupon considered to be extended accordingly; and all the clauses, provisions and enactments of this Act shall thereupon be held to be extended to such increased line as fully to all intents and purposes as though the same had been originally included in the route of the said road.

(a) Further extended by 29 & 30 Vict., c. 99, s. 1, p. 40, for five years, from 15th August, 1866.

(b) See C. S. C. c. 66, s. 83, p. 101.



## SCHEDULE A.

## FORM OF CONVEYANCE.

KNOW ALL MEN BY THESE PRESENTS, that I, *A. B.*, of, &c., do hereby in consideration of paid to me by The Peterborough and Port Hope Railway Company, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey and confirm unto the said Peterborough and Port Hope Railway Company, their successors and assigns for ever, all that certain parcel or tract of land, situate (*here describe the land*), the same having been selected and laid out by the said company for the purposes of their road, to have and to hold the said land and premises, together with the hereditaments and appurtenances thereto, to the said Peterborough and Port Hope Railway Company, their successors and assigns for ever.

Witness my hand and seal this            day of            , 18

Signed, sealed and delivered, }  
in presence of                    }

[L. S.]

## 16 VICT. CAP. XLIX.

An Act to extend the provisions of the eighteenth section of the Railway Clauses Consolidation Act to the Act incorporating the Peterborough and Port Hope Railway Company.

[10th November, 1852.]

**W**HEREAS the Municipal Councils of the Town of Port Hope and the Townships of Hope and Cavan, in the County of Durham, and of the Township of South Monaghan, have by their petitions set forth that they are desirous of subscribing for shares in the stock of the Peterborough and Port Hope Railway Company, under the provisions of the eighteenth Section of The Railway Clauses Consolidation Act; but that they have been advised that the provisions of the said Section do not extend to the said company, inasmuch as the same was incorporated before the passing of The Railway Clauses Consolidation Act aforesaid, and have prayed that the said provisions and certain other provisions of the said Act may be extended to the company and the railway to be made by them; And whereas it is expedient to extend the provisions aforesaid to the said company:

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.

Sec. 18 of 14 & 15 V. c. 51, extended to the said Company and to Companies incorporated before the passing of the said Act.

1. That the ninth (a) Section headed "Powers," the eighteenth (b) section headed "Municipalities," and the nineteenth (c) section headed "Shareholders" of the Railway Clauses Consolidation Act, and all the provisions thereof respectively, shall apply to The Peterborough and Port Hope Railway Company aforesaid, and the Railway authorized to be made by the said Company, and shall be and are hereby incorporated with, and shall make part of the Act of Incorporation or Charter of the said The Peterborough and Port Hope Railway Company and such Act of Incorporation or Charter shall be held to be referred to in the said sections by the expression, "the Special Act," whenever it occurs therein; Provided always, that any municipality desirous of aiding in the construction of the said railway, shall and may in addition to the powers conferred hereby, be at liberty to do so, by passing a by-law for the purpose in the manner prescribed by and subject to the provisions of any Act that may be passed during the present session, to establish a consolidated municipal loan fund for Upper Canada.

Declaratory clause as to commencement of this Railway.

2. And whereas doubts might arise as to whether the proceedings had and things done by the Peterborough and Port Hope Railway Company, amount to a commencement of their Railway within the meaning of the provisions hereinafter referred to; for the avoidance of such doubts—Be it declared and enacted, that the period limited by the thirty-first section of the Act passed by the Legislative Assembly and Legislative Council of this Province, in the ninth year of Her Majesty's reign, but assented to by Her Majesty in council in the tenth year of her reign, and intituled, "An Act to incorporate the Peterborough and Port Hope Railway Company," as that within which the Railway therein mentioned was to be commenced, shall be and is hereby extended to the term of four years from the passing of this Act, and the said Act shall be construed and have effect as if the said period had been limited for the purpose aforesaid, by the said section, instead of the period of four years from the passing of the said Act, as therein contained.

Meeting to elect Directors.

3. And be it enacted, That on the second Monday in January next, (d) a meeting of the stockholders shall be held at

(a) Now C. S. C. c. 66, s. 9, p. 75; as to sub-section 15 of that Statute, see section 130, p. 109.

(b) Now C. S. C. c. 66, s. 75-79, p. 99.

(c) Now C. S. C. c. 66, s. 80-82, p. 100.

(d) See notes to 9 Vict., c. 109, s. 20, p. 10.

Graham's Inn, in the Township of Cavan, who in the manner in the said Act provided, shall proceed to elect nine directors, who shall elect by ballot, one of their number to be their President, and who shall continue in office until the next annual meeting of the company, and who during such continuance in office, shall discharge the duties of directors in the same manner as if they had been elected at the annual election.

4. And be it enacted, That the property, affairs and concerns of the said company shall be managed and conducted at such place as the directors or a majority of them shall from time to time agree upon and appoint, any thing in the twentieth section of their Act of incorporation to the contrary notwithstanding.

## 16 VICT., CAP. CCXLI.

### An Act further to amend the Act incorporating the Peterborough and Port Hope Railway Company.

[Assented to 14th June, 1853.]

**W**HEREAS The Peterborough and Port Hope Railway Company have by their petition to the Legislature, prayed that certain amendments be made to the Act incorporating the said Company, 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 capital stock of the Peterborough and Port Hope Railway Company, incorporated by the Act passed by the Legislative Council and Legislative Assembly of this Province, in the ninth year of Her Majesty's Reign, but sanctioned by Her Majesty in council in the tenth year of her reign, and intituled, "An Act to incorporate the Peterborough and Port Hope Railway Company," shall be any sum not exceeding two hundred and fifty thousand pounds currency. (a)

2. And be it enacted, That the said company shall have full power and authority to construct a branch railway (b) from some point on the main line of their railway through the townships of Cavan, Emily, Manvers, Ops and Mariposa, or any of them,

(a) See note c to 9 Vict., c. 109, s. 25, p. 11. | (b) See note a to 9 Vict., c. 109, s. 2, p. 2.

to some point at or near the Western limit of the said township of Mariposa, and from thence to some convenient point on the line of the Ontario, Simcoe, and Huron Union Railroad; and to such branch line all the provisions of the said Act incorporating the said company, as amended by any subsequent Act or by this Act, and all the powers vested in the company, by the said Act so amended, shall extend as fully and effectually as to the main line of the said railway.

Certain sects. of 14 & 15 V. c. 51, incorporated with the Act incorporating the said Company.

3. And be it enacted, That the Eighteenth Section of the said Act incorporating the said company, shall be and is hereby repealed; and that the following clauses of "The Railway Clauses Consolidation Act," that is to say:—Section thirteen, (*a*) respecting "Fences,"—the sub-sections marked respectively, Firstly (*b*) and Secondly, (*c*) of section Fourteen, respecting "Tolls,"—the sub-sections marked respectively, Thirdly, (*d*) Fourthly, (*e*) Seventhly, (*f*) Eleventhly, (*g*) Twelfthly, (*h*) Thirteenthly, (*i*) Fourteenthly, (*j*) Fifteenthly, (*k*) Sixteenthly, (*l*) Seventeenthly, (*m*) Eighteenthly, (*n*) Nineteenthly, (*o*) Twentiethly, (*p*) Twenty-firstly, (*q*) Twenty-secondly, (*r*) and Twenty-thirdly (*s*) of section Sixteen, respecting "Directors—their election and duties," section Twenty, (*t*) respecting "Actions for indemnity, and fines and penalties, and their prosecution,"—the sub-sections marked respectively, Sixthly, (*u*) Seventhly (*v*) and Eighthly (*w*) of section Twenty-one respecting "Working of the Railway,"—and the sub-sections marked respectively, Firstly, (*x*) Eighthly (*y*) and Ninthly (*z*) of section Twenty-two respecting "General Provisions," shall be and they are hereby incorporated with and shall be held to make part of the said Act incorporating the Peterborough and Port Hope Railway Company. (*zz*)

Directors may call in instalments on Stock.

4. And be it enacted, That it shall and may be lawful for the Directors at at any time upon giving thirty days' notice in any newspaper published in the neighbourhood of the said railway to call upon the shareholders for such instalments upon each share which they or any of them may hold in the stock of the said company, and in such proportions as the Directors may see fit, so as no such instalment shall exceed ten per cent.; any thing in the twenty-seventh section of the original Act of incorporation to the contrary notwithstanding :

( <i>a</i> ) Now C. S. C., c. 66, ss. 13, 15, 16, 17,	( <i>n</i> ) Now C. S. C., c. 66, s. 60, p. 96.
18 and 19, p. 89.	( <i>o</i> ) " " s. 61, p. 97.
( <i>b</i> ) " " ss. 20 to 25, p. 90.	( <i>p</i> ) " " ss. 62 to 65, p. 97.
( <i>c</i> ) " " s. 26, p. 91.	( <i>q</i> ) " " ss. 66, 67, p. 97.
( <i>d</i> ) " " ss. 36, 37, p. 93.	( <i>r</i> ) " " s. 68, p. 98.
( <i>e</i> ) " " s. 38, p. 93.	( <i>s</i> ) " " ss. 69, 70, p. 98.
( <i>f</i> ) " " ss. 42 to 45, p. 94.	( <i>t</i> ) " " ss. 83 to 94, p. 103.
( <i>g</i> ) " " s. 51, p. 95.	( <i>u</i> ) " " s. 106, p. 105.
( <i>h</i> ) " " s. 52, p. 95.	( <i>v</i> ) " " s. 105, p. 105.
( <i>i</i> ) " " s. 53, p. 95.	( <i>w</i> ) " " s. 107, p. 105.
( <i>j</i> ) " " ss. 54, 55, p. 96.	( <i>x</i> ) " " s. 108, p. 105.
( <i>k</i> ) " " s. 56, p. 96.	( <i>y</i> ) " " ss. 119, 120, p. 107.
( <i>l</i> ) " " s. 57, 58, p. 96.	( <i>z</i> ) " " s. 121, p. 108.
( <i>m</i> ) " " s. 59, p. 96.	

(*zz*) C. S. C., c. 66, s. 11, p. 80, "Lands and their Valuation," and sect. 12, p. 88, "Highway and Bridges," are incorporated into this Act for the purpose of enabling the Company to complete their connections with the Peterborough and Chemong Lake Railway.

Provided always, that no subscriber to the stock book under the original Act incorporating the said company cited in the first section of this Act shall be held to be a stockholder, or be responsible as such under the Act passed during the present Session amending the same, if such original subscriber shall within one month from the passing of this Act, signify in writing to the president of the company his intention of withdrawing therefrom. Proviso.

5. And be it declared and enacted, That the said company and 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 with the counter-signature of the secretary of the company or any two of the directors of the company, 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 or any two of the directors as such, with the counter-signature of the secretary, shall be presumed 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 case is it or 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 directors or secretary of the company so making, drawing, accepting or endorsing or assisting to make, draw or endorse 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 in any way to act as bankers or carry on the business of banking, nor shall any note issued or to be issued by the said company be assignable or transferable otherwise than by endorsement in full. Company may be parties to Promissory Notes, &c.

6. And be it enacted, That a majority of the directors of the company shall form a quorum for the transaction of business; Provided that the said directors may employ one of the said directors as paid director. Seal not required.

7. And be it enacted, That any shareholder in the said company, whether a British subject or alien, or a resident in Canada or elsewhere, has and shall have equal rights to hold stock in the said company, to vote on the same, and be eligible to office in the said company. Proviso.

8. And be it enacted, (a) That the said company shall have full power and authority to take, without the consent of the owner, but subject to the provisions in this respect of the Rail-Clauses Consolidation Act, such quantity and extent of land for Aliens may vote, &c.

depots, stations and other works and purposes of their said railway, and of any branch thereof, as they may find requisite for the same, not exceeding ten acres for each such depot or station, and such quantity not exceeding ten acres as they may find requisite for any depot, station or other works which they may construct at Rice Lake.

Directors may enter into arrangements for union of the Company with another.

9. And be it enacted, That it shall be lawful for the directors (if authorized by any general meeting of the shareholders to be called for the purpose,) to enter into and make any arrangement with the directors of any railway company, now or hereafter to be chartered in any part of the Province, for the union, junction and amalgamation of the said company with any other railway company, or for the purchase of the railway of such other company by mutual agreement with such company; and the capital stock of any companies so united shall become the capital stock of the company formed by their Union, and be controlled and managed as such independently of all other increase of stock authorized by this Act.

May make arrangements with Railway or Steamboat Company.

10. And be it enacted, That it shall be lawful for the directors of the said company to make and carry into effect any arrangements which they shall deem meet with any other railway company or steamboat company, respecting the carriage of freight or passengers, or the working of their railway and other such railway or otherwise, or respecting the tolls to be charged for the carriage of freight or passengers thereon.

Flat Rail may be used on branch lines.

11. And be it enacted, That upon any branch line or feeder, the railway may be constructed in a less expensive manner than upon the main line of railway, and that the flat rail may be used thereon, anything in the railway clauses consolidation Act to the contrary notwithstanding.

Public Act.

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

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## 18 VICT., CAP. XXXVI.

An Act to change the name of the Peterborough and Port Hope Railway Company, and to amend the Act incorporating the same.

[Assented to 18th December, 1854.]

Preamble.

WHEREAS the Peterborough and Port Hope Railway Company, have petitioned that the Corporate name of the said Company may be changed, and that the Act incorporating it may be amended in the manner hereinafter mentioned, and it is expedient to grant the prayer of their 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, as follows :

1. From and after the passing of this Act, the Company incorporated by the Act passed by the Legislative Council and Legislative Assembly of this Province, in the Ninth year of Her Majesty's Reign, but sanctioned by Her Majesty in Council in the Tenth year of Her Reign; and intituled, "An Act to incorporate the Peterborough and Port Hope Railway Company," shall be called and known by the name and style of "The Port Hope, Lindsay and Beaverton Railway Company," instead of being called and known by the name and style of "The Peterborough and Port Hope Railway Company," any thing in the said Act or in any other Act or law to the contrary notwithstanding : Provided always that such change of name and style shall not be construed to make the said company a new company or corporation, or to impair or alter the effect of any Act relating to the said company, or of any instrument or proceeding, to or in which the said company by its former name and style may be or may have been a party or in any way concerned or interested, but the same shall have full force and effect, and shall apply to and may be continued with respect to the said Company, by the name and style hereby assigned to it, upon suggestion of the passing of this Act.

Name of Company incorporated by 9 V. c. 109, changed.

Proviso.

2. The fourth, ninth, thirteenth, twenty-eighth and twenty-ninth sections of the Act last above cited, incorporating the said company, shall be and are hereby repealed.

Certain sections of 9 V. c. 109, repealed.

3. The thirteenth (a) sub-section of the twenty-second section (headed "General Provisions") of the Railway Clauses Consolidation Act, as explained by the eighth (b) section of the Act passed in the sixteenth year of Her Majesty's Reign, and intituled, "An Act in addition to the General Railway Clauses Consolidation Act," and the fifth (c) sub-section of the said twenty-second section of the Railway Clauses Consolidation Act, shall be and are hereby incorporated with, and shall be held to make part of the said Act incorporating the said company.

Certain sections of 14 & 15 V. c. 51, as amended by 16 V. c. 169, incorporated with the said Act.

4. The Record of the award or arbitration mentioned in the sixth section of the said Act incorporating the said company, being deposited in the Registry Office of the proper county, shall, on payment of the amount of such award, into

Record of Award or Arbitration to be a title to the Company.

(a) Now C. S. C., c. 66. s. 125, p. 108.

(b) Now C. S. C., c. 66, s. 9, sub-s. 3, p. 76. See *Ib.* s. 133, p. 110, and ss. 136 to 139, p. 111.

(c) Now C. S. C., c. 66, ss. 115, 116, p. 106. See also 38 Vict., c. 25 (Canada), p. 138.

any chartered bank of this Province, for the party entitled to the same, be a good and valid title to the company for the lands therein mentioned, and for which compensation is thereby awarded; and the sum thereby awarded as compensation, after deducting the costs of the arbitration, shall be a debt due by the company to the party or parties entitled to receive such compensation, of which debt the award or copy thereof certified by the Register having the custody thereof, shall be sufficient evidence, and such debt shall bear legal interest from the date of such award until paid, if demanded within five years from the date thereof, otherwise the same shall bear interest from the time it shall be demanded.

Evidence thereof.

Directors may appoint agents.

5. The directors of the said company may appoint such and so many agents in this Province or in any other part of Her Majesty's Dominions, as to them shall seem expedient, and may by any by-law be made for such purpose, empower and authorize any such agent or agents to do and perform any act or thing, or to exercise any powers, which the directors themselves or any of them may lawfully do, perform and exercise, except the power of making by-laws: and all things done by such agent or agents by virtue of powers in him or them vested by any such by-law, shall be as valid and effectual to all intents and purposes as if done by such directors themselves; any thing in the said Act incorporating the said company, or in any Act amending it, to the contrary notwithstanding.

Their powers.

Increase of Capital of Company.

6. And whereas the present capital of the said company, is found inadequate to the completion of their line of road and its branches, in an efficient and satisfactory manner: Be it therefore enacted, That the said company are hereby authorized to increase their capital stock to the extent of two hundred and fifty thousand pounds currency, in addition to their present Capital, by creating an additional number of shares, not exceeding twenty-five thousand, of ten pounds currency each.

Company may borrow money and issue debentures convertible or otherwise.

7. For the more speedy completion as well of the main line as of the branch line of road which the said company are empowered to construct, it shall be lawful for the said company, and they are hereby authorized, upon obtaining the consent of a majority of the stockholders, at a special meeting to be called for that purpose, to borrow within this Province or elsewhere, and to issue their bonds, convertible into stock or otherwise, as may be agreed upon, to an amount not exceeding two hundred and fifty thousand pounds, (a) bearing interest not exceeding eight per cent. per annum, payable semi-annually, at such times and places in this Province or elsewhere as the board of directors shall direct, which said bonds shall be transferable, sealed with the seal of the company, and signed by the president and secretary thereof, and payable not more than twenty years from the date thereof; and for securing the pay-

Interest.

Transfer of Bonds.

Mortgage for securing of Bonds, &c.

(a) See note (d), to 9 Vict., c. 109, s. 30 p. 13.



ment of the said bonds, or such portion thereof as the directors may deem expedient, with the interest thereon accruing, the said company are hereby authorized to make and execute a mortgage to the holder or holders of such Bonds, or of such portion of said bonds as may be specified in such mortgage, or to trustees for the benefit of such holder or holders, of all the property, lands and tenements of the said company, or which may be purchased or in any way acquired or pertaining to the construction of the said railroad and of the said branch, and of all the right of way acquired or which may be acquired by the said company or any portion thereof, as also of the iron rails and other fixtures connected with the superstructure of the said road and branch line, and all or any portion of any other property, real or personal, of the said company, and also the rents, profits, tolls and revenues of the same; and the registration of any such mortgage made in the county in which the land or real estate of the company thereby specially mortgaged, or such part thereof shall lie, shall perfect the same, and be to all intents binding upon the said company; any law, usage or custom to the contrary notwithstanding: Provided always, that in describing the lands of the company in any such mortgage or memorial, it shall be sufficient to say "the line of the Railway and all the lands of the Company lying within the Counties of \_\_\_\_\_" enumerating the various counties through which it passes, if the mortgage be intended to cover the whole of such line and lands, or otherwise as the case may be, without further particularity.

8. And whereas a telegraph company has been formed Recital.

under the provisions of the Act sixteenth Victoria, chapter ten, called "The North-western Telegraph Company," for the purpose of constructing a telegraph line along the line of the said railway (a); And whereas the efficient and safe working of the railway will be promoted thereby; And whereas the railway company have agreed to take, and the president thereof has subscribed for shares to the amount of five hundred pounds in the capital stock of such telegraph company, and doubts may arise as to the legality of such subscription: Be it therefore declared and enacted, That it has been and shall be lawful for the said railway company by their president, to subscribe for, take, have, hold and depart with such an amount of the stock of the said telegraph company as the directors of the said railway company from time to time deem proper; and to pay up the calls upon such stock out of the funds of the said railway company; and that whilst the said railway company remains stockholders in the said telegraph company the president for the time being of the railway company shall, *ex officio*, be and possess and use all the powers of a director of the said telegraph company: Provided also, that it shall be lawful for the railway company, at any time to purchase from the telegraph company all their rights, property

Telegraph on  
the Railway.

Company may  
hold Stock in  
the Telegraph  
Company.

Proviso.

and interests, in which case the railway company shall own the same, and may manage, control, have, use and work the said telegraph line as their own, and shall thenceforth have, use, exercise and enjoy all the rights, privileges and powers of the said telegraph company, under the provisions of the said Act sixteenth Victoria, chapter ten, or of any other Act or Acts amending the same.

Public Act.      9. This Act shall be a Public Act.

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22 VICT., CAP. XCIII.

An Act for the relief of the Port Hope, Lindsay and Beaverton Railway Company.

[Assented to 4th May, 1859.]

Preamble.

19 & 20 V., c.  
111.

WHEREAS under the provisions of the Act of the Legislature of this Province, intituled, "An Act to grant additional aid to the Grand Trunk Railway Company of Canada," the said the Grand Trunk Railway Company of Canada have assisted the said the Port Hope, Lindsay and Beaverton Railway Company to the extent of the sum of thirty thousand pounds of sterling money of Great Britain, and have received from the said the Port Hope, Lindsay and Beaverton Railway Company, bonds of the said company for the said sum of thirty thousand pounds, which said bonds form part of an issue of bonds amounting to the sum of one hundred and twenty-five thousand pounds of such sterling money, secured by a first mortgage executed by the said company for the purpose of securing payment thereof; And whereas the said the Port Hope, Lindsay and Beaverton Railway Company have applied to the said the Grand Trunk Railway Company of Canada to grant them further aid and assistance by returning the said thirty thousand pounds of first mortgage bonds, and propose to exchange therefor bonds for a like sum of thirty thousand pounds to be issued under the authority of this Act; And whereas it is expedient to empower the said the Grand Trunk Railway Company of Canada to comply with such application:

Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Company may issue new bonds for £30,000 sterling, to rank after the first mortgage bonds.

1. The Port Hope, Lindsay and Beaverton Railway Company shall and may issue bonds to the extent of thirty thousand pounds of sterling money of Great Britain under the authority of this Act, which said bonds and the interest payable thereon shall take rank and precedence immediately after the bonds

already issued and secured by the said mortgage, amounting to one hundred and twenty-five thousand pounds sterling: Provided always, that nothing herein contained shall have the effect of postponing or invalidating any security heretofore granted by the said company, or any judgments now in force against them, but the same shall be and remain in full force and effect as if this Act had not been passed.

2. The Grand Trunk Railway Company of Canada may accept the bonds of the Port Hope, Lindsay and Beaverton Railway Company first referred to in the preceding section to the extent of thirty thousand pounds sterling in substitution of the first mortgage bonds of the said Port Hope, Lindsay and Beaverton Railway Company for thirty thousand pounds which the said Grand Trunk Railway Company of Canada now holds, and the said Grand Trunk Railway Company of Canada shall have the first charge and lien on the Port Hope, Lindsay and Beaverton Railway Company, its properties, and rolling stock for securing the repayment of the said thirty thousand pounds sterling with interest next immediately after the holders for the time being of the first mortgage bonds for one hundred and twenty-five thousand pounds sterling referred to in the said section, and also in the preamble of this Act.

3. The Port Hope, Lindsay and Beaverton Railway Company may re-issue the first mortgage bonds for thirty thousand pounds sterling so to be received back by them from the Grand Trunk Railway Company of Canada, and the same, when re-issued, shall still form part of the one hundred and twenty-five thousand pounds sterling, of first mortgage bonds above referred to.

4. The branch line of Railway constructed by the Municipalities of Port Hope and Peterborough, from Millbrook to Peterborough, shall not be charged or encumbered by any thing in this Act contained, beyond what it would have been, had no such Act been passed.

5. This Act shall be deemed a Public Act.

Public Act.

## 27 VICT., CAP. LX.

An Act to remove doubts as to the legality of certain instruments therein mentioned, connected with the Peterborough Branch of the Port Hope, Lindsay and Beaverton Railway, and to confirm certain arrangements between the Municipality of the Town of Peterborough and the Lessees of the said Branch.

[Assented to 15th October, 1863.]

Preamble.

Case recited.

WHEREAS the town council of the town of Peterborough have, by their petition, represented that in the year of our Lord one thousand eight hundred and fifty-seven, the construction of a branch railroad uniting the said town of Peterborough with the main line of the Port Hope, Lindsay and Beaverton railway, at the village of Millbrook, had become very desirable and advantageous, as well to the said railway company as to the holders of the first mortgage of the said road, and the inhabitants and ratepayers of the said towns of Peterborough and Port Hope, and therefore, in order to obtain the means of constructing the said branch road, the said railway company in good faith, did agree with certain lessees of the said company, and the town council of the said town of Peterborough, and the town council of the said town of Port Hope, that they, the said railway company, should make a lease to the said lessees, at a nominal rent, of their rights, powers and privileges, to build the said branch and run the same for nine hundred and ninety-nine years, upon condition, among other things, that the said lessees should build the said branch, with the assistance of the said town of Peterborough and the said town of Port Hope; and that it was further agreed by and between all the said parties, that the said town of Peterborough should subscribe thirty thousand pounds, and the Town of Port Hope the sum of ten thousand pounds for the sole and only object of aiding in and securing the construction of the said branch; and, that in order to induce the said towns of Peterborough and Port Hope so to subscribe and pay the said thirty thousand pounds and ten thousand pounds respectively to the said lessees for constructing the said branch, it was at the same time further agreed by and between all the said parties, that the said lessees should secure to the said towns of Peterborough and Port Hope, by a mortgage of their lease the annual payment of the sums of one thousand eight hundred pounds and six hundred pounds a year respectively, and the said sums to be subscribed as aforesaid should be paid by the said towns of Peterborough and Port Hope to the said lessees to aid and assist in constructing the said branch; that the said agreement was acted on and carried out; that the said lease was made, the said mortgage given, and the branch con-

structed, all in good faith, and relying upon the legality of all these proceedings as advised by counsel; that the petitioners have been advised by counsel to ask the Legislature for a confirmation of the said lease and of the said security by way of mortgage, and also of an agreement made by and between the said lessees and the said town of Peterborough, whereby the amount secured by the said mortgage and payable to the said town of Peterborough, is reduced or changed to the principal sum of nineteen thousand seven hundred pounds and interest thereon at six per cent. payable as follows, that is to say: the sum of three hundred pounds, part of the said principal sum of nineteen thousand seven hundred pounds, on the first day of January in each year, until the whole of the said principal sum be fully paid, and the said interest at the rate of six per cent. per annum, upon the principal unpaid in six equal payments, on the first days of May, June, July, August, September and October in each year, until the whole sum is paid, and the petitioners have therefore prayed that an Act may be passed for the confirmation of the rights of the parties under the said agreement; And whereas it is desirable to grant the prayer of the said petition:

Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. The lease, bearing date the thirteenth day of November, in the year of our Lord one thousand eight hundred and fifty-seven, from the Port Hope, Lindsay and Beaverton Railway Company to Messrs. Tate and Fowler, as contractors for the construction of the branch leading from Millbrook to Peterborough, is hereby confirmed and declared valid, to all intents and purposes whatsoever, and against all persons and corporations whomsoever.

The lease to Messrs. Tate and Fowler, confirmed.

2. The mortgage of the same lease, bearing date the thirteenth day of November, in the year of our Lord one thousand eight hundred and fifty-seven, between George Tate and John Fowler, of the first part, William Cluxton and David Smart, trustees therein mentioned, of the second part, and the Port Hope, Lindsay and Beaverton Railway Company, of the third part, is in like manner confirmed and declared valid to all intents and purposes whatsoever, and against all persons and corporations whomsoever; Provided, however, that the amount secured thereby, to and for the benefit of the corporation of the Town of Peterborough, is limited to the said principal sum of nineteen thousand seven hundred pounds, and interest thereon.

A certain mortgage of the said lease confirmed.

Proviso.

3. The said agreement hereinbefore mentioned between the said lessees and the said town of Peterborough, whereby the amount secured by the said mortgage to the town of Peterborough, is reduced or changed as aforesaid, is in like manner

Agreement between the lessees and the Town of Peterborough confirmed.

confirmed and declared valid to all intents and purposes, and against all persons and corporations whomsoever, and the said lessees may give and execute and the said town of Peterborough may accept and take such further security for the payment thereof, upon any property, not included in the said mortgage, as has been or may be agreed upon between them.

Saving the rights of certain parties.

4. Nothing in this Act contained shall affect or impair any rights that the corporation of the town of Port Hope may have in the lease and mortgage herein mentioned, or in either of them; nor shall it interfere with any suit or suits now pending against the said town of Peterborough, in respect of the subscription of stock by the said town in the said Port Hope, Lindsay and Beaverton Railway Company, nor with the rights of the said Port Hope, Lindsay and Beaverton Railway Company under the said lease, in respect of the compensation money payable for running over that portion of the road between the village of Millbrook and the town of Port Hope, nor with any rights of any creditor of the said railway company against the said town of Peterborough in respect of the said stock, or against the said mortgage in the hands of the said trustees in respect of the said stock or subscription of the said town of Peterborough to the said railway company.

Rights of the Crown saved.

5. And be it enacted, that nothing in this Act contained shall be construed to alter, vary or change any claim, right or title which the Crown may now have or hold upon or against the said Port Hope, Lindsay and Beaverton Railway or in or upon the said Peterborough branch thereof.

Public Act.

6. This Act shall be deemed a Public Act.

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## 27 & 28 VICT., CAP. LXXVI.

An Act for the re-organization of the Port Hope, Lindsay and Beaverton Railway Company, and to authorize the said Company to acquire and hold the Harbour of Port Hope, and for other purposes.

[Assented to 30th June, 1884.]

Preamble.

WHEREAS the Port Hope, Lindsay and Beaverton Railway Company, by reason of financial embarrassment, have for a long time been unable to pay the interest on their mortgages and bonds; And whereas the works and structures of the said company are become deteriorated, and the expenditure of a large sum of money is necessary to put the said works and structures in a permanent state of efficiency; And

whereas the Corporation of the Town of Port Hope, the said Railway Company, and certain of the bond and other creditors of the said company have, with that view, prayed for certain amendments to the several Acts of incorporation of the said company; And whereas it would be for the advantage of the corporation of the Town of Port Hope and of the said railway company, if the harbour at the Town of Port Hope were amalgamated with, and under the control of the said railway company:

Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. At all meetings of the said company, the holders of the bonds of the said company already issued, or which may, under the provisions of this Act, be hereafter issued by the said company, shall have the same right of voting thereat, either in person or by proxy, and the same number of votes, as would be conferred by holding stock or shares in the company of equal nominal amount; and all rules as to the requisite proportion of the votes of shareholders at any such meeting shall be interpreted as applying to the total number of votes given thereat by proprietors of stock or shares and of bonds; and for the purposes of this Act, all sterling bonds of the company shall be computed at the rate of one pound four shillings and four pence currency to the pound sterling, and the amount so to be ascertained shall, for the said purposes, be taken and considered as the nominal amount of such bonds, whenever the expression "nominal amount" is used in this Act; but if the amount of bonds held by any bondholder be not divisible without remainder by the amount of a share in the company there shall be no vote in respect of such remainder.

Bondholders to vote with shareholders at meetings of Company.

Sterling bonds: how reckoned for such purposes.

Proviso.

2. It shall be the duty of the present directors immediately after the passing of this Act, to open at their office in Port Hope and also at the place in London, England, where the interest or principal money of any of the bonds of the company is payable, registers of the holders of all bonds already issued or which may be hereafter issued by the company, and such registers shall contain the numbers of the said bonds and the amounts thereof, and the dates of registry, and all transfers of such bonds which shall hereafter be made; and the said directors shall cause notice to be published in the *Canada Gazette*, and in one or more newspapers published in the Town of Port Hope or elsewhere along the line of railway, and also in one newspaper published in London, England, calling upon the holders of the said bonds to register the same.

Bonds of the Company to be registered by the holders thereof, where and how.

Notice to be given.

3. No vote shall at any meeting be received in person or by proxy in respect of any bond, unless such bond shall have been registered at least one month prior to such meeting, at the principal office of the company in Canada or at the above-

No vote on any bond not registered at least one month before.

How registration may be effected.

mentioned place in London, in the name of the person or persons by whom or by proxy for whom such vote shall be tendered; and for carrying this enactment into effect, bonds shall be registered on the request of the bearer thereof, at the principal office of the company in Canada, or at the above-mentioned place in London, or in both as aforesaid, in the name of the bearer or in any name or names endorsed thereon by the bearer, and the registration so made at either office shall be forthwith reported at the other office, and a certificate thereof shall be delivered to the bearer on request, which shall be evidence of such registration, but no such registration shall in any way affect the right to receive any principal money or interest secured by such bond.

When present directors shall retire and others be elected.

4. The present Board of Directors shall continue in office until the first Wednesday in August next, when they shall retire; and upon the said first Wednesday an election of directors under this Act shall be held at the Town of Port Hope; (a) the qualification of a director shall be the holding in his own right of bonds or shares, or both, to the nominal amount of two hundred and fifty pounds currency; the Board of Directors so to be elected on the first Wednesday in August next, shall hold office until the third Tuesday in January, one thousand eight hundred and sixty-five, when they shall retire, and on the same Tuesday in January in every succeeding year, new directors shall be elected who shall hold office for one year; Provided always that the number of Directors to be elected by the share and bondholders shall be five, exclusive of the *ex-officio* Directors for the municipalities holding stock in the Company.

Yearly elections.

Proviso: number of Elective Directors.

Company may enter into agreement with the town of Port Hope and the Commissioners of the Harbour.

5. The said Port Hope, Lindsay and Beaverton Railway Company may enter into an agreement with the corporation of the Town of Port Hope and with the commissioners of the Port Hope Harbour, for the purchase by the said railway company of the said harbour and works, and of the stock and interest of the said Town of Port Hope in the said railway company, upon such terms as may be agreed upon, and may make the consideration to be paid therefor a first charge and lien upon the whole amalgamated property of the said railway company; Provided always, that no such agreement shall be valid and obligatory upon the said company or upon the said corporation of the Town of Port Hope, until the same shall have been submitted to and approved of by a general meeting of the bond and stockholders of the said company, specially called for the purpose of considering such agreement, and shall also have been submitted to and approved of by the council of the corporation of the Town of Port Hope at a meeting of the said Council specially called for the purpose of considering such agreement, and the sanction of the rate-payers given to such agreement.

Proviso: for approval



6. Upon such agreement being ratified and confirmed as aforesaid, it shall and may be lawful for the commissioners of the Port Hope Harbour, and they are hereby authorized and directed to make sale of the said harbour, and of all property vested in and held by them as such commissioners, and to transfer and convey the same to the said Port Hope, Lindsay and Beaverton Railway Company, and upon such sale and transfer being made, the said Port Hope Harbour shall be amalgamated with, and form part of the property of the said Port Hope, Lindsay and Beaverton Railway Company: and thereupon the Corporation known as "The Commissioners of the Port Hope Harbour," shall be dissolved and all the powers now or heretofore vested in such Corporation relating to the constructing, repairing, maintaining and managing the said Harbour, and levying and collecting tolls thereat shall be and are hereby declared to be transferred to and vested in and may be exercised and enjoyed by and in the name and for the benefit of the said Railway Company.

Amalgamation of railway and harbour on confirmation of such agreement.

Corporation of Harbour Commissioners dissolved.

7. Upon such amalgamation taking place, the said the Port Hope, Lindsay and Beaverton Railway Company may call in the bonds at present issued by the company and the debentures issued by the said commissioners of the Port Hope Harbour, and may issue new bonds to the holders thereof, secured on the whole amalgamated property of the company; (a) Provided always, that a portion of the bonds so to be issued shall be exchanged for the bonds of the company already issued and for the said harbour debentures, and the surplus shall be applied by the company, in completing and repairing the line of railway and works of the company, and for the purposes of this Act, which surplus shall not exceed in amount the sum of fifty thousand pounds sterling.

Old bonds may be called in and new issued

Proviso. Amount limited; application of money raised.

8. The rate of interest upon the said bonds so to be issued as aforesaid, for the period of five years next after the first of July, one thousand eight hundred and sixty-four, shall be four per cent. per annum, and no more; and for the period of five years from and after the first day of July, one thousand eight hundred and sixty-nine, shall be five per cent per annum, and no more; and from and after the first day of July, one thousand eight hundred and seventy-four, shall be at the rate of six per cent, per annum; and the interest for those respective periods shall be payable on presentation and delivery of the coupons attached to such bonds respectively, or to the bonds already issued by the company, and shall be accepted in satisfaction of the amount purporting to be payable on such coupons respectively and no action shall be maintainable to recover upon or in respect of any such coupons or upon any judgment founded thereon

Rates of interest hereafter on new or old bonds of the Railway or Harbour Commissioners.

(a) Power to town of Port Hope to aid railway by bonus to the extent or \$30,000, and for that purpose to apply the bonds of the Commissioners of the Port Hope Harbour held by the Corporation; the debentures to be a lien on the harbour after the claim of the representative of the late George Weir. 32 Vic., c. 71, ss. 1, 2, p. 43.

Such rates to be in full satisfaction of interest.

any greater amount than the interest at the rates aforesaid ; and the holders of debentures issued by the said commissioners of the Port Hope Harbour shall also, upon such amalgamation being completed, accept and be entitled to and shall receive interest at the rates aforesaid, and no more, in full satisfaction of the interest on the said debentures, and no action shall be maintainable to recover upon or in respect of any such debentures any greater amount than the interest at the rates aforesaid.

Application of earnings of the Company.

9. The earnings of the company, after deduction of working expenses as hereinafter defined, and of the expense of maintaining and repairing the said harbour, shall in each half-year ending the thirtieth day of June, and thirty-first day of December, commencing with the half-year ending the thirty-first day of December, one thousand eight hundred and sixty-four be appropriated and applied in the order and manner following ;

1. In payment ratably and *pari passu* of the interest for the time being on the said bonds ;
2. In payment of a dividend on the stock of the company.

What shall be intended by the expression "working expenses."

10. The expression "working expenses" when used in this Act, shall mean and include all expenses of maintenance and renewal of the railway and harbour, and of the stations, buildings, works and conveniences belonging thereto, and of the rolling and other stock and movable plant used in the working thereof, and also all such rents or annual sums as may be paid in respect of any railways or warehouses, wharves, or other property, leased to or held by the company, or in respect of the hire of engines, carriages, or waggons let to the company, rent, charges, or principal and interest on lands belonging to the company, purchased but not paid for, or not fully paid for, and also all expenses of and incident to working the railway and the traffic thereon, stores and consumable articles ; also rates, taxes, insurance and compensation for accidents or losses ; also all salaries and wages of persons employed in and about the working of the railway and traffic thereof, including wages and salaries now in arrear, and in the management of the said harbour, and all secretarial\* and establishment expenses including agency, legal and other like expenses.

Recital : possession of trustees of mortgagees.

11. And whereas the present bondholders, through their trustees named in a certain indenture of mortgage bearing date the twenty-ninth day of December, one thousand eight hundred and fifty-five, executed by the said company for securing payment of the interest on the bonds issued by the said company, which said mortgage is made between the said company of the first part and Joseph A. Woodruff and Gilbert McMicken, as such trustees, of the second part, have been in possession of the line of railway from Port Hope to Lindsay under the terms of the same, and now are in possession thereof, and are in

receipt of the earnings of the said line under the terms of a certain resolution of the directors of the said company, therefore the said Joseph A. Woodruff and the said Gilbert McMiken shall, as soon as an election of directors shall have taken place under the provisions of this Act, deliver up possession of the railway and property of the company now in their possession, by themselves or their agents, to the company, and an account shall be taken of all interest due on the bonds of the company to secure payment of which the said mortgage was granted, up to the first day of July, one thousand eight hundred and sixty-four, and of all moneys received by the said trustees or their agents, and of all moneys expended by them in the management and maintenance of the said railway and works, and of all debts due by the company and paid out of moneys received by the trustees or their agents; and the balance of interest remaining unpaid shall be paid out of the bonds hereinbefore authorized to be issued as hereinafter mentioned; and if any dispute shall arise between the said company and the said trustees touching or concerning the said accounts, receipts, and disbursements, the same shall be referred to the award and arbitrament of arbitrators to be appointed as follows: one of the said arbitrators to be named by the company, another thereof by the said trustees, and the third to be chosen by the two arbitrators so nominated before proceeding with the reference; in case the two arbitrators so nominated cannot agree on the name of the third arbitrator, it shall and may be lawful for any judge of either of the Superior Courts of Common Law of Upper Canada, on application of either party, to nominate the third arbitrator, and the decision of any two of the arbitrators shall be final.

Railway to be delivered up to the Company and accounts to be taken.

Arbitration in case of difference.

Appointment of Arbitrators.

Award.

12. All interest due on the debentures of the commissioners of the Port Hope Harbour, as hereinbefore mentioned, shall upon a sale as aforesaid being made, also be calculated up to the first day of July, one thousand eight hundred and sixty-four and shall in like manner be discharged by delivering bonds of the company, as hereinafter mentioned.

As to interest on harbour bonds.

13. In order to facilitate the liquidation of the company's liabilities and of the liabilities of the commissioners, the company may upon such amalgamation taking place, issue to all creditors holding *bond fide* claims against the said company, excepting those provided for in the tenth section, or against the said commissioners including all coupons in arrear on the said first day of July, one thousand eight hundred and sixty-four, and all arrears of interest on the said debentures calculated to the said first day of July, and in discharge thereof, bonds of the said company to be issued under the provisions of this Act as hereinbefore mentioned, and no judgment or other creditor of the company or of the said commissioners for a claim now existing against the company or the said commissioners, shall have any recourse against the company or its assets or revenue

Bonds to be issued and accepted for the debts of the Company or Commissioners of the Harbour.

Proviso ; as to claim of George Weir.

except for such bonds; Provided always, that the claim of George Weir, a contractor for the construction of the said harbour, and for which the said George Weir has obtained a judgment against the said commissioners, shall be paid and satisfied by the said company, either by the said bonds of the said company to be issued to the said George Weir at such rate as may be agreed upon, or in money at the option of the said George Weir,—but in the event of the said George Weir electing to be paid in money, the said company shall pay and discharge the principal of the same at the expiration of five years from the first of July, one thousand eight hundred and sixty-four, and shall pay interest thereon half yearly at the rate of six per cent. which interest shall be a charge under the provisions of the tenth section of this Act, and the principal shall be a first charge upon the said harbour until paid; Provided also that all creditors of the said Railway Company holding harbour debentures as collateral security for their respective claims shall be paid in cash upon the said amalgamation taking place, and upon the transfer and surrender by such last mentioned creditors respectively of such harbour debentures to the said railway company.

Proviso : as to Creditors holding collateral security

Recital : advances for branch line.

Corporations of Port Hope and Peterboro' may enter into agreements with the Railway Co., as to advances made by them to the Company.

14. And whereas the corporation of the Town of Port Hope and the corporation of the Town of Peterboro', have made large advances to aid in the construction of the branch line from Millbrook to the Town of Peterboro', to the lessees of the said branch line, which said advances are secured by mortgage to trustees for the said corporations respectively, therefore it shall be lawful for the said the Port Hope, Lindsay and Beaverton Railway Company, and the said corporations or either of them, to enter into agreements for the transfer and assignment by the said corporations or either of them, and their trustees respectively, of the said advances and of the said mortgage to the said company, and of all the rights and claims of the said corporations or either of them, now held by them or either of them for such advances and upon such transfer and assignment being made, all the rights and powers conferred by the said mortgage on the said corporations respectively, or on the trustees of the said corporations respectively, shall vest in the said company, who may exercise and assert the same in the name of the company.

Company may treat with lessees of branch line.

15. The company shall, after an election of directors under this Act, have full power and authority to treat with the lessees of the branch line from Milbrook to Peterboro', for a surrender of the said lease and for a conveyance of all the lands and rolling stock and plant now held by the said lessees, and upon such surrender and conveyance being made, the said company shall hold the said branch line as part of their general undertaking, but subject nevertheless to the claims of the said corporations under the said mortgage.

**16.** It shall and may be lawful for the municipalities of the Townships of Hope and Ops, and the town of Lindsay, respectively, shareholders in the capital stock of the said Port Hope, Lindsay and Beaverton Railway Company, to enter into agreements for the surrender and transfer to the said Railway Company of the capital stock so held by them respectively, and it shall be lawful for the said company to purchase the said shares or capital stock and to make the consideration to be paid therefor a charge and lien upon the whole amalgamated property of the said railway company, ranking with the lien in favour of the corporation of the Town of Port Hope, provided for in the fifth section of this Act, or otherwise as may be agreed upon by the parties<sup>(a)</sup>; Provided always, that until such sale or sales may take place, the interests of the said municipalities shall not be prejudiced by the operation of this Act.

Townships of Hope and Ops and Town of Lindsay may enter into agreement with the Company.

Proviso.

**17.** Upon such amalgamation taking place the holders of stock in the said company, subscribed under the original Act of incorporation, who have not paid up the amount of such stock respectively, shall be discharged from the payment of the same, and the costs incurred by judgment creditors of the said company in actions brought to enforce payment of the same, shall be added to and form part of the amount of the respective claims of such judgment creditors, and shall be liquidated in the same manner as the existing claims of such creditors, are to be liquidated under the thirteenth section of this Act, and further proceedings in all such actions shall be stayed.

Holders of original stock not paid, discharged.

**18.** Nothing in this Act contained shall be construed in any wise to alter, vary or change any claim, right or title which the Crown may now have or hold upon or against the said corporations or any of them.

Rights of the Crown saved.

**19.** This Act shall be deemed a Public Act.

Public Act.

(a) Upon the transfer of the stock held by the municipalities of the township of Hope, the township of Ops and the town of Lindsay to the railway company, the annual sums of \$1,542 to the township of Hope, \$296,75 to the township of Ops, and \$296,75 to the town of Lindsay, shall constitute a first charge or lien, in favour of such municipality, upon the whole property of the railway company, but not so as to prejudice the security of the town of Peterborough upon the Millbrook and Peterborough branch. 29 & 30 Vict., c. 99, s. 8. p. 42.—Settlement of differences between the township of Ops, the town of Lindsay and the railway company. 37 Vict., c. 52, s. 5, p. 54.—Lien of the town of Peterborough. See 27 Vict., c. 60, p. 26.—Lien of the township of Thorah. See 33 Vict., c. 31, s. 7. p. 49.

## 28 VICT. CA. XXIX.

An Act to legalize By-law number two hundred, of the Corporation of the Town of Port Hope, and for other purposes.

[Assented to 18th March, 1865.]

Preamble.

WHEREAS the Corporation of the town of Port Hope have, by their petition, represented that for the settlement of certain differences and disputes between the said Corporation and the Bank of Upper Canada, certain proposals known as "Proposition number one," and "Proposition number two," respectively, were lately made to the said Corporation by Robert Cassels, Esquire, cashier of the said Bank of Upper Canada, and acting for and on behalf of the said Bank; that the said proposals were thereupon submitted for the consideration of the rate-payers of the said Town, and the proposal known as "Proposition number two" was accepted by the said Rate-payers, at a public meeting called and held in the town hall of the said town, for the purpose of considering the same; that thereupon the Corporation of the said town prepared and submitted to the qualified electors of the said town the draft of a proposed by-law, in which the said "Proposition number two" was embodied and set forth, for the purpose of enabling the said Corporation to enter into an agreement to carry the terms of the said "Proposition number two" into effect, which said proposed By-law, after due notice to the said electors in that behalf, was approved by a large majority of the said electors, who voted upon the same; that thereupon the said proposed By-law was, on the first day of March, one thousand eight hundred and sixty-five, duly adopted and passed by the said corporation of the said town, and an agreement based upon the said "Proposition number two," was afterwards, on the seventh day of March, one thousand eight hundred and sixty-five, duly executed by the said Corporation and the said Robert Cassels, acting for and on behalf of the said Bank; And whereas the said Corporation have further represented that to give effect to the said By-law and agreement, it is necessary that an act should be passed to legalize the same, and have prayed that an Act may be passed for that purpose; And whereas it is expedient to grant the prayer of the said petition:

Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

By-law No.  
200 of town  
of Port Hope  
declared legal.

1. The said By-law of the said Corporation of the Town of Port Hope, passed on the first day of March, one thousand eight hundred and sixty-five, intituled: "By-law number two hundred, for settling the disputes and differences existing be-

tween the Corporation of the Town of Port Hope and the Bank of Upper Canada," a copy of which is appended to this Act, marked Schedule A, is hereby declared to be legal and valid.

2. The said agreement, made in pursuance of the said By-law and therein set forth at length, based on the said "Proposition number two," and bearing date the seventh day of March, one thousand eight hundred and sixty-five, between the said Corporation and the said Robert Cassels, acting for and on behalf of the said Bank of Upper Canada, is hereby confirmed, and all the provisions, stipulations, covenants and agreements and other matters and things in the said agreement contained, are declared to be legal and binding as well upon the said Corporation as upon the said Bank, and the said parties respectively are hereby authorized and required to make and execute all such deeds, assignments, transfers and releases, and to do and perform all such acts as may be necessary for carrying the said agreement into effect.

Agreement made in pursuance thereof confirmed.

3. The debentures in the fifth clause of the said agreement mentioned are hereby declared to be legal and valid, in the hands of James Smith and William Fraser, in the said fifth clause mentioned respectively, their executors, administrators and assigns, as security for the respective sums or amounts for which they are respectively deposited or hypothecated with the said James Smith and William Fraser respectively, and for all interest accrued and all costs incurred thereupon or in respect of the same.

Certain debentures mentioned in the said agreement declared valid.

4. This Act shall be a Public Act.

Public Act.

### SCHEDULE A.

By-law number two hundred, for settling the disputes and differences existing between the Corporation of the Town of Port Hope and the Bank of Upper Canada.

"Whereas certain disputes and differences have for some time past existed between the Corporation of the Town of Port Hope and the Bank of Upper Canada, in respect to certain debentures issued by the Commissioners of the Port Hope Harbour, held by the said Bank ;

"And whereas the said Bank lately submitted to the said Corporation of the Town of Port Hope two distinct propositions, known as "Proposition number one," and "Proposition number two," for acceptance of either of them by the said Corporation as the basis or terms of an agreement to be entered into between the said Corporation and the said Bank for settlement of the disputes and differences aforesaid ;

“ And whereas, at a public meeting of the rate-payers of the said Town of Port Hope, duly convened for the purpose of discussing and considering the said two propositions, a Committee composed of certain rate-payers of the said Town was appointed to investigate and examine the said two propositions, and all matters connected therewith, and to report to a subsequent public meeting of the said rate-payers, which, if either, of the said two propositions it would be more advantageous for the said Town to accept ;

“ And whereas, at a subsequent public meeting of the said rate-payers, so duly convened for the purpose aforesaid, the said Committee, having previously examined and considered each of the said two propositions, finally approved of, and recommended the acceptance and adoption by the said Corporation of the proposition known as ‘ Proposition number two,’ a true copy of which is hereinafter contained, as the basis or terms of settlement between the said Corporation and the said Bank, of the disputes and differences aforesaid, and the said report was thereupon duly received and adopted by the said meeting in the usual manner ;

“ And whereas, by a subsequent resolution, duly passed by the Town Council of the said Town of Port Hope, it was resolved that a By-law in accordance with said ‘ Proposition number two,’ contingent upon an Act of Parliament to legalize the same, should be prepared and submitted to the electors of the said Municipality, for their approval or disapproval, on Thursday, the sixteenth day of February, in the year of our Lord one thousand eight hundred and sixty-five ;

“ And whereas, public notice having been duly given in that behalf according to law, a draft of this By-law was, on the day and year aforesaid, submitted for the approval or disapproval of the duly qualified rate-payers and electors of the said Municipality, by a vote of the said rate-payers and electors then duly taken for that purpose in the usual and proper manner, when the said By-law was sanctioned and approved of by the majority in numbers of the votes so polled in that behalf as aforesaid :

“ Be it therefore enacted by the Corporation of the Town of Port Hope, and it is hereby enacted and declared, with the sanction and approval of the rate-payers and electors of the said Town, so duly expressed as aforesaid, that the said Corporation may, and they are hereby fully authorized and empowered, subject nevertheless to an Act of the Parliament of this Province being hereafter passed, to sanction and legalize this By-law to settle the disputes and differences now existing between the said Corporation and the said The Bank of Upper Canada, in respect to the matters aforesaid, upon the basis, terms and conditions expressed and set forth in the aforesaid



' Proposition number two,' in the nature of an agreement, and of which the following is a true copy.

" Articles of Agreement made the \_\_\_\_\_ day of \_\_\_\_\_, in the year of Our Lord one thousand eight hundred and sixty \_\_\_\_\_ between Robert Cassels, of the City of Toronto, Esquire, Cashier of the Bank of Upper Canada, and representing the Bank of Upper Canada, of the first part; and the Corporation of the Town of Port Hope, hereinafter styled 'The Corporation,' of the second part; whereby it is agreed as follows:

1st. " The said Robert Cassels agrees to transfer to the Corporation all debentures now held by the Bank of Upper Canada, either absolutely or as collateral security, amounting to seventeen thousand five hundred pounds sterling, and to release all claims held by the Bank against the Corporation, or any residents of Port Hope indebted to the Bank on Railway account, to secure which, said debentures were pledged.

2nd. " The said Robert Cassels agrees that all moneys now in the Bank of Upper Canada, arising from collections of the Harbour Commissioners, may be paid over to the Corporation, which moneys amount to about thirty thousand dollars.

3rd. " The Corporation agree, on the request of the said Robert Cassels, to transfer to Henry Covert, Esquire, and John Fowler, Esquire, the stock now held by the Corporation in the Port Hope, Lindsay and Beaverton Railway Company, and to release and discharge the mortgage now held in trust for them over the branch line from Millbrook to Peterborough.

4th. " The Corporation agree to pay over to the credit of the Government in the Bank of Upper Canada all arrearages due under the Commutation Act; these arrearages amounting to about twenty-four thousand dollars.

5th. " The Corporation agree that the balance remaining after payment to the Government, amounting to about six thousand dollars, shall be applied in reduction of the debt due to Messrs. Smith and Fraser, upon their delivering up to the Corporation a *pro tanto* proportion of the debentures now held by them as collateral security, and that any steps that may be necessary to remove any doubts as to the legality of the debentures which will remain in the hands of those gentlemen, shall be taken by the Corporation.

6th. " The Corporation agree to make application to the Legislature, as soon as possible, for authority to carry out this agreement, and this agreement is contingent on such authority being obtained.

" In witness whereof, &c., &c.

“And to give validity and effect to such settlement, by jointly executing, with the said Bank, or their duly appointed agent in that behalf, an agreement or other instrument in writing, embodying the terms and conditions aforesaid, in such proper legal form as will give full operation thereto, and any such agreement so entered into shall be binding both in law and in equity upon the said Corporation and their successors”

Dated at the Town of Port Hope, this first day of March, one thousand eight hundred and sixty-five.

(Signed,) C. QUINLAN,  
Mayor. L. S.

(Signed,) H. V. SANDERS,  
Town Clerk.

## 29 & 30 VICT., CAP. XCIX.

An Act to amend and extend the provisions of the Act incorporating the Port Hope, Lindsay and Beaverton Railway Company, and of the Acts amending the same.

[Assented to 15th August, 1866.]

Preamble.

**W**HEREAS the Port Hope, Lindsay and Beaverton Railway Company have by petition prayed for an Act to amend and extend the provisions of the Act incorporating the said Company, and of the Acts amending the same, and it is expedient to grant such request :

Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Acts declared in force.

Period for completion of works extended.

Company may acquire Peterborough and Millbrook branch.

1. All Acts and parts of Acts incorporating the said company shall be and the same are hereby declared to be in full force and effect, and the time for the completion of the works therein respectively mentioned shall be and the same is hereby extended for the period of five years from the passing of this Act.

2. The said Company shall have power and authority to contract for and purchase and acquire from the parties interested in the Millbrook and Peterborough branch of the said Railway, all the said branch and the rolling stock and appurtenances thereof, used either upon the said branch, or the main line, not belonging to the said Company, at and for such price and upon such terms as may be agreed upon ; and such purchase shall

be legal and binding upon all the parties interested therein, notwithstanding any such parties may be so interested and at the same time acting as Directors or officers of the said Company, and no trust shall exist or attach upon the said properties, or any or either of them, in respect of the purchase money thereof; any law, usage or custom to the contrary notwithstanding.

Trusts to cease.

3. Mrs. Emily Boulton, one of the parties interested in the said branch railway, shall and may on her own behalf, and as trustee for her children, enter into and complete such contract and purchase and sale, and any contract thus entered into by her, in writing, or any other contract, agreement, sale, ratification or purchase of, or respecting the same, or any interest she or her children have or may be supposed to have therein, or in the said Railway or Company, or other property thereof, shall be legal and binding upon her and her said children, notwithstanding her coverture or the infancy of the said children or any or either of them, or any other disability which may or may be supposed to exist; Provided always that nothing herein contained shall in any wise prejudice the rights either in law or equity of the creditors of D'Arcy Edward Boulton, husband of the said Emily Boulton, of, in, or to the said Railway property and interest.

Power to parties interested to complete sale.  
Proviso.

4. The said company to effect the completion of such purchase shall have power to issue first preference bonds secured upon the said railway, the said branch railway, the said rolling stock, and all other the properties, estate and effects of the said Company, for such sum as may be found necessary for the purposes of the Company, and bearing such rate of interest not exceeding six per cent. per annum, as the Company may think advisable, and not exceeding in the whole one hundred and ten thousand pounds sterling; and the same may be made payable to the bearer thereof, and shall be negotiable instruments, and may be sued upon and collected by the holder thereof in the same manner as an ordinary promissory note, or by foreclosure or otherwise; Provided always, that it shall not be lawful for the said Company to issue the said first preference bonds until the consent in writing of the persons with whom the now existing mortgage bonds of the Company have been deposited as collateral security for the due payment of certain bonds given by Henry Covert, of the town of Cobourg, Esquire, for the purchase made by him of the now existing mortgage bonds of the said Company, has been obtained.

On completion of purchase Company may issue preferential bonds.  
Proviso: condition precedent to such issue.

5. Subject to the provisions of the Railway Clauses Consolidation Act, the said Company shall have power to construct a branch and to connect with the Peterborough and Chemong Lake Railway.

Power to construct a certain branch.

And also other branches.

6. The said Company shall also have power to construct branches or lines of Railway from any point on their main line north of Milbrook, to any mills within four miles of their said line of Railway, either constructed or authorized by this Act to be constructed.

Power to sell lands.

7. (a) The said Company may sell or convey any lands belonging to them not required for the use and purposes of the said Railway.

Agreement with certain Township Municipalities recited:—such agreement to take effect on their transferring their stock to the Company.

8. And whereas under the provisions of the Statute twenty-seventh and twenty-eighth Victoria, chapter eighty-six, section sixteen, the Township of Hope and the Township of Ops and the Town of Lindsay respectively have agreed with the said Railway Company for the sale of the stock now held by the said municipalities respectively in the said Company at and for the annual sums or considerations following respectively, that is to say, at and for the annual sum of fifteen hundred and forty-two dollars, to the township of Hope, the annual sum of two hundred and ninety-six dollars and seventy-five cents to the township of Ops, and the annual sum of two hundred and ninety-six dollars and seventy-five cents to the town of Lindsay, payable by the said Railway Company to the said respective municipalities on the first day of December in each year, the first payment thereof being for the half year only ending on the first day of December next, to be payable on the said last mentioned day: It is therefore enacted that upon the transfer or the tender of a transfer of the stock held by any such municipality to the said Railway Company or to such person as such Company may appoint to receive the same, the said annual sum hereinbefore designated for such municipality shall constitute a first charge and lien in favour of such municipality upon the whole property of the said Railway Company and shall form a debt of the said Company to such Municipality which may be recovered in any Court of Law or Equity of competent jurisdiction in Upper Canada; Provided always that nothing herein contained shall prejudice the security held by the town of Peterborough upon the Milbrook and Peterborough branch of the said Railway. (b)

Proviso.

Stockholders transferring shares to have 50 per cent. in first preference bonds.

9. (c) Upon an assignment or transfer to the said Company, or to such person as they may appoint, of the stock held by any person or persons, in the capital of the said Company, or upon a tender of such assignment or transfer, the said Company shall pay to every such stockholder fifty cents in the dollar upon the amount that may have been paid upon such stock, such payment to be made in the said first preference bonds, to be issued under the provisions of this Act: Provided always that this clause shall not extend or apply to any stock now or heretofore held by any Municipality.

Proviso.

Public Act.

10. This Act shall be deemed a Public Act.

(a) See 34 Vict., c. 51, s. 4, p. 51; 36 Vict., c. 90, s. 5, p. 53.

(b) Lien of the Township of Thorah. 33 Vic., c. 31, s. 7, p. 49.

(c) See 34 Vict., c. 51, s. 4, p. 51.

## 32 VICT., CAP. LXXI. (ONTARIO.)

An Act to Enable the Council of the Corporation of Port Hope to Aid, by way of Bonus, the Extension and Completion of the Port Hope, Lindsay and Beaverton Railway to Beaverton, and for other purposes.

[Assented to 23rd January, 1869.]

**W**HEREAS the council of the corporation of the town of Preamble. Port Hope, have, by their petition, set forth that the inhabitants of the said town are greatly interested in the extension of the Port Hope, Lindsay and Beaverton Railway from Lindsay to Beaverton, and have agreed to aid, by way of bonus, the construction of the said work, to the extent of thirty thousand dollars: And whereas the said railway company have agreed to accept such aid, by the transfer to the said railway company of certain sterling bonds of the Port Hope Harbour Commissioners, now owned by the said municipality of Port Hope; And whereas the said proposed agreement which forms part of this Act, has been submitted to two large and influential meetings of the ratepayers and inhabitants of the said municipality, called by the mayor, by public proclamation in that behalf, and has on each occasion been unanimously approved by such meetings; And whereas the petitioners are advised that no law exists to enable the petitioners to grant such aid in the manner proposed, and pray that an Act be passed to enable the said town council of Port Hope to grant such aid to the said railway company, by way of bonus, to the extent and by the means and for the purposes aforesaid; And whereas it is expedient to grant the prayer of the said petition:

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The corporation of the town of Port Hope may, in their discretion, assist and aid the Port Hope, Lindsay and Beaverton Railway Company in the extension of their railway from Lindsay to Beaverton, by way of bonus, to the extent of thirty thousand dollars, and, for that purpose, may apply such and so many of the bonds of the Commissioners of the Port Hope Harbour, now belonging to the said municipal corporation, as may be necessary. Port Hope may aid P. H. L. & B. Railway Company by bonus.

2. The said debentures shall be, in the hands of the holders thereof, a charge and lien upon the said harbour, and the revenues and tolls thereof ranking next after the claim of the representative of the late George Weir, except as hereinafter mentioned. Debentures a charge on revenue of harbour.

3. The said debentures and the proceeds thereof, shall be applied and expended by the said railway company in, towards, Application of the funds.

and about the extension and completion of the railway of the said company from Lindsay to Beaverton, and to no other purposes whatever.

Security for repayment.

4. The council of the said corporation of the town of Port Hope may take and receive from the said railway company such security as has been agreed upon for the due and proper expenditure and application of the said debentures, or the proceeds thereof, in and about such extension, and for such other matters connected therewith as may be necessary for the interests of the said town, and every agreement and security that may be entered into or given in that behalf, shall be legal and valid.

Act not to effect existing liens, etc.

5. Nothing in this Act contained, shall, in any wise, affect any existing lien or charge on the town of Port Hope or the said harbour in respect of the Consolidated Municipal Loan Fund Debt.

[*The intended Agreement forming part of the foregoing Act, and referred to in the first section.*]

WHEREAS the extension and completion of the Port Hope, Lindsay and Beaverton Railway from Lindsay to Beaverton, is an object of great importance to this municipality, and will tend in its results greatly to increase the trade and business of the town and harbour, and to enhance the prosperity of the town and its inhabitants; and whereas the present managers and owners of the said railway are willing and desirous of making such extension, and, with that view, have been, and are still negotiating with the municipalities chiefly interested therein for the grant, by such municipalities respectively, of such amounts in money or debentures as they can afford in aid of the said proposed undertaking, and amongst others, have applied to this municipality in that behalf, which aid this municipality is willing to afford; and whereas this municipality is the holder of certain sterling eight per cent. debentures of the Commissioners of the Port Hope Harbour, and it has been proposed that a certain portion of such harbour debentures, amounting to the sum of thirty thousand dollars, shall be employed for the purpose of aiding the said extension of the said railway, and handed over to the said railway company for that purpose and no other, and on the terms and condition hereinafter set forth; and be it therefore resolved by the council of the corporation of the town of Port Hope:

(1.) That the mayor of this town shall and may, and he is hereby authorized to hand over to the Port Hope, Lindsay and Beaverton Railway Company thirteen sterling harbour debentures of the Commissioners of the Port Hope Harbour, for five hundred pounds sterling each, bearing interest at eight per cent.

per annum, from which all coupons for interest up to the first day of January next inclusive (1869) shall be cut off, which said harbour debentures, or the proceeds thereof, to the extent of thirty thousand dollars, and all moneys arising from the sale or hypothecation of the same by the said railway company, except the sum of sixteen hundred dollars or thereabouts hereinafter mentioned, shall be expended and applied as a bonus in and about the building and construction of the said proposed extension of the said railway from Lindsay to Beaverton, and for no other purpose; and the balance of the said debentures, or the proceeds of such balance, amounting to sixteen hundred dollars or thereabouts, shall belong to, and be paid over, by the said railway company to this municipality immediately upon the sale of the said debentures, less the proportion of discount and brokerage, if any, upon the sixteen hundred dollars.

(2.) That before the said harbour debentures shall be handed over by the mayor as aforesaid, an Act shall be obtained from the Legislature of the Province of Ontario, at the instance and costs of the said railway company, sanctioning and legalizing the presentation of this council, and declaring and providing that the said thirteen debentures shall rank and stand next after the claim of the representatives of the late George Weir upon the said harbour, and the tolls and revenues thereof, and providing and declaring, that the mayor and council may take such security for the due and proper application of the said debentures or the proceeds of the same, to the extent of thirty thousand dollars, for the extension, construction and completion of the said railway to Beaverton, as may be agreed upon between them.

Be it further resolved, that before such harbour debentures shall be handed over to the said railway company, the managers and directors of the said railway company shall lodge with Nisbet Kirchoffer, Esq., Port Hope, mortgage bonds of the said company of an equal amount, to held as a security for the expenditure of the said thirty thousand dollars so granted by this municipality upon and about the construction of the extension, and for no other purpose, and for the payment to this council of the said balance or sum of sixteen hundred dollars or thereabouts, less the discount thereon, if any, upon the sale of the said harbour debentures; and further as a security that, in case the said proposed extension of the said railway from Lindsay to Beaverton shall not be completed and in running order by the first day of September, 1871, the said harbour debentures shall be returned to this municipality, less the sixteen hundred dollars or such portion thereof as the company may have paid to this municipality, or, if the said harbour debentures should have been sold for the construction of the said extension, an equivalent therefor including interest in cash or in the bonds of the railway company so lodged with Mr. Kirchoffer as aforesaid, at the option of the said railway

company; also as a security that, in case the said railway extension be not completed by the first day of October, 1870, the said railway company shall pay off and discharge all interest accruing on the said harbour debentures after the first day of January, 1870, and until the said extension shall be completed and in running order as aforesaid, and that the company shall cause the coupons covering such last mentioned interest to be cut off and delivered up to this council to be cancelled.

And be it further resolved, that, upon the completion of the said railway to Beaverton as aforesaid, within the time limited in that behalf, that is to say, by or before the first day of September, 1871, and upon payment by the said railway company to this corporation of the said sum of sixteen hundred dollars, being the assured surplus of the proceeds of the said thirteen harbour debentures, or such other sum as such surplus, if any shall amount to, and upon the performance and fulfilment of all the terms and conditions of this arrangement by the said railway company, the said railway bonds so to be deposited in the hands of Mr. Kirchhoffer, shall, upon the order or resolution of this council, be surrendered and returned by him to the said railway company.

I, Holland Ventur Sanders, Clerk of the council of the Port Hope Corporation, do certify that the above is a correct copy of a resolution passed by the said council Monday, November 23rd, 1868.

H. V. SANDERS,  
Clerk, C. P. H.

### 33 VICT., CAP. XXXI. (ONTARIO).

An Act to authorize the Port Hope, Lindsay and Beaverton Railway Company to change the name of their company, and to extend their line of railway, and for other purposes.

[Assented to 24th December, 1869.]

Preamble.

**W**HEREAS the Port Hope, Lindsay and Beaverton Railway Company have petitioned the Legislature for an Act authorising them to construct an extension of their line of railway to Georgian Bay, through and within the counties of Ontario, Simcoe, and Victoria, with a branch to the River Severn, and for other purposes, and it is expedient to grant the prayer of the said petition :

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—



1. The name of the said company shall be changed to "The Midland Railway of Canada," and all suits or other proceedings now pending in any Court of this Province, shall, after the passing of this Act, be continued and carried on by and under the name of the Midland Railway of Canada.

Name of Company.

2. The said company shall have power, and are hereby authorised, to extend their line of railway from Beaverton to such points and harbours on the Georgian Bay, as may be found available and most essential for the business of the company, and for extending railway facilities for that section of country, and a branch line from some convenient point in the township of Mara, through Rama to the Severn River; and for that purpose shall have and exercise all the powers conferred by their own charter and by the Railway clauses Consolidation Act, and by the Municipal Institutions Act of Upper Canada. Provided always, that the powers and privileges hereby granted shall not be exercised, so far as the extension of the said railway is concerned, unless the line of the said railway company shall be first completed for traffic, and in running order to Beaverton, in the township of Thorah, on or before the first day of July next, or within such further time, not exceeding one year from the passing of this Act, as may be previously fixed and determined by a by-law of the council of the corporation of the said township of Thorah; And provided further, that the said company shall complete the said extension within three years from the passing of this Act, (a) otherwise the powers of extension conferred by this Act shall cease.

Power to extend the railway.

Proviso.

3. And it shall further be lawful for any municipality or municipalities, through part of which or near which the extension works of the said company shall pass or be situated, or who may be interested in anywise in the construction of said railway, to aid or assist the said company, by loaning or guaranteeing or giving money by way of bonus, or other means to the said company, or issuing municipal bonds to or in aid of the company, and otherwise in such manner and to such extent as such municipalities or any of them shall think expedient; Provided always that all such aid, loan, bonus or guarantee, shall be given under a by-law for the purpose, to be passed in conformity with the provisions of the Act respecting municipal institutions for the creation of debts; (b) and all such by-laws shall be valid, notwithstanding that such rate may exceed the aggregate rate of two cents in the dollar on the actual value of such ratable property, provided that the annual rate of assessment shall not in any case exceed for all purposes three cents in the dollar on the actual value of the whole ratable property within the municipality, or portion of municipality creating such debt.

Power of Municipalities to aid.

Proviso.

(a) Time for completion extended for a further period of three years by 36 Vict., c. 90, s. 1, p. 52.

(b) By-laws and the debentures issued thereunder legalized. 35 Vict., c. 58, s. 1, p. 51.

By-laws to aid.

4. In case a majority of the persons rated on the last assessment roll as freeholders in any portion of a municipality, do petition the council of such municipality, defining the metes and bounds of the section of the municipality within which the property of the petitioners is situated, and expressing the desire of the said petitioners to aid in the construction of the extensions of the said railway, by granting a bonus or donation to the said company for this purpose, and stating the amount which they so desire to give and grant and to be assessed therefor, the council of such municipality shall pass a by-law ;

(1.) For raising the amount so petitioned for by the freeholders in such portion of the municipality by the issue of debentures of the municipality payable within twenty years or earlier, and for the payment to the said company of the amount of the said bonus or donation at the time and on the terms specified in the said petition ;

(2.) For assessing and levying upon all the ratable property lying within the section defined by the said petition, an annual special rate sufficient to include a sinking fund for re-payment of debentures with interest thereon, which municipal councils are hereby authorised to execute and issue in such cases respectively ; Provided the said by-law shall be approved of as in sections two hundred and twenty-six, (a) two hundred and twenty-seven (b) and two hundred and twenty-eight (c) of the Municipal Act of eighteen hundred and sixty-six, chapter fifty-one, by the majority of qualified electors in the portion of a municipality petitioning as aforesaid.

Power to issue further bonds.

5. The said company, shall have power to issue further bonds of the said company, provided the consent of two-thirds of the shareholders be first obtained at a meeting specially called for the purpose, of an amount not exceeding in the whole the additional sum of one hundred thousand pounds sterling, payable in London, England, or elsewhere as the company may deem expedient, and bearing interest at a rate not exceeding six per cent. per annum, payable half-yearly ; and such bonds shall without registration or formal conveyance be taken and considered to be, and to rank upon the extension of said road authorized by this Act ; and that the amount of bonds to be issued shall not at any time be in excess of the amount of capital stock paid up, and bonuses granted by municipalities, and actually laid out in surveys and construction of said extension ; Provided, however, that the amount of such bonds issued at any one time shall not be in excess of the amount actually expended in surveys and works of construction upon the line of the said Railway extending from Lindsay westward. (d)

Who may hold stock, and vote and hold office.

6. Any shareholder in the said company whether a British subject or alien, or a resident in Canada or elsewhere, shall have equal rights to hold stock in the said company, and to

(a) See the Municipal Institutions Act, 36 Vict., c. 48, s. 248.

(b) " " " " s. 251.

(c) " " " " s. 252.

(d) See 34 Vict., c. 51, s. 1, p. 50.

vote on the same and to be eligible to office in the said company.

7. The municipality of the township of Thorah shall have a first lien and security upon the entire railway and works, next after the existing securities and liens authorised and created by chapter ninety-nine of the Statutes of Canada, twenty-ninth and thirtieth Victoria, or any other Statute of Canada, and a first lien or charge upon that part of the said railway and works now constructed or which may hereafter be constructed between the town of Lindsay and the village of Beaverton, for the sum of fifteen hundred dollars per annum, being interest at the rate of three per cent. per annum, in perpetuity, upon the sum of fifty thousand dollars loaned by the township of Thorah to the said company, such interest to be payable on the fifteenth day of June in each and every year; Provided that if at any time after the completion of the said extension to Beaverton, the said company and the said municipality, shall agree to capitalize the said annual payment of interest either by payment of money, or other securities satisfactory to the municipality, such agreement shall be valid and binding in lieu of the annual payment of interest as aforesaid, which interest thereafter shall cease.

Municipality  
of Thorah to  
have a lien.

### 34 VICT., CAP. LI. (ONTARIO).

An Act to authorize the Midland Railway Company of Canada to consolidate its Bonded Debts and to issue new Bonds, and for other purposes.

[Assented to 15th February, 1871.]

**W**HEREAS there are now outstanding first preference bonds of the Midland Railway of Canada to the amount of one hundred and ten thousand pounds sterling money of Great Britain, and second preference bonds to the amount of one hundred and twenty-five thousand pounds sterling money of Great Britain, but the latter are not charged upon the whole of the said Company's lines of Railway and property; and the said Company is also empowered by Act passed during last session of Parliament to issue further bonds to the amount one hundred thousand pounds sterling, which have not yet been issued, under and subject to the provisions of the said Act, and the Company is desirous, and it is expedient that it be authorized with the consent of the holders of the said bonds, to redeem and cancel such bonds and to issue new consolidated bonds, as by this Act provided:

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Company may with consent of two-thirds of shareholders issue new bonds,

not to exceed £335,000 stg.

Sinking Fund.

Subject to existing rights.

New bonds a first lien on the property of the Company.

Proviso.

Company may call in outstanding bonds or exchange for new bonds.

Appointment of a receiver.

1. The Company may, with the consent of a majority of two-thirds of the shareholders thereof, at a meeting specially called for the purpose, make and issue new consolidated bonds for such amount as, including so much of said existing bonds as the holders thereof shall refuse to exchange for, or to be redeemed by means of the said consolidated bonds, shall not exceed three hundred and thirty-five thousand pounds sterling; and may make such new bonds payable in London, England, or elsewhere, as the Company may think expedient, and to bear interest at a rate not exceeding six per centum per annum, payable half-yearly; and the repayment of the principal of such new bonds may be secured by a sinking fund, payable out of the annual revenue, for such period, of such amount and otherwise, as the Company may think fit to agree upon when issuing such consolidated bonds, with the intended holders thereof; and such new bonds shall, without registration or formal conveyance, but subject to the rights of such of the holders of the said existing bonds in the recital of this Act mentioned, as may not consent to be redeemed, or to exchange their said bonds for the said consolidated mortgage bonds by this Act authorized, and subject to the rights of municipalities in respect of any liens for advances made by them before the passing of this Act be taken and considered to be the first and preferential claims and charges upon the undertaking, and the property of the Company real and personal and then existing, and at any time thereafter acquired, and all extensions made or to be made thereof and the franchises of the said Company; and each holder of the said bonds shall be deemed to be a mortgagee and incumbrancer, *pro rata* with all the other holders thereof, upon the aforesaid undertaking and property of the Company and all extensions thereof and the franchises of the Company as aforesaid, in priority to all other charges and incumbrances whatsoever, save as are hereinbefore excepted; Provided that no holder of any of the said existing bonds shall be entitled to receive in exchange or substitution therefor a larger amount of the said new bonds; and that the power hereby conferred to issue bonds in excess of the amount required to exchange for the said existing bonds, shall be in substitution for the authority to issue bonds conferred by the said Act of last session.

2. The said Company, with the consent of any holders thereof, may call in and pay off or cancel, all or any of their outstanding bonds, constituting the whole or parts of the said sums of one hundred and ten thousand pounds sterling, and one hundred and twenty-five thousand pounds sterling, or exchange the same for new bonds to be issued as herein provided.

3. The holders of the said or new consolidated bonds, may, from time to time, without prejudice to any other right or remedy, enforce payment of any arrears of interest, and in respect of said sinking fund or either, by the appointment of a receiver; and the Court of Chancery may, upon application

of the holders of said bonds, for an amount of not less than twenty-five thousand pounds, upon which any principle or interest or payments towards sinking fund shall be in arrear, appoint a receiver accordingly.

4. Nothing in this or any other Act affecting the said Railway shall in any wise affect or repeal sections seven and nine of the Act passed by the Parliament of Canada, in the session held in the twenty-ninth and thirtieth years of Her Majesty's reign, and chaptered ninety-nine. (a) This act not to affect 29 & 30 Vic. c. 99, ss. 7 & 9.

5. Nothing herein contained shall be deemed to prejudice or affect any depending or existing question or controversy between the shareholders and bondholders of the said Company, or any of them; or to give any additional validity to the title of any person claiming to be the holder of any shares or bonds in the said Company; or to discharge any trusts, or to affect the rights of the Crown. Saving clause.

### 35 VICT., CAP. LVIII. (ONTARIO.)

An Act to affirm the validity of certain By-laws passed in aid of the extension of the Midland Railway of Canada.

[Assented to 2nd March, 1872.]

**W**HEREAS the Midland Railway of Canada have prayed that all doubts as to the validity of certain by-laws passed for the purpose of aiding by bonus the extension of the said railway may be removed: Preamble.

Therefore Her Majesty, by and with the consent and advice of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. All by-laws passed by any municipality for the purpose of aiding the said Midland Railway, under the third section of the Act passed in the thirty-third year of Her Majesty's reign, chaptered thirty-one, and intituled "An Act to authorize the Port Hope, Lindsay and Beaverton Railway Company, to change the name of their railway and to extend their line of railway, and for other purposes, "and all debentures issued or to be issued under such by-law or by-laws, shall be and are hereby declared to be legal and valid; Provided such by-law or by-laws have been adopted by a majority of legally qualified rate-payers who have voted thereon. By-laws and debentures in aid of Midland Railway legalized.

## 36 VICT., CAP. XC (ONTARIO.)

An Act to amend the Acts relating to the Midland Railway of Canada, to extend the time for the completion of its extensions, and to authorize the issue of second mortgage bonds.

[Assented to 29th March, 1873.]

Preamble.

WHEREAS the Midland Railway of Canada have by their petition, set forth that they were authorized by an Act of the Legislative Assembly of Ontario, passed in the thirty-third year of Her Majesty's reign, and chaptered thirty-one, to extend their line of railway, but that they have been unable to complete the whole of the extension so authorized within the term by the said Act limited; and they have, therefore, prayed for an extension of the said period; And whereas, the said railway have also prayed for power to issue second mortgage bonds, and it is expedient to grant the prayer of the said petition:

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Extension of time for completion of railway.

1. So much of the second section of the Act authorizing the said extension as requires the same to be completed within three years from the passing of the said Act, is repealed, and the time for such completion is extended for a further period of three years from the time limited in the said Act.

Issue of second mortgage bonds.

2. The company may, with the consent of a majority of two-thirds of the shareholders thereof, at a meeting specially called for that purpose, make and issue second mortgage bonds for such amount, not exceeding one hundred and fifty thousand pounds sterling, as may be found necessary for the purposes of the company; and may make such bonds payable in London, England, or elsewhere, as the company may think expedient, and to bear interest at a rate not exceeding seven per centum per annum, payable half-yearly; and such bonds shall, without registration or formal conveyance, but subject to the rights of municipalities in respect of any liens now existing, and subject to the rights of the holders of the existing bonds of the company issued under an Act passed by the Legislative Assembly of Ontario, in the thirty-fourth year of Her Majesty's reign, and chaptered fifty-one, be taken and considered to be the first and preferential claims and charges upon the undertaking and the property of the company, including its rolling stock and equipments, and at any time thereafter acquired; and each holder of the said bonds shall be deemed to be a mortgagee and encumbrancer *pro rata* with all the other holders thereof upon the aforesaid

undertaking and property of the company as aforesaid, in priority to all other charges and encumbrances whatsoever, save as are hereinbefore excepted. (a)

3. The said company may, for advance of money to be made thereon, mortgage and deposit and transfer by way of mortgage or as security, and may pledge all or any bonds that may be lawfully issued by the said company. Company may mortgage their bonds.

4. The said company shall have power to purchase, build, fit out, complete and charter, sell or dispose of, work, control, and keep in repair, steam-tugs, barges, and other vessels, to ply in connection with the said railway. Power to build &c. steam-boats.

5. Nothing in this Act shall in anywise affect section seven of the Act passed by the Parliament of the late Province of Canada in the session held in the twenty-ninth and thirtieth years of Her Majesty's reign, and chaptered ninety-nine. (b) This Act not to affect 29 & 30 V., c. 99, s. 7.

## 37 VICT., CAP. LII. (ONTARIO.)

### An Act Respecting the Midland Railway Company of Canada.

[Assented to 24th March, 1874.]

**W**HEREAS the Midland Railway of Canada have by their petition prayed for certain amendments to their Act of Incorporation, and that certain additional powers may be granted them, and it is expedient to grant the prayer of the said petition: Preamble.

Therefore Her Majesty by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:

1. The Midland Railway of Canada may guarantee the interest on the bonds issued by the Omemee, Bobcaygeon and North Peterborough Junction Railway Company, otherwise "The Midland Extension Railway Company," such issue not exceeding nine thousand dollars per mile of the railway actually under construction; Provided that no such guarantee shall be given unless authorized by the resolution of two-thirds of the shareholders present in person or by proxy, at a meeting specially called for the purpose, in conformity with the provisions of the Railway Act. Midland R. Co. may guarantee Omemee, B. & N. P. bonds.

2. The annual meeting of the shareholders of the Midland Railway of Canada, for the election of directors, shall hereafter be held on the third Tuesday of February, in each year; and Annual meetings.

(a) Power to apply second mortgage bonds in carrying out agreements between the Company and the township of Ops and the town of Lindsay and with Corporations having liens on the Railway property. 37 Vict., c. 52, s. 7, p. 54.

(b) 29 & 30 Vict., c. 99, s. 7, p. 42.

the present directors shall retain office until the third Tuesday in February, of the year one thousand eight hundred and seventy-five.

Scale of votes. **3.** Every shareholder of one or more shares of the capital stock of the company, shall at any general meeting of the shareholders be entitled to one vote for every share held by him.

Issue of new scrip. **4.** The said the Midland Railway of Canada may require the shareholders of the company, to surrender the scrip or certificates for stock now held by them, and issued in the former name of the company; and every shareholder shall on such surrender receive new scrip or certificates for stock in the name of the company to an equal amount, in lieu of the scrip so surrendered by him to the company.

Differences between Company and the township of Ops, and the Town of Lindsay. **5.** Whereas differences have arisen between the company and the Township of Ops, and the Town of Lindsay, as to their respective legal rights and position; And whereas, it is expedient to authorize the said corporations, if they shall agree together to settle and compromise the said differences: It shall be lawful for the said township and town or either of them to surrender and transfer to the said company any stock of the company, on any terms which may be agreed on between the said corporations respectively and the said company; Provided always that nothing in this section contained, shall in any wise affect the legal rights of any of the said corporations, in case no agreement is made between them.

Liens on Railway property. **6.** It shall be lawful for the said railway and any corporations having liens on the property of the said railway, to agree for the surrender of such liens on such terms as they may deem proper.

Second mortgage bonds may be used to carry agreements made only under sections 5 & 6. **7.** It shall be lawful for the said company to appropriate, and use so much of its second mortgage bonds (a) as may be necessary, in order to carry out any agreement come to under the fifth and sixth sections of this Act.

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## 18 VICT. CAP. CXCIV.

An Act to incorporate the Peterborough and Chemong Lake Railway Company.

[Assented to 30th May, 1855.]

Preamble.

**W**HEREAS the construction of a Railway from the Town of Peterborough to Chemong Lake in the Township of Smith, in the County of Peterborough, would tend greatly to

(a) See 36 Vict., c. 90, s. 2. p. 52,



promote the welfare of the Town of Peterborough, and the country generally, by rendering the extensive water power in or around the said Town of Peterborough more available: And whereas the Petitioners hereinafter mentioned, are desirous of associating themselves together as a Company for the purpose of constructing such Railway, and that they and their successors or associates, shareholders in such Railway, may be incorporated and invested with such powers as may enable them effectually to carry out their undertaking, and it is expedient to accede to their request: 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, as follows:

1. John Langton, George B. Hall, Wilson S. Conger, James Stevenson, Charles Perry, John Walton, Samuel Strickland, Wm. Lundy, Wm. Cluxton, Elias Burnham, John Harvey, James Wallis, Mossom Boyd and Daniel Costello, together with such person or persons, Corporations and Municipalities as shall, under the provisions of this Act become Shareholders in such Company as hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, in fact, by and under the name and style of "The Peterborough and Chemong Lake Railway Company."

Certain persons incorporated.

Corporate name.

2. The several Clauses of the Railway Clauses Consolidation Act, with respect to the First, (a) Second, (b) Third (c) and Fourth (d) Clauses thereof, and also the several Clauses of the said Act with respect to "Interpretation," (e) "Incorporation," (f) "Powers," (g) "Plans and Surveys," (h) (except the ninth and tenth sub-sections thereof,) "Lands and their valuation," (i) "Highways and Bridges," (j) "Fences," (k) "Tolls," (l) "General Meetings," (m) "Directors, their Election and Duties," (n) "Shares and their Transfer," (o) "Municipalities," (p) "Shareholders," (q) "Actions for Indemnity, and Fines and Penalties, and their Prosecution," (r) "Working of the Railway," (s) "and "General Provisions," (t) shall be incorporated with this Act.

Certain clauses of 14 & 15 Vic., c. 51, incorporated with this Act.

(a) Now C. S. C., c. 66, s. 2, p. 72.	(k) Now C. S. C., c. 66, ss. 13, 15, 16, 17,
(b) " " s. 1, p. 72.	18, 19, p. 89.
(c) " " s. 3, p. 72.	(l) " " ss. 20 to 29, p. 90.
(d) " " ss. 4, 5, 6, p. 73.	(m) " " s. 30, p. 92.
(e) " " s. 7, p. 73.	(n) " " ss. 31 to 70, p. 92.
(f) " " s. 8, p. 75.	(o) " " ss. 71 to 74, p. 98.
(g) " " ss. 9, 130, pp. 75,	(p) " " ss. 75 to 78, p. 99.
109.	(q) " " ss. 80 to 82, p. 100.
(h) " " s. 10, sub-sect. 1	(r) " " ss. 83 to 94, p. 101.
to 12, p. 78.	(s) " " ss. 95 to 107, p. 103.
(i) " " s. 11, p. 80.	(t) " " ss. 108 to 126, p.
(j) " " s. 12, p. 88.	105.

Line of Rail-  
way defined.

3. The said Company and their Servants and Agents shall have full power under this Act to lay out, construct, make and finish the whole or any part of a double or single Iron Railway at their own costs and charges, from any point on Chemong Lake to any point in the Town of Peterborough or the Village of Peterborough East, with power to cross the River Otonabee at such and so many places as to them may seem advisable; Provided always that the said Company shall not occupy the line of the Cobourg and Peterborough Railway Company, upon and near the south and west Bank of the Otonabee River, against the stream between the Town of Peterborough and the Mills three miles north of that Town, unless the said Cobourg and Peterborough Railway Company shall fail to construct a Railway to the said Mills within two years from the passing of this Act, or shall fail to commence such Railway within one year. (a)

Proviso ;  
as to the right  
of the Cobourg  
and Peter-  
borough Rail-  
way Com-  
pany.

Form of deeds  
of conveyance  
to the Com-  
pany and  
Registry  
thereof.

4. Deeds and conveyances under this Act, for lands to be conveyed to the said Company for the purposes of this Act, shall and may as far as the title to the said lands, or the circumstances of the parties making such conveyances will admit, be made in the form given in the Schedule to this Act marked A; And all Registrars are hereby required to enter in their Registry Books such deeds, on the production thereof, and proof of execution, without any memorial, and to minute every such entry on the deed; And the said Company are to pay the said Registrar for so doing, the sum of two shillings and six pence, and no more.

Capital, and to  
what purposes  
applicable.

5. The Capital Stock of the said Company shall be Forty thousand pounds currency, to be divided into Eight thousand shares of Five pounds each, which amount shall be raised by the persons or parties above named, or some of them, together with such persons or corporations as may become subscribers towards such Stock; and the said money so raised shall be applied in the first place towards the payment and discharge of all fees, expenses and disbursements for procuring the passing of this Act, and for making the surveys, plans and estimates of the said Railway and connected therewith; Provided always, that John Langton, George B. Hall, Wilson S. Conger, Charles Perry, James Wallis, Mossom Boyd and Elias Burnham, seven of the persons named in this Act, or a majority of them, shall cause books of subscription to be opened in the Town of Peterborough for thirty days, and afterwards in such other place or places as they may from time to time appoint, until the meeting of Shareholders hereinafter provided for, for receiving subscriptions of persons willing to become subscribers to the said undertaking; and for that purpose it shall be their duty, and they are hereby required to give public notice, in one or more

Proviso ;  
Subscription  
books to be  
opened.

Notice.

(a) Act revived and time for completion of Railway extended for five years from 15th August, 1866. 29 & 30 Vic., c. 98, s. 1, p. 60.

newspapers published in the said Town, as they or a majority of them may think proper, of the time and places at which such books shall be opened and ready for receiving subscriptions as aforesaid, of the persons authorized by them to receive such subscriptions, of the Bank or Banks into which the ten per centum thereon is to be paid, and the time hereinafter limited for such payment; and every person whose name shall be written in such books as a subscriber to the said undertaking, and shall have paid, within ten days after the closing of the said books, into any of the chartered Banks so appointed, or any of their branches or agencies, ten per centum on the amount of stock so subscribed for, to the credit of the said Company, shall thereby become a member of the said Company, 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 Company; Provided also, and it is hereby enacted that such ten per centum shall not be withdrawn from the said Banks, or otherwise applied except for the purposes of the said Railway Company, or upon the dissolution of the said Company from any cause whatsoever; And provided further, that if the total amount of subscriptions within the thirty days limited as aforesaid, shall exceed the Capital Stock limited by this Act, then in such case the shares of each subscriber or subscribers above ten shares shall, as nearly as may be, be proportionately reduced by the said seven persons last above named, or a majority of them, until the total number of shares be brought down to eight thousand shares.

Ten per cent. to be paid into a chartered Bank at the time of subscribing.

Proviso. ten per cent. to be withdrawn for certain purposes only.

Allotment of shares if necessary.

6. So soon as forty thousand pounds, the Capital stock of the said Company, shall have been subscribed and the ten per centum paid thereon as aforesaid, a General Meeting of the Shareholders shall be held at the Town of Peterborough for the purpose of putting this Act into effect, which Meeting shall be called by the seven persons last named in the preceding section or a majority of them, thirty days' public notice thereof being given by advertisement in one newspaper published in the Town of Peterborough, and in one or more of the papers published in the Town of Cobourg or Port Hope, at which said General Meeting the Shareholders present having paid ten per centum on their stock subscribed as aforesaid, shall, either in person or by proxy, choose seven Directors in the manner and qualified as hereinafter mentioned, who, together with the *ex officio* Directors, as provided for by the Railway Clauses Consolidation Act, shall hold office until the first Annual Meeting for the election of Directors and until others are elected in their stead.

First meeting and election of Directors.

Notice.

Election of Directors.

Term of office.

7. On the second Tuesday in June in each year, at the Town of Peterborough, at the Office of the said Company, there shall be chosen by the Shareholders, seven Directors in the manner hereinafter provided; and notice of such Annual Elections shall be published one month before the day of

Annual election of Directors.

election, in one newspaper published in the Town of Peterborough, and in one of the papers published in the Town of Cobourg or Port Hope; and all elections for Directors shall be by ballot, and the persons who shall have the greatest number of votes at any election shall be Directors; and if it shall happen that two or more shall have an equal number of votes, the Shareholders shall determine the election by another or other votes until a choice is made; and if a vacancy shall at any time take place among the Directors by death, resignation or removal from the Province, such vacancy shall be filled for the remainder of the year, by a vote of the majority of the Directors, and the said seven Directors with the said *ex officio* Directors, shall form a Board of Directors.

Ballot.  
Ties.  
Filling vacancies among Directors.  
Vacancies, how filled.

Quorum. **8.** The number of Directors which shall form a quorum for the transaction of business may be regulated by the By-laws of the Company, and until such By-laws shall be passed, a majority of the Directors shall form such quorum; Provided that the Directors may employ one of their number as a paid Director.

Paid Directors.

Qualification of Directors. **9.** No Shareholder shall be eligible to be elected a Director under this Act, unless he shall be a *bona fide* Stockholder in the said Company to the amount of at least two hundred and fifty pounds, and shall have paid up all calls on such stock.

Calls for instalments on stock. **10.** No call of money from the Shareholders shall exceed ten per centum on their shares, nor shall more than one call be made within sixty days. (a)

One vote for each share. **11.** Each Shareholder in his own right, shall be entitled to a number of votes equal to the number of shares which he shall have in his own name, two weeks prior to the time of voting.

Company may be parties to promissory notes, &c., and how. **12.** The said Company shall have power to become parties to Promissory Notes and Bills of Exchange, for sums not less than twenty-five pounds, and every such Promissory Note made or endorsed, and such Bill of Exchange drawn, accepted or endorsed by the President or Vice-President of the Company, and countersigned by the Secretary and Treasurer, and under the authority of a majority of a quorum of the Directors, shall be binding on the Company, and every such Promissory Note or Bill of Exchange, made, drawn, accepted or endorsed by the President or Vice-President of the said Company, and countersigned by the Secretary and Treasurer as such, after the passing of this Act, shall be presumed to have been properly made, drawn, accepted or endorsed, as the case may be, for the Company, until the contrary be shewn; and in no case shall it be necessary to have the seal of the Company affixed to any such

(a) Liability of Shareholders released upon sale of Railway. 29 & 30 Vic., c. 98, s. 5, p. 61.

Bill of Exchange or Promissory Note, nor shall the President, Vice-President, or Secretary or 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 section 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.

**13.** The gauge of the said Railway shall not be broader or narrower than five feet six inches. Gauge.

**14.** It shall be lawful for the Directors (if authorized by any General meeting of the Shareholders to be called for the purpose) to enter into, and make any arrangement with the Directors of any Railway Company now or hereafter to be chartered in any part of this Province, for the union, junction and amalgamation of the said Company with any Railway Company, or for the purchase of the Railway of such other Company, or for the sale of this Railway to such other Company by mutual agreement with such Company; And the Capital Stock of any Companies so united, shall become the Capital Stock of the Company formed by their union, and be controlled and managed as such. Company may unite with other Companies, &c.  
United capital.

**15.** It shall and may be lawful for the said Company to take and appropriate for the use of their said Railway, so much of the land covered with the waters of the River Otonabee and Chemong Lake, and of any stream, or of their respective beds, as may be found necessary for the making, perfecting, or more completely using the same; and thereon to erect any wharves, quays, inclined planes, cranes, and other works as to the said Company shall seem meet; and wherever the said Railway shall be carried across the River Otonabee, the said Company shall leave openings between the piers of their bridge or bridges, viaduct or viaducts over the same, so as to interfere as little as possible with the use and navigation of the said River Otonabee as now enjoyed. Power to take the necessary lands covered with water, beaches, &c.

**16.** The said Company shall have full power and authority to take, without the consent of the owner, but subject to the Provisions of the said Railway Clauses Consolidation Act, such quantity or extent of land for their Depots at Peterborough and Chemong Lake, and at every other place at which they shall deem it advisable to have a depot, as they may find requisite for the same, not exceeding twenty acres. Extent of land which may be taken for Depots.

**17.** This Act shall be deemed a Public Act.

Public Act.

## SCHEDULE A.

Know all men by these presents, that I \_\_\_\_\_, of \_\_\_\_\_, do hereby in consideration of \_\_\_\_\_ paid to me by the Peterborough and Chemong Lake Railway Company, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey and confirm unto the said Peterborough and Chemong Lake Railway Company, their successors and assigns forever, all that certain parcel or tract of land situate \_\_\_\_\_, the same having been selected and laid out by the said Company for the purpose of their Railway, to have and hold the said land and premises, together with the hereditaments and appurtenances thereto, to the said Peterborough and Chemong Lake Railway Company, their successors and assigns for ever.

Witness my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_

Signed, sealed and delivered in presence of \_\_\_\_\_

## 29 &amp; 30 VICT., CAP. XCVIII.

An Act to authorize the sale of the Peterborough and Chemong Lake Railway, and for other purposes.

[Assented to 15th August, 1866.]

Preamble.

WHEREAS the Act of Incorporation of the Peterborough and Chemong Lake Railway has expired without the completion of the undertaking, and it is the desire of certain of the Stockholders that the portion of the Railway which has been completed, together with all the franchises and properties of the Company, shall be sold at public auction to the highest bidder: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Time for completing Railway extended.

1. The said Act of Incorporation shall be and the same is hereby revived, and the time for completing the said Railway extended for a period of five years from the passing of this Act; Provided always, that nothing herein or in the Act hereby revived contained shall authorize the Company or the Directors to make any further calls upon the stockholders, or to collect any moneys upon any calls already made.

Proviso.

Court of Chancery may order such sale.

2. On application made by any one or more of the Stockholders to the Court of Chancery for Upper Canada, an order may be granted by the said Court for a sale of all the lands,

railway depot and station grounds, and franchises of the said Company, at public auction to any person or persons, or body corporate, that shall become the highest bidder, for cash to be paid at the time of such bid; and upon such sale all the said properties and franchises shall belong to the purchaser, or purchasers, who may proceed to complete the Railway, under the original Act of Incorporation, subject to the proviso in the first section of this Act. Its effect.

3. The purchaser may amalgamate the said Railway with any other Railway, whereupon the said Peterborough and Chemong Lake Railway shall be managed by the Directors, and be the property of the shareholders of such other Railway, subject to the provisions hereinafter enacted. Power to amalgamate with another Company.

4. The purchase money paid at such sale, after defraying the expenses of this Act, and of the application for sale and of the sale, shall be paid by the said Court of Chancery to the unsatisfied creditors of the said Company, if any, and any surplus shall be paid to the shareholders of the present Company, according to their proportions of paid up capital stock, and an account shall be taken by the Court at any time prior to the sale, if prayed for. Distribution of purchase money.

5. Upon such sale all the liabilities of the present shareholders for anything done thereafter shall wholly cease and be at an end. Present Shareholders released.

6. It shall and may be lawful for the Port Hope, Lindsay, and Beaverton Railway Company to connect the present leased or branch line of the said Company, now in operation between the village of Millbrook and the town of Peterborough, with the said Peterborough and Chemong Lake Railway at such point on the line of said Railway as the said Port Hope, Lindsay and Beaverton Railway Company may deem expedient; Provided always, that the expense of effecting such connection shall be paid by the said Port Hope Lindsay and Beaverton Railway Company. Railway may be connected with Port Hope, Lindsay and Beaverton Railway. Proviso.

7. It shall and may be lawful for the Cobourg and Peterborough Railway Company to connect or maintain the existing connection between the Railway of the said Cobourg and Peterborough Railway Company and the said Peterborough and Chemong Lake Railway, at such point on the line of the said Railway as the said Cobourg and Peterborough Railway Company may deem expedient; Provided always, that the expense of such connection shall be paid by the said Cobourg and Peterborough Railway Company. Connection with Cobourg and Peterborough Railway. Proviso.

8. For the purpose of enabling the said respective Companies to make and complete the said connections with the said Peterborough and Chemong Lake Railway, all the clauses of Certain clauses of the Railway Act to apply.

the Railway Act, chapter sixty-six of the Consolidated Statutes of Canada, relating to "Lands and their valuation," (a) and "Highways and Bridges," (b) are hereby incorporated with the Special Act and Acts relating to the said Port Hope, Lindsay and Beaverton Railway Company, and the said Cobourg and Peterborough Railway Company respectively.

Certain Railway Cos. may run cars over the Peterboro' and Chemong Lake Railway; conditions if not agreed upon to be settled by arbitration.

9. The said Port Hope, Lindsay and Beaverton Railway and the Cobourg and Peterborough Railway Companies respectively, and any railway company which may hereafter connect with the said Peterborough and Chemong Lake Railway, shall have the right and power of running their trains and cars over the line of the said Peterborough and Chemong Lake Railway Company, upon payment of such compensation, and upon such terms as may be agreed upon between the said companies, and in case the directors of the said companies respectively cannot agree on the said terms and compensation, then all disputes as the same may arise, shall be referred to arbitration under the arbitration clauses of the Railway Act, as to the appointment of arbitrators and making the award.

No preference to be granted to any Company.

10. It shall not be lawful for the said Peterborough and Chemong Lake Railway Company, by any agreement or otherwise with any one of the said Railway Companies, to grant any advantage to any one Company over the other or others; Provided that the Directors of the Peterborough and Chemong Lake Railway Company shall have power to regulate the hours at which the Railway Companies may use the line of the said Peterborough and Chemong Lake Railway Company.

Proviso as to hours.

Public Act.

11. This Act shall be deemed a Public Act.

### 35 VICT. CAP. LXI. (ONTARIO.)

An Act to incorporate the Omemeé, Bobcaygeon and North Peterborough Junction Railway Company.

[Assented to 2nd March, 1872.]

Preamble.

WHEREAS William Cottingham, Thos. Matchett, Charles J. Blomfield, Arthur T. H. Williams, D. E. Boulton, Adolph Hugel, James Jimkin, N. Kirchoffer, S. S. Peck, G. Boyd, W. B. Read, E. S. Vinden, Arthur McQuade, J. F. Schepeler, Lewis Ross, H. H. Meredith, Thomas Stephenson, William Fraser, Charles R. Stewart, T. M. Benson, Mason Boyd, Francis Beamish, James M. Irwin, C. Nolson, George Bick, Horace Aylwyn, Charles E. Bonnell, and Robt. K. Connell, have petitioned the Legislature for an Act of incorporation to

(a) C. S. C., c. 66. s. 11, p. 80.

(b) C. S. C., c. 66, s. 12, p. 88.



construct a railway from a point on the Midland Railway of Canada, near the Village of Omemee, to the Village of Bobcaygeon, with power to extend northwards so as to intersect the Canada Central or Pacific Railway; and it is expedient to grant the prayer of the said petition:

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The said William Cottingham, Thos. Matchett, Charles J. Blomfield, Arthur T. H. Williams, D. E. Boulton, Adolph Hugel, James Jimkin, N. Kirchoffer, S. S. Peck, G. Boyd, W. B. Read, E. S. Vinden, Arthur McQuade, J. F. Schepeler, Lewis Ross, H. H. Meredith, Thomas Stephenson, William Fraser, Charles R. Stewart, T. M. Benson, Mason Boyd, Francis Beamish, Jas. M. Irwin, C. Nolson, George Bick, Horace Aylwyn, Charles E. Bonnell, and Robt. K. Connell, together with such other persons and corporations as shall become shareholders of the company hereby incorporated, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, by and under the name and style of "The Omemee, Bobcaygeon and North Peterborough Junction Railway Company." (a)

Incorporation.

Corporate name

2. The several clauses of the Railway Act of the Consolidated Statutes of Canada, and amendments, with respect to the first, (b) second, (c) third, (d) fourth, (e) fifth (f) and sixth (g) clauses thereof, and also the several clauses thereof with respect to "interpretation," (h) "incorporation," (i) "powers," (j) "plans and surveys," (k) "lands and their valuation," (l) "highways and bridges," (m) "fences," (n) "tolls," (o) "general meetings," (p) "president and directors, their election and duties," (q) "calls," (r) "shares and their transfer," (s) "municipalities," (t) "shareholders," (u) "actions for indemnity, and fines and penalties, and their prosecution," (v) "by-laws, notices, etc.," (w) "working of the railway," (x) and "general provisions," (y) shall be incorporated with and be deemed to be a part of this Act, and shall apply to the said company and to the railway to be constructed by them, except only so far as they may be inconsistent with the express provisions hereof; and the expression "this Act," when used herein, shall be understood to include the clauses of the said Railway Act so incorporated with this Act.

Certain clauses of Con. Railway Act, to apply to this Act.

Interpretation of the words "This Act."

(a) Name changed to "The Midland Extension Railway Company." 37 Vic., c. 55, s. 2, p. 71.

(b) C. S. C., c. 66, s. 1, p. 72.  
 (c) " s. 2, p. 72.  
 (d) " s. 3, p. 72.  
 (e) " s. 4, p. 73.  
 (f) " s. 5, p. 73.  
 (g) " s. 6, p. 73.  
 (h) " s. 7, p. 73.  
 (i) " s. 8, p. 75.  
 (j) " s. 9, p. 75.  
 (k) " s. 10, p. 78.  
 (l) " s. 11, p. 80.  
 (m) " s. 12, p. 88.

(n) C. S. C., c. 66, ss. 13 to 19, p. 89.  
 (o) " ss. 20 to 29, p. 90.  
 (p) " s. 30, p. 92.  
 (q) " ss. 31 to 47, p. 92.  
 (r) " ss. 48 to 70, p. 95.  
 (s) " ss. 71 to 74, p. 98.  
 (t) " ss. 75 to 79, p. 99.  
 (u) " ss. 80 to 82, p. 100.  
 (v) " ss. 83 to 90, p. 101.  
 (w) " ss. 91 to 94, p. 103.  
 (x) " ss. 95 to 107, p. 103.  
 (y) " ss. 108 to 126, p. 105.

Location of  
railway.

**3.** The said company shall have full power and authority to lay out, construct and complete a double or single iron railway from any point on the Midland Railway of Canada between the Village of Milbrook and the Town of Lindsay, to the Village of Bobcaygeon, (a) with power to extend northwards so as to intersect the Canada Central or Pacific Railway, and with full authority to pass over any of the country between the points aforesaid, and to carry the said railway through the Crown lands lying between the points aforesaid.

Provisional  
directors.

**4.** The said William Cottingham, Thos. Matchett, Charles J. Blomfield, Arthur T. H. Williams, D. E. Boulton, Adolph Hugel, James Jimkin, N. Kirchoffer, S. S. Peck, G. Boyd, W. B. Read, E. S. Vinden, Arthur McQuade, J. F. Schepeler, Lewis Ross, H. H. Meredith, Thomas Stephenson, William Fraser, Charles R. Stewart, T. M. Benson, Mason Boyd, Francis Beamish, J. M. Irwin, C. Nolson, George Bick, Horace Aylwyn, Charles E. Bonnell, and Robt. K. Connell, with power to add to their number, shall be, and are hereby constituted provisional directors of the said company, and shall hold office as such until other directors shall be elected under the provisions of this Act by the shareholders; and shall have power and authority immediately after the passing of this Act to open stock-books and procure subscriptions for the undertaking, to make calls upon the subscribers, to cause surveys and plans to be made and executed, and, as hereinafter provided, to call a general meeting of the shareholders for the election of directors, and with all such other powers as under the Railway Act are vested in ordinary directors.

Tenure of  
office.

Their powers.

Capital stock

**5.** The capital stock of the company hereby incorporated shall be two hundred thousand dollars (with power to increase the same in the manner provided by the General Railway Act of Canada,) (b) to be divided into shares of one hundred dollars each; which amount shall be raised by the persons and corporations who may become shareholders in such company; and the money so raised shall be applied in the first place to the payment and discharge of all fees, expenses and disbursements for procuring the passage of this Act, and for making the surveys, plans and estimates connected with the work hereby authorized; and all the remainder of such money shall be applied to the making, equipment and completion of the said railway and the other purposes of this Act, and to no other purpose whatever.

Application of  
the money  
raised on the  
stock.

Municipalities  
may aid the  
company,

**6.** And it shall further be lawful for any municipality or municipalities through any part of which or near which the railway or works of the said company shall pass or be situated, to aid or assist the said company by loaning or guaranteeing or giving money by way of bonus or other means to the com-

(a) Power to construct Railway from any point on the line of the Midland Railway between Milbrook and Peterborough to Bobcaygeon. 37 Vict., c. 55, s. 1, p. 71.

(b) See C. S. C., c. 66, s. 81, p. 101.

pany, or issuing municipal bonds to or in aid of the company and otherwise, in such manner and to such extent as such municipalities or any of them shall think expedient; Provided always that such aid, loan, bonus or guarantee shall be given under a by-law for the purpose, to be passed in conformity with the provisions of the Act respecting Municipal Institutions for the creation of debts; (a) and all such by-laws so passed shall be valid, notwithstanding that such rate may exceed the aggregate rate of two cents in the dollar on the actual value of such ratable property; provided that the annual rate of assessment shall not in any case exceed, for all purposes, three cents in the dollar on the actual value of the whole ratable property within the municipality or portion of a municipality creating such debt.

such aid to be granted by by-law.

7. In case of a majority of the persons rated on the last assessment-roll as freeholders in any portion of a municipality, other than a county municipality, do petition the council of such municipality, defining the metes and bounds of the section of the municipality within which the property of the petitioners is situated, and expressing the desire of the said petitioners to aid in the construction of the said railway by granting a bonus or donation to the said company for this purpose, and stating the amount which they so desire to give and grant and to be assessed therefor, the council of such municipality shall pass a by-law:—

If a portion of a municipality desire to aid, the council to pass a by-law,

(1.) For raising the amount so petitioned for by the freeholders in such portion of the municipality by the issue of debentures of the municipality payable within twenty years or earlier, and for the payment to the said company of the amount of the said bonus or donation at the time, and on the terms, specified in the said petition:—

for issuing debentures.

(2.) For assessing and levying upon all the ratable property lying within the section defined by the said petition an annual special rate sufficient to include a sinking fund for the repayment of debentures with the interest thereon; which municipal councils are hereby authorised to execute and issue in such cases respectively; Provided the said by-law shall be approved of as in sections two hundred and twenty-six, (b) two hundred and twenty-seven, (c) and two hundred and twenty-eight (d) of the Municipal Act of one thousand eight hundred and sixty-six, chaptered fifty-one, by the majority of qualified electors in the portion of a municipality petitioning as aforesaid.

for assessing and levying a special rate.

By-law to be approved by electors.

8. So soon as one hundred thousand dollars of the said capital stock shall have been subscribed as aforesaid, and ten per

General meeting for election of directors

- (a) See the Municipal Institutions Act, 36 Vict., c. 48, s. 248, *et seq.*
- (b) " " " " s. 248.
- (c) " " " " s. 251.
- (d) " " " " s. 252.

centum paid thereon and deposited in one of the chartered banks of this province for the purposes of the said company, the directors shall call a general meeting of the subscribers to the said capital stock, who shall have so paid up ten per centum thereof, for the purpose of electing directors of said company; and no portion of such money shall be withdrawn except for the legitimate purposes of the company.

How the meeting is to be called, if the provisional directors neglect to call the same.

9. In case the provisional directors neglect to call such meeting for the space of three months after such amount of the capital stock shall have been subscribed, and ten per centum thereof so paid up, the same may be called by any five of the subscribers who shall have so paid up ten per centum, and who are subscribers among them for not less than one thousand dollars of the said capital stock and who have paid up all calls thereon.

Notice of the general meeting.

10. In either case notice of the time and place of holding such general meeting shall be given by publication in the *Ontario Gazette*, and in one newspaper in the Town of Port Hope, and in one newspaper (provided there be any) published in each of the counties through which the said railway is intended to pass, once in each week for the space of at least a month, and such meeting shall be held in the Town of Port Hope, at such place therein, and on such day as may be named by such notice.

Election of Directors.

11. At such general meeting the subscribers for the capital stock assembled who shall have so paid up ten per centum thereof, with such proxies as may be present, shall choose nine persons to be the directors of the said company, and may also make or pass such rules and regulations, and by-laws as may be deemed expedient, provided they be not inconsistent with this Act.

Qualification of Directors.

12. No person shall be qualified to be elected as such director unless he be a shareholder holding at least ten shares of stock in the company, and unless he has paid up all calls thereon.

Annual meetings.

13. Hereafter, the general annual meeting of the shareholders of the said company shall be held in such place in the Town of Port Hope, and on such days and at such hours as may be directed by the by-laws of the said company, and public notice thereof shall be given at least fourteen days previously in the *Ontario Gazette*, and in one or more newspapers published in the counties through which the railway runs.

Notice thereof

Special meetings.

14. Special general meetings of the shareholders of the said company may be held at such places in the Town of Port Hope, and at such times, and in such manner, and for such purposes as may be provided by the by-laws of the said company.

**15.** The directors of the said company, after the sanction of the shareholders shall have been first obtained, at any special general meeting to be called from time to time for such purpose, but limited to the terms of this Act, shall have power to issue bonds made and signed by the president or vice-president of the said company, and countersigned by the secretary and treasurer, and under the seal of the said company, for the purpose of raising money for prosecuting the said undertaking, and such bonds shall, without registration or formal conveyance be taken and considered to be the first and preferential claims and charges upon the undertaking and the property of the company real and personal, and then existing, and at any time thereafter acquired; and each holder of the said bonds shall be deemed to be a mortgagee and incumbrancer *pro rata* with all the other holders thereof upon the undertaking and the property of the company as aforesaid: Provided that in the event at any time of the interest upon the said bonds remaining unpaid and owing, then at the next ensuing general annual meeting of the said company, all holders of bonds shall have and possess the same rights and privileges and qualifications for directors and for voting as are attached to shareholders: Provided that the bonds and any transfers thereof shall have been first registered in the same manner as is provided for the registration of shares.

Issue of bonds by the Company.

Rights of bondholders at annual meeting.

**16.** The amount of bonds to be issued by the said company as provided in the next preceding section, shall not exceed nine thousand dollars per mile of the said railway actually under construction at the time of such issue: Provided that such bonds shall not be issued unless the interest thereon shall be guaranteed by the Midland Railway Company of Canada; but in the event of the said Midland Railway Company not obtaining power to guarantee or declining to guarantee the interest on such bonds, the company may issue bonds to a similar amount; Provided further, that the amount of such unguaranteed bonds issued at any one time shall not exceed the amount actually expended in surveys and works of construction upon the line of the said railway.

Amount of bonds not to exceed \$9,000 per mile.

**17.** All such bonds, debentures, mortgages and other securities, and coupons and interest warrants thereon respectively, may be made payable to bearer and transferable by delivery, and any holder of any such so made payable to bearer may sue at law thereon in his own name.

Securities may be made payable to bearer.

**18.** The said company shall have power and authority to become parties to promissory notes and bills of exchange for sums not less than one hundred dollars, and any such promissory note made or endorsed by the president or vice-president of the company, and countersigned by the secretary and treasurer of the said company, and under the authority of a quorum of the directors shall be binding on the said company; and,

Company may make promissory notes, &c.

every such promissory note or bill of exchange so made shall be presumed to have been made with proper authority until the contrary be shewn; and in no case shall it be necessary to have the seal of the said company affixed to such promissory note or bill of exchange; nor shall the president or vice-president, or the secretary and treasurer be individually responsible for the same, unless the said promissory notes or bills of exchange have been issued without the sanction and authority of the board of directors as herein provided and enacted: Provided however, that nothing in this section shall be construed to authorize the said company to issue any note or bill of exchange payable to bearer, or intended to be circulated as money, or as the notes or bills of a bank.

If not intended to be circulated as money

Scale of votes.

**19.** Every shareholder of one or more shares of the said capital stock shall, at any general meeting of the shareholders, be entitled for one vote for every share held by him.

How stock held by corporations to be represented.

**20.** At all meetings of the company the stock held by municipal and other corporations may be represented by such person as they shall have respectively appointed in that behalf by by-law; and such persons shall at such meetings be entitled equally with other shareholders to vote by proxy (a); and no shareholder shall be entitled to vote on any matter whatever, unless all calls due on the stock held by such shareholder shall have been paid up at least one week before the day appointed for such meeting.

Only shareholders who have paid up to vote.

Quorum of directors.

**21.** Any meeting of the directors of the said company regularly summoned, at which not less than five directors shall be present shall be competent to exercise and use all and every of the powers hereby vested in the said directors.

Calls upon shares.

**22.** The directors may at any time call upon the shareholders for such instalments upon each share which they may hold in the capital stock of the said company, and in such proportion as they may see fit, except that no such instalment shall exceed ten per centum on the subscribed capital, and that thirty days' notice of each call shall be given in such manner as the directors shall prescribe by the by-laws of the company. (b)

Conveyances of lands to the company.

**23.** Conveyances of land to the said company for the purposes of this Act, may be made in the form set out in the Schedule hereunder written, or to the like effect; and such conveyances shall be registered by duplicates thereof in such manner and upon such proof of execution as is required under the Registry laws of Ontario; and no registrar shall be entitled to demand more than seventy-five cents for registering the same, including all entries and certificates thereof, and certificate endorsed on the duplicate thereof.

Registration thereof.

Registrar's fees.

(a) See C. S. C., c. 66, s. 37' p. 93. (b) See C. S. C., c. 66, s. 46, et seq. p. 95.

**24.** The gauge of the said railway shall be not less than Gauge of railway. three feet six inches.

**25.** It shall be lawful for the said company to enter into any Company may enter into certain agreements with the Midland Railway Company. agreement with the Midland Railway of Canada for leasing the said, The Omemeé, Bobcaygeon and North Peterborough Junction Railway, or any part thereof, or the use thereof at any time or times, for any period not exceeding twenty-one years, to such other company, or for leasing or hiring from such other company any railway or any part thereof, or the use thereof, or for the leasing or hiring any locomotives, tenders, or moveable property, and generally to make any agreement or agreements with such other company touching the use by one or the other, or by both companies of the railway, or moveable property of either, or of both, or any part thereof, or touching any service to be rendered by the one company to the other, and the compensation therefor; and every such agreement shall be valid and binding, and shall be enforced by courts of law according to the terms and tenor thereof; and any company or individual accepting and executing such lease shall be, and hereby is, empowered to exercise all the rights and privileges in this charter conferred.

**26.** Any shareholder in the said company, whether a British Rights of alien or non-resident shareholders. subject or alien, or a resident in Canada or elsewhere, shall have equal rights to hold stock in the said company, and to vote on the same, and to be eligible to office in the said company.

**27.** Whenever it shall be necessary for the purpose of pro- Company may use lands for gravel pits and the waters of streams. curing sufficient lands for stations, or gravel pits, or for constructing, maintaining and using the said railway, the company may purchase, hold, use or enjoy such lands, and also the right of way thereto, if the same be separated from their railway, and to sell and convey the same, or parts thereof, from time to time, as they may deem expedient.

**28.** The said railway shall be commenced within one year, When railway to be commenced and completed. (a) and completed from the point of junction with the Midland Railway of Canada to or near the village of Bobcaygeon, within two years after the passing of this Act, (b) or else all rights and privileges conferred upon the said company by this Act shall be forfeited.

#### SCHEDULE.

Know all men by these presents that I (or we) (*insert also the name of wife, or any other person who may be a party*) in consideration of                      dollars paid to me (or as the case may

(a) Extended for one year, from 29th March, 1873, by 37 Vict., c. 93, s. 1, p. 70.

(b) Extended for three years, from 29th March, 1873, by 37 Vict., c. 93, s. 1, p. 70.

be) by the Omemee, Bobcaygeon and North Peterborough Junction Railway Company, the receipt whereof is hereby acknowledged, do grant, and I the said

do grant and release, (or) do bar my dower in (as the case may be) all that certain parcel, (or) those certain parcels (as the case may be), of land, situate (describe the land), the same having been selected by the said company for the purposes of this railway to hold with the appurtenances thereof unto the said The Omemee, Bobcaygeon, and North Peterborough Junction Railway Company, their successors and assigns.

As witness my hand and seal, (or our hands and seals), this day of one thousand eight hundred and

Signed, sealed and delivered ) [L.S.]  
in the presence of )

36 VICT. CAP. XCIII.

An Act respecting the Omemee, Bobcaygeon and North Peterborough Junction Railway Company.

[Assented to 29th March, 1873.]

Preamble.

WHEREAS it has been found impracticable to build the line of railway authorized to be constructed by the Omemee, Bobcaygeon and North Peterborough Junction Railway Company, within the time limited for that purpose; And whereas, James Irwin and other provisional directors of the said company have, by their petition, prayed for an extension of the time fixed for the commencement and completion of the said railway; and it is expedient to grant the prayer of the said petition:

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Time for commencement and completion of railway extended.

1. The time limited for the commencement of the said railway is hereby extended to one year from the passing of this Act; and the time for the completion thereof to Bobcaygeon is extended to three years from the passing of this Act: Provided always, that nothing in this clause contained shall alter or affect any condition of any by-law passed by any municipality in aid of said railway company.





37 VICT. CAP. LV.

An Act respecting the Omemeë, Bobcaygeon and North Peterborough Junction Railway Company.

[Assented to the 24th March, 1874.]

**W**HEREAS the Omemeë, Bobcaygeon, and North Peterborough Junction Railway Company, have by their petition, represented that it is desirable that certain amendments should be made to the Act incorporating the said company; and it is expedient that the prayer of the said petition should be granted: Preamble.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The said company shall, in addition to the powers of construction, granted in their Act of incorporation, have full power and authority to lay out, construct and complete a double or single iron railway from any point on the line of the Midland Railway of Canada, between the village of Millbrook and the Town of Peterborough, to the Village of Bobcaygeon. Power to construct branch line to Bobcaygeon.

2. The name of the said company shall be changed to "The Midland Extension Railway Company." Change of name of Company.

# STATUTES

RELATING TO

## RAILWAYS IN THE PROVINCE OF ONTARIO.

CONSOLIDATED STATUTES OF CANADA.

CAP. LXVI.

An Act respecting Railways.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

### 1. APPLICATION OF ACT. (a)

Name by which it shall be cited. **1.** Whenever this act is referred to in citing the same, it shall be sufficient to use the expression, "*The Railway Act.*" 14, 15 V. c. 51, s. 2.

Application of Act. **2.** When not otherwise expressed, this and the following sections to the one hundred and twenty-fifth shall apply to every railway authorized to be constructed, by any Act passed since the thirtieth day of August, one thousand eight hundred and fifty one, or by any Act passed after this Act takes effect, and this Act shall be incorporated with every such Act; and all the clauses and provisions of this Act, unless they are expressly varied or excepted by any such Act, shall apply to the undertaking authorized thereby, so far as applicable to the undertaking, and shall as well as the clauses and provisions of every other Act incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act. 14, 15 V. c. 51, s. 1.

What shall be sufficient in making an incorporation of this Act with Special Acts. **3.** For the purpose of incorporating this Act or any of its provisions with a special Act, it shall be sufficient in such Act to enact, that the clauses of this Act, with respect to the matter so proposed to be incorporated, referring to the same in the word or words at the head of and introductory to the enactment with respect to such matter, shall be incorporated with such Act, and thereupon all the clauses and provisions of this Act,

(a) Incorporated into Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55, and into Omemeé, Bobcaygeon and North Peterborough Junction Railway Act by 36 Vict., c. 61, s. 2, p. 63.

with respect to the matter, so incorporated shall save in so far as they are expressly varied or excepted by such Act, form part thereof, and such Act shall be construed as if the substance of such Clauses and provisions were set forth therein with reference to the matter to which such Act relates. 14, 15 V. c. 51, s. 3.

4. The power given by the special Act to construct the Railway, and to take and use lands for that purpose, shall be exercised subject to the provisions and restrictions contained in this Act.

Power to construct Railway &c., to be exercised subject to provisions of this Act.

5. For the value of lands taken and for all damages to lands injuriously affected by the construction of the Railway in the exercise of the powers by this or the special Act, or any Act incorporated therewith, vested in the Company, compensation shall be made to the owners and occupiers of, and to all other persons interested in, any lands so taken or injuriously affected. 14, 15 V. c. 51, s. 4.

Compensation to be made for lands damaged.

6. Unless otherwise specially provided by this Act or the Special Act, the amount of such compensation shall be ascertained and determined in the manner provided by this Act. 14, 15 V. c. 51, s. 4.

How compensation to be determined.

## 2. INTERPRETATION. (a)

7. 1. The expression "the Special Act," used in this Act, shall be construed to mean any Act authorizing the construction of a Railway, and with which this Act is in manner aforesaid incorporated;

Interpretation of words, "The Special Act."

2. The word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same is prescribed or provided for in the Special Act; and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the Special Act" had been used;

"Prescribed."

3. The expression "the lands" shall mean the lands by the Special Act are authorized to be taken or used for the purpose thereof;

"The Lands."

4. The expression "the undertaking" shall mean the Railway and works, of whatever description, by the Special Act authorized to be executed;

"The undertaking."

5. The following words and expressions, both in this and the Special Act, shall have the meanings hereby assigned to

(a) Incorporated into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55; and into Omemee, Bobcaygeon and North Peterborough Railway Act by 35 Vict., c. 61, s. 2, p. 63.

them, unless there is something in the subject or context repugnant to such construction, that is to say :

- "Lands." 6. The word "Lands" shall include all real estate, messuages, lands, tenements and hereditaments of any tenure ;
- "Lease." 7. The word "Lease" shall include any agreement for a lease ;
- "Toll." 8. The word "Toll" shall include any rate or charge or other payment payable under this Act or the Special Act for any passenger, animal, carriage, goods, merchandize, articles, matters or things conveyed on the Railway ;
- "Goods." 9. The word "Goods" shall include things of every kind conveyed upon the Railway, or upon steam or other vessels connected therewith ;
- "Superior Courts." 10. The expression "Superior Courts" shall mean the Courts of Chancery, Queen's Bench and Common Pleas in Upper Canada, and the Superior Court in Lower Canada, as the case may be ;
- "County." 11. The word "County" shall include any union of Counties, County, Riding, or like division of a County in the Province, or any division thereof into separate Municipalities in Lower Canada ;
- "Highways." 12. The word "Highways" shall mean all public roads, streets, lanes, and other public ways and communications ;
- "Sheriff." 13. The word "Sheriff" shall include Under Sheriff, or other legal competent Deputy ; and where any matter in relation to any lands is required to be done by any Sheriff or Clerk of the Peace, the expression "the Sheriff," or the expression "Clerk of the Peace," shall in such case be construed to mean the Sheriff or Clerk of the peace of the District, County Riding, Division, or place where such lands are situate ; and if the lands in question, being the property of one and the same party, be situate not wholly in one District, County, Riding, Division, or place, the same expression shall be construed to mean the Sheriff or Clerk of the Peace of any such District, County Riding, Division or place where any part of such lands are situate ;
- "Justice." 14. The word "Justice" shall mean Justice of the Peace acting for the District, County, Riding, Division, City or place where the matter requiring the cognizance of a Justice arises, and who is not interested in the matter ; and where the matter arises in respect of lands being the property of one and the same party, situate not wholly in any one District, County, Riding, Division, City or place, the word "Justice" shall mean a Justice acting

for the District, County, Riding, Division, City or place where any part of such lands are situate, and who is not interested in such matter; and where any matter is authorized or required to be done by two Justices, the expression "two Justices" shall be understood to mean two Justices assembled and acting together; "Two Justices."

15. The word "owner" where, under the provisions of this Act or the Special Act, any notice is required to be given to the owner of any lands, or where any act is authorized or required to be done with the consent of any such owner, shall be understood to mean any Corporation or person who, under the provisions of this Act, or the Special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the Company; "Owner."

16. The expression "the Company" shall mean the company or party authorized by the Special Act to construct the Railway; "The Company."

17. The expression "The Railway" shall mean the Railway and works by the Special Act authorised to be constructed; "The Railway."

18. The word "Clause" shall mean any separate section of this Act, or any other Act therein referred to, distinguished by a separate number; "Clause."

19. The word "Shareholder" shall mean every subscriber to or holder of stock in the undertaking, and shall extend to and include the personal representatives of the Shareholder. "Shareholder."  
14, 15 V. c. 51, s. 7.

### 3. INCORPORATION. (a)

8. Every Company established under any Special Act shall be a body corporate under the name declared in the Special Act, and shall be invested with all the powers, privileges and immunities necessary to carry into effect the intentions and objects of this Act and of the Special Act therefor, and which are incident to such Corporation, as are expressed or included in "the Interpretation Act." 14, 15 V. c. 51, s. 8. Companies established under Special Acts declared to be bodies corporate, &c.

### 4. POWERS. (b)

9. The Company shall have power and authority : Powers:

*Firstly.* To receive, hold and take all voluntary grants and donations of (c) land or other property made to it to aid in the To receive grants of land, &c;

(a) Incorporated into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55, and into Omemeé, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

(b) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 49, s. 1, p. 16. Into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55. Incorporated into the Omemeé, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63. See section 130 of this Act.

(c) See 9 Vict., c. 109, s. 3, p. 2.

construction, maintenance and accomodation of the Railway, but the same shall be held and used for the purpose of such grants or donations only ; 14, 15 V. c. 51, s. 9.

**Purchase land:** *Secondly.* To purchase, hold and take of any Corporation or person any land or other property necessary for the construction, maintenance, accomodation and use of the Railway, and also to alienate, sell or dispose of the same ;

**Occupy public lands, beaches &c ;** *Thirdly.(a)* No Railway Company shall take possession of, use or occupy any lands vested in Her Majesty, without the consent of the Governor in Council ; but with such consent any such Company may take and appropriate for the use of their Railway and works, but not alienate so much of the wild lands of the crown lying on the route of the Railway, as have not been granted or sold, and as may be necessary for such Railway, as also so much of the public beach or of the land covered with the waters of any Lake, River, Stream or Canal, or of their respective beds, as is necessary for making and completing and using their said Railway and Works, but nothing in this sub-section contained, shall apply to the thirty and thirty-first paragraphs of the eleventh section of this Act. 14, 15 V. c. 51, s. 9, No. 3,—16 V. c. 169, s. 8.

**Carry Railway across lands of Corporations and others ;** *Fourthly.* To make carry or place the Railway across or upon the lands of any Corporation or person on the line of the Railway, or within the distance from such line stated in the Special Act, although through error or other cause, the name of such party has not been entered in the Book of Reference hereinafter mentioned, or although some other party has been erroneously mentioned as the owner of or entitled to convey, or is interested in such lands ;

**And across or along streams, &c ;** *Fifthly.* To construct, maintain and work the Railway across along, or upon any stream of water, water-course, (b) canal, high way or railway which it intersects or touches ; but the stream, water course, highway, canal or railway so intersected or touched, shall be restored by the Company to its former state, or to such state as not to impair its usefulness ;

**Complete Railway with one or more tracks, &c ;** *Sixthly.* To make, complete, alter and keep in repair the railway with one or more sets of rails or tracks to be worked by the force and power of steam, or of the atmosphere, or of animals, or by mechanical power, or by any combination of them ;

**Erect necessary buildings, wharves, &c ;** *Seventhly.* To erect and maintain all necessary and convenient buildings, (c) stations, depots, wharves and fixtures, and from time to time to alter, repair or enlarge the same, and to purchase and acquire stationary or locomotive engines and car-

(a) See 18 Vict., c. 36, s. 3 p. 21.

(b) See 9 Vict., c. 109, s. 16, p. 8.

(c) See 9 Vict., c. 169, s. 12, p. 7.

riages, waggons, floats and other machinery and contrivances necessary for the accommodation and use of the passengers, freights and business of the Railway ;

*Eighthly.* To make branch Railways, if required and provided by the Special Act, (a) and to manage the same, and for that purpose to exercise all the powers, privileges and authorities necessary therefor, in as full and ample a manner as for the Railway ; Branch Railways ;

*Ninthly.* To construct, erect and make all other matters and things necessary and convenient for the making, extending and using of the Railway, in pursuance of and according to the meaning and intent of this Act, and of the Special Act ; All other matters and things necessary for Railway ;

*Tenthly.* To take, transport, carry and convey persons and goods (b) on the Railway, to regulate the time and manner in which the same shall be transported, and the tolls (c) and compensation to be paid therefor, and to receive such tolls and compensation ; (d) Convey persons and goods on Railway ;

*Eleventhly.* To borrow from time to time, either in this Province or elsewhere such sums of money as may be expedient for completing, maintaining and working the Railway, and at a rate of interest not exceeding eight per cent. per annum, and to make the Bonds, Debentures or other securities granted for the sums so borrowed, payable either in currency or in sterling, and at such place or places within this Province or without as may be deemed advisable, and to sell the same at such prices or discount as may be deemed expedient, or be necessary, and to hypothecate, mortgage or pledge the lands, tolls, revenues and other property of the Company for the due payment of the said sums and the interest thereon, but no such debenture shall be for a less sum than one hundred dollars ; Borrow money, &c ;

*Twelfthly.* To enter into and upon any lands of Her Majesty (e) without previous license therefor, or into and upon the lands of any Corporation or person whatsoever lying in the intended route or line of the Railway. Enter upon Her Majesty's lands, &c ;

*Thirteenthly.* To make surveys, (f) examinations, or other necessary arrangements on such lands necessary for fixing the site of the Railway, and to set out and ascertain such parts of the lands as are necessary and proper for the Railway ; Make surveys of lands ;

*Fourteenthly.* To fell or remove any trees standing in any woods, lands or forests, where the Railway passes, to the distance of six rods from either side thereof ; Remove trees ;

*Fifteenthly.* (g) To cross, intersect, join and unite the Railway with any other Railway at any point on its route, and upon the lands of such other Railway, with the necessary con- Unite with other Railways.

(a) See 9 Vict., c. 109, s. 2, p. 2.

(b) " " c. 109, s. 2, p. 2.

(c) " " c. 109, s. 15, p. 8.

(d) See sec. 106, p. 105.

(e) See 9 Vict., c. 109, s. 12, p. 7.

(f) " " c. 109, s. 12, p. 7.

(g) See sec. 130, p. 109.

veniences for the purposes of such connection; and the owners of both Railways may unite in forming such intersection, and grant the facilities therefor; and in case of disagreement upon the amount of compensation to be made therefor, or upon the point or manner of such crossing and connection, the same shall be determined by Arbitrators to be appointed by a Judge of one of the Superior Courts in Lower Canada or Upper Canada, as the case may be; 14, 15 V. c. 51, s. 9, No. 15, *See* 22 V. c. 4, s. 2.

#### 5. PLANS AND SURVEYS. (a)

Provision re-  
specting sur-  
veys and levels

**10.** (b) Plans and surveys shall be made and corrected as follows: 14, 15 V. c. 51, s. 10.

*Firstly.* (b) Surveys and levels shall be taken and made of the lands through which the Railway is to pass, together with a Map or Plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and also a Book of Reference for the Railway, in which shall be set forth—

1. A general description of the said lands;
2. The names of the owners and occupiers thereof, so far as they can be ascertained; and
3. Every thing necessary for the right understanding of such Map or Plan;

*Secondly.* (b) The 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 Clerks of the Peace in the Districts or Counties through which the Railway passes, and also in the Office of the Provincial Secretary, and shall also deliver one copy thereof to the said Company;

*Thirdly.* (b) Any person may resort to such copies, and make extracts or copies thereof, as occasion requires, paying to the Provincial Secretary, or to the Clerks of the Peace, at the rate of ten cents for every hundred words;

*Fourthly.* (b) The triplicates of such Map or Plan and Book of Reference so certified, or a true copy thereof certified by the Provincial Secretary, or by the Clerks of the Peace, shall be good evidence in any Court of Law and elsewhere;

Omissions how  
remedied.

*Fifthly.* (b) Any omission, misstatement or erroneous description of such lands, or of the owners or occupiers thereof, in any

(a) Incorporated into the Omemeé, Bobcaygeon and North Peterborough Railway Act by 35 Vict., c. 61, s. 2, 63.

(b) Incorporated from *Firstly* to *Twelfthly* inclusive, into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55



Map or Plan or Book of Reference, may, after giving ten days' notice to the owners of such lands, be corrected by two Justices on application made to them for that purpose, and if it appears to them that such omission, misstatement or erroneous description arose from mistake, the Justices shall certify the same accordingly;

*Sixthly.* (a) The Certificate shall state the particulars of any such omission, and the manner thereof, and shall be deposited with the Clerks of the Peace of the Districts or Counties respectively in which such lands are situate, and be kept by them along with the other documents to which they relate; and thereupon, such Map or Plan or Book of Reference shall be deemed to be corrected according to such Certificate; and the Company may make the Railway in accordance with the Certificate;

*Seventhly.* (a) If any alterations from the original Plan or Survey are intended to be made in the line or course of the Railway, a Plan and Section in triplicate of such alterations as have been approved of by Parliament, on the same scale and containing the same particulars as the original Plan and Survey, shall be deposited in the same manner as the original Plan, and copies or extracts of such Plan and Section so far as relate to the several Districts or Counties, in or through which such alterations have been authorized to be made, shall be deposited with the Clerks of such Districts and Counties;

Alterations from original survey.

*Eighthly.* (a) Until such original Map or Plan and Book of Reference, or the plans and sections of the alterations, have been so deposited, the execution of the Railway, or of the part thereof affected by the alterations, *as the case may be*, shall not be proceeded with;

Railway not to be proceeded with until map, &c., deposited.

*Ninthly.* (a) The Clerks of the Peace shall receive and retain the copies of the original Plans and Surveys, and copies of the Plans and Sections of alterations, and copies and extracts thereof respectively, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, under a penalty for default of four dollars;

Clerks of the Peace to receive copies of original plan, &c.

*Tenthly.* (a) The copies of the Maps, Plans and Books of Reference, or of any alteration or correction thereof, or extracts therefrom, certified by the Clerk of the Peace, shall be received in all Courts of Justice or elsewhere as good evidence of the contents thereof, and the Clerk of the Peace shall give such certificate to all parties interested when required;

Copies certified by Clerk to be good evidence in Courts.

*Eleventhly.* (a) No deviation of more than one mile from the line of the Railway or from the places assigned thereto in the

Line not to deviate more than a mile.

(a) Incorporated from Firstly to Twelfthly inclusive, into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55.

said Map or Plan and Book of Reference or Plans or Sections, shall be made into, through, across, under or over any part of the lands not shewn in such Map or Plan and Book of Reference, or Plans or Sections, or within one mile of the said line and place, save in such instances as are provided for in the Special Act ;

Error in the name of a person entered in a Book of Reference.

*Twelfthly.* (a) The Railway may be carried across or upon the lands of any person on the line, or within the distance from such line as aforesaid, although the name of such person has not been entered in the Book of Reference through error or any other cause, or although some other person is erroneously mentioned as the owner of or entitled to convey, or is interested in such lands ;

Extent of lands to be taken without consent of proprietor.

*Thirteenthly.* The lands which may be taken without the consent of the proprietor thereof, shall not exceed thirty yards in breadth, except in places where the Railway is raised more than five feet higher, or cut more than five feet deeper than the surface of the line, or where offsets are established, or where stations, depots or fixtures are intended to be erected or goods to 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 person authorized to convey such lands; and the places at which such extra breadth is to be taken shall be shewn on the Map or Plan, or Plans or Sections, so far as the same may be then ascertained, but their not being so shewn shall not prevent such extra breadth from being taken, provided it be taken upon the line shewn or within the distance aforesaid from such line ;

Extent of public beach to be taken.

*Fourteenthly.* The extent of the public beach, or of the land covered with the waters of any river or lake in this Province, taken for the Railway, shall not exceed the quantity limited in the next preceding clause ; 14, 15 V. c. 51, s. 10.

## 6. LANDS AND THEIR VALUATION. (b)

¶ 1. The conveyance of lands, their valuation and the compensation therefor, shall be made in manner following ; 14, 15 V. c. 51, s. 11.

Corporation, &c., may convey lands.

*Firstly.* All Corporations (c) and persons whatever, tenants in tail or for life, *grevés de substitution*, guardians, curators, executors, administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors,

(a) Incorporated into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55.

(b) Incorporated into the Port Hope, Lindsay and Beaverton Railway Act, for the purpose of enabling them to complete their connections with the Peterborough and Chemong Lake. 29 & 30 Vict., c. 98, s. 8, p. 61 ; into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55 ; and into the Omemece, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63. As to providing more space for the accommodation of traffic. See 35 Vict., c. 25, p. 134.

(c) See 24 Vict., c. 17, s. 1, p. 127.

but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons, seized, possessed of or interested in any lands, may contract for, sell and convey unto the Company all or any part thereof; and any contract, agreement, sale, conveyance and assurance so made, shall be valid and effectual in law to all intents and purposes whatsoever; and the corporation or person, so conveying, is hereby indemnified for what he or it respectively does by virtue of or in pursuance of this Act;

*Secondly.* Any contract or agreement made by any party authorized by this Act to convey lands, and made before the deposit of the Map or Plan and Book of reference, and before the setting out and ascertaining of the lands required for the Railway, shall be binding at the price agreed upon for the same lands, if they are afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such land may, in the mean time, have become the property of a third party; and possession of the land 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 provided, and the agreement shall be in the place of an award;

Effect of contracts made before deposit of map.

*Thirdly.* All Corporations or persons who cannot in common course of law sell or alienate any lands 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; and if the amount of the rent is not fixed by voluntary agreement or compromise, it shall be fixed and all proceedings shall be regulated in the manner herein prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid for the purchase of any lands, or for any part of the purchase money of any lands, which the vendor agrees to leave unpaid, the Railway and the tolls thereon shall be 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;

Corporations who cannot sell, may agree upon a fixed rent.

*Fourthly.* Whenever there is more than one party proprietor of any land as joint tenant or tenants in common, or *par indivis*, any contract or agreement made in good faith with any party or parties proprietor or being together proprietors of one third or more of such land, 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 *par indivis*; and the proprietor or proprietors who have so agreed, may deliver possession of such land or empower the entry upon the same, as the case may be;

As to proprietor *par indivis*.

*Fifthly.* After one month from the deposit of the Map or Plan and Book of Reference, and from notice thereof in at least

After one month's notice of deposit

of Map, &c.,  
application to  
the owner of  
lands.

one newspaper, if there be any, published in each of the Districts and Counties through which the Railway is intended to pass, application may be made to the owners of lands or to parties empowered to convey lands, or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the Railway, and thereupon, agreements and contracts may be made with such 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 such compensation shall be ascertained, as may seem expedient to both parties, and in case of disagreement between them, or any of them, then all questions which arise between them, shall be settled as follows, that is to say :

Deposit &c.,  
to be general  
notice.

*Sixthly.* The deposit of a Map or Plan and Book of Reference, and the notice of such deposit, shall be deemed a general notice to all such parties as aforesaid of the lands which will be required for the said Railway and works ;

Notice to op-  
posite party.

*Seventhly.* The notice served upon the party shall contain :

1. A description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, describing them ;

2. A declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages ; and

3. The name of a person to be appointed as the Arbitrator of the Company, if their offer be not accepted; and such notice shall be accompanied by the certificate of a sworn surveyor for Upper Canada or Lower Canada, *as the case may be*, disinterested in the matter, and not being the Arbitrator named in the notice :

1. That the land, if the notice relate to the taking of land shewn on the said map or plan, is required for the Railway, or is within the limits of deviation hereby allowed ;

2. That he knows the land, or the amount of damage likely to arise from the exercise of the powers ; and

3. That the sum so offered is, in his opinion a fair compensation for the land, and for the damages as aforesaid.

If the party be  
absent or un-  
known.

*Eighthly.* If the opposite party is absent from the District or County in which the lands lie, or is unknown, then, upon application to a Judge of the Circuit Court, or of the County Court, (a) *as the case may be*, accompanied by such Certificate as aforesaid, and by an affidavit of some officer of the Company that the opposite party is so absent, or that, after diligent enquiry, the party on whom the notice ought to be served cannot be ascer-

(a) When the Judge is interested in the lands, a Judge of the Superior Courts shall exercise his powers. 23 Vict., c. 29, s. 10, p. 126 ; 24 Vict., c. 17, s. 3, p. 128.

tained, the Judge shall order a notice as aforesaid, but without a Certificate, to be inserted three times in the course of one month in some newspaper published in the said District or County;

*Ninthly.* If within ten days after the service of such notice, or within one month after the first publication thereof as aforesaid, the opposite party does not notify to the Company his acceptance of the sum offered by them, or notify to them the name of a person whom he appoints as Arbitrator, then the Judge shall, on the application of the Company, appoint a Sworn Surveyor for Upper or Lower Canada, as the case may be, to be sole Arbitrator, for determining the compensation to be paid as aforesaid;

*Tenthly.* If the opposite party within the time aforesaid, notifies to the Company the name of his Arbitrator, then the two Arbitrators shall jointly appoint a third, or if they cannot agree upon a third, then the Judge (a) shall, on the application of the party or of the Company (previous notice of at least one clear day having been given to the other party), appoint a third Arbitrator;

*Eleventhly.* The Arbitrators, or any two of them, or the sole Arbitrator, being sworn before some Justice of the Peace for the District or County in which the lands lie, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the said compensation in such way as they or he, or a majority of them, deem best, (b) and the award of such Arbitrators, or any two of them, or of the sole Arbitrator, shall be final and conclusive; But no such award shall be made or any official act be done by such majority, except at a meeting held at a time and place of which the other Arbitrator has had at least one clear day's notice, or to which some meeting at which the third Arbitrator was present, had been adjourned; and no notice to either of the parties shall be necessary, but each party shall be held sufficiently notified through the Arbitrator appointed by him, or whose appointment he required;

*Twelfthly.* If in any case where three Arbitrators have been appointed, the sum awarded is not greater than that offered, the costs of the Arbitration shall be borne by the opposite party, and be deducted from the compensation, but if otherwise, they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the Judge aforesaid;

*Thirteenthly.* The Arbitrators, or a majority of them, or the sole Arbitrator, may examine on oath or solemn affirmation (c) the

(a) When the Judge is interested in the lands, a Judge of the Superior Courts shall exercise his powers. 23 Vict., c. 29, s. 10, p. 126; 24 Vict., c. 17, s. 3, p. 128.

(b) Arbitrators are to take into consideration the increased value that would be given to lands over which the railway passes. 35 Vict., c. 25, s. 5, p. 136.

(c) Compelling the attendance of witnesses. See 38 Vict., c. 15, p. 137.

the parties, or such witnesses as 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;

Time within which award must be made.

*Fourteenthly.* The Judge by whom any third Arbitrator or sole Arbitrator is appointed, shall, at the same time, fix a day, on or before which the award shall be made, and if the same is not made on or before such day, or some other day to which the time for making it has been prolonged, either by the consent of the parties or by the order of the Judge (as it may be for reasonable cause shewn, on the application of such sole Arbitrator or of 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;

Arbitrator dying, &c.

*Fifteenthly.* If the Arbitrator appointed by such Judge, or if any Arbitrator appointed by the parties, dies before the award has been made, or is disqualified, or refuses or fails to act within a reasonable time, then, in the case of the Arbitrator appointed by the Judge upon the application of either party, such Judge being satisfied by affidavit or otherwise of such death, disqualification, refusal or failure, may appoint another Arbitrator in his place, and the company and party respectively may each appoint an Arbitrator in the place of his Arbitrator deceased or otherwise not acting as aforesaid, but no recommencement or repetition of prior proceedings shall be required in any case;

Company may desist paying costs.

*Sixteenthly.* Any such notice for lands, as aforesaid, may be desisted from, and new notice given, with regard to the same or other lands, to the same or any other party, but in any such case, the liability to the party first notified for all damages or costs by him incurred in consequence of such first notice and desistment, shall subsist;

Arbitrators not disqualified unless personally interested.

*Seventeenthly.* The Surveyor or other person offered or appointed as Valuator or as Arbitrator, shall not be disqualified by reason that he is professionally employed by either party, or that he has previously expressed an opinion as to the amount of compensation, or that he is related or of kin to any member of the Company, provided he is not himself personally interested in the amount of the compensation; and no cause of disqualification shall be urged against any Arbitrator appointed by the Judge after his appointment, but the objection must be made before the appointment, and its validity or invalidity shall be summarily determined by the Judge;

No objection admissible after a third arbitrator has been appointed.

*Eighteenthly.* 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 the Judge, on the application of either party, after one clear day's notice to the other, and if such cause is determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified, shall be held not to have appointed an Arbitrator;

*Nineteenthly.* No. award made as aforesaid shall be invalidated from any want of form or other technical objection, if the requirements of this Act have been complied with, and if the award 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; (a)

Awards not avoided for want of form.

*Twentiethly.* Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon 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 has been awarded or agreed upon; and if any resistance or forcible opposition be made by any person to their so doing, the Judge may, on proof to his satisfaction of such award or agreement, issue his Warrant to the Sheriff of the District or County, or to a Bailiff, as he may deem most suitable, to put the said Company in possession, and to put down such resistance or opposition, which the Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do;

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

*Twenty-firstly.* Such Warrant may also be granted by any such Judge, without such award or agreement, on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the said Railway 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 at which possession is given, and with such costs as may be lawfully payable by the company;

When warrant of possession may issue before award.

Security being first given to deposit compensation.

*Twenty-secondly.* The compensation for any lands which might be taken without the consent of the proprietor, shall stand in the stead of such lands; and any claim to or incumbrance upon the said lands, or any portion thereof, shall, as against the Company, be converted into claim to the compensation, or to a like proportion thereof, and they shall be responsible ac-

When compensation to stand in place of the land.

(a) Appealing from award. See 38 Vict., c. 15, ss. 4, 5 & 6, p. 138.

cordingly whenever they have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party ;

As to incumbrances, &c., upon lands, &c., purchased or taken in U. C.

*Twenty-thirdly.* If the Company has reason to fear any claims or incumbrances, or if any party to whom the compensation or annual rent, or any part thereof is payable, refuses to execute the proper conveyance and guarantee, or if the party entitled to claim the same cannot be found, or is unknown to the Company, or if for any other reason the Company deems it advisable, the Company may, if the lands are situated in Upper Canada, pay such compensation into the office of either of the Superior Courts for Upper Canada, with the interest thereon for six months, and may deliver to the Clerk of the 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 Company to the land therein mentioned ;

What notice to be published.

*Twenty-fourthly.* A notice, in such form and for such time as the said Court appoints, shall be inserted in some newspaper, if there be any, published in the County in which the lands are situate, and in the City of Toronto, which 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 the land, or to any part thereof, 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 forever bar all claims to the lands, or any part thereof, including dower, as well as all mortgages or incumbrances upon the same ; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested, as to right and justice, and according to the provisions of this Act, and the special Act and to law, appertain ;

By whom costs be paid.

*Twenty-fifthly.* The cost of the proceedings, or any part thereof, shall be paid by the Company, or by any other party as the Court deem it equitable to order ;

When interest to be returned to, or paid by the Company.

*Twenty-sixthly.* 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 is not obtained until after the six months have expired, the Court shall order the Company to pay to the proper claimants the interest for such further period as may be right ;

Case in which lands are situate in L. C.

*Twenty-seventhly.* If the lands so taken are situate in Lower Canada, and if the Company have reason to fear any such



claim, mortgage, hypothec or incumbrance, or if any party to whom the compensation or annual rent, or any part thereof, is payable, refuses to execute the proper conveyance and guarantee, or if the party entitled to claim the compensation or rent cannot be found, or is unknown to the Company, or if for any other reason the Company deems it advisable, the Company may pay such compensation into the hands of the Prothonotary of the Superior Court for the District in which the land is situate, with the interest thereon for six months, and may 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 the lands, or any part thereof, or representing or being the husband of any party 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 Company have reason to fear incumbrances provided for.

*Twenty-eighthly.* Such judgment of confirmation shall for ever bar all claims to the land, or any part thereof (including dower not yet open), as well as any mortgage, hypothec or incumbrance upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the security of rights of all parties interested, as to right and justice, and the Special Act, and according to the provisions of this Act and to law, shall appertain;

Effect of a judgment of confirmation.

*Twenty-ninthly.* The costs of the said proceedings, or any part thereof, shall be paid by the Company, or by any other party, as the Court 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 is not obtained until after the six months have expired, the Court shall order the Company to pay the Prothonotary the interest for such further period as may be right;

By whom costs to be paid.

Interest.

*Thirtiethly.* If the Railway passes through any land belonging to or in possession of any Tribe of Indians (a) in this Province, or if any act occasioning damage to their lands be done under the authority of this Act or the Special Act, compensation shall be made to them therefor, in the same manner as is provided with respect to the lands or rights of other individuals; and whenever it is necessary that Arbitrators shall be chosen by the parties, the chief Officer of the Indian Department within this Province, is hereby authorized

The case of Railway passing through Indian lands provided for.

(a) See 9 Vict., c. 109, s. 8, p. 5.

and required to name an Arbitrator on behalf of the Indians, and where the lands belong to the Indians, the amount awarded in any case shall be paid to the said Chief Officer, for the use of such Tribe or Body;

As to lands belonging to Her Majesty, &c.

*Thirty-firstly.* Whenever it is necessary for the Company to occupy any part of the lands belonging to the Queen, reserved for Naval or Military purposes, they shall first apply for and obtain the licence or consent of Her Majesty, under the hand and seal of the Governor, and having obtained such licence and consent, they may at any time or times enter into and enjoy any of the said lands for the purposes of the Railway; but in the case of any such Naval or Military Reserves, no such licence or consent shall be given except upon a Report first made thereupon by the Naval or Military authorities in which such lands are for the time being vested, approving of such license and consent being so given as aforesaid. 14, 15 V. c. 51, s. 11.

## 7. HIGHWAYS AND BRIDGES. (a)

**12.** The Highways and Bridges shall be regulated as follows: 14, 15 V. c. 51, s. 12.

Railway not to be carried along any highway without leave from municipal authorities

*Firstly.* The Railway shall not be carried along an existing highway, but merely cross the same in the line of the Railway, unless leave has been obtained from the proper Municipal authority therefor; and no obstruction of such highway with the works shall be made without turning the highway so as to leave an open and good passage for carriages, and, on completion of the works, replacing the highway, under a penalty of not less than forty dollars 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;

Railway not to rise more than one inch above level of highways when crossing the same.

*Secondly.* No part of the Railway which crosses any highway without being carried over by a bridge, or under by a tunnel, shall rise above or sink below the level of the highway more than one one inch (b); and the Railway may be carried across or above any highway within the limits aforesaid;

Height and breadth of bridge over highways.

*Thirdly.* The space of the arch of any bridge erected for carrying the Railway over or across any highway (c) shall at all times be, and be continued of the open and clear breadth and space, under such arch, of not less than twenty feet, and of a height from the surface of such highway to the centre of such

(a) Incorporated into the Port Hope, Lindsay and Beaverton Railway Act, or the purpose of enabling them to complete their connections with the Peterborough and Chemong Lake Railway by 29 & 30 Vict., c. 98, s. 8, p. 61; into the Peterborough and Chemong Lake Railway Act by 18 Vict., 194, s. 2, p. 55; and into Omamee, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

(b) See 9 Vict., c. 109, s. 17, p. 9.

(c) See 9 Vict., c. 109, s. 17, p. 9.

arch of not less than twelve feet and the descent under any such bridge shall not exceed one foot in twenty feet ;

*Fourthly.* The ascent of all bridges erected to carry any highway over any Railway 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 bridge, which fence shall not be less than four feet above the surface of the bridge ; (a)

Ascent of  
Bridges.

*Fifthly.* Signboards stretching across the highway crossed at a level by any Railway, shall be erected and kept up at each Crossing at such height as to leave sixteen feet from the highway to the lower edge of the signboard, and having the words " Railway Crossing " painted on each side of the signboard, and in letters not less than six inches in length ; and for every neglect to comply with the requirements of this clause, a penalty not exceeding forty dollars shall be incurred. 14, 15 V. c. 51, s. 12.

Precautions  
when Railway  
crosses a high-  
way.

#### 8. FENCES. (b).

**13.** (c) Fences shall be erected and maintained on each side of the Railway, of the height and strength of an ordinary division fence, with openings, or gates, or bars therein at farm crossings of the Road, for the use of the proprietors of lands adjoining the Railway ; and also cattle guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on the Railway. 14, 15 V. c. 51. s. 13.

Fences to be  
erected on  
each side of  
Railway.

**14.** The said words " openings, gates or bars," shall be held to mean and shall in all cases imply sliding gates commonly called hurdle gates, with proper fastenings ; but this shall not be interpreted to the profit of those proprietors and tenants of land crossed by Railways in this Province, who had received compensation from the Railway Companies, for having omitted the erection of such gates before the tenth of June, one thousand eight hundred and forty-seven, nor shall it in any way effect or apply to any Railway constructed or in part constructed, on the tenth of June, one thousand eight hundred and forty seven, but the same shall apply only to such Railways as may be constructed or commenced after that day. 20 V. c. 35, s. 1.

Meaning of  
certain words.

**15.** (c) Until such fences and cattle guards are duly made, the Company shall be liable for all damages which may be done by their trains or engines to cattle, horses or other animals on the Railway, 14, 15 V. c. 51, s. 13.

Liability of  
Company un-  
til cattle  
guards erected

(a) See 9 Vict., c. 109, s. 17, p. 9.

(b) Incorporated into the Omemeé, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

(c) Sections 13, 15, 16, 17, 18 & 19 incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18. Into the Peterborough and Chemong Lake Railway Act by 18 Vic. c. 194, s. 2, p. 55.

When to be exempted.

**16.** (a) After the fences or guards have been duly made, and while they are duly maintained, no such liability shall accrue for any such damages, unless negligently or wilfully done. 14, 15 V. c. 51, s. 13.

Persons prohibited going on the track, &c. with cattle, &c.

**17.** (a) If any person rides, leads or drives any horse or other animal upon such Railway, and within the fences and guards other than the farm crossings, without the consent of the Company, he shall for every such offence forfeit a sum not exceeding forty dollars, and shall also pay to the party aggrieved all damages sustained thereby. 14, 15 V. c. 51, s. 13.

Or walking thereon.

**18.** (a) No person other than those connected with, or employed by, the Railway, shall walk along the track thereof, except where the same is laid across or along a Highway. 14, 15 V. c. 51, s. 13, No. 1.

Dividing and separating of lands for Railway from neighbouring lands.

**19.** (a) Within six months after any lands have been taken for the use of the Railway, and if thereunto required by the proprietors of the adjoining lands respectively, but not otherwise, the Company shall, at their own costs and charges, set and make on the lands so taken, and from time to time, maintain, support and keep in repair, a sufficient post or rail, hedge, ditch, bank or other fence sufficient to keep off hogs, sheep and cattle and thereby divide and separate and keep constantly divided and separated such lands from the lands or grounds adjoining thereto. 14, 15 V. c. 51, s. 13, No. 2.

#### 9. TOLLS. (b)

Tolls to be fixed by By-laws or other wise.

**20.** (c) Tolls shall be from time to time fixed and regulated by the By-laws of the Company, or by the Directors, if thereunto authorized by the By-laws, or by the Shareholders at any general meeting, and may be demanded and received for all passengers and goods transported upon the Railway or in the Steam Vessels to the undertaking belonging, and shall be paid to such persons and at such places near to the Railway, in such manner and under such regulations as the By-laws direct. 14, 15 V. c. 51, s. 14.

How payment of Tolls - enforced.

**21.** (c) In case of denial or neglect of payment on demand of any such Tolls, or any part thereof, to such persons, the same may be sued for and recovered in any competent Court, or the Agents or Servants of the Company may seize the goods for or in respect whereof such Tolls ought to be paid, and detain the same until payment thereof; and in the meantime the said goods shall be at the risk of the owners thereof. 14, 15 V. c. 51, s. 14.

(a) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18; and into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55.

(b) Incorporated into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55. See also 9 Vict., c. 109, s. 15, p. 8. Incorporated into the Omekec, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

(c) Sections 20 to 26 incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18.

**22.** (a) If the tolls are not paid within six weeks, the Company may sell the whole or any part of such goods, and out of the money arising from such sale retain the tolls payable, and all charges and expenses of such detention and sale; rendering the surplus, if any, or such of the goods as remain unsold, to the person entitled thereto. 14, 15 V. c. 51, s. 14.

When if tolls not paid, goods distrained or detained may be sold.

**23.** (a) If any goods remain in the possession of the Company unclaimed for the space of twelve months, the Company may thereafter, and on giving public notice thereof by advertisement for six weeks in the *Canada Gazette*, and in such other papers as they deem necessary, sell such goods by public auction at a time and place to be mentioned in such advertisement, and out of the proceeds thereof pay such tolls and all reasonable charges for storing, advertising and selling such goods; and the balance of the proceeds, if any, shall be kept by the Company for a further period of three months, to be paid over to any party entitled thereto. 14, 15 V. c. 51, s. 14.

When goods distrained or detained may be sold.

**24.** (a) In default of such balance being claimed before the expiration of the period last aforesaid, the same shall be paid over to the Receiver General, to be applied to the general purposes of the Province, until claimed by the party entitled thereto. 14, 15 V. c. 51, s. 14.

How balance to be disposed of.

**25.** (a) All or any of the tolls may, by any By-law, be reduced and again raised as often as deemed necessary for the interests of the undertaking; Provided that the same tolls shall be payable at the same time and under the same circumstances upon all goods and by 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 tolls. 14, 15 V. c. 51, s. 14.

Tolls—how raised—or reduced.

**26.** (a) In all cases, a fraction in the distance over which goods or passengers are transported on the Railway shall be considered as a whole mile; and for a fraction of a ton in the weight of any goods, a proportion of the tolls shall be demanded and taken, according to the number of quarters of a ton contained therein, and a fraction of a quarter of a ton shall be deemed and considered as a whole quarter of a ton. 14, 15 V. c. 51, s. 14.

A fraction of a mile to be considered as a whole one in charging tolls.

**27.** The Directors shall, from time to time, print and stick up or cause to be printed and stuck up, in the office, and in all and every of the places where the tolls are to be collected, and in every passenger car, in some conspicuous place there, a printed board or paper exhibiting all the tolls payable, and particularising the price or sum of money to be charged or taken for the carriage of any matter or thing. 14, 15 V. c. 51, s. 14.

Table of tolls to be stuck up in offices and cars.

**28.** No tolls shall be levied or taken until approved of by the Governor in Council, nor until after two weekly publica-

Tolls to be approved of by the Governor.

(a) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18.

tions in the *Canada Gazette* of the By-law establishing such tolls, and of the Order in Council approving thereof. 14, 15 V. c. 51, s. 14. See 10, 11 V. c. 63, s. 14.

The Governor may revise By-laws fixing tolls.

**29.** Every By-law fixing and regulating tolls shall be subject to revision by the Governor in Council from time to time, after approval thereof as aforesaid; and after an Order in Council, reducing the tolls fixed and regulated by any By-law, has been twice published in the *Canada Gazette*, the tolls mentioned in such Order in Council shall be substituted for those mentioned in the By-law so long as the Order in Council remains unrevoked. 14, 15 V. c. 51, s. 14.

#### 10. GENERAL MEETINGS. (a)

Shareholders may hold general meetings.

**30.** The Shareholders may assemble together at general meetings for purposes connected with or belonging to the undertaking, and at any annual general meeting, and may elect Directors in the manner provided by the next succeeding clause. 14, 15 V. c. 51, s. 15.

#### 11. PRESIDENT AND DIRECTORS (b)—THEIR ELECTION AND DUTIES. (c)

Board of Directors.

**31.** A Board of Directors of the undertaking to manage its affairs, the number whereof shall be stated in the Special Act, (d) shall be chosen annually by a majority of the Shareholder's voting at such election at a general meeting, the time and place for which shall be appointed by the Special Act, and if such election is not held on the day so appointed, the Directors shall notify and cause such election to be held within thirty days after the day appointed. 14, 15 V. c. 51, s. 16.

Who entitled to vote.

**32.** On the day so notified, no person shall be admitted to vote except those who would have been entitled to vote had the election been held on the day when it ought to have been held. 14, 15 V. c. 51, s. 16.

Vacancies how to be filled up.

**33.** Vacancies in the Board of Directors shall be filled in the manner prescribed by the By-laws. 14, 15 V. c. 51, s. 16.

Who qualified to be a Director.

**34.** No person shall be a Director unless he is a Stockholder, owning stock absolutely in his own right, and qualified to vote for Directors at the election at which he is chosen. 14, 15 V. c. 51, s. 16.

Calling of special meetings, &c.

**35.** The method of calling general meetings, and the time and place of the first meeting of Stockholders for the appoint-

(a) Incorporated into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55, and into the Omeme, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

(b) See 9 Vict., c. 109, s. 20, p. 10.

(c) Incorporated into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55, and into Omeme, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

(d) See 9 Vict., c. 109, s. 20, p. 10.

ment of Directors, shall be determined and settled in the Special Act.

**36.** (a) The number of votes to which each Shareholder shall be entitled on every occasion when the votes of the members are to be given, shall be in the proportion to the number of shares held by him, unless otherwise provided by the Special Act. Votes to be in proportion to shares.

**37.** (a) All Shareholders, whether resident in this Province or elsewhere, may vote by proxy, if they see fit; Provided that such proxy produce, from his constituent an appointment in writing, in the words or to the effect following, that is to say: Shareholders may vote by proxy.

I, \_\_\_\_\_, of \_\_\_\_\_, one of the Shareholders of the \_\_\_\_\_, do hereby appoint \_\_\_\_\_ of \_\_\_\_\_, to be my proxy, and in my absence to vote, or give my assent to any business, matter or thing relating to the said undertaking, that may 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 \_\_\_\_\_ thinks proper. In witness whereof, I have hereunto set my hand and seal, the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

**38.** (a) The votes by proxy shall be as valid as if the principals had voted in person; and every matter or thing proposed or considered in any public meeting of the Shareholders shall be determined by the majority of votes and proxies then present and given, and all decisions and acts of any such majority shall bind the Company, and be deemed the decisions and acts of the Company. Votes by proxy to be valid.

**39.** The Directors first appointed, or those appointed in their stead, in case of vacancy, shall remain in office until the next annual election of Directors at the time appointed therefor, at which time an annual general meeting of the Shareholders shall be held to choose Directors for the ensuing year, and generally to transact the business of the Company. Term of office of Directors.

**40.** In case of the death, absence or resignation of any of the Directors, others may be appointed in their stead by the surviving Directors; but if such appointment be not made, such death, absence or resignation shall not invalidate the acts of the remaining Directors. 14, 15 V. 51, s. 16. Vacancies how supplied.

**41.** The Directors shall, at their first or at some other meeting, after the day appointed for the annual general meeting, elect one of their number to be the President of the Company who shall always, when present, be the Chairman of and President.

(a) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18.

Vice-President.

preside at all meetings of the Directors, and shall hold his office until he ceases to be a Director, or until another President has been elected in his stead; and they may in like manner elect a Vice-President, who shall act as Chairman in the absence of the President.

Quorum.

**42.** (a) The Directors at any meeting at which not less than a quorum, to be settled by the Special Act, are present shall be competent to use and exercise all and any of the powers vested in the Directors.

Acts of majority to bind the whole.

**43.** (a) The act of a majority of a quorum of the Directors present at any meeting regularly held, shall be deemed the act of the Directors. *Ibid*, s. 16, No. 7.

Casting vote.

**44.** (a) No Director shall have more than one vote at any meeting except the Chairman, who shall, in case of a division of equal numbers, have the casting vote.

Directors to be subject to Shareholders and By-Laws.

**45.** (a) The Directors shall be subject to the examination and control of the Shareholders at their annual meetings, and be subject to all By-laws of the Company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the Special Act.

Officers of Company cannot be Directors.

**46.** No person holding any office, place or employment in or being concerned or interested in any contracts under or with the Company, shall be capable of being chosen a Director, or of holding the office of Director, "nor shall any person being a Director of the Company enter into, or be directly or indirectly for his own use and benefit, interested in any contract with the Company, not relating to the purchase of land necessary for the Railway or be or become, a partner of any contractor with the Company; and no contracts for works of construction or maintenance of Railways, except works of ordinary repair, or of immediate necessity, shall be entered into until after tenders for such works respectively have been invited by public notice therefor, given for at least four weeks in some newspaper published in the place nearest to the work required to be done; but no Company shall be compelled to accept of any such tender; and in the event of any such contract made since the thirtieth of June, one thousand eight hundred and fifty-eight, or made after this Act takes effect by or on behalf of any Director, an action shall lie in any Court of Common Law, or other Court of competent jurisdiction against such Director, at the suit of any Shareholder or Stockholder of the Company, for the benefit of the funds thereof, for the whole amount of profit ac-

(a) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18.



cruing to such Director from the Contract so made or fulfilled." 14, 15 V. c. 51, s. 16, No. 8.—22 V. c. 4, s. 1.

**47.** The Directors shall make By-Laws for the management and disposition of the stock, property, business and affairs of the Company, not inconsistent with the laws of this Province, and for the appointment of all officers, servants and artificers, and prescribing their respective duties. *Ibid*, s. 16, No. 9.

## 12. CALLS. (a)

**48.** The Directors may from time to time make such calls of money upon the respective Shareholders, in respect of the amount of Capital respectively subscribed or owing by them, as they deem necessary, and thirty days' notice at the least shall be given of each call, and no call shall exceed the prescribed amount determined in the Special Act, or be made at a less interval than two months from the previous call, nor shall a greater amount be called in, in any one year, than the amount prescribed in the Special Act. *Ibid*, No. 10.

**49.** All notices of meetings or of calls upon the Shareholders of the Company shall be published weekly in the *Canada Gazette*, and the said Gazette shall, on production thereof be conclusive evidence of the sufficiency of such notices. *Ibid*, No. 24.

**50.** 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 Company or the Directors.

**51. (b)** If before or on the day appointed for payment, any Shareholder does not pay the amount of the call, he shall be liable to pay interest for the same, at the rate of six per centum per annum, from the day appointed for the payment thereof to the time of the actual payment.

**52. (b)** If at the time appointed for the payment of any call any Shareholder fails to pay the amount of the call, he may be sued for the same, in any Court of Law or Equity having competent jurisdiction, and the same may be recovered with lawful interest from the day on which the call became payable.

**53. (b)** In any action or suit to recover any money due upon any call, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the Defendant

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(b) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18.

is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more upon one share or more, stating the number and amount of each of such calls whereby an action hath accrued to the Company by virtue of the Special Act.

Certificate of proprietorship *prima facie* evidence.

**54.** (a) The Certificate of Proprietorship of any share 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.

**55.** (a) But the want of such Certificate shall not prevent the holder of any share from disposing thereof.

Penalty for refusal to pay calls.

**56.** (a) Any person neglecting or refusing to pay a ratable share of the calls as aforesaid, for the space of two months after the time appointed for the payment thereof, shall forfeit their respective shares in the undertaking, and all the profit and benefit thereof; all which forfeitures shall go to the Company for the benefit thereof.

Forfeiture of share to be taken advantage of only at a general meeting.

**57.** (a) No advantage shall be taken of the forfeiture, unless the same is declared to be forfeited at a General Meeting of the Company, assembled at any time after such forfeiture incurred.

Effect of forfeiture as to liabilities.

**58.** (a) Every such forfeiture shall be an indemnification to and for every Shareholder so forfeiting against all actions suits or prosecutions whatever, commenced or prosecuted for any breach of contract or other agreement between such Shareholder and the other Shareholders with regard to carrying on the undertaking.

Directors may sell forfeited shares by auction.

**59.** (a) The Directors may sell, either by public auction or private sale, and in such manner and on such terms as to them seem meet, any shares so declared to be forfeited, and also any shares remaining unsubscribed for in the Capital Stock of the Company, or 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 by or to the Company.

Certificate of Treasurer to be evidence of forfeiture and of title.

**60.** (a) A Certificate of the Treasurer of the Company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact, and of their purchase by the purchaser, and such certificate with the receipt of the treasurer for the price of such shares, shall constitute a good title to the shares, and the Certificate shall be by the said Treasurer enregistered in the

name and with the place of abode and occupation of the purchasers, and shall be entered in the 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.

**61. (a)** Shareholders willing to advance the amount of their shares or any part of the money due upon the respective shares beyond the sums actually called for, may pay the same, and upon the principal moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect to which such advance is made, the Company may pay interest at the legal rate of interest for the time being, as the Shareholders paying such sum in advance and the Company agree upon; but such interest shall not be paid out of the Capital subscribed.

Interest may be allowed to shareholders paying money in advance on their shares.

**62. (a)** The Directors shall cause to be kept, and annually on the thirty-first day of December shall cause to be made up and balanced, a true exact and particular account of the money collected and received by the Company, or by the Directors or Managers thereof, or otherwise, for the use of the Company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the Company, or the Directors.

Directors to cause annual accounts to be kept.

**63. (a)** At the general meetings of the Shareholders of the undertaking, from time to time holden, a dividend shall be made out of the clear profits of the undertaking, unless such meetings declare otherwise.

Declaration of dividend.

**64. (a)** Such dividend shall be at and after the rate of so much per share upon the several shares held by the Shareholders in the stock of the Company, as such meeting think fit to appoint or determine.

At so much per share.

**65. (a)** No dividend shall be made whereby the capital of the Company is in any degree reduced or impaired, or be paid thereout, 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 has been paid.

Dividends not to impair the Capital.

**66. (a)** The Directors may, in their discretion, until the Railroad is completed and opened to the public, pay interest at any rate not exceeding six dollars per hundred dollars per annum, on

Directors may pay interest on sums called up in respect of shares.

(a) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18.

all sums called up in respect of the shares, from the respective days on which the same have been paid, such interest to accrue and be paid at such times and places as the Directors appoint for that purpose.

No interest on Shares in arrear.

**67.** (a) No interest shall accrue to the proprietors of any share upon which any call is in arrear in respect of such shares or any other share to be holden by the same Shareholder while such call remains unpaid, nor shall any interest be paid or taken from the capital subscribed.

May appoint officers.

**68.** (a) The Directors shall from time to time appoint such Officers (b) as they deem requisite, and shall take sufficient security, by one or more penal bonds, or otherwise, from the Manager and Officers for the time being, for the safe keeping and accounting by them respectively of the moneys raised by virtue of this Act and the Special Act, and for the faithful execution of their offices, as the Directors think proper.

Vice-President to act in the absence of the President.

**69.** (a) In case of the absence or illness of the President, the Vice-President shall have all the rights and powers of the President, and may sign all Notes, Bills, Debentures, and other Instruments, and perform all acts which by the Regulations and By-laws of the Company or by the Acts incorporating the Company are required to be signed, performed and done by the President.

Absence of President may be entered in the minutes and certified, &c.

**70.** (a) 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 one dollar, 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 in Courts of Justice or otherwise. 14, 15 V. c. 51, s. 16.

### 13. SHARES AND THEIR TRANSFER. (c)

Shareholders may dispose of shares.

**71.** Shares in the undertaking may, by the parties, be sold and disposed of by instrument in writing, to be made in duplicate, one part of which shall be delivered to the Directors, to be filed and kept for the use of the Company, and an entry thereof shall be made in a Book to be kept for that purpose, and no interest on the shares transferred shall be paid by the purchaser until such duplicate is so delivered, filed and entered. 14, 15 V. c. 51, s. 17.

(a) Incorporated into Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18.

(b) See 9 Vict., c. 109, s. 23, p. 11.

(c) Incorporated into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55, and into the Omamee, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

**72.** Sales 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 Form of sale  
to me by C. D., hereby do sell and transfer to him \_\_\_\_\_  
share ( *or* shares) of the stock of the \_\_\_\_\_, to hold to  
him the said C. D. his Heirs, Excecutors, Administrators, and  
Assigns, subject to the same rules and orders, and on the  
same conditions that I held the same immediately before the  
execution thereof. 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  
this \_\_\_\_\_ day of \_\_\_\_\_ in the year 18 \_\_\_\_\_

**73.** The Stock of the Company shall be deemed personal Stock to be  
personal estate  
—Transfer of.  
estate, but no shares shall be transferable until all previous  
calls thereon have been fully paid in, or the said shares have  
been declared forfeited for the non-payment of calls thereon,  
and no transfer of less than a whole share shall be valid. 14,  
15 V. c. 51, s. 17.

**74.** If any share in the Company be transmitted by the death, Transmission  
of shares other  
than by trans-  
fer provided  
for.  
bankruptcy or last will, donation or testament, or by the in-  
testacy of any Shareholder, or by any lawful means other than  
the transfer hereinbefore mentioned, the party to whom such  
share is so transmitted, shall deposit in the office of the Com-  
pany a statement in writing, signed by him, declaring the  
manner of such transmission, together with a duly certified  
copy or probate of such will, donation or testament, or sufficient  
extracts therefrom, and such other documents or proof as may  
be necessary, and without which such party shall not be en-  
titled to receive any share of the profits of the Company, nor  
vote in respect of any such share as the holder thereof. 14,  
15 V. c. 51, s. 17.

#### 14. MUNICIPALITIES. (a)

**75.** (b) Municipal Corporations in this Province may subscribe Municipal  
Corporations  
may take  
stock.  
for any number of shares in the Capital Stock of, or lend to or  
guarantee the payment of any sum of money borrowed by the  
Company from any Corporation or person, or indorse or gua-  
rantee the payment of any Debenture to be issued by the Com-  
pany for the money by them borrowed, and may assess and  
levy from time to time upon the whole ratable property of the  
Municipality a sufficient sum for them to discharge the debt or  
engagement so contracted, and for the like purpose may issue  
Debentures payable at such times and for such sum respecti-  
vely, not less than twenty dollars, and bearing or not bearing

(a) Incorporated into the Peterborough and Chemong Lake Railway Act by 18  
Vict., c. 194, s. 2, p. 55, and into the Omeme, Bobcaygeon and North Peterborough  
Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

(b) Sections 75 to 78 incorporated into the Peterborough and Port Hope Railway  
Act by 16 Vict., c. 49, s. 1, p. 16.

interest, as such Municipal Corporation thinks meet. 14, 15 V. c. 51, s. 18.

Debentures issued by them to be binding.

**76.** (a) Any such Debenture issued, indorsed or guaranteed, shall be valid, and binding upon the Municipal Corporation, if signed or indorsed, and countersigned by the officer or person and in such manner and form as directed by any By-law of the Corporation, and the Corporation Seal thereto shall not be necessary, nor the observance of any other form with regard to the Debentures than such as directed in the By-law. 14, 15 V. c. 51, s. 18.

They cannot subscribe for stock unless By-laws are made for that purpose.

**77.** (a) No municipal Corporation shall subscribe for Stock or incur any debt or liability under this Act or the Special Act, unless and until a By-law to that effect has been duly made, and adopted with the consent first had of a majority of the qualified electors of the Municipality, to be ascertained in the manner determined by the By-law, after public advertisement thereof 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 none be printed therein, then in some one or more newspapers printed in the nearest City or Town thereto and circulated therein, and also put up in at least four of the most public places in each Municipality. 14, 15 V. c. 51, s. 18.

Mayor, &c., to be *ex officio* a Director in certain cases.

**78.** (a) The Mayor, Warden or Reeve, being the Head of such Municipal Corporation, subscribing for and holding Stock in the Company, to the amount of Twenty Thousand Dollars, or upwards, shall be *ex officio* one of the Directors of the Company, in addition to the number of Directors authorized by the Special Act, and shall have the same rights, powers and duties as any of the Directors of the Company. 14, 15 V. c. 51, s. 18.

Mayor, &c., not to vote for Directors of Companies incorporated before 14th June 1853.

**79.** No such Mayor, Warden, Reeve or other chief officer or other person representing any Municipality having or taking Stock in any Railway Company shall directly or indirectly, vote on the election or appointment of the Private Directors of any Railway Company incorporated previous to or during the Session held in the sixteenth year of Her Majesty's Reign, unless the Special Act of Incorporation of such Company expressly provides therefor. 16 V. c. 169, s. 5.

#### 15. SHAREHOLDERS. (b)

Shareholders individually liable.

**80.** Each Shareholder shall be individually liable (c) to the creditors of the Company to an amount equal to the amount

(a) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 49, s. 1, p. 16.

(b) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 49, s. 1; into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2; and into the Omamee, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2.

(c) See 9 Vict., c. 109, s. 26, p. 16.

unpaid on the Stock held by him, for the debts and liabilities thereof, and until the whole amount of his Stock has been paid up; but shall not be liable to an action therefor before an execution against the Company has been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable with costs against such Shareholders. 14, 15 V. c. 51, s. 19.

**81.** The original Capital Stock may be increased from time to time to any amount, but such increase must be sanctioned by a vote in person or by proxy, of at least two-thirds in amount of all the Shareholders, at a meeting of them expressly called by the Directors for that purpose, by a notice in writing to each Shareholder, served on him personally, or properly directed to him, and deposited in the Post Office nearest to his place of residence, at least twenty days previous to such meeting, stating the time and place and object of the meeting, and the amount of increase, and the proceedings of such meeting must be entered on the Minutes of the proceedings, and thereupon, the Capital Stock may be increased to the amount sanctioned by such a vote. 14, 15 V. c. 51, s. 19.

Stock may be increased.

**82.** The funds of the Company shall not be employed in the purchase of any Stock in their own or in any other Company. 14, 15 V. c. 51, s. 19.

Company not to take stock in other Companies.

#### 16. ACTIONS FOR INDEMNITY, AND FINES AND PENALTIES AND THEIR PROSECUTION. (a)

**83.** All suits for indemnity for any damage or injury sustained by reason of the Railway, shall be instituted within six months (b) next after the time of such supposed damage sustained, or if there be continuation of damage, then within six months next after the doing or committing such damage ceases, and not afterwards; and the Defendants may plead the general issue and give this Act and the Special Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by authority of this Act and the Special Act. 14, 15 V. c. 51, s. 20.

Limitation of actions for damages.

**84.** Every person who, by any means or in any manner or way whatsoever, obstructs or interrupts the free use of the Railway, (c) or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the common Gaol of the District or County where the conviction takes place, or in the Provin-

Penalty on persons obstructing free use of Railway.

(a) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18; into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55; and into the Omemeé, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

(b) See 9 Vict., c. 109, s. 32, p. 14. | (c) See 9 Vict., c. 109, s. 19, p. 9.

cial Penitentiary, for a term not to exceed five years. 14, 15 V. c. 51, s. 20.

Penalty on persons damaging Railway.

**85.** All persons wilfully and maliciously, and to the prejudice of the Railway, breaking, throwing down, damaging or destroying the same, or any part thereof, or any of the buildings, stations, depots, wharves, vessels, fixtures, machinery or other works or devices incidental and relative thereto, or connected therewith, or doing any other wilful hurt or mischief, or wilfully or maliciously obstructing or interrupting the free use of the Railway, vessels or works, or obstructing, hindering or preventing the carrying on, completing, supporting and maintaining the Railway, vessels or works, shall be guilty of a misdemeanor, unless the offence committed amounts, under some other Act or Law, to a felony, in which case such person shall be guilty of a felony, and the Court by and before whom the person is tried and convicted, may cause such person to be punished in like manner as persons guilty of misdemeanor or felony (*as the case may be*) are directed to be punished by the laws in force in this Province. 14, 15 V. c. 51, s. 20.

Fines how recovered.

**86.** All fines and forfeitures imposed by this Act or the Special Act, or by any By-law, the levying and recovering of which 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, County or place where the act occurred, either by the confession of the party, or by the oath or affirmation of any one credible witness, to be administered 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. 14, 15 V. c. 51, s. 20.

How applicable.

**87.** All fines, forfeitures, and penalties, the application whereof is not hereinbefore particularly directed, shall be paid into the hands of the Treasurer of the Company, to be applied to the use thereof, and the overplus of the money so raised, 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. 14, 15 V. c. 51, s. 20.

When party may be committed.

**88.** In case sufficient goods and chattels whereof to levy the penalty and expense, are not found, the offender shall be sent to the common Gaol for the County or District in which he has been convicted, there to remain without bail or main-prize, for such term, not exceeding one month, as the Justice or Justices think proper, unless the penalty or forfeiture, and all expenses attending the same, be sooner paid and satisfied.

Appeal.

**89.** Every such person or persons may, within four months after the conviction, appeal against the same to the Court of General Quarter Sessions, to be holden in and for the County or District. 14, 15 V. c. 51, s. 20.



**90.** All contraventions of this Act or of the Special Act, by the 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 Company, if they be the offending party from the forfeiture by this Act and the Special Act, of the privileges conferred on them by the said Acts, if by the provisions thereof or by law, the same be forfeited by such contravention. 14, 15 V. c. 51, s. 20.

Contravention of this Act, &c., to be a misdemeanor.

17. BY-LAWS—NOTICES, &c. (a)

**91.** All By-laws, Rules and Orders regularly made, shall be put into writing and signed by the Chairman or person presiding at the meeting at which they are adopted, and shall be kept in the office of the Company; and a printed copy of so much of them as relates to or affects any party other than the members or servants of the Company, shall be affixed openly in all and every passenger car, and in all and every place where tolls are to be gathered, and in like manner so often as any change or alteration is made to the same; and any copy of the same, or of any of them, certified as correct by the President or Secretary, shall be deemed authentic, and shall be received as evidence thereof in any Court, without further proof. 14, 15 V. c. 51, s. 20, No. 6.

By-laws to be put into writing and signed by Chairman.

**92.** All such By-laws, Rules and Orders shall be submitted from time to time to the Governor for approval. 14, 15 V. c. 51, s. 20.

By-laws to be submitted to Governor.

**93.** Copies of the Minutes of proceedings and resolutions of the Shareholders of the Company, at any general or special meeting, and of the Minutes of proceedings and resolutions of the Directors, at their meetings, extracted from the Minute-books kept by the Secretary of the Company, and by him certified to be true copies, extracted from such Minute-books, shall be *prima facie* evidence of such proceedings and resolutions in all Courts of civil jurisdiction.

Copies of Minutes to be *prima facie* evidence.

**94.** All notices given by the Secretary of the Company, by order of the Directors, shall be deemed notices by the Directors and Company. 14, 15 V. c. 51, s. 20.

Notice by Secretary valid.

18. WORKING OF THE RAILWAY. (b)

**95.** Every servant of the undertaking employed in a passenger train or at a station for passengers, shall wear upon his hat

Servants to wear badges.

(a) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18; into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55; and into the Omemece, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

(b) Incorporated into the Peterborough and Chemong Lake Railway Act by 18 Vict., c. 194, s. 2, p. 55; and into the Omemece, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

or cap, a badge, which shall indicate his office, and he shall not without such badge be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, nor meddle or interfere with any passenger or his baggage or property. 14, 15 V. c. 51, s. 21.

Trains to start at regular hours.

**96.** The trains shall start and run at regular hours to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and goods as are within a reasonable time previous thereto offered for transportation at the place of starting, and at the junctions of other Railways and at usual stopping places established for receiving and discharging way-passengers and goods from the trains. 14, 15 V. c. 51, s. 21.

Passengers and goods to be carried on payment of fare or freight.

**97.** Such passengers and goods shall be taken, transported and discharged, at, from, and to such places, on the due payment of the toll, freight or fare legally authorized therefor. 14, 15 V. c. 51, s. 21.

The Company liable for neglect or refusal.

**98.** The party aggrieved by any neglect or refusal in the premises, shall have an action therefor against the Company. 14, 15 V. c. 51, s. 21.

Checks to be fixed on parcels.

**99.** Checks shall be affixed by an agent or servant to every parcel of baggage having a handle, loop or fixture of any kind thereupon, and a duplicate of such Check shall be given to the passenger delivering the same. 14, 15 V. c. 51, s. 21.

Penalty for refusing to give Checks.

**100.** If such Check be refused on demand, the Company shall pay to such passenger the sum of eight dollars, to be recovered in a civil action; and further, no fare or toll shall be collected or received from such passenger, and if he has paid his fare, the same shall be refunded by the Conductor in charge of the train. 14, 15 V. c. 51, s. 21.

Passenger a witness in his own behalf.

**101.** Any passenger producing such Check, may himself be a witness in any suit brought by him against the Company, to prove the contents and value of his baggage not delivered to him. 14, 15 V. c. 51, s. 21.

Baggage cars not to be in rear of passenger cars.

**102.** The baggage, freight, merchandize, or lumber cars shall not be placed in rear of the passengers cars, and if any such be so placed, the officer or agent directing or knowingly suffering such arrangement, and the conductor of the train, shall severally be guilty of a misdemeanor, and be punished accordingly. 14, 15 V. c. 51, s. 21.

Locomotives to have bells or steam whistles.

**103.** Every locomotive engine shall be furnished with a bell of at least thirty pounds weight, or with a steam whistle. 14, 15, V. c. 51, s. 21.

**104.** The bell shall be rung, or the whistle sounded at the distance of at least eighty rods from every place where the Railway crosses any highway, and be kept ringing or be sounded at short intervals, until the engine has crossed such highway, under a penalty of eight dollars for every neglect thereof, to be paid by the Company, who shall also be liable for all damages sustained by any person by reason of such neglect, one half of which penalty and damages shall be chargeable to and collected by the Company from the Engineer having charge of such engine and neglecting to sound the whistle or ring the bell as aforesaid. 14, 15 V. c. 51, s. 21.

To be rung or sounded at every crossing, &c.

**105.** (a) All persons in charge of a locomotive engine, or acting as the conductor of a car or train of cars, who is intoxicated shall be deemed guilty of a misdemeanor. 14, 15 V. c. 51, s. 21.

Intoxication of conductor a misdemeanor.

**106.** (a) Any passenger refusing to pay his fare, and his baggage, may, by the conductor of the train and the servants of the Company, be put out of the cars, at any usual stopping place, or near any dwelling house, as the conductor elects, the conductor first stopping the train and using no unnecessary force. 14, 15 V. c. 51, s. 21.

Passenger refusing to pay fare may be put out.

**107** (a) Any passenger injured while on the platform of a car, or on any baggage, wood or freight car, in violation of the printed regulations posted up at the time in a conspicuous place inside of the passenger cars, then in the train, shall have no claim for the injury, provided room inside of such passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time. 14, 15 V. c. 51, s. 21.

Passengers to have no claim if injured when on platform of cars.

#### 19. GENERAL PROVISIONS. (b)

**108.** (c) The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares may be subject; and the receipt of the party in whose name any share stands in the Books of the Company, or if it stands in the name of more parties than one, the receipt of one of the parties named in the Register of Shareholders shall from time to time be a sufficient discharge to the Company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the Company have had notice of the trusts, and the Company shall not be bound to see to the application of the money paid upon such receipts. 14, 51 V. c. 51, s. 22.

Company not bound to see to execution of trusts.

(a) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18.

(b) Incorporated into the Peterborough and Chemong Lake Railway Act by 18 Vic., c. 194, s. 2, p. 55; and into the Omamee, Bobcaygeon and North Peterborough Junction Railway Act by 35 Vict., c. 61, s. 2, p. 63.

(c) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18.

Provision as to the carriage of Her Majesty's Mails.

**109.** 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, shall at all times, when thereunto required by Her Majesty's Provincial Postmaster 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, be carried on the Railway, on such terms and conditions, and under such regulations as the Governor in Council makes. 14, 15 V. c. 51, s. 22,—12 V. c. 28, s. 1.

**110.** The Governor, or any person thereunto authorized by him, may require the Company to 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. 14, 15 V. c. 51, s. 22.

**111.** Any further enactments which the Legislature of this Province may hereafter make, for the carriage of the Mail or Her Majesty's Forces, and other persons and articles as aforesaid, or the tolls therefor, or in any way respecting the use of any Electric Telegraph or other service to be rendered to the Government, shall not be deemed an infringement of the privileges intended to be conferred by this Act or the Special Act. 14, 15 V. c. 51, s. 22.

Account of names and residences of Shareholders to be kept.

**112.** A true and perfect account of the names and places of abode of the several Shareholders shall be entered in a Book to be kept for that purpose, as well as of the several persons who from time to time become proprietors of, or entitled to any shares therein, and of all the other acts proceedings and transactions of the Company and of the Directors for the time being. 14, 15 V. c. 51, s. 22.

Map, &c., of Railway to be filed in the Board of Works' Office.

**113.** A map and Profile of the completed Railway and of the land taken or obtained for the use thereof shall, within a reasonable time after completion of the undertaking, be made and filed in the office of the Commissioners of Public Works, and like maps of the parts thereof located in different Counties, shall be filed in the Registry Offices for the Counties in which such parts are respectively situate. 14, 15 V. c. 51, s. 22.

On what scale and paper to be drawn.

**114.** Every such Map shall be drawn on such a scale, and on such paper, as may from time to time be designated for that purpose by the Chief Commissioner of Public Works, and shall be certified and signed by the President or Engineer of the Corporation. 14, 15 V. c. 51, s. 22.

Account to be submitted to Legislature.

**115.** After the opening of the Railway or any part thereof to the public, and within the first fifteen days after the opening

of each Session of the Provincial Parliament, (a) an account shall be annually submitted to the three branches of the Legislature, containing a detailed and particular account, attested upon oath of the President, or in his absence of the Vice-President, of the moneys received and expended by the Company, and a classified statement of the passengers and goods transported by them, with an attested copy of the last annual statement. 14, 15 V. c. 51, s. 22.

**116.** 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. 14, 15 V. c. 51, s. 22.

Variation in form or details may be made.

**117.** If the construction of the Railway be not commenced, and ten per cent. on the amount of the capital be not expended thereon, within three years after the passing of the Special Act, or if the Railway is not finished and put in operation in ten years from the passing of such Special Act, the corporate existence and powers of the Company shall cease. 14, 15 V. c. 51, s. 22.

Ten per cent. to be paid within three years from passing of Special Act.

**118.** The Legislature of this Province may from time to time reduce the tolls upon the railway, but not without consent of the company, or so as to produce less than fifteen per cent. per annum profit on the capital actually expended in its construction; nor unless, on an examination made by the Commissioners of Public Works of the amount received and expended by the Company, the net income from all sources, for the year then last past, is found to have exceeded fifteen per cent. upon the capital so actually expended. *Ibid.*

When parliament may reduce tolls on Railways.

**119.** (b) No person shall be entitled to carry or to require the company to carry upon their Railway, *aqua fortis*, oil of vitrol, gunpowder, lucifer matches, or any other goods, which, in the judgment of the company, may be of a dangerous nature; and if any person sends by the said railway any such goods without, at the time of so sending the said goods, 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, he shall forfeit to the company the sum of twenty dollars for every such offence. *Ibid.*

As to goods of a dangerous nature.

**120.** (b) The company may refuse to take any package or parcel which they suspect to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact. *Ibid.*

Dangerous goods may be refused.

(a) Returns are now to be made to the Provincial Secretary of Ontario, 27 Vict., c. 36, s. 2, p. 137. See 38 Vict., c. 25, p. 138.

(b) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18.

Forging De-  
bentures, &c.,  
deemed felony

**121.** (a) The offence of forging any debentures or a coupon of any debenture issued under the authority of this Act or of the Special Act, or of uttering any such debenture or coupon, knowing the same to be forged, or of being accessory before or after the fact to any such offence, shall be deemed felony, and be punished accordingly. *Ibid.*

Company  
bound to make  
and repair  
fences, roads,  
&c., in L. C.,  
&c.

**122.** The company shall make and keep in repair all fences roads and water courses, and be subject to all municipal regulations, and provisions in respect thereof in or for lands belonging to or held by the company, and subject to any such regulations, or to any charges, public, municipal or local, as the case may be, in any county, parish or township in Lower Canada through which the railway passes; and the company may, in default or contravention thereof, be prosecuted therefor by the officers of the municipality, before the Commissioner's Court or Circuit Court within the jurisdiction of which such fence, road or watercourse may be, and the service of the summons upon any clerk or officer in charge of the section of the railway within the said jurisdiction, or at the nearest depot of the railway, shall be good service upon the company. *Ibid.*

Special Act to  
be a public  
Act.

**123.** Every Special Railway Act shall be a Public Act.

And may dis-  
solve any Cor-  
poration form-  
ed under this  
Act.

**124** The Legislature may at any time annul or dissolve any corporation formed under this Act; but such dissolution shall not take away or impair any remedy given against any such corporation, its shareholders, officers or servants, for any liability which had been previously incurred. *Ibid.*

Saving of Her  
Majesty's  
Rights, &c.

**125.** (b) Nothing herein contained shall affect in any manner the rights of Her Majesty, or of any person or of any body politic, corporate or collegiate, such only excepted as are herein mentioned. *Ibid.*

**126.** No amendment or alteration in this Act shall be held to be an infringement of the rights of any company authorized to construct a railway by an act passed on or since the 30th of August, 1851, or by any Act of this or any future Session with which this Act is incorporated. 14, 15 V. c. 51, s. 22.

#### GENERAL PROVISIONS FOR ALL RAILWAYS.

Interpretation

**127.** Unless otherwise provided, the following sections shall apply to every Railway made or to be made in this Province. 16 V. c. 169, s. 10.

(a) Incorporated into the Peterborough and Port Hope Railway Act by 16 Vict., c. 241, s. 3, p. 18.

(b) Incorporated into the Peterborough and Port Hope Railway Act by 18 Vict., c. 36, s. 3, p. 21.

20. POWERS.

**128.** Any Incorporated Railway Company may construct a branch or branches not exceeding six miles in length from any terminus or station of the Railway of such Company, whenever a By-law sanctioning the same has been passed by the Municipal Council of the Municipality within the limits of which such proposed branch is situate, and no such branch shall as to the quality and construction of the road, be subject to any of the restrictions contained in the special Act of Incorporation of such Company or in this Act, nor shall any thing in either of the said Acts authorize any Company to take for such branch any lands belonging to any party without the consent of such party first obtained. 16. V. c. 169, s. 9.

Any Railway Company may construct Branch Railways, on certain conditions.

**129.** Any Railway Company desiring at any time to change the location of its line of Railway in any particular part for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting such line of Railway, or for any other purpose of public advantage, may make such change; and all and every the clauses of this Act shall refer as fully to the part of any such line of Railway so at any time changed or proposed to be changed as to the original line; but no Railway Company shall have any right to extend its line of Railway beyond the termini mentioned in the Act incorporating such Company. 22. V. (1858) c. 4, s. 2.

Changes may be made in the line of a Railway at any time for certain purposes.

**130.** No Railway Company shall avail itself of any of the powers contained in the fifteenth sub-section of the ninth section of this Act without application to the Board of Railway Commissioners, constituted by the one hundred and seventy-eighth section of this Act of which application notice in writing shall be given to any other Railway affected, by sending the same by mail, or otherwise to the address of the President, Superintendent, Managing Director or Secretary of any such Railway Company, for approval, of the mode of crossing, union or intersection proposed; and when such approval has been obtained, it shall be lawful for either Railway, in case of disagreement as to the amount to be paid for compensation, to proceed for such compensation as provided in the said sub-section. 22 V. c. 4, s. 2,—14, 15 V. c. 51, s. 9, No. 15.

But not without application to the Board of Railway Commissioners.

**131.** The Directors of any Railway Company may at any time, and from time to time, make and enter into any agreement or arrangement with any other Company, either in this Province or elsewhere, for the regulation and interchange of Traffic passing to and from the Railways of the said Companies, and for the working of the Traffic over the said Railways respectively, or for either of those objects separately, and for the division and apportionment of tolls, rates and charges in respect of such Traffic, and generally in relation to the management and working of the Railways, or

One Company may agree with another respecting traffic.

any of them, or any part thereof, and of any Railway or Railways in connection therewith, for any term not exceeding twenty-one years, and to provide, either by proxy or otherwise, for the appointment of a joint Committee or Committees for the better carrying into effect any such agreement or arrangement, with such powers and functions as may be considered necessary or expedient, subject to the consent of two-thirds of the Stockholders voting in person or by proxy. 22 V. c. 4, s. 2. (a)

Application of the three last sections.

**132.** The provisions of the three last sections of this Act shall, from the time it takes effect apply to every Railway made or to be made in this Province, but shall not apply to any thing done before the thirtieth of June, one thousand eight hundred and fifty-eight. 22 V. c. 4, s. 2.

## 21. LANDS AND THEIR VALUATION.

Conditions on which the Company may carry their Railway across any Canal, Rivers, or navigable water.

**133. (b)** No Railway Company shall take possession of, use or occupy any lands vested in Her Majesty, without the consent of the Governor in Council; but with such consent any such Company may take and appropriate for the use of their Railway and Works, but not alienate, so much of the wild lands of the Crown lying on the route of the said Railway, as have not been granted or sold, and as may be necessary for their Railway, as also so much of the land covered with the waters of any Lake, River, Stream or Canal, or of their respective beds, as is necessary for making and completing and using their said Railway and Works, but nothing in this section contained, shall apply to the thirty and thirty-first paragraphs of the eleventh section of this Act. 16 V. c. 169, s. 8.

## 22. RAILWAY GROUNDS TO BE KEPT IN ORDER.

Ground adjoining any Railway and belonging to the Company to be laid down with grass and cleared of weeds, &c.

**134.** Every Railway Company, whether any of the clauses or provisions of this Act be or be not incorporated with the Act incorporating such Company, shall cause all cleared land or ground adjoining their Railway and belonging to such Company, to be sown or laid down with grass or turf, and cause the same so far as may be in their power to be covered with grass or turf, if not already so covered, and cause all thistles and other noxious weeds growing on such land or ground, to be cut down and kept constantly cut down or to be rooted out of the same. 16 V. c. 169, s. 7.

Consequences of omitting to do so.

**135.** If any Railway Company fails to comply with the requirements of the last preceding section within twenty days after they have been required to comply with the same, by notice from the Mayor, Reeve or Chief Officer of the Municipality of

(a) Companies must afford facilities for forwarding traffic without preference or favour. 24 Vict., c. 17, s. 4, p. 128.

(b) See 18 Vic., c. 36, s. 3, p. 21.



the Township or County in which the land or ground lies, such Company shall thereby incur a penalty of two dollars to the use of the Municipality for each day during which they neglect to do any thing which they are lawfully required to do by such notice, and the said Mayor, Reeve or Officer may cause all things to be done which the said Company were lawfully required to do by such notice, and for that purpose may enter by himself and his assistants or workmen upon such lands or grounds, and such Municipality may recover the expenses and charges incurred in so doing, and the said penalty with costs of suit, in any Court having jurisdiction in civil cases to the amount sought to be recovered. 16 V. c. 169, s. 7.

### 23. HIGHWAYS AND BRIDGES.

**136.** (a) No such Company shall cause any obstruction in or impede the free navigation of any river, stream or canal to or across or along which their Railway is carried. 16 V. c. 169, s. 8. Not to impede navigation.

**137.** (a) If the Railway be carried across any navigable river or canal, the Company shall leave openings between the abutments or piers of their bridge or viaduct over the same, and shall make the same of such clear height above the surface of the water, or shall construct such drawbridge or swing bridge over the channel of the river, or over the whole width of the canal, and shall be subject to such regulations as to the opening of such swing bridge or draw bridge as the Governor in Council from time to time makes. 16 V. c. 169, s. 8. Railways crossing Rivers, &c., regulated.

**138.** (a) It shall not be lawful for any such Company to construct any wharf, bridge, pier or other work upon or over any navigable river, lake or canal, or upon the beach or bed or lands covered with the waters thereof, until they have first submitted the plan and proposed site of such work to the Governor in Council, and the same has been by him approved; and no deviation from such approved site and plan shall be made without his consent. 16 V. c. 169, s. 8, *Ante* s. 9, No. 3. Plans to be submitted to the Governor in Council.

**139.** (a) Nothing contained in the one hundred and thirty-third, one hundred and thirty-sixth, one hundred and thirty-seventh and one hundred and thirty-eighth sections, or in the thirtieth and thirty-first paragraphs of the eleventh section of this Act, shall be construed to limit or affect any power expressly given to any Railway Company by its special Act of Incorporation or any special Act amending the same. 16 V. c. 169, s. 8. Exception, where special powers given by the Special Act.

**140.** The Governor in Council, upon the Report of the Board of Railway Commissioners, may authorize or require any Railway Company to construct fixed and permanent Governor may order permanent bridges to be substituted for movable bridges.

bridges or to substitute such bridges in the place of the swing, draw or moveable bridges on the line of such Railway, within such time as the Governor in Council directs; and for every day after the period so fixed during which the Company uses such swing, draw or moveable bridges, the Company shall forfeit and pay to Her Majesty the sum of two hundred dollars; and it shall not be lawful for any Railway Company to substitute any swing, draw or other moveable bridge in the place or stead of any fixed or permanent bridge already built and constructed without the consent of the Governor in Council previously had and obtained. 20 V. c. 12, s. 7.

Certain powers vested in Railway Commissioners, with respect to crossing public highways, on a level.

**141.** In any case where a Railway commenced after the 27th May, 1857, is constructed or authorized to be constructed, across any turnpike road, street or other public highway, on the level, the Board of Railway Commissioners, if it appears to them necessary for the public safety, may, with the sanction of the Governor in Council, authorize and require the Company to whom such Railway belongs, within such time as the said Board directs, to carry such road, street or highway either over or under the said Railway, by means of a bridge or arch, instead of crossing the same on the level, or to execute such other works as under the circumstances of the case appear to the said Board the best adapted for removing or diminishing the danger arising from such level crossing; and all the provisions of law at any such time applicable to the taking of land by Railway Companies and its valuation and conveyance to them, and to the compensation therefor, shall apply to the case of any land required for the construction of any works for effecting the alteration of such level crossing. 20 V. c. 12, s. 11.

Further precautions at level crossings.

**142.** Every Railway Company shall station an officer at every point on their line crossed on a level by any other Railway, and no train shall proceed over such crossing until signal has been made to the Conductor thereof that the way is clear. 20 V. c. 12, s. 11.

Further precautions when one Railway crosses another on a level.

**143.** Every locomotive or Railway engine or train of cars, on any Railway, shall, before it crosses the track of any other Railway on a level, be stopped for at least the space of three minutes. 20 V. c. 12, s. 11.

Or runs through a city, town, &c.

**144.** No locomotive or Railway engine shall pass in or through any thickly peopled portion of any City, Town or Village at a speed greater than six miles per hour, unless the track is properly fenced. 20 V. c. 12, s. 11.

Or moves reversely.

**145.** Whenever any train of cars is moving reversely in any City, Town or Village, the locomotive being in the rear the Company shall station on the last car in the train a person who shall warn parties, standing on or crossing the track

of such Railway, of the approach of such train, under a penalty of one hundred dollars for any contravention of the above provisions. 20 V. c. 12, s. 11.

**146.** If the Board of Railway Commissioners order any Railway Company to erect at or near or in lieu of any level crossing of a turnpike road, or other public highway, a foot-bridge or foot-bridges over their Railway for the purpose of enabling persons passing on foot along such turnpike road or public highway to cross the Railway by means of such bridge or bridges, then, from and after the completion of such foot-bridge or foot-bridges so required to be erected, and while the Company keeps the same in good and sufficient repair, such level crossing shall not be used by foot-passengers on the said turnpike road or public highway, except during the time when the same is used for the passage of carriages, carts, horses or cattle along the said road. 20 V. c. 12, s. 12.

Foot passengers to use foot-bridge, if provided for that purpose at level crossings.

**147.** No horses, sheep, swine or other cattle, shall be permitted to be at large upon any highway within a half mile of the intersection of such highway with any Railway on grade, unless such cattle are in charge of some person or persons to prevent their loitering or stopping on such highway at such intersection. 20 V. c. 12, s. 16.

No cattle to be allowed to be at large on any highway within half a mile of any Railway.

**148.** All cattle found at large in contravention of the last preceding section may, by any person finding the same at large, be impounded in the nearest pound to the place where the same are so found, and the pound-keeper with whom the same are so impounded shall detain the same in the like manner, and subject to the like regulations as to the care and disposal thereof, as in the case of cattle impounded for trespass on private property. 20 V. c. 12, s. 16.

Such cattle may be impounded.

**149.** No person, any of whose cattle being at large, contrary to the provisions of the section aforesaid, are killed by any train at such point of intersection, shall have any action against any Railway Company in respect to the same being so killed. 20 V. c. 12, s. 16.

If killed owner not entitled to any action.

**150.** At every road and farm crossing on the grade of the Railways in this Province, the crossing shall be sufficiently fenced on both sides of such points, so as to allow the safe passage of the trains. 20 V. c. 12, s. 18.

Crossings to be fenced.

#### 24. BY-LAWS REGULATING TOLLS.

**151.** The By-laws of every Railroad Company regulating the Tolls to be taken on such road, in the special Act respecting which a provision has been inserted that such Railroad should be subject to the provisions of any general Act relating to Railroads, shall be subject to the approval of the Governor

By-laws imposing tolls to be approved by the Governor in Council.

in Council, and no By-law of any Railroad or Railway Company in this Province by which any Tolls are to be imposed or altered, or by which any party other than the Members, Officers and Servants of the Company are intended to be bound, shall have any force or effect until the same has been approved and sanctioned by the Governor in Council. 10, 11 V. c. 63, s. 14,—12 V. c. 28, s. 2.

## 25. PENAL CLAUSES.

Punishment of persons doing any thing to Railway with intent to injure persons or property.

**152.** If any person wilfully and maliciously displaces or removes any Railway switch or rail of any Railroad, or breaks down, rips up, injures or destroys any Railroad track or Railroad bridge or fence of any Railroad, or any portion thereof, or places any obstruction whatsoever on any such rail or Railroad track, or bridge, with intent thereby to injure any person or property passing over or along such Railroad, or to endanger human life, such person shall be guilty of misdemeanor, and shall be punished by imprisonment with hard labour in the Common Gaol of the Territorial Division in which such offence is committed or tried, for any period not exceeding one year from conviction thereof; and if in consequence of such act done with the intent aforesaid, any person so passing over and along such Railroad, actually suffers any bodily harm, or if any property passing over and along such Railroad be injured, such suffering or injury shall be an aggravation of the offence, and shall render the offence a felony, and shall subject the offender to punishment by imprisonment in the Penitentiary for two years or in any other prison or place of confinement for any period exceeding one year and less than two years. 16. V. c. 169, s. 1.

And if such damage be actually done.

And if any person be killed or his life be lost, the offence to be manslaughter.

**153.** If any person wilfully and maliciously displaces or removes any Railway switch or rail of any Railroad, or breaks down, rips up, injures or destroys any Railroad track or Railroad bridge or fence of any Railroad or any portion thereof, or places any obstruction whatever on any such rail or Railroad track or bridge, or does or causes to be done any act whatever whereby any engine, machine or structure, or any matter or thing appertaining thereto is stopped, obstructed, impaired weakened, injured or destroyed, with intent thereby to injure any person or property passing over or along such Railroad, and if in consequence thereof any person be killed or his life be lost, such person so offending shall be guilty of manslaughter, and being found guilty, shall be punished by imprisonment in the Penitentiary for any period not more than ten nor less than four years. 16 V. c. 169, s. 2.

Punishment.

Committing any injury, stoppage, &c., to be a misdemeanor.

**154.** If any person wilfully and maliciously does or causes to be done, any act whatever whereby any building, fence, construction or work of any Railroad, or any engine, machine or structure of any Railroad, or any matter or thing

appertaining to the same is stopped, obstructed, impaired, weakened, injured or destroyed, the person so offending shall be guilty of a misdemeanor, and be punished by imprisonment with hard labour not exceeding one year, in the Common Goal of the Territorial Division in which the offence was committed or has been tried. 16 V. c. 169, s. 3.

**155.** Every person wilfully obstructing any Railway Inspector in the execution of his duty shall, on conviction before a Justice of the Peace having jurisdiction in the place where the offence has been committed, forfeit and pay for every such offence any sum not exceeding forty dollars, and in default of payment of any penalty so adjudged, immediately, or within such time as the said Justice of the Peace appoints, the same Justice, or any other Justice having jurisdiction in the place where the offender resides, may commit the offender to prison for any period not exceeding three months; but such commitment shall be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing Court of Quarter Sessions in the usual manner. 20 V. c. 12, s. 3.

Punishment of persons obstructing Inspectors in the execution of their duty.

**156.** Every Railway Company, shall, as soon as possible after the receipt of any order or notice of the Board of Railway Commissioners, give cognizance thereof to each of its officers and servants, in one or more of the ways mentioned in the one hundred and sixty-third section of this Act. 20 V. c. 12, s. 15.

Company to notify orders of Board to its officers, &c.

**157.** All orders of the said Board of Railway Commissioners shall be considered as made known to the said Railway Company by a notice thereof signed by the Chairman and countersigned by the Secretary of the said Board, and delivered to the President, Vice-President, Managing Director, Secretary or Superintendent of the said Company, or at the office of the said Company. 20 V. c. 12, s. 15.

What to be deemed sufficient notice thereof.

**158.** If any officer or servant of, or person employed by any Railway Company, wilfully or negligently contravenes any By-law or regulation of the Company lawfully made and in force, or any Order or Notice of the Board of Railway Commissioners, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed, then if such contravention causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been without such contravention, although no actual injury occurs, such contravention shall be a misdemeanor, and the person convicted thereof shall, in the discretion of the Court before whom the conviction is had, and according as such Court considers the offence proved to be more or

Punishment of officers, &c., contravening by-laws, &c.

less grave, or the injury or risk of injury to person or property to be more or less great, be punished by fine or imprisonment, or both, so as no such fine exceeds four hundred dollars, nor any such imprisonment the term of five years; and such imprisonment, if for two years or upwards, shall be in the Provincial Penitentiary. 19, 20 V. c. 11, s. 1.

Penalty.

**159.** If such contravention does not cause injury to any property or person, nor expose any person or property to the risk of injury, nor make such risk greater than it would have been without such contravention, then the officer servant or other person guilty thereof, shall thereby incur a penalty not exceeding the amount of thirty days' pay, nor less than fifteen days' pay of the offender from the Company, in the discretion of the Justice of the Peace before whom the conviction is had; and such penalty shall be recoverable with costs before anyone Justice of the Peace having jurisdiction where the offence has been committed, or where the offender is found, on the oath of one credible witness other than the informer. 19, 20 V. c. 11, s. 1.

Application of

**160.** One moiety of such penalty shall belong to Her Majesty for the public uses of the Province, and the other moiety to the informer, unless he be an officer, or servant of, or person in the employ of the Company, in which case he shall be a competent witness and the whole penalty shall belong to Her Majesty for the uses aforesaid. 19, 20 V. c. 11, s. 1.

The Company may pay penalty and deduct from wages.

**161.** The Company may in all cases under this Act pay the amount of the penalty and costs, and recover the same from the offender or deduct it from his salary or pay. 19, 20 V. c. 11, s. 1.

Company may impose penalties for contravention of By-laws.

**162.** Any Railway Company may by a By-law impose upon any officer, servant or person who before the contravention of such By-law has had notice thereof and is employed by the Company, a forfeiture to the Company of not less than thirty days' pay of such officer or servant, for any contravention of such By-law, and may retain any such forfeiture out of the salary or wages of the offender. 19, 20 V. c. 11, s. 2.

How notice of By-laws or Orders may be proved.

**163.** The notice of the By-law or of any order or notice of the Board of Railway Commissioners may be proved by proving the delivery of a copy thereof to the officer, servant or person, or that he signed a copy thereof, or that a copy thereof was posted in some place where his work or his duties, or some of them, were to be performed. 19, 20 V. c. 11, s. 2.

When such proof, &c., to be a defence for the Company.

**164.** Such proof, with a proof of the contravention, shall be a full answer and defence for the Company in any suit for the recovery from it of the amount so retained, and such forfeiture shall be over and above any penalty under the preceding sections number one hundred and fifty eight to one hundred and sixty-one. 19, 20 V. c. 11, s. 2.

## 26. WORKING OF THE RAILWAY.

**165.** No Railway or portion of any Railway shall be opened for the public conveyance of passengers until one month after notice in writing of the intention to open the same has been given by the Company to whom the Railway belongs to the Board of Railway Commissioners, (a) and until ten days after notice in writing has been given by the said Company to the said Board of Railway Commissioners, of the time when the said railway or portion of Railway will be, in the opinion of the Company, sufficiently completed for the safe conveyance of passengers, and ready for inspection. 20 V. c. 12, s. 4.

Railway not to be opened till after one month's notice of intention to open the same.

**166.** If any Railway or portion of a Railway be opened without such notices, the Company to whom such Railway belongs, shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the same continues open, until the said notices have been duly given and have expired. 20 V. c. 12, s. 5.

Penalty for contravention

**167.** If the Railway Inspector or Inspectors, after inspection of any Railway, report in writing to the Board of Railway Commissioners that, in his or their opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such Railway, together with the ground of such opinion, the Board of Railway Commissioners, with the sanction of the Governor in Council, and so from time to time, as often as such Inspector or Inspectors after further inspection thereof so reports, may order and direct the Company to whom the Railway belongs to postpone such opening not exceeding one month at any one time, until it appears to the said Board that such opening may take place without danger to the public. 20 V. c. 12, s. 6.

Railway Commissioners upon report of Inspectors and approval of Governor in Council, may order postponement of opening of road.

**168.** If any such Railway, or any portion thereof, be opened contrary to such order or direction of the Board of Railway Commissioners, the Company to whom the Railway belongs shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the same continues open contrary to such order or direction. 20 V. c. 12, s. 6.

Penalty for opening contrary to the order of the Commissioners.

**169.** No such order shall be binding upon any Railway Company unless therewith is delivered to the Company a copy of the report of the Inspector or Inspectors on which the order is founded. 20 V. c. 12, s. 6.

When only such order to be binding on the Company.

**170.** In all cases where a Railroad passes any Draw or Swing Bridge over a navigable River, Canal or Stream which is subject to be open for the purposes of navigation, the Trains shall in every case be stopped at least three minutes,

When a Railway passes over a swing bridge, &c., Train to stop for 3 minutes.

(a) The notice must be given to the Commissioner of Public Works of Ontario. 37 Vict., c. 36, s. 1, p. 136.

to ascertain from the Bridge Tender that the said Bridge is closed and in perfect order for passing, and in default of so stopping during the full period of three minutes the said Railroad Company shall be subject to a fine or penalty of four hundred dollars. 16 V. c. 169, s. 6.

Company to use the best apparatus for communication between conductors and engine drivers and for stopping or disconnecting cars, fixing seats in cars, &c.

**171.** Every Railway Company which runs trains upon the railway, for the conveyance of passengers shall provide and cause to be used in and upon such trains such known apparatus and arrangements as best afford good and sufficient means of immediate communication between the conductors and the engine-drivers of such trains while the trains are in motion, and good and sufficient means of applying by the power of the steam-engine or otherwise at the will of the engine-driver, or other person appointed to such duty, the brakes to the truck-wheels of the locomotive, or tender, or both, or of all or any of the cars or carriages composing the trains, and of disconnecting the locomotive, tender, and cars or carriages from each other by any such power or means, and also such apparatus and arrangements as best and most securely place and fix the seats or chairs in the cars or carriages, and shall alter such apparatus and arrangements, or supply new apparatus and arrangements, from time to time as the Board of Railway Commissioners, with the sanction of the Governor in Council, may order. 20 V. c. 12, s. 10.

Companies to make By-laws for regulation of conductors and other officers, &c.

**172.** Every Railway Company shall make such by-laws, rules and regulations, to be observed by the conductors, engine-drivers, and other officers and servants of the Company, and by all other Companies and persons using the Railway of such Company, and such regulations with regard to the construction of the carriages and other vehicles, to be used in such trains on the Railway of the Company, as are requisite for ensuring the employment and proper use of the aforesaid means of communication, application and disconnection. 20 V. c. 12, s. 10.

Penalty for not complying with 171st section.

**173.** Every Railway Company which fails to comply with any of the provisions contained in the one hundred and seventy-first section of this Act, shall forfeit to Her Majesty a sum not exceeding two hundred dollars for every day during which such default continues. 20 V. c. 12, s. 10.

Return of accidents to be made semi-annually.

**174.** Every Railway Company shall, within ten days after the first days of January and July, in each and every year, make to the Board of Railway Commissioners, under the oath of the President, Secretary, or Superintendent of the Company, a true and particular return of all accidents and casualties (whether to life or property) which have occurred on the Railway of the Company during the half year next preceding each of the said periods respectively, setting forth :

1. The causes and natures of such accidents and casualties ;



2. The points at which they occurred, and whether by night or by day;

3. The full extent thereof, and all particulars of the same; and

4. Shall also at the same time return a true copy of the existing By-laws of the Company, and of their rules and regulations for the management of the Company and of their Railway. 20 V. c. 12, s. 14.

**175.** The Board of Railway Commissioners may order and direct from time to time, the form in which such returns shall be made up, and may order and direct any Railway Company to make up and deliver to them from time to time, in addition to the said periodical returns, returns of serious accidents occurring in the course of the public traffic upon the Railway belonging to such Company, whether attended with personal injury or not, in such form and manner as the Board deem necessary and require for their information with a view to the public safety. 20 V. c. 12, s. 14.

Form to be appointed by the Board of Commissioners.

**176.** If such returns so verified be not delivered within the respective times herein prescribed, or within fourteen days after the same have been so required by the Board, every Company making default, shall forfeit to Her Majesty the sum of one hundred dollars, for every day during which the Company neglects to deliver the same. 20 V. c. 12, s. 14.

Penalty for neglect.

**177.** All such returns shall be privileged communications, and shall not be evidence in any Court whatsoever. 20 V. c. 12, s. 14.

Such returns to be privileged communications.

## 27. BOARD OF RAILWAY COMMISSIONERS, THEIR DUTIES, &C. (a)

**178.** (b) The Receiver General, the Minister of Finance, the Commissioner of Public Works, and the Provincial Postmaster-General, shall constitute a Board of Railway Commissioners; and each of the said Officers shall be a Member of the said Board by virtue of his office, and so long, and so long only as he holds the same; such one of the said Officers as the Members of the Board shall agree upon, shall be the Chairman and Official Organ of the Board, the Secretary for the Department of Public Works shall be the Secretary of the said Board; and any report concurred in by a majority of the Board, shall be deemed the report of the Board. 14, 15 V. c. 73, s. 17.—22 V. c. 3. (1859.)

Board of Commissioners constituted.

**179.** (c) The Board of Railway Commissioners shall, in addition to their other powers and duties, have and discharge the powers and duties in this Act prescribed, and may from time

Duties of

(a) The Commissioner of Public Works for Ontario to exercise the powers of the Board of Railway Commissioners. 37 Vict., c. 36, s. 1, p. 136.

(b) Repealed by 37 Vict., c. 36, s. 3, p. 137.

(c) Repealed by 37 Vict., c. 36, s. 3, p. 137.

May appoint a Secretary. to time appoint some fit and qualified person to be Secretary of the said Board in the stead of the Secretary for the Department of Public Works. 20 V. c. 12, s. 1.—22 V. c. 3. (1859.)

#### 28. RAILWAY INSPECTORS, THEIR DUTIES, &C.

Railway Inspectors.

**180.** The Governor in Council may appoint and authorize any proper person or persons, not exceeding three in number, whose duty it shall be from time to time to inspect all railways constructed or in course of construction, and every person so authorized may at all reasonable times, upon producing his authority if required, enter upon and examine the said railway, and the stations, fences or gates, road crossings, cattle guards, works and buildings, and the engines, cars and carriages belonging thereto. 20 V. c. 12, s. 2.

Duties of.

Companies to afford information to the Inspectors.

**181.** Every railway company and the officers and directors thereof shall afford to such Inspector or Inspectors every information and full and true explanations so far as may be in their power or knowledge on all matters inquired into by any such Inspector or Inspectors, and submit to such Inspector or Inspectors all plans, specifications, drawings and documents relating to the construction or reconstruction, repair or state of repair of such Railway or any portion thereof, whether a bridge, culvert or other part. 20 V. c. 12, s. 2.

Inspectors may use telegraph wires; for what purposes.

**182.** Any such Inspector shall have the right to use the telegraph wires and machinery in the offices of or under the control of any such Railway Company, for the purpose of communicating with any of the officers of the said Company, or transmitting any order of any such Inspector relating to such railway. 20 V. c. 12, s. 2.

Operators and others to obey orders of Inspectors.

**183.** The operators or officers employed in the telegraph offices of or under the control of the said Company, shall, without unnecessary delay, obey all orders of any such Inspector for effecting such communications and transmitting messages for the purpose aforesaid, and any such operator or officer refusing or neglecting so to do, shall forfeit for every such offence the sum of forty dollars. 20 V. c. 12, s. 2.

Authority of Inspectors; how proved.

**184.** The authority of any such Inspector shall be sufficiently evidenced by a paper in writing nominating him an Inspector of Railways or of any Railway in particular, signed by the Chairman of the said Board of Railway Commissioners, and countersigned by the Secretary thereof. 20 V. c. 12, s. 2.

When any Railway bridge condemned by Commissioners and Inspectors,

**185.** When any bridge, culvert, viaduct, tunnel, fence, road crossing, or cattle guard, or any other portion of any railway constructed or in course of construction or any locomotive, car or carriage used or for use on any Railway, has been condemned on the report of an Inspector or Inspectors, by

the Board of Railway Commissioners, with the approval of the Governor in Council, or when any change or alteration therein or in any part thereof, or the substitution of any new bridge, culvert, viaduct or tunnel, or of any material for the said Railway, has been required by the Board of Railway Commissioners, with the approval of the Governor in Council, the Company to which such Railway belongs, or the Company using, running or controlling the same, shall after notice thereof in writing signed by the Chairman of the said Board and countersigned by the Secretary thereof, proceed to make good or remedy the defects in the said portions of the Railway, or in the locomotive, car or carriage which have been so condemned, or shall make such change, alteration or substitution hereinbefore referred to as has been required in manner aforesaid by the Board. 20 V. c. 12, s. 8.

what to be done.

**186.** If in the opinion of any such Railway Inspector, it is dangerous for trains or vehicles to pass over any particular Railway or any portion of a Railway, until alterations, substitutions or repairs have been made thereon, or that any particular car, carriage or locomotive should be run or used, the said Inspector may forthwith forbid the running of any train or vehicle over any such Railway or portion of Railway, or the running or using of any such car, carriage or locomotive, by delivering or causing to be delivered to the President, Managing Director, or Secretary or Superintendent of the Company owning, running, or using such Railway, or to any Officer having the management or control of the running of trains on such Railway, a notice in writing to that effect with his reasons therefor, in which he shall distinctly point out the defects or nature of the danger to be apprehended. 20 V. c. 12, s. 9.

When Inspectors may forbid the running of trains, &c.

**187.** The said Inspector shall forthwith report the same to the said Board of Railway Commissioners, who with the sanction of the Governor in Council, may either confirm, modify or disallow the act or order of the Inspector, and such confirmation, modification or disallowance shall be duly notified to the Railway Company affected thereby. 20 V. c. 12, s. 9.

What Commissioners may modify report of Inspectors.

**188.** The said Board of Railway Commissioners may with the sanction of the Governor in Council, limit the number of times or rate of speed of running of trains or vehicles, upon such Railway or portion of Railway, until such alterations or repairs as they may think sufficient have been made, or until such time as they think prudent; and the Company owning, running or using such railway shall comply forthwith with any such Order of the said Inspector, or of the said Board, upon notice thereof as aforesaid; and for every act of non-compliance therewith every such Railway Company shall forfeit to Her Majesty the sum of two thousand dollars. 20 V. c. 12, s. 9.

When the Commissioners may regulate speed &c.

Penalty for non-compliance.

Notice of accidents to be given to the Commissioners.

**189.** Every Railway Company shall, as soon as possible, and at least within forty-eight hours after the occurrence upon the railway belonging to such Company of any accident attended with serious personal injury to any person using the same, or whereby any bridge, culvert, viaduct or tunnel on or of the said Railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof to the Board of Railway Commissioners; and if any Company wilfully omits to give such notice, such Company shall forfeit to Her Majesty the sum of two hundred dollars for every day during which the omission to give the same continues. 20 V. c. 12, s. 13.

Inspection not to relieve Company from liability.

**190.** No inspection had under this Act, nor any thing in this Act contained, or done or ordered or omitted to be done or ordered under or by virtue of the provisions of this Act, shall relieve or be construed to relieve any Railway Company, of or from any liability or responsibility resting upon it by law either towards Her Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, heir or other personal representative of any person for any thing done or omitted to be done by such Company, or for any wrongful act, neglect or default, misfeasance, malfeasance or nonfeasance, of such Company, or in any manner or way to lessen such liability or responsibility, or in any way to weaken or diminish the liability or responsibility of any such Company under the existing laws of the Province. 20 V. c. 12, s. 17.

#### 29. RAILWAY FUND.

Railway Inspection Fund

**191.** From the twenty-seventh of May, one thousand eight hundred and fifty seven, every Railway then or thereafter constructed, shall, so soon as any portion thereof is in use, pay to the Receiver-General an annual rate to be fixed by the Governor in Council, not exceeding ten dollars per mile of Railway constructed and in use; such rate to be paid half yearly on the First days of January and July in each year, and to form a special fund for the purposes of this Act, to be called "The Railway Inspection Fund." 20 V. c. 12, s. 19

#### 30. CERTAIN SECTIONS LIMITED.

What the words "Railway Company," shall include.

**192.** In the construction of the one hundred and fortieth to one hundred and fiftieth, the one hundred and fifty-fifth to one hundred and fifty-seventh, the one hundred and sixty-fifth to one hundred and seventy-seventh and the one hundred and seventy-ninth to one hundred and ninety-first sections of this Act, the expression "Railway Company" shall include any person being the owner or lessee of, or contractor working any railway constructed or carried on under the powers of an Act of Parliament. 20 V. c. 12, s. 21.

31. HOW PENALTIES RECOVERED AND APPLIED.

**163.** All penalties incurred under any of the sections of this Act in the last section referred to, except penalties under the one hundred and fifty fifth section thereof, may be recovered in the name of Her Majesty, by Her Majesty's Attorney-General in any Court having competent jurisdiction thereover; and all penalties recovered under the other sections aforesaid shall be paid to the Receiver-General to the credit of "The Railway Inspection Fund." 20 V. c. 12, s. 20.

How penalties recovered and applied.

23 VICT., CAP. 29.

An Act in Amendment of the Railway Act.

[Assented to 19th May, 1860.]

**H**ER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

**1.** The justices of the peace for any county in Upper Canada, assembled at any General Quarter Sessions of the Peace, and any judge of the Court of Queen's Bench, or Superior Court, or clerk of the peace, or clerk of the crown, or inspector and superintendent of police, in Lower Canada, on the application of the board of directors of any Railway Company whose Railway passes within the local jurisdiction of such justices of the peace, judge, clerk, or inspector and superintendent of police, as may be, on the application of any clerk or agent of such Company thereto authorized by such board, may in their or his discretion, appoint any persons recommended to them for that purpose by such board of directors, clerk or agent, to act as constables on and along such Railway; and every person so appointed shall take an oath or make a solemn declaration in the form or to the effect following, that is to say:

Constables may be appointed to act on the line of any Railway. and how.

"I, A. B., having been appointed a constable to act upon and along (*here name the Railway*), under the provisions of (*here insert the title of this Act*.) do swear that I will well and truly serve our Sovereign Lady the Queen, in the said office of constable, without favour or affection, malice or ill will, and that I will, to the best of my power, cause the peace to be kept, and prevent all offences against the peace, and that

Oath of office.

“ while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge the duties thereof faithfully, according to law. So help me God.”

By whom to be administered.

Powers of such Constables, and to what localities they shall extend.

Duties of such Constables.

Dismissal of any such Constable.

Record of appointment of

Such oath or declaration shall be administered in Upper Canada by any one such justice, and in Lower Canada, by any such judge, clerk, or inspector and superintendent of police; And every constable so appointed, and having taken such oath or made such declaration as aforesaid, shall have full power to act as a constable for the preservation of the peace and for the security of persons and property against felonies and other unlawful acts, on such Railway, and on any of the works belonging thereto, and on and about any trains, roads, and wharves, quays, landing places, warehouses, lands and premises belonging to such Company, whether the same be in the county, city, district or other local jurisdiction within which he was appointed, or in any other place through which such railway passes or in which the same terminates, or through or to which any Railway passes, which may be worked or leased by such Railway Company, and in all places not more than one quarter of a mile distant from such Railway or Railways; and shall have all such powers, protections and privileges for the apprehending of offenders, as well by night as by day, and for doing all things for the prevention, discovery and prosecution of felonies and other offences, and for keeping the peace, which any constable duly appointed has within his constablewick; and it shall be lawful for any such constable to take such persons as may be punishable by summary conviction for any offence against the provisions of this Act, or of any of the Acts or by-laws affecting any such Railway, before any justice or justices appointed for any county, city, district or other local jurisdiction within which any such Railway may pass; and every such justice shall have authority to deal with all such cases, as though the offence had been committed and the person taken within the limits of his own local jurisdiction.

**2.** Any two justices of the peace in Upper Canada, and any judge of the Court of Queen's Bench or Superior Court, or clerk of the peace, or clerk of the crown, or inspector and superintendent of police in Lower Canada, may dismiss any such constable who may be acting within their several jurisdictions; and the board of directors of such Railway Company, or any clerk or agent of such Company thereto authorized by such board, may dismiss any such constable who may be acting on such Railway; and upon every such dismissal, all powers, protections and privileges belonging to any such person by reason of such appointment, shall wholly cease; and no person so dismissed shall be again appointed or act as a constable for such Railway, without the consent of the authority by which he was dismissed.

**3.** Every such Railway Company shall cause to be recorded in the office of the clerk of the peace, for every county, city,

district or other local jurisdiction wherein such Railway or Railways may pass, the name and designation of every constable so appointed at their instance, the date of his appointment, and the authority making it, and also the fact of every dismissal of any such constable, the date thereof, and the authority making the same, within one week after the date of such appointment or dismissal, as may be; and every such clerk of the peace shall keep such record in a book to be open to public inspection, charging such fee or fees only as the Governor in Council may from time to time authorize, and in such form as the Governor in Council may from time to time direct.

each Constable to be kept.

Fees.

4. Every such constable who shall be guilty of any neglect or breach of duty in his office of constable, shall be liable, on summary conviction thereof within any county, city, district or other local jurisdiction wherein such Railway may pass, to a penalty of not more than eighty dollars, the amount of which penalty may be deducted from any salary due to such offender, if such constable be in receipt of a salary from the Railway Company, or to imprisonment, with or without hard labour, for not more than two months, in the gaol of such county, city, district or other local jurisdiction.

Punishment of Constables guilty of neglect of duty.

5. Every person who shall assault or resist any constable appointed as aforesaid, in the execution of his duty, or who shall incite any person so to assault or resist, shall, for every such offence, be liable, on like summary conviction, to a penalty of not more than eighty dollars, or to imprisonment, with or without hard labour, for not more than two months in such gaol as aforesaid.

And of persons resisting them.

6. Every person who shall bore, pierce, cut, open or otherwise injure any cask, box, or package containing wine, spirits, or other liquors, or any case, box, sack, wrapper, package or roll of goods, in, on or about any car, waggon, boat, vessel, warehouse, station-house, wharf, quay, or premises of or belonging to any such Railway Company with intent feloniously to steal, or otherwise unlawfully to obtain or to injure the contents or any part thereof, or who shall unlawfully drink, or wilfully spill or allow to run to waste any such liquors or any part thereof, shall, for every such offence, be liable, on like summary conviction, to a penalty of not more than twenty dollars, over and above the value of the goods or liquors so taken or destroyed, or to imprisonment, with or without hard labour, for not more than one month, in such gaol as aforesaid.

Punishment of persons boring or cutting casks or packages on Railways.

7. For any offence against the provisions of this Act, punishable by summary conviction, it shall be lawful to proceed against the offender, either in the manner provided by this Act, or according to the provisions of the Act, respecting the duties of Justices of Peace out of Sessions, in relation to summary convictions and orders, forming the one hundred and

Proceedings against any such offender, Con. Stat. Canada, cap. 103.

third chapter of the Consolidated Statutes of Canada, in regard to any acts and offences in such Act mentioned; and it shall be lawful to use, pursue, and adopt any or all of the forms, directions, modes of procedure, remedies and proceedings (as well in regard to witnesses and parties as others), mentioned or provided in such Act in all complaints, prosecutions, convictions, levies and proceedings for offences against this Act.

Appeal in such cases.

8. In all cases of complaint by summary proceeding before a Justice of the Peace in Upper Canada, against any person for a violation of any of the provisions of this Act, all decisions, convictions and orders made by such Justice shall be subject to appeal in the manner and under the provisions prescribed in the Act "*Respecting appeals in cases of summary conviction,*" forming the one hundredth and fourteenth chapter of the Consolidated Statutes for Upper Canada.

Con. Stat. Canada, cap. 114.

Railway may be required to repair any level crossing out of repair.

9. Whenever any level crossing on any Railway shall be out of repair, the warden, mayor, reeve, or other chief officer of the municipality having jurisdiction over the Railway so crossed, may serve a notice upon the Company in the usual manner, requiring the repair to be forthwith made; and if the Company shall not forthwith make the same, such officer may transmit a copy of the notice so served to the Inspector of Railways; and thereupon it shall be the duty of said Inspector, with all possible dispatch, to appoint a day when he will examine into the matter; and he shall by mail give notice to such warden, mayor or reeve, and to the Company of the day he shall so fix; and upon the day so named he shall examine such crossing; and any certificate under his hand shall be final on the subject so in dispute between the parties; and if the said Inspector shall determine that any repairs are required, he shall specify the nature thereof in his said certificate, and direct the Company to make the same; and the Company shall thereupon, with all possible dispatch, comply with the requirements of such certificate; and in case of default, the municipality within whose jurisdiction the said crossing is situate may make such repairs, and may recover all costs, expenses, and outlays in the premises by action against the Company in any court of competent jurisdiction, as money paid to the Company's use: Provided always, that neither this section nor any proceeding had thereunder shall at all affect any liability otherwise attaching to such Company in the premises.

Inspector's certificate to be conclusive.

Proviso.

Provision when the county judge is interested in lands required for any railway.

10. (a) Whenever any judge of a county court in Upper Canada is interested in lands taken or required within the county in which he is such judge, by any Railway Company, for Railway purposes, any judge of any of the superior courts at Toronto,

(a) See 24 Vict., c. 17, s. 3, p. 128.



shall, on application of such Company, exercise in such case all the powers given to such judge of a county court by the eleventh section of the Railway Act, in cases in which he, such judge of a county court, is not interested.

11. The provisions of this Act shall apply to every Railway Extent of Act, made or to be made in this Province.

12. This Act shall be cited as "The Railway Act Amend- Short title. ment Act of 1860."

## 24 VICT., CAP. XVII.

### An Act to explain and amend the Railway Act.

[Assented to 18th May, 1861.]

**W**HEREAS doubts are entertained as to whether rectors in Preamble. possession of glebe lands in Upper Canada, ecclesiastical and other corporations, trustees of land for church and school purposes or either, executors appointed by wills in which they are not invested with any power over the real estate of the testator, administrators of persons dying intestate, but at their death seized of real estate, are authorized by the eleventh section of the Railway Act to sell or dispose of any of such lands to any Railway Company for the actual use of and occupation by such Company: And whereas it is desirable to remove such doubts, and to amend the said Railway Act in the particulars hereinafter set forth: Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. The true intent and meaning of the said section of the said Act was and is, that the several persons and parties here- Certain conveyances to railway companies under sec. 11 of the Railway Act declared valid. inbefore mentioned, with respect to the lands above in this Act referred to, should and shall exercise all the powers mentioned in the first sub-section of the said section eleven of the said Railway Act, with respect to any of such lands actually required for the use and occupation of any Railway Company; and any conveyance made under the said first sub-section shall vest in the Railway Company receiving the same, the fee simple in the lands in such deed described, freed and discharged from all trusts, restrictions and limitations whatsoever.

2. All the provisions in the said section and in the said Act Sec. 11 of C. S. C. to apply. contained as to arbitrations, and obtaining possession and title to such lands, and the disposition of the purchase money, shall apply to all the parties and lands in this Act and in the said sub-section mentioned; and no Railway Company shall be responsible for the disposition of any purchase-money for lands

taken by them for their purposes, if paid to the owner of the land or into court for his benefit.

Provision when county judge is interested.

3. (a) Whenever any county judge shall be or is interested in lands taken or required within the county in which he is such judge, by any Railway Company, for railway purposes, any judge of any of the superior courts in Upper or Lower Canada shall, on application of such Company, exercise in such case all the powers of the county court judge given to him by the said eleventh section of the said Act, in cases in which he, the county judge, is not interested.

Sec. 131, amended.

4. The one hundred and thirty-first section of the Railway Act is hereby amended by adding thereto the following proviso :—

Railway companies must afford each other every facility for the forwarding of traffic, without preference or favour.

Provided always, that every Railway Company shall, according to their respective powers, afford all reasonable facilities to any other Railway Company for the receiving and forwarding and delivering of traffic upon and from the several Railways belonging to or worked by such Companies respectively, and for the return of carriages, trucks and other vehicles; and no such Company shall give or continue any preference or advantage to or in favour of any particular Company or any particular description of traffic, in any respect whatsoever, nor shall any such Company subject any particular Company or any particular description of traffic to any prejudice or disadvantage in any respect whatsoever. And every Railway Company having or working a Railway which forms part of a continuous line of Railway, or which intersects any other Railway or which has any terminus, station or wharf of the one near any terminus, station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding, by the one of such Railways, all the traffic arriving by the other, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered in the using of such Railway as a continuous line of communication, and so that all reasonable accommodation may, at all times, by the means aforesaid, be mutually afforded by and to the said several Railway Companies; and any agreement between any two or more Railway Companies contrary to the foregoing provisions, made after the passing of this Act, shall be unlawful, null and void.

Agreements made in contravention of this Act to be void.

Penalty on companies or their officers refusing or neglecting to forward traffic as above required.

5. If any officer, servant, or agent of any Railway Company, having the superintendence of the traffic at any station or depot thereof, refuses or neglects to receive, convey or deliver at any station or depot of the Company for which they may be destined, any passenger, goods or things, brought, conveyed or delivered to him or to such Company, for conveyance over or

along their Railway from that of any other Company, intersecting with or coming near to such first-mentioned Railway, or in any way wilfully contravenes the provisions of the next preceding section, such first-mentioned Railway Company, or such officer, servant, or agent, personally, shall, for each such neglect or refusal, incur a penalty not exceeding fifty dollars over and above the actual damages sustained; which penalty may be recovered with costs, in a summary way, before any justice of the peace, by the Railway Company or any other party aggrieved by such neglect or refusal, and to and for the use and benefit of such Company, or other party so aggrieved.

How recoverable, and how to be applied.

6. For the purposes of the two next preceding sections, the word "traffic" includes not only passengers and their baggage, goods, animals and things conveyed by Railway, but also cars, trucks and vehicles of any description adapted for running over any Railway;—the word "Railway" includes all stations and depots of the Railway;—the expression "Railway Company" includes all parties owning, leasing or working any Railway;—and a Railway shall be deemed to come near another when some part of the one is within one mile of some part of the other.

Interpretation of words "traffic,"

"railway," "railway company," &c.

7. This Act shall form part of the Railway Act, and shall be construed as applying to any Railway Company incorporated or to be hereafter incorporated, to which the provisions of the said Railway Act apply, and shall have effect accordingly.

This Act to form part of the Railway Act.

8. The interest of the purchase-money or rent of any real property acquired or leased by any Railway Company, and necessary to the efficient working of such Railway, and the price or purchase-money of any real property or thing without which the railway could not be efficiently worked, shall be considered to be part of the expenses of working such railway, and shall be paid as such out of the earnings of the Railway.

Interest of purchase money or rent of property necessary for working a railway to be deemed part of its working expenses.

## 34 VICT. CAP. II. (ONTARIO.)

### An Act in aid of Railways.

[Assented to 15th February, 1871.]

**WHEREAS** it is expedient to give aid towards the construction of railways leading to or through sections of the country remote from existing thoroughfares, or passing through thinly settled tracts, or leading to the Free Grant Territory, or to the inland waters; Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Preamble.

1. For the purposes aforesaid the sum of one million five hundred thousand dollars shall be set apart from and out of the

"Railway Fund" formed from Con-

Consolidated Revenue Fund.

Consolidated Revenue Fund of this Province, and form a fund to be designated and known as the "Railway Fund." (a)

Lieutenant-Governor in Council may grant aid to certain railways.

2. From and out of the said Railway Fund the Lieutenant-Governor in Council may, by order in Council, (b) authorize payments to be made from time to time to any incorporated railway company of a sum or sums of not less than two thousand dollars per mile nor more than four thousand dollars per mile of any portion or portions of such railway, (c) and that any of such payments may be made after the Commissioner of Agriculture and Public Works shall have reported, for the information of the Lieutenant-Governor in Council, that such company has completed such portion of its road in respect of which payment is to be made, including sidings and stations, within the period for completion of the road named in the Act or Acts relating thereto; Provided, that no payment shall be made under any such authority till the said Commissioner shall have reported as aforesaid.

Proviso.

Proof to be furnished by railway asking aid.

3. No such authority shall be given in respect of any portion of a railway for the construction of which portion a contract has been entered into prior to the seventh day of December, in the year of our Lord one thousand eight hundred and seventy, nor until the company desirous of obtaining aid and payment out of the said Railway Fund, shall have furnished proof, to the satisfaction of the Lieutenant-Governor in Council, that the *bona fide* subscribed capital of the company, together with any bonuses or loans by municipal corporations thereto, and the proceeds of bonds to be issued or authorized by the Act, incorporating the company or any Act amending the same, leaves no reasonable doubt that such road, or portion or portions thereof in respect of which payment is to be made, shall be commenced and completed, including sidings and station houses, so as to be ready for the rolling stock within the period mentioned in such Act or Acts for the completion of the railway; and that any such Act or Acts authorize the construction of a railway as referred to in the preamble of this Act.

### 35 VICT. CAP. XXIII. (ONTARIO.)

An Act to make further provision touching the appropriation of the Railway Fund.

[Assented to 2nd March, 1872.]

Preamble.

WHEREAS it is expedient to give the Legislative Assembly additional control over the appropriation to particular works of the fund created by the Act in aid of Railways;

(a) Augmented by \$400,000. 35 Vict., c. 24, s. 1, p. 131.  
 (b) Orders to be ratified by the Legislative Assembly and published in the *Gazette*. 35 Vict., c. 25, ss. 1 & 2, p. 131.  
 (c) See 37 Vict., c. 37, p. 133.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Every Order in Council made after the seventh day of December, in the year one thousand eight hundred and seventy-one, authorizing payment to any railway company of any part of the said fund shall, as soon as conveniently may be after the making of such order, be laid before the Legislative Assembly for its ratification or rejection; and no such order shall be operative unless and until the same shall have been ratified by a resolution of the Legislative Assembly.

Orders in Council appropriating railway fund to be submitted to the Legislature.

2. Every Order in Council made under the provisions of the Act in Aid of Railways, and of this Act, shall be published in the next following issue of the *Ontario Gazette*.

Orders to be published.

### 35 VICT. CAP. XXIV. (ONTARIO.)

#### An Act to make further Provision in Aid of Railways.

[Assented to 2nd March, 1872.]

WHEREAS the Legislature having established a scheme for aiding the construction of railways, it is right that the public funds, appropriated for that purpose, should be adequate to the granting of aid to all proper enterprises, so far as that can be accomplished consistently with the retention of such a proportion of the public funds as may be requisite to do justice to all sections of the country and to an extent not greater than is provided by this Act; And whereas it is therefore expedient to make further provision in aid of Railways:

Preamble.

Therefore Her Majesty by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The sum of Four Hundred Thousand Dollars shall be set apart from and out of the Consolidated Revenue Fund of this Province, and shall be added to and form part of the fund designated and known as the Railway Fund, established under the Act in Aid of Railways. (a)

Railway fund augmented.

2. The sum of One Hundred Thousand Dollars yearly, for twenty years, shall be set apart from and out of the Consolidated Revenue Fund of this Province, and shall form a Fund to be designated and known as the Railway Subsidy Fund.

Railway subsidy fund established.

3. The provisions of the Act in Aid of Railways, and of any Act amending the same, shall, save in so far as they may be

Act in aid of railways to apply.

(a) 34 Vict., c. 2, p. 129.

inconsistent with the provisions of this Act, apply to the authorization and payment of any grant out of the Railway Subsidy Fund.

Grants out of fund.

4. The sum to be granted to any Railway Company out of the Railway Subsidy Fund shall not be less than one hundred and twenty dollars, or more than two hundred and forty dollars per mile per annum for twenty years on the portion aided.

Scrip.

5. Scrip or certificates may be issued in respect of any grant out of the Railway Subsidy Fund after payment thereof has been duly authorized; and the Commissioner of Agriculture and Public Works has duly reported as provided by the Act in Aid of Railways.

Railways not to get aid from the fund.

6. No railway company of whose line any portion is aided from the Railway Fund, shall be entitled to aid from the Railway Subsidy Fund in respect of such portion.

Railway companies to comply with conditions.

7. No railway Company which does not come within the terms and provisions, and comply with the conditions of the Act in Aid of Railways, and any Act amending the same, shall be entitled to aid from the Railway Subsidy Fund.

When Railway subsidy fund shall not be applied to aid.

8. No portion of the Railway Subsidy Fund, provided by this Act, shall be applied in aid of Railways until such time as Orders in Council shall have been passed exhausting the whole of the Railway Fund appropriated by this Act, and the Act passed in the thirty-fourth year of the reign of Her Majesty, Queen Victoria, and chaptered two. (a)

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### 37 VICT. CAP. XXXVII. (ONTARIO.)

#### An Act respecting the Railway Fund and the Railway Subsidy Fund.

[Assented to 24th March, 1874.]

Preamble.

WHEREAS the Legislature has appropriated the sum of one million nine hundred thousand dollars out of the Consolidated Revenue Fund of this Province for aiding the construction of railways, and has enacted that such sum shall form the Railway Fund, and has also appropriated the sum of one hundred thousand dollars yearly for twenty years from the passing of the Act intituled, "An Act to make further provision in aid of Railways" out of the said Consolidated Revenue Fund, and has enacted that such yearly sums shall form the Railway Subsidy Fund: And whereas for more effectually securing the object of the Legislature in establishing the said funds, it is expedient to amend certain of the provisions of the Acts relating thereto, and to make certain further provisions:

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Every Order in Council made under the provisions of the said recited Acts or of this Act, and which Order is or becomes operative by the ratification of the Legislative Assembly, shall be so construed and read that upon the fulfilment of the conditions contained in such Order in Council, the Lieutenant-Governor in Council may, at his option, direct that the payment by the said Order in Council authorized may be made out of the Railway Fund, or out of the Railway Subsidy Fund, from any part of the said funds respectively which has not been exhausted by actual payments directed to be made thereout by Orders in Council; and in directing the said payment at the yearly rate of one hundred and ninety-four dollars forty cents per mile of railway payable half yearly for the full period of twenty years computed from the first day of January, one thousand eight hundred and seventy-two, such yearly payment shall be deemed and taken as equivalent to the payment in hand at the rate of two thousand dollars per mile of railway, and *vice versa*, and in the like proportion where the grant in aid per mile is greater or less than at the said rate of two thousand dollars per mile, or the said yearly rate of one hundred and ninety-four dollars forty cents per mile, notwithstanding the same may be less than one hundred and twenty or in excess of two hundred and forty dollars per annum.
 

On fulfilment of conditions of the Order in Council, payment may be directed.

Equivalent of yearly payment in hand.
2. In every case where the conditions of the Order in Council in respect of the grant of aid have been fulfilled and the railway company is entitled to actual payment in hand or its equivalent yearly payments, the Lieutenant-Governor in Council may, by Order in Council, direct that such payments may be made out of the said respective Railway Funds to such railway company accordingly; and such Order in Council shall operate to charge, in favour of such railway company, the fund out of which such payment or payments is or are directed to be made, with the payment or payments thereof; and such railway company shall thereupon become entitled to payment of the said amounts at the times and in the manner mentioned in such Order in Council without any abatement.
 

Direction to pay.

Charge created by the Order
3. In any case where an Order in Council is passed under the provisions of the said recited Acts, and is operative by the ratification of the Legislative Assembly, and has not lapsed through the non-performance or non-observance of any of the conditions in that behalf in the said order contained, the Lieutenant-Governor nevertheless upon being satisfied that there is no reasonable doubt that such railway or portion or portions thereof in respect of which the grant of aid is made will not be completed within the period mentioned in the Act incorporating such railway company and limited for the com-
 

Annulling the Order.

pletion of such railway or of such portion or portions thereof, may, by Order in Council, declare that the said Order in Council for the grant of aid ought to become null and void in respect of the railway or portion or portions thereof so incompleated, and that the said grant of aid should lapse, and, upon the ratification of such Order by resolution of the Legislative Assembly, the said Order in Council for grant of aid and the said grant of aid in respect of said incompleated railway or portion or portions thereof shall be annulled and avoided accordingly.

### 35 VICT. CAP. XXV. (ONTARIO.)

An Act to enable certain Railway Companies to provide the necessary accommodations for traffic over their Railways and to amend the Railway Act of the late Province of Canada.

[Assented to 2nd March, 1872.]

Preamble.

**W**HEREAS it may happen that a railway company may require at certain stations or places, more ample space for the proper accommodation of their traffic and of the public, than they now possess, or than they can take or acquire under the Act or Acts incorporating or applying to such company; and it is necessary in the public interest that the most ample accommodation should be furnished for such traffic: And whereas, it is also expedient to make certain amendments to The Railway Act of the late Province of Canada:

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Proceeding when more space is required for the accommodation of the traffic at any station or place.

**1.** Whenever any railway company subject to the Legislative authority of the Legislative Assembly of the Province of Ontario, requires at any station or place on the line of such railway, more ample space for the convenient accommodation of the public, and of the traffic on the railway than they then possess, or can take without the consent of the proprietors thereof, the company may cause a plan to be made of the additional ground required at such station or place for the purposes aforesaid, not being in actual use for similar purposes by any other railway company, (and for the purpose of making such plan shall have the powers granted to railway companies for making surveys by the ninth section of The Railway Act), and may transmit such plan to the Commissioner of Agriculture and Public Works, with an application (supported by affidavit) on behalf of the company, referring to such plan and stating that certain ground shewn thereon is necessary for the purposes



aforsaid, and that no other ground suitable for the purpose can be acquired at such place on reasonable terms and with less injury to private rights, and requesting the Commissioner to authorize the taking thereof for such purposes under this Act; of which application ten days' notice shall be given to the owner or possessor of such property, and the correctness of the plan and the truth of the allegations in such application shall be certified by the president or one of the directors of the company, and by their engineer; and such plan and statement shall be made and transmitted to the Commissioner in duplicate.

2. The Commissioner of Agriculture and Public Works shall inquire into the correctness of the plan and the truth of the allegations of the application aforesaid, and being satisfied thereof, shall grant a certificate to that effect, and declaring it to be necessary in the public interest that the ground shewn on such plan, or any less quantity, should be acquired by the company: and such certificate shall be annexed to one of the duplicates of the said plan and statement, and the other duplicate shall remain in the office of the Commissioner.

Certificate of Commissioner of Agriculture and Public Works required.

3. Upon the granting of such certificate as aforesaid by the Commissioner of Public Works, and by virtue thereof, the company shall have power to take the ground shewn on the said plan as required for the purposes aforesaid, without the consent of the proprietors; and the company and all corporations or parties who could not otherwise convey the same to the company, shall have, with respect to any such ground all the powers granted by the eleventh section of The Railway Act of the late Province of Canada, headed "lands and their valuation," (a) to railway companies, corporations, and parties who could not otherwise convey the same, with respect to lands which may be taken without the consent of the proprietors thereof; and the enactments and provisions of the said section, except such as refer to the map or plan and book of reference therein mentioned, or as limit the extent of land to be taken, shall apply and are hereby extended to the ground mentioned in the said certificate of the Commissioner of Agriculture and Public Works, and to all the proceedings connected with or consequent upon the acquiring or taking of such ground or any part thereof, with or without the consent of the proprietors; and if at any time thereafter the company shall not require the whole or any portion of the land acquired under this Act for railway purposes, then such land as is not so required shall be sold by auction after thirty days' notice thereof in any local newspaper.

Effect of such certificate, and application of certain provisions of The Railway Act to the land certified as necessary.

Sale of land taken and afterwards required.

4. Any such certificate as aforesaid, purporting to be signed by the said Commissioner, shall be received as authentic in all courts of law or equity, without proof of such signature or other evidence unless its authenticity be called in question on behalf of the Crown.

Proof of certificate.

Arbitrators to consider increased value of remaining lands.

5. The arbitrators mentioned in the eleventh section of The Railway Act of the late Province of Canada, headed "lands and their valuation," in deciding on such value or compensation, are authorized and required to take into consideration the increased value that would be given to any lands or grounds through or over which the railway will pass by reason of the passage of the railway through or over the same, or by reason of the construction of the railway, and to set off the increased value that will attach to the said lands or grounds, against the inconvenience, loss, or damage that might be suffered or sustained by reason of the company taking possession of or using the said lands or grounds as aforesaid.

To what railway this Act applies.

6. The provisions of this Act shall apply to every railway company heretofore, or which may be hereafter incorporated, under the authority of the Legislative Assembly of the Province of Ontario.

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### 37 VICT., CAP. XXXVI. (ONTARIO.)

#### An Act to provide for the Inspection of Railways.

[Assented to 24th March, 1874.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Notice of intention to open Railway to be given to Commissioner of Public Works.

1. With respect to Railways which come within the legislative authority of this Province and to which the provisions of the Railway Act, chapter sixty-six of the Consolidated Statutes of Canada, and the Acts amending the same apply, the notice required by the one hundred and sixty-fifth section of the said Railway Act to be given to the Board of Railway Commissioners, is henceforward to be given to the Commissioner of Public Works of this Province; and all the powers, rights and duties which are by the said Acts given and assigned to the Board of Railway Commissioners, shall be exercised and performed by the said Commissioner of Public Works; and the powers given by the said Acts to the Governor in Council shall be possessed and exercised by the Lieutenant-Governor in Council; and the said Acts shall hereafter be read and construed as if the words "Commissioner of Public Works," and "Commissioner" were respectively substituted for the words "Board of Railway Commissioners" and "Board," wherever the latter words occur in said Acts, and as if the words "Lieutenant-Governor" were substituted for the word "Governor" wherever the word "Governor" occurs in said Acts.

Powers of Board of Railway Commissioners and Governor in Council to be exercised by Commissioner of Public Works and the Lieutenant-Governor.

2. The returns required by the one hundred and fifteenth section of the said Act, to be made to the three branches of the Legislature of the late Province of Canada, are henceforward to be made to the Provincial Secretary of Ontario. Returns.

3. Sections one hundred and seventy-eight and one hundred and seventy-nine of chapter sixty-six of the Consolidated Statutes of Canada are hereby repealed. C.S.C. cap. 66  
ss. 178, 179,  
repealed.

## 38 VICT. CAP. XV. (ONTARIO.)

### An Act respecting Railway Arbitrations. (a)

[Assented to 21st December, 1874.]

**W**HEREAS it is expedient to compel by subpoena the attendance of witnesses before arbitrators appointed under the Railway Act, and to give a right of appeal from the award of such arbitrators: Preamble.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Any party to an arbitration under the Railway Act, or the Railway Act, 1868, may without leave or order, obtain and issue out of any one of the Superior Courts upon *præcipe*, setting forth the names of the witnesses to be subpoenaed, the names of the arbitrators, and the place and time of meeting, a subpoena commanding the attendance for examination of any witness, and also the production of any document to or before the arbitrator or arbitrators, and at the time and place mentioned in such subpoena; and the disobedience of such subpoena shall be deemed a contempt of court, and shall be punishable in the same manner and to the like extent as in the case of subpoenas issued out of such court in a civil case. Parties to  
Railway Arbi-  
trations may  
obtain sub-  
pœnas.  
  
Disobedience  
thereto to be  
deemed con-  
tempt of court.

2. The same fees shall be payable for such subpoenas, as in the case of subpoenas issued out of such superior court in civil cases, and the witness shall be entitled to the like conduct money. Fees and con-  
duct money.

3. The depositions of witnesses examined before such arbitrators, shall be taken down in writing, and shall forthwith after the making of their award, together with the exhibits referred to therein, and all other papers connected with the reference except the award, be delivered, or by registered letter transmitted by the arbitrators to the clerk of records and writs of the Court of Chancery, with appropriate stamps, and shall be filed by such clerk with the records of the Court. Depositions to  
be in writing  
and filed with  
clerk of  
records and  
writs, with  
exhibits, &c.

Parties to arbitration may appeal to judges of Superior Courts.

**4.** Any party to such arbitration, may within one month after receiving a written notice from one of the arbitrators of the making of the award, appeal therefrom upon any question of law or fact to a judge of any of the superior courts of law or equity, and upon the hearing of such appeal such judge shall, if the same be a question of fact, decide the same upon the evidence, as in a case of original jurisdiction.

Practice and proceedings upon appeal.

**5.** Upon any such appeal the practice and proceedings shall be as near as may be, the same as upon an appeal from a decision of the judge of the county court in insolvency.

Existing practice as to setting aside award continued.

**6.** The right of appeal hereby given shall not affect the existing law or practice as to setting aside awards.

### 38 VICT. CAP. XXV. (CANADA.)

An Act to extend and amend the Law requiring Railway Companies to furnish Returns of their Capital, Traffic and Working Expenditure. (*a*)

**H**ER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Interpretation of the word "Company."

**1.** In this Act the term "Company" means a Company incorporated either before or after the passing of this Act, for the purpose of constructing, maintaining, or working a railway in the Dominion, or in any Province thereof, or connecting any Province with any other or others of the Provinces, or extending beyond the limits of any Province, by any Act of the Parliament of Canada, or of the late Province of Canada, or of the Legislatures of the late Provinces of Upper Canada, Lower Canada, Nova Scotia, New Brunswick, British Columbia, or Prince Edward Island, or of the Legislatures of any of the Provinces composing the Dominion of Canada (either alone or in conjunction with any other purpose), and includes any individual or individuals not incorporated, who are owners or lessees of a railway in the Dominion, or parties to an agreement for working a railway in the Dominion.

"Person."

The term "person" includes a body corporate.

Railway Companies to make annual returns to the Minister of Public Works.

**2.** Every Company shall annually prepare returns of their capital, traffic, and working expenditure for the last preceding financial year of the Company, in accordance with the form contained in schedule one to this Act, so far as relates to the particulars therein mentioned, and as to all other details in the

(a) See C. S. C. c. 66, ss. 115, 116, pp. 106, 107.

forms used by the Company for the information of their shareholders, and a copy of such return signed by the President, or other head officer of the Company resident in Canada, and by the officer of the Company responsible for the correctness of each return, or any part thereof, shall be forwarded by the Company to the Minister of Public Works, not later than three months after the end of the said financial year.

And every company which causes the accounts of the company to be made up half yearly shall prepare the aforesaid returns of their capital, traffic, and working expenditure for the preceding half year, in accordance with the said schedule one, and in the same manner and form forward the same to the Minister of Public Works not later than three months after the end of the said half year.

Half-yearly returns to be made in certain cases.

Any Company which fails to forward the said returns in accordance with the provisions of this section shall be liable to a penalty not exceeding ten dollars for every day during which such default continues.

Penalty for not making returns.

The Minister of Public Works, with the consent of a Company, may alter the said forms as regards such Company for the purpose of adapting them to the circumstances of such Company, or of better carrying into effect the objects of this section.

Minister of Public Works may alter forms.

**3.** Every Company shall weekly prepare returns of their traffic for the last preceding seven days in accordance with the form contained in schedule two to this Act, and a copy of such returns signed by the officer of the Company responsible for the correctness of such return, shall be forwarded by the Company to the Minister of Public Works within seven days from the day in each week to which the said returns shall have been prepared; and another copy of each of such returns, signed by the same officer, shall be posted up by the Company within the same delay, and kept posted up for seven days, in some conspicuous place in the most public room in the head office of the Company in Canada, and so as the same can be perused by all comers, and free access thereto shall be allowed to all comers during the usual hours of business at such office, on each day of the said seven, not being a Sunday or holiday.

Weekly returns of traffic.

And every Company which fails to forward the said weekly return to the Minister of Public Works, or which fails to post up and keep posted up a copy thereof as aforesaid, and allow free access thereto as aforesaid, shall be liable to a penalty not exceeding ten dollars for every day during which any such default continues.

Penalty for not forwarding or posting weekly returns.

**4.** If any return which is required by this Act, is false in any particular to the knowledge of any person who signs the

Punishment for false returns.

same, such person shall be liable on conviction thereof, on indictment, to fine and imprisonment, such fine not to exceed two hundred and fifty dollars.

Returns to be  
laid before  
Parliament.

**5.** The Minister of Public Works shall lay before both Houses of Parliament within twenty-one days from the commencement of each Session, the returns made and rendered to him, in pursuance of the second section of this Act.

Returns to be  
privileged  
communications.

**6.** All returns made in pursuance of any of the provisions of this Act, shall be privileged communications, and shall not be evidence in any court whatsoever.

Name of Act.

**7.** This Act may be cited as "The Railway Statistics Act."

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RETURNS.

SCHEDULE ONE.

RETURN in pursuance of \_\_\_\_\_ by the \_\_\_\_\_ Railway Company of their authorised Share and Loan Capital, and the sums received in respect of their Ordinary Capital and Preferential Capital, and Debenture Stock, or Funded Debt, on the 31st December, 18\_\_\_\_, specifying the rate per cent. of the Dividends for the year 18\_\_\_\_ on each of the said Capitals, showing also the Loans outstanding on the 31st December, 18\_\_\_\_, classified according to the several rates per cent. of interest, and the Capital subscribed to other undertakings, whether such undertakings are on Lease to, or worked by the subscribing Company, or are independent.

Name of Company.	* Authorised Capital up to the 31st December, 18____, including capital authorised as subscriptions to other undertakings, whether such undertakings are on lease to, or worked by the subscribing Company, or are independent.			Paid up Stock and Share Capital at 31st December, 18____, including subscriptions paid up to other undertakings.								
	+ By Shares.	By Loans.	Total.	Ordinary.	Rate per cent. of Dividend.	Guaranteed.	Guaranteed Rate of Dividend.	Rate of Dividend paid.	Preferential.	Preferential Rate of Dividend.	Rate of Dividend paid.	Total paid up Stock and Share Capital at 31st Dec., 18____.
	§	§	§	§	§	§	§	§	§	§	§	§
Capital raised by Loans and Debenture Stock at 31st December, 18____.												
Loans.	Rate of Interest.	+ Debentures.	Rate of Interest.	Total raised by Loans and Debenture Stock at 31st Dec., 18____.	Total Stock and Share Capital paid up, and Capital raised by Loans and Debenture Stock at 31st Dec., 18____.	Subscriptions to other Companies.		Remarks.				
§		§		§	§	§	§	§	§	§	§	§

NOTE.—This Return should be dated and signed by the officer or officers of the company responsible for its correctness.  
 \* This should include all capital authorised to be raised by Acts of Parliament, or by Provincial Legislatures, but should not include capital authorised only for purposes which have lapsed by abandonment or otherwise.  
 + In cases where a subscription is authorised out of existing capital, no addition should be made in respect of it to the sum entered in this column, but only to the sum entered in the last column.  
 † Care should be taken not to confound debenture stock with ordinary debenture loans, and not to enter the same sum under both heads.

SCHEDULE TWO.

..... Railway of Canada.

RETURN of Traffic for week ending 18 and the corresponding week, 18

Date.	Passengers.	Freight and Live Stock.	Mails and Sundries.	Total.	Miles open.
18 .					
18 .					

Increase .....

Decrease .....

Aggregate Traffic from..... 18.....

Date.	Passengers.	Freight and Live Stock.	Mails and Sundries.	Total.	Miles open.
18 .					
18 .					



## 38 VICT. CAP. XLII. (CANADA.)

An Act to prevent Cruelty to Animals while in transit  
by Railway or other means of conveyance within  
the Dominion of Canada.

**W**HEREAS the transportation of cattle, by railway or Preamble.  
vessels for long distances without rest, food, or water  
is liable to cause suffering from hunger, thirst and fatigue; And  
whereas it is expedient to make provisions for the regulation  
of the transportation or conveyance of live stock over the lines  
of railway, and by vessels, within the Dominion of Canada:

Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. In this Act the term "Cattle" shall include any horse, Interpretation  
mule, ass, swine, sheep, or goat, as well as any neat cattle or —"Cattle."  
animal of the bovine species, and whatever be the age or sex  
of the animal, and by whatever technical or trivial name it  
may be known, and shall apply to one animal as well as  
many.

2. No railway company within the Dominion of Canada, Animals not  
whose railway forms any part of a line of road over which to be confined  
cattle are conveyed from one Province to another Province, in cars or  
or from the United States to or through any Province, or vessels for a  
from any part of a Province to another part of the same, longer period  
nor the owner or master of any vessel, carrying or transport- than 28 con-  
ing cattle, from one Province to another Province, or within secutive hours,  
any Province, or from the United States through or to any  
Province, shall confine the same in any car, or vessel of any  
description, for a longer period than twenty-eight consecu-  
tive hours without unloading the same for rest, water and  
feeding for a period of at least five consecutive hours, unless  
prevented from so unloading and furnishing water and food  
by storm or other unavoidable cause, or by necessary delay or  
detention in the crossing of trains. In reckoning the period of Computation  
confinement, the time during which the cattle have been con- of time.  
fined without such rest and without the furnishing of food and  
water, on any connecting railways or vessels from which they  
are received, whether in the United States or in Canada, shall  
be included, it being the intention of this Act to prevent their  
continuous confinement beyond a period of twenty-eight hours,  
except upon the contingencies hereinbefore stated.

3. Cattle so unloaded shall be properly fed and watered Cattle to be  
during such rest by the owner or person having the custody fed and  
thereof, or in case of his default in so doing, then by the rail- watered.  
way company or owner or master of the vessel transporting the

same, at the expense of the owner or person in custody thereof; and the company, owner or master shall in such case have a lien upon such cattle for food, care and custody furnished, and shall not be liable for any detention of such cattle.

Cars to be cleaned.

4. Where cattle are unladen from cars for the purpose of receiving food, water and rest, it shall be the duty of the Railway Company then having charge of the cars in which they have been transported, to clear the floors of such cars, and to litter the same properly with clean saw-dust or sand before re-loading them with live stock, except during a period of frost.

Penalty.

5. Any railway company, owner or master of a vessel, having cattle in transit as aforesaid, who shall knowingly and wilfully fail to comply with the provisions contained in the second section of this Act, shall for each and every such failure to comply with its provisions forfeit and pay as a penalty a sum not exceeding one hundred dollars for each case in which such provisions are disregarded: Provided, however, that when cattle are carried in any car or vessel, in which they can and do have proper space and opportunity for rest and proper food and water, the foregoing provisions in the second section contained in regard to their being unladen shall not apply.

Proviso.—  
When there is space and opportunity for rest and feeding.

Peace officers may enter and view.

6. Any peace officer or constable may at all times enter on premises where he has reasonable grounds for supposing that any car, truck, or vehicle in respect whereof any company or person has failed to comply with the requirements of this Act, is to be found, or enter on board any vessel in respect whereof he has reasonable grounds for supposing that any company or person has on any occasion so failed; and if any person refuses admission to such peace officer or constable acting under this section, such person shall be deemed guilty of an offence against this Act.

Penalty.

7. If any person is guilty of any offence against this Act, as in the last preceding section mentioned, he shall for every such offence forfeit and pay such a sum of money not exceeding twenty dollars, nor less than five dollars, with costs, as to any one Justice of the Peace for the district, county or place in which the offence has been committed may seem meet.

Imprisonment.

8. The offender shall in default of payment be committed to the common jail or other place of confinement for the district, county or place in which the offence was committed, there to be imprisoned for any time not exceeding thirty days.

Act not to effect remedy by action.

9. Nothing in this Act contained shall prevent or abridge any remedy by action against the offender or his employer where the amount of the damage is not sought to be recovered by virtue of this Act.

**10.** Every penalty recoverable under this Act shall belong to the Crown, and every proceeding for the recovery of such penalty shall be commenced within one month next after the committing of the offence. Limitation for taking proceedings.

**11.** Every offence against the seventh section of this Act may be prosecuted in the manner directed by the "Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders," (a) so far as no provision is hereby made for any matter or thing which may be required to be done with respect to such prosecution; and all the provisions contained in the said Act shall be applicable to such prosecutions in the same manner as if they were incorporated in this Act. Manner of prosecution.

(a) 32 & 33 Vict., c. 31.

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