

conditions as regards sharing of expense and otherwise, as may be deemed expedient; and thereupon, the said bridge shall become and be a county work, on such terms and conditions, accordingly.

Conditions of provincial aid towards the repair of the bridge.

3. No payment, on account or otherwise, shall be made from any moneys granted by way of provincial aid towards the repair or rebuilding of the said bridge, until after due provision shall have been made, to the satisfaction of the lieutenant-governor in council, for the full and entire completion of such repair or rebuilding, with such aid, by the municipality or municipalities so charged therewith; nor otherwise than through the department of public works, and for work actually done under the supervision and to the satisfaction thereof, and in due proportion to the requisite amount of other work actually done under like supervision and to the like satisfaction, at the cost of such municipality or municipalities.

As to tolls on said bridge.

4. After such repair or rebuilding shall have been completed, the lieutenant-governor in council, on demand to that effect from such municipality or municipalities, will authorize, and without such demand may authorize, the levying of such rates of tolls on the said bridge as may be deemed expedient, for the benefit of such municipality or municipalities; and from time to time, may authorize any change of such rates, which may be found desirable. And all provisions of any order in council, as to such rates, or the levying and enforcing thereof, or the division or investing (in whole or part) of any proceeds thereof, shall have force of law, until amended by any after order in council, or by act of this legislature.

C A P. L I.

An Act respecting Railways.

[Assented to 5th April, 1869.]

Preamble.

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

Short title.

1. In citing this act, it shall be sufficient to use the expression "*The Quebec Railway Act, 1869.*"

APPLICATION OF ACT.

Application of the several parts of this Act.

2. The provisions of this act, from section five to section twenty-two, both inclusive, being part first of this act, shall apply to every railway hereafter to be constructed under the authority of any act passed by the legislature of Quebec, and shall, so far as they are applicable to the

undertaking, and unless they are expressly varied or excepted by the special act, be incorporated with the special act, form part thereof, and be construed therewith as forming one act.

3. For the purpose of excepting from incorporation with the special act any of the sections forming part first of this act, it shall be sufficient in the special act to enact, that the sections of this act proposed to be excepted, referring to them by the words forming the headings of such sections respectively, shall not be incorporated with such act, and the special act shall thereupon be construed accordingly.

How any section may be excepted from incorporation with any special acts.

4. The remaining provisions of this act, being part second, shall apply to all railways which may hereafter be constructed under the authority of any special act passed by the legislature of Quebec, and to all companies hereafter incorporated for their construction and working.

To what railways the other provisions of this act shall apply.

PART FIRST.

INTERPRETATION.

5. 1. The expression "the special act," used in this act, shall be construed to mean any act authorizing the construction of a railway, with which this act is incorporated;

Interpretation of the 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 which 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 them, unless there is something in the subject or context repugnant to such construction, that is to say;

In this and the special act.

6. The word "lands" shall include all real estate, messuages, lands, tenements and hereditaments of any tenure;

" Lands. "

7. The word "lease" shall include any agreement for a lease;

" Lease. "

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, merchandise, matters or things conveyed on the railway;

" Toll. "

- “ Goods.” 9. The word “goods” shall include things of every kind that may be conveyed upon the railway, or upon steam or other vessels connected therewith;
- “ County.” 10. The word “county” shall include any union of counties, county, or any division thereof into separate municipalities;
- “ Highways.” 11. The word “highways” shall mean all public roads, streets, lanes and other public ways and communications;
- “ Sheriff” 12. 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, 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, the same expression shall be construed to mean the sheriff or clerk of the peace of any such district, where any part of such lands is situate;
- “ Justice.” 13. The word “justice” shall mean a justice of the peace acting for the district, 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 one district, the word “justice” shall mean a justice acting for the district, where any part of such lands is 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.” 14. 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 the 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;
- “ The company.” 15. The expression “the company” shall mean the company or party authorized by the special act to construct the railway;
- “ The railway.” 16. The expression “the railway” shall mean the railway and works by the special act authorized to be constructed.

INCORPORATION.

Companies

6. Every company established under any special act

shall be a body corporate under the name declared in the special act, and shall be vested 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, or are expressed or included in the civil code.

established under special acts, declared to be bodies corporate, &c.

POWERS.

7. The company shall have power and authority :

Powers :

1. To receive, hold and take all voluntary grants and donations of land or other property made to it, to aid in the construction, maintenance and accommodation of the railway, but the same shall be held and used for the purpose of such grants or donations only ;

To receive grants of land &c. ;

2. To purchase, hold and take of any corporation or person any land or other property necessary for the construction, maintenance, accommodation and use of the railway, and also to alienate, sell or dispose of the same ;

Purchase of land ;

3. No railway company shall take possession of, use or occupy any lands belonging to the province, without the consent of the lieutenant-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, subject, however, to the authority and control of the parliament of Canada as regards navigation and shipping.

Occupy public lands, beaches, &c., with consent of the crown ;

4. The company shall have power and authority 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 as interested in such lands ;

Power to carry railway across lands of corporations, and others ;

5. To construct, maintain and work the railway across, along, or upon any stream of water, watercourse, canal, highway or railway which it intersects or touches ; but the stream watercourse, 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 ;

And across or along streams, &c.

6. To make, complete, alter and keep in repair the rail-

To complete

railway with one or more tracks, &c. :

way 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. ;

7. To erect and maintain all necessary and convenient buildings, 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 carriages, waggons, floats and other machinery necessary for the accommodation and use of the passengers, freight and business of the railway ;

Branch railways ;

8. To make branch railways 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, provided that the sanction of the lieutenant-governor in council be first obtained for the construction of such branch and that no such branch exceed ten miles in length ;

All other matters and things necessary for railway ;

9. To construct, and make all other matters and things necessary and convenient for the making, extending and using of the railway, in pursuance of this act, and of the special act ;

To convey persons and goods on railway ;

10. To take, transport, carry and convey persons and goods on the railway, to regulate the time and manner in which the same shall be transported, and the tolls and compensation to be paid therefor, and to receive such tolls and compensation ;

Borrow money, &c.

11. To borrow from time to time, either in Canada or elsewhere, such sums of money as may be expedient for completing, maintaining or 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 Canada 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 properties 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 ;

To issue bonds, debentures, &c.

To enter upon lands, &c.

12. To enter into and upon any crown lands without previous licence therefor, or into and upon the lands of any corporation or person whatsoever lying in the intended route or line of the railway ; and to make surveys, 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 ;

To make surveys of lands ;

To remove trees ;

13. 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;

14. 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 conveniences 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 the Superior Court;

To cross or unite with other railway.

15. But no railway company shall avail itself of any of the powers contained in the next preceding sub-section without application to the railway committee, constituted by the twenty-third section of this act, for approval, of the mode of crossing, union or intersection proposed; 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, 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 the determination of such compensation as provided in the said sub-section;

But not without application to the railway committee under sect. 23.

16. Any railway company may construct a branch or branches not exceeding six miles in length from any terminus or station of their railway, 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, or in this act, nor shall any thing in either of the said acts authorize the company to take for such branch any lands belonging to any party without the consent of such party first obtained;

Any railway company may construct branch railways on certain conditions.

17. 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 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 special act;

Changes may be made in the line of a railway at any time for certain purposes.

18. The original capital stock of any railway company may be increased from time to time to any amount, but such increase must be sanctioned by a vote in person or

Stock may be increased: how and on what conditions.

by proxy, of at least two-thirds in amount of all the shareholders, at a meeting 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, 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.

Telegraph lines.

19. Railway companies shall have the right to establish telegraphic lines along the whole extent of the railway at such places along the line and with offices at such places as shall be determined upon by the directors, and such telegraphs may be used by the public generally in conformity with the rules and regulations that the company may adopt.

PLANS AND SURVEYS.

Provisions respecting surveys and levels.

Map and book of reference; contents.

8. Plans and surveys shall be made and corrected as follows :

1. 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 :—

- a. A general description of the said lands ;
- b. The names of the owners and occupiers thereof, so far as they can be ascertained ; and,
- c. Every thing necessary for the right understanding of such map or plan ;

To be examined, certified and copies deposited.

2. The map or plan and book of reference shall be examined and certified by the commissioner of agriculture and public works, or his deputy, and a duplicate thereof, so examined and certified, shall be deposited in the office of the department of public works, and the company shall be bound to furnish copies of such map or plan and book of reference or of such parts thereof as relate to each district through which the railway is to pass, to be deposited in the offices of the clerks of the peace for such districts respectively ;

Access to copies.

3. Any person may resort to such copies, and make extracts or copies thereof, as occasion requires, paying to the clerks of the peace, at the rate of ten cents for every hundred words ;

Certified copies to be evidence.

4. Such map or plan and book of reference so certified, or a true copy thereof certified by the commissioner of

agriculture and public works, or by the clerks of the peace, shall be good evidence in any court of law and elsewhere ;

5. Any omission, misstatement or erroneous description of such lands, or of the owners or occupiers thereof, in any 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 ;

Omissions or errors how remedied.

6. 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 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 ;

Certificate relating thereto.

7. 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 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 they relate to the several districts, in or through which such alterations have been authorized to be made shall be deposited with the clerks of the peace of such districts ;

Alterations from original survey.

8. Until such original map or plan or book of reference, or the plan and section 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.

9. 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 each default of four dollars ;

Clerks of the the peace to retain copies of original plan, &c.

Copies or extracts.

10. 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.

11. No deviation of more than one mile from the line of

Line not to

deviate more than a mile from plan.

the railway or from the places assigned thereto in the 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;

As to errors in the name of a person entered in a book of reference.

12. 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 though some other person is erroneously mentioned as the owner of or entitled to convey, or as interested in such lands.

Map, &c., of railway to be filed in the board of works' office.

13. A map and profile of the completed railway and of the land taken or obtained for the use thereof, shall, within six months after completion of the undertaking, be made and filed in the department of public works, and like maps of the parts thereof, located in different districts and counties, shall be filed in the registry offices for the districts and counties in which such parts are respectively situate; and any company failing or neglecting to furnish such map within the said period, shall incur a penalty of two hundred dollars, and a like penalty for each and every month such failure or neglect shall continue, recoverable in her majesty's name in any court of competent jurisdiction;

On what scale and paper to be drawn.

14. 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 commissioner of agriculture and public works, and shall be certified and signed by the president or engineer of the corporation.

LANDS AND THEIR VALUATION.

Extent of lands to be taken without consent of proprietor.

9. The lands which may be taken without the consent of the proprietor thereof, shall not exceed thirty-three 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 and fifty 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 shown 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:

Extra breadth for depots.

2. The extent of the public beach, or of the land covered with the waters of any river or lake in the province, taken for the railway, shall not exceed the quantity limited in the next preceding sub-section ;

Extent of public beach to be taken.

3. All corporations and persons whatever, tenants in tail or for life, institutes, guardians, curators, executors, administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes-covert*, or other persons, seized, possessed of, or interested in any lands, may contract, sell or convey unto the company all or any part thereof.

Corporations, &c., may convey lands to company.

4. But the powers by the next preceding sub-section conferred upon 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, shall only extend and be exercised with respect to any of such lands actually required for the use and occupation of any railway company ;

Limitation of powers in certain cases.

5. Any contract, agreement, sale, conveyance and assurance so made, under the two preceding sub-sections, shall be valid and effectual in law to all intents and purposes whatsoever, and 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 ; and the corporation or person so conveying, is hereby indemnified for what it or he respectively does by virtue of or in pursuance of this act.

Effect of sale under preceding sub-section.

6. The company shall not 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, as hereinafter provided ;

Disposition of purchase money.

7. 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 meantime, 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.

8. All corporations or persons who cannot in common course of law sell or alienate any lands so set out and as-

Corporations who cannot sell, may

agree upon a fixed rent.

certained, 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 registration division;

As to proprietors *par indivis*.

9. 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 part 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 or *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;

After one month's notice of deposit of map, &c., application to the owner of lands.

10. After one month from the deposit of the map or plan and book of reference, and from notice thereof in at least 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 of plan, &c., to the general notice.

11. 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 the parties, of the lands which will be required for the railway and works;

Notice to opposite party : and what it must contain.

12. The notice served upon the party shall contain :

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

b. 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,

c. 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 the province, desinterested in the matter, and not being the arbitrator named in the notice, stating:

a. 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;

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

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

13. If the opposite party is absent from the district in which the lands lie, or is unknown, then, upon application to the judge of the Superior Court residing in the district 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 ascertained, 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 district; or if there be no newspaper published therein, then in a newspaper published in some adjacent district;

If the opposite party be absent or unknown: application to a judge.

14. Whenever any such judge is interested in any lands taken or required by the company within the district in which he resides, any other judge of the Superior Court in the province, shall, on the application of the company, exercise in such case all the powers given by this section to the resident judge in cases in which he is not interested;

If county judge be interested.

15. If within ten days after the service of such notice, or within one month after the first publication thereof, 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 the province, to be sole arbitrator for determining the compensation to be paid as aforesaid;

Party not accepting the company's offer, and not appointing an arbitrator.

16. 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 commissioner of agriculture and public works shall, on the application of the party or of the company (previous notice of, at least, two clear days having been given to the other party,) appoint one of the official arbitrators to be a third arbitrator;

Appointment of arbitrators by opposite party: third arbitrator.

Duties of arbitrators.

17. The arbitrators or two of them, or the sole arbitrator, being sworn before some justice of the peace for the district 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, 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 two clear days' 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;

Award of two to be sufficient.

Arbitrators to consider increased value of remaining lands.

18. The arbitrators 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;

Costs, how paid.

19. If in any case where three arbitrators have been appointed, the sum awarded is not greater than that offered, the cost 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;

Arbitrators may examine on oath.

20. The arbitrators, or a majority of them, or the sole arbitrator, may examine on oath or solemn affirmation the parties or such witnesses as voluntarily appear before them or him, and may administer such oath or affirmation;

Time within which award may be made.

21. A majority of the arbitrators at the first meeting after their appointment, or the sole arbitrator shall 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 resolution of the arbitrators, then, the sum offered by the company as aforesaid, shall be the compensation to be paid by them;

Arbitrator dying, &c.

22. If the sole arbitrator appointed by the judge or the official arbitrator appointed by the commissioner of agriculture and public works, or 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 sole arbitrator, the judge, upon the application of either party, and in the case of the official arbitrator, the said commissioner of public works, upon a like application, the judge or commissioner being satisfied by affidavit or otherwise of such death, disqualification, refusal, or failure, may appoint another arbitrator in his place, and in the case of any arbitrator appointed by the parties, the company and party respectively may each appoint an arbitrator in the place of his arbitrator so deceased or not acting, but no recommencement or repetition of prior proceedings shall be required in any case;

23. 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;

Company
may desist
paying costs.

24. The surveyor or other person offered or appointed as valuator or as sole 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;

Surveyor or
arbitrator
not disquali-
fied unless
personally
interested.

When disqua-
lification must
be urged.

25. 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 or 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 two clear days' notice to the other, and if the 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;

No objection
admissible
after a third
arbitrator
has been ap-
pointed.

26. No award 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;

Awards not
avoided for
want of form.

27. Upon payment or legal tender of the compensation Possession

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

or annual rent so awarded or agreed upon 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 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 to a bailiff as he may deem most suitable, to put the company in possession, and to put down such resistance or opposition, which the sheriff or bailiff, taking with him sufficient assistance, shall accordingly do;

Warrant of
possession.

When warrant
of possession
may issue
before award.

28. 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 railway with which the company are ready forthwith to proceed; and upon the 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;

Security being
first given to
deposit com-
pensation.

When com-
pensation to
stand in the
place of the
land.

29. 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 accordingly 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;

Case in which
lands are si-
tuate in P. Q.
and company
have reason
to fear incum-
brances.

30. 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 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 company to the land therein mentioned, and proceedings shall thereupon be had for the confirmation of the title of the 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;

31. Such judgment of confirmation shall forever 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 the rights of all parties interested, as to right and justice, and the special act, and the provisions of this act and to law, shall appertain;

32. The costs of the proceedings, or any part thereof, shall be paid by the company, or by any other party, as the court may 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.

HIGHWAYS AND BRIDGES.

10. The railway shall not be carried along an existing highway, but merely cross the same in the line of railway, unless leave has been obtained from the proper municipal or local 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 nor sink below the surface of the road more than one inch, shall not be deemed an obstruction;

2. 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 inch; and the railway may be carried across or above any highway within the limits aforesaid;

Height and span of bridge over highways.

3. The span of the arch of any bridge erected for carrying the railway over or across any highway 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 arch of not less than twelve feet; and the descent under any such bridge shall not exceed one foot in twenty feet;

Ascent of bridges.

4. 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;

Precautions when Railway crosses a highway.

5. Signboards stretching across or projecting over 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, in letters not less than six inches in length; and for any neglect to comply with the requirements of this sub-section, a penalty not exceeding forty dollars shall be incurred.

FENCES.

Fences to be erected on each side of Railway, with gates and crossings.

1. Within six months after any lands have been taken for the use of the railway, the company shall, if thereunto required by the proprietors of the adjoining lands, at their own costs and charges, erect and maintain on each side of the railway, fences of the height and strength of an ordinary division fence, with sliding gates, commonly called hurdle gates, with proper fastenings, at farm crossings of the road, for the use of the proprietors of the 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;

Liability of company until cattle guards erected.

2. 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;

When to be exempted.

3. 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;

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

4. If any person rides, leads or drives any horse or and other animal or suffers any such horse or other animal to enter 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 for-

feit a sum not exceeding forty dollars; and shall also pay to the party aggrieved all damages sustained thereby;

5. 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. Or walking thereon.

TOLLS.

12. 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; Tolls to be fixed by By-laws or otherwise.

2. 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; How payment of tolls enforced.

3. 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; When, if tolls not paid, goods detained may be sold.

4. 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 *Quebec Official 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; When remainder of goods detained may be sold.

5. In default of such balance being claimed before the expiration of the period last aforesaid, the same shall be paid over to the treasurer, to be applied to the general purposes of the province, until claimed by the party entitled thereto; Proceeds, how dealt with.

6. All or any of the tolls may, by any by-law, be reduced and again raised as often as deemed necessary for the in- How balance to be disposed of
Toll—how raised or reduced.

terests of the undertaking; but 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;

A fraction of a mile or ton how estimated in charging tolls.

7. 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;

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

8. 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, in some conspicuous place there, a printed board or paper exhibiting in french and english all the tolls payable, and particularizing the price or sum of money to be charged or taken for the carriage of any matter or thing;

Tolls to be approved of by the lieutenant-governor in council.

9. No tolls shall be levied or taken until approved of by the lieutenant-governor in council, nor until after two weekly publications in the *Quebec Official Gazette* of the by-law establishing such tolls, and of the order in council approving thereof;

The lieutenant-governor may revise By-laws fixing tolls.

10. Every by-law fixing and regulating tolls shall be subject to revision by the lieutenant-governor in council from time to time, after approval thereof; and after an order in council, reducing the tolls fixed and regulated by any by-law has been twice published in the *Quebec Official 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;

When Legislature may reduce tolls on railways.

11. The legislature 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 anum, profit on the capital actually expended in its construction; nor unless, on an examination made by the commissioner of public works of the amount received and expended by the company, the net income from all sources, for the year then last passed, is found to have exceeded fifteen per cent upon the capital so actually expended;

By-laws imposing tolls, &c., to be approved by the lieutenant-governor in council.

12. No by-law of any railway company 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 lieutenant-governor in council.

GENERAL MEETINGS.

Shareholders

13. The shareholders may assemble together at general

meetings for purposes connected with or belonging to the undertaking, and at any annual general meeting, may elect directors in the manner provided by the next succeeding section.

may hold general meetings.

PRESIDENT AND DIRECTORS—THEIR ELECTION AND DUTIES.

14. A board of directors of the undertaking to manage its affairs, the number whereof shall be stated in the special act, shall be chosen annually by a majority of the shareholders 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 appointed the directors shall cause such election to be held within as short a delay as possible after the day appointed ;

Board of directors to be elected.

2. No person shall be admitted to vote on such subsequent day except those who would have been entitled to vote had the election been held on the day when it ought to have been held ;

Who entitled to vote.

3. Vacancies in the board of directors shall be filled in the manner prescribed by the by-laws ;

Vacancies, how to be filled up.

4. No person shall be a director unless he is a stockholder, owing stock absolutely in his own right, and qualified to vote for directors at the election at which he is chosen ;

Who qualified to be a director.

5. The method of calling general meetings, and the time and place of the first meeting of stockholders, for the appointment of directors, shall be determined and settled in the special act ;

Calling of special meetings, &c.

6. 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 of the number of shares held by him, unless otherwise provided by the special act ;

Votes to be in proportion to shares.

7. All shareholders, whether resident in the 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 _____ ;

Form.

8. 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 sharehol-

Vote by proxy to be valid.

ders 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 ;

Term of office of directors.

9. The directors appointed at the last election, or those appointed in their stead in case of vacancy, shall remain in office until the next ensuing election of directors ;

Vacancies how supplied.

10. 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 ;

President.

11. The directors shall, at their first or at some other meeting after the election, elect one of their number to be the president of the company, who shall always, when present, be the chairman of and preside at all meetings of the directors, and shall hold his office until he 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 ;

Term of office.

Vice President.

Quorum.

12. The directors at any meeting at which not less than a quorum, to be settle by the special act, are present, shall be competent to use and exercise all and any of the powers vested in them ;

Acts of majority to bind the whole.

13. 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 ;

Casting vote.

14. No director shall have more than one vote 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.

15. 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 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 or contractors.

16. 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 ;

By-laws for management of stock, &c.

17. 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 law, and

for the appointment of all officers, servants and artificers, and prescribing their respective duties ;

18. The directors shall, from time to time, appoint such officers as they deem requisite, and shall take sufficient security, by one or more penal bonds, or by the guarantee of the european assurance society, or of any society incorporated for like purposes as they may deem expedient or otherwise, from the manager and officers for the time being, for the safe keeping and accounting for 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 ;

May appoint officers.

19. 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 intruments, 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 ;

Vice president to act in the absence of the president.

20. 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 *primâ 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 ;

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

21. The directors shall cause to be kept, and annually on the thirty-first day of december to be made up and balanced, a true, exact and particular account of the moneys 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 rendered.

CALLS.

15. 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 ;

Calls, how made and after what notice.

Notice of meetings, how published

2. All notices of meetings or of calls upon the shareholders of the company shall be published weekly in the *Quebec Official Gazette*, which shall be conclusive evidence of the sufficiency of such notices ;

Payment of calls how to be made.

3. 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 the times and places from time to time appointed by the company or the directors ;

Interest to be chargeable on overdue calls.

4. 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 ;

Amount of call may be recovered by suit.

5. 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 competent jurisdiction, and the same may be recovered with lawful interest from the day on which the call became payable ;

What allegations and formalities necessary in actions for calls.

6. 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 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.

7. 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 ;

Proviso.

8. But the want of such certificate shall not prevent the holder of any share from disposing thereof ;

Penalty for refusal to pay calls.

9. Any person neglecting or refusing to pay a rateable share of the calls as aforesaid, for the space of two months after the time appointed for the payment thereof, shall forfeit his shares in the undertaking, and all the profit and benefit thereof ; which forfeitures shall go to the company for the benefit thereof ;

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

10. 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 has been incurred ;

Effect of forfeiture as to liabilities.

11. 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

12. The directors may sell, either by public auction or

private sale, and in such manner and on such terms as to them may 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 ;

13. 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 purchaser, 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 so 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 ;

14. Shareholders willing to advance the amount of their shares, or any part of the money due upon their 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 such 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.

DIVIDENDS.

16. 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 ;

2. 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 may think fit to appoint or determine ;

3. No dividend shall be made whereby the capital of the company is in any degree reduced or impaired, or be paid out of such capital, 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 ;

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

4. 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 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 share in arrear.

5. No interest shall accrue to the proprietors of any share upon which any call is in arrear in respect of such shares or upon any other share held by the same shareholder while such call remains unpaid.

SHARES AND THEIR TRANSFER.

Shareholders may dispose of shares.

17. 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;

Form of sale.

2. 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 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, executors, administrators and assigns, subject to the same rules and orders, and on the same conditions that I held the same immediately before the execution hereof. And I, the said C. D., do hereby agree to accept of the said _____ share (or shares) subject to the same rules, orders and conditions. Witness our hands this _____ day of _____ in the year 18 _____;

Stock to be personal estate.—No transfer of part of a share.

3. The stock of the company shall be deemed personal 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;

Transmission of shares other than by transfer, provided for.

4. If any share in the company be transmitted by the death, bankruptcy or last will, donation or testament, or by the intestacy of any shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the party to whom such share is transmitted, shall deposit in the office of the company 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 proofs as may be necessary, and without such proof the party shall not be entitled to receive any share of the profits of the company, nor vote in respect of any such share as the holder thereof;

5. 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 trust, and the company shall not be bound to see to the application of the money paid upon such receipts;

Company not bound to see to the execution of trusts.

6. The funds of the company shall not be employed in the purchase of any stock in their own or in any other company.

Company not to take stock in their own or any other companies.

SHAREHOLDERS.

18. Each shareholder shall be individually liable to the creditors of the company to an amount equal to the amount 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;

Share holders individually liable, and to what extent.

2. Municipal corporations subject to the limitations and restrictions by law prescribed, may subscribe for any number of shares in the capital stock of the company, and the mayor, warden; or other head of any such corporation holding stock 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;

When and how Municipal Corporations may take stock, &c.

3. 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.

Account of names and residence of Shareholders to be kept.

BY-LAWS, NOTICES, &C.

19. 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

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

other than the members or servants of the company, shall be affixed openly in every place where tolls are to be gathered, and a printed copy of so much of them as relates to the safety and liability of passengers shall be openly affixed in each passenger car, 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 evidence thereof in any court;

By-laws to be submitted to lieutenant-governor.

Copies of Minutes to be *prima facie* evidence.

2. All such by-laws and orders shall be submitted from time to time to the lieutenant-governor for approval;

3. 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 evidence of such proceedings and resolutions in any court;

Notice by Secretary valid.

4. All notices given by the secretary of the company, by order of the directors, shall be deemed notices by the directors and company.

WORKING OF THE RAILWAY.

Servants to wear badges.

20. Every servant of the undertaking employed in a passenger train or at a station for passengers, shall wear upon his hat 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, or to interfere with any passenger or his baggage or property;

Trains to start at regular hours.

2. The trains shall be started 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;

Passengers and goods to be carried on payment of fare or freight.

3. 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;

The Company liable for neglect or refusal.

4. The party aggrieved by any neglect or refusal in the premises, shall have an action therefor against the company;

Checks to be fixed on parcels.

5. 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;

6. 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;

Penalty for refusing to give Checks.

7. 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;

Passenger a witness in his own behalf.

8. The baggage, freight merchandise or lumber cars shall not be placed in rear of the passenger cars.

Baggage cars not to be in rear of passenger cars.

9. Every locomotive engine shall be furnished with a bell of at least thirty pounds weight, and with a steam whistle;

Locomotives to have bells and steam whistles.

10. 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, and one-half of such 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;

To be rung or sounded at every crossing, &c.

11. No person who is intoxicated shall have charge of a locomotive engine, or act as the conductor of a car or train of cars.

Intoxication of conductors.

12. Any passenger refusing to pay his fare, may, by the conductor of the train and the servants of the company, be put out of the cars, with his baggage, 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;

Passenger refusing to pay fare may be put out.

13. 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;

Passengers to have no claim if injured when on platform of cars, &c.

14. No person shall be entitled to carry or to require the company to carry upon their railway, *aquafortis*, oil of vitriol, gunpowder, nitro-glycerine, 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

As to good of a dangerous nature.

They must be plainly marked.

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 ;

Dangerous goods may be refused.

15. 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.

ACTIONS FOR INDEMNITY ; AND FINES AND PENALTIES AND THEIR PROSECUTIONS.

Limitation of action for damages.

21. All suits for indemnity for any damage or injury sustained by reason of the railway shall be instituted within six months 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 ;

Fines, how recovered.

2. All fines and forfeitures imposed by part first of this act or the special act, or by any by-law, except those for the levying and recovering of which special provision is herein made, shall be recovered in a summary manner before any one or more justice or justices of the peace for the district where the act occurred ;

How applicable.

3. All the fines, forfeitures and penalties, recovered under the next preceding paragraph 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 ;

Forfeiture for contravention of this Act, &c.

4. The fact of any contravention of this act or of the special act by the company being a misdemeanor, and punishable accordingly, shall not exempt the company, 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.

Proviso.

Tenders to be advertised for, as to Works not of immediate necessity.

22. No contracts for works of construction or maintenance of the railway, 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 that at which the work is required to be done, but the company shall not be compelled to accept any such tender ;

2. 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 ;

Period for subscription of Capital, and Completion of Railway.

3. 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 legislature, an account shall be annually submitted to the three branches 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 ;

Account to be submitted to Legislature

4. 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 ;

Form or details of account may be varied by Legislature.

5. 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 ;

Legislature may dissolve any Corporation formed under this Act.

6. 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.

Saving of Her Majesty's Rights, &c.

PART SECOND.

THE RAILWAY COMMITTEE.

23. The lieutenant-governor may, from time to time, appoint such members of the executive council, to the number of four at least, as he may see fit, to constitute the railway committee of the executive council, and such committee shall have the powers and perform the duties assigned to them by this act.

Railway Committee constituted.

Duties.

24. The railway committee shall appoint one of its members to be chairman, and the assistant commissioner of agriculture and public works or some other fit person appointed by the committee shall be the secretary of the committee.

May appoint a Chairman and a Secretary.

25. No railway or portion of any railway shall be opened for the public conveyance of passengers until one

Railway not to be opened till after one

month's notice to Railway Committee of intention to open the same.

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 railway committee, and until ten days after notice in writing has been given by the company, to the railway committee, of the time when the 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.

Penalty for contravention.

26. 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 notices have been duly given and have expired.

Railway committee upon report of an engineer and sanction of Lieut. Gov. in Council may postpone the opening of road.

27. The railway committee upon receiving such notification shall direct one or more of the engineers attached to the department of public works, to examine the railway proposed to be opened, and all bridges, culverts, tunnels, road crossings and other works and appliances connected therewith, and also all engines and other rolling stock intended to be used thereon, and if the inspecting engineer or engineers report in writing to the railway committee 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 railway committee, with the sanction of the lieutenant-governor in council, and so from time to time, as often as such engineer or engineers, after further inspection thereof so report, 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 committee that such opening may take place without danger to the public.

Penalty for opening contrary to the order of the Committee.

28. If any railway, or any portion thereof, be opened contrary to such order or direction of the railway committee, 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.

When only such order to be binding on the Company.

29. No such order shall be binding upon any railway company, unless therewith is delivered to the company a copy of the report of the inspecting engineer or engineers, on which the order is founded.

Committee may cause any work to be inspected, and may on report of Engineer, condemn the

30. The railway committee, whenever they receive information to the effect that any bridge, culvert, viaduct, tunnel, or any other portion of any railway, or any engine, car, or carriage, used or for use on any railway, is dangerous to the public using the same, from want of repair,

insufficient or erroneous construction or from any other cause, or whenever circumstances may arise which, in their opinion render it expedient, may direct any engineer or engineers as aforesaid to examine and inspect the railway or any portion thereof or of the works connected therewith, or the engines and other rolling stock in use thereon or any portion thereof, and upon the report of the engineer or engineers may condemn the railway or any portion thereof or any of the rolling stock or other appliances used thereon, and with the approval of the lieutenant-governor in council, may require 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, and thereupon 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 committee 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 committee.

Railway or rolling stock, with sanction of Lieut.-Gov. in Council, and may order certain alterations in the works, &c.

31. If, in the opinion of any such engineer, it is dangerous for trains or vehicles to pass over any railway, or any portions thereof, until alterations, substitutions or repairs have been made thereon, or that any particular car, carriage or locomotive should be run or used, the said engineer may forthwith forbid the running of any train or vehicle over 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 the nature of the danger to be apprehended.

Inspecting Engineer may in case of danger, forbid the running of Trains, &c.

32. The inspecting engineer shall forthwith report the same to the railway committee, who, with the sanction of the lieutenant-governor in council, may either confirm, modify or disallow the act or order of the inspecting engineer, and such confirmation, modification or disallowance shall be duly notified to the railway company affected thereby.

Must report to the Committee, who may confirm or disallow his order.

33. Any engineer or engineers as appointed as aforesaid to inspect any railway or works, 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,

Power of Engineer to examine the works, &c.

and the engines, cars and carriages belonging thereto.

Company to afford all necessary information to Engineer.

34. Every railway company and the officers and directors thereof shall afford to the inspecting engineer or engineers such information as may be within their knowledge and power in all matters inquired into by them, and shall submit to such inspecting engineer or engineers all plans, specifications, drawings and documents relating to the construction, repair or state of repair of such railway or any portion thereof, whether a bridge, culvert or other part;

Engineer to be conveyed by company.

2. Any such inspecting engineer shall have the right, whilst engaged in the business of such inspection, to travel without charge on any of the ordinary trains running on the railway, and to use the telegraph wires and machinery in the offices of or under the control of any such railway company;

Telegraph operators to obey his orders.

3. The operators or officers employed in the telegraph offices of or under the control of the company, shall, without unnecessary delay, obey all orders of any such inspecting engineer for transmitting messages, and any such operator or officer refusing or neglecting so to do, shall forfeit for every such offence the sum of forty dollars;

Proof of his authority.

4. The authority of any such inspecting engineer shall be sufficiently evidenced by instructions in writing, signed by the chairman of the railway committee and countersigned by the secretary thereof.

Lt. Gov. may order permanent bridges to be substituted for moveable bridges.

35. The lieutenant-governor in council, upon the report of the railway committee, may authorize or require any railway company to construct fixed and permanent 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 lieutenant-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 moveable bridge in the place or stead of any fixed or permanent bridge already built and constructed without the previous consent of the railway committee.

Penalty for neglect.

Certain powers vested in Railway Committee with respect to crossing public highways on a level.

36. In any case where a railway is constructed or authorized to be constructed, across any turnpike road, street or other public highway, on the level, the railway committee, if it appears to them necessary for the public safety, may, with the sanction of the lieutenant-governor in council, authorize and require the company to whom such railway belongs within such time as the said committee 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 committee 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 affecting the alteration of such level crossing.

37. Whenever any level crossing on any railway shall be out of repair, the chief officer of the municipality, or other local division, having jurisdiction over the railway so crossed, may serve a notice upon the company in the usual manner, requiring the repairs 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 secretary of the railway committee; and thereupon it shall be the duty of the committee, with all possible despatch, to appoint a day for an examination into the matter; and shall, by mail, give notice to such chief officer, and to the company, of the day so fixed; and upon the day so named such crossings shall be examined by an engineer appointed by the railway committee; and any certificate under his hand shall be final on the subject so in dispute between the parties; and if the said engineer determines that any repairs are required, he shall specify the nature thereof in his certificate, and direct the company to make the same; and the company shall thereupon, with all possible despatch, comply with the requirements of such certificate; and in case of default the proper authority in the municipality or other local division, 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.

38. The railway committee, or the inspecting engineer or engineers, may limit the number of times or rate of speed of running of trains or vehicles, upon any railway or portion of railway, until such alterations or repairs as they or he may think sufficient have been made, or until such times as they or he think prudent; and the company owning, running or using such railway shall comply forthwith with any such order of the railway committee or inspecting engineer, 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.

Railway Company may be required to repair any level crossing out of repair.

Inspecting Engineer's certificate to be conclusive.

Proviso.

When the Committee may regulate speed, &c.

Penalty for non-compliance.

Notice of accidents to be given to the Committee.

39. 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 railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof to the railway committee; 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.

Inspection not to relieve Company from liability.

40. No inspection had under this act nor anything 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 laws in force in this province.

Company to notify orders of Board to its officers, &c.

41. Every railway company, shall, as soon as possible after the receipt of any order or notice of the railway committee or inspecting engineer, give cognizance thereof to each of its officers and servants, in one or more of the ways mentioned in the fifty-second section of this act.

What to be deemed sufficient notice thereof.

42. All orders of the railway committee shall be considered as made known to the railway company by a notice thereof signed by the chairman and countersigned by the secretary of the board, and delivered to the president, vice-president, managing director, secretary or superintendent of the company, or at the office of the company, and orders of the inspecting engineer or engineers shall be deemed to be made known to the railway company, by a notice thereof, signed by the engineer or engineers, and delivered as above mentioned.

Return of accidents to be made semi-annually, and what to contain.

43. Every railway company shall, within one month after the first days of january and july, in each and every year, make to the railway committee, 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 point 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.

44. The railway committee 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 committee deem necessary and require for their information with a view to the public safety.

Form to be appointed by the Railway Committee.

45. 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 committee, 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.

Penalty for neglect.

46. All such returns shall be privileged communications, and shall not be evidence in any court whatsoever.

Such returns to be privileged communications.

47. With respect to all railways coming within the jurisdiction of the legislature of this province, to which the provisions of the railway act, chapter sixty-six of the consolidated statutes of Canada, apply, the railway committee constituted by this act shall be invested with all the rights and powers vested in the board of railway commissioners under the said act, collectively, or in any single member thereof ; and such powers may be exercised by the said committee collectively or by any single member thereof, as the case may be, in the same manner and as effectually as they might have been exercised by the said board of railway commissioners ; but any inspection that may be required in respect of any such railway, shall be performed in conformity with the provisions of this act ;

Railway Committee to have with respect to certain Railways, the powers of the former Railway Commissioners.

2. All proceedings heretofore commenced by the said board of railway commissioners in respect of any such railway may be taken up and continued ; and all orders and regulations of the said board, and all penalties and forfeitures, for their contravention, may be enforced and recovered by the railway committee in the same manner and with the same effect as they might have been by the said board before the passing of this act.

And may continue proceedings commenced by R. Commissioners.

TRAFFIC ARRANGEMENTS.

One Company may agree with another respecting traffic.

48. The directors of any railway company may, at any time, make agreements or arrangements with any other company either in Canada or elsewhere, for the regulation and interchange of traffic passing to and from their railways, 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 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 ;

Railway Companies must afford each other every facility for the forwarding of traffic, without preference or favor.

2. But 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 company shall give or continue any preference or advantage to, or in favor of any particular company, or any particular description of traffic, in any respect whatsoever, nor shall any 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 reasonable facilities for receiving and forwarding by the one railway all the traffic arriving by the other, without any unreasonable delay, and without any preference or advantage, or prejudice or disadvantage, 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 railway companies ; and any agreement made between any two or more railway companies contrary to the foregoing provisions, shall be unlawful, null and void ;

Agreements made in contravention of this Act to be void.

Penalty on Companies or their officers :

3. If any officer, servant or agent of any railway company, having the superintendence of the traffic at any sta-

tion 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 or coming near to such first mentioned railway,—or in any way wilfully contravenes the provisions of the second subsection of this section, —such first mentioned railway company, or such officer, servant or agent, personally, shall, for each 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 the company, or other party so aggrieved ;

refusing or neglecting to forward traffic as above required.

How recoverable and how to be applied.

4. For the purposes of the three next preceding subsections, 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 adopted for running over any railway,—the word "railway" includes all stations and depots of the 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 word "Traffic."

Railway company, &c.

5. Whenever any railway company is permitted by the act of incorporation of such company to amalgamate by arrangement with any other company the contract for such amalgamation shall, when adopted and passed by such companies, be communicated to the lieutenant-governor in council for approval, and such approval shall be announced by notice under the signature of the provincial secretary in the *Quebec Official Gazette*.

Contract of amalgamation to be approved by Lieut. Gov. &c.

RAILWAY CONSTABLES.

49. Any judge of the Court of Queen's Bench or Superior Court, or clerk of the peace, or clerk of the crown, or judge of the sessions of the peace, on the application of the board of directors of any railway company, whose railway passes within the local jurisdiction of such judge, clerk, or judge of the sessions of the peace, as may be, or 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.

Oath of office. " 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 favor 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 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.

2. Such oath or declaration shall be administered by any
 such judge, clerk, or judge of the sessions of the peace ;
 and every constable so appointed, and having taken such
 oath or made such declaration, 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, wharves, quays, landing places, warehouses, lands
 and premises belonging to such company, whether the same
 be in the county, city, town, parish, 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 keep-
 ing 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 provi-
 sions 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, town, parish, 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 ;

Powers of such
 Constables,
 and to what
 localities they
 shall extend.

Duties and
 powers of such
 Constables.

Dismissal of
 any such Con-
 stable.

3. Any judge of the court of Queen's Bench or Superior
 Court, or clerk of the peace, or clerk of the crown, or
 judge of the sessions of the peace, may dismiss any such
 constable, who may be acting within their several juris-
 dictions ; and the board of directors of such railway com-
 pany, 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;

4. Every such railway company shall cause to be recorded in the office of the clerk of the peace for every district 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 opened to public inspection, charging such fee or fees as the railway committee may from time to time authorize, and in such form as the committee may from time to time direct;

5. Every such constable who is guilty of any neglect or breach of duty in his office of constable, shall be liable, on summary conviction thereof, within any county, city, town, parish, 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, for not more than two months, in the gaol of such county, city, town, parish, district, or other local jurisdiction.

GENERAL PROVISIONS.

50. 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 the trains on the railway of the company, as are requisite for ensuring the perfect carrying into effect of the provisions of this act, and the orders and regulations of the railway committee.

51. 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.

Record of appointment of each Constable to be kept.

Fees.

Punishment of Constables guilty of neglect of duty.

Companies to make By-laws for regulation of conductors and other officers, &c.

Company may impose penalties for contravention of By-laws.

How notice of By-laws or Orders may be proved.

52. The notice of the by-law or of any order or notice of the railway committee, or of the inspecting engineer or engineers, 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.

When such proof, &c., to be a defence for the Company.

53. Such proof, with a proof of the contravention, shall be a full answer and defence for the company in any suit for the recovery of the amount so retained, and such forfeiture shall be over and above any penalty under this act.

Not to impede navigation.

54. 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.

Railways crossing rivers, &c., regulated.

55. 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 draw bridge 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 lieutenant-governor in council from time to time makes.

Plans to be submitted to Lieut. Gov. in council.

56. 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 railway committee, and the same has been approved; and no deviation from such approved site or plan shall be made without the consent of the committee.

Exception where special powers given by the special act.

57. Nothing contained in the three next preceding sections 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.

When a railway passes over a swing-bridge, &c., train to stop for three minutes.

58. In all cases where a railway passes any draw or swing bridge over any navigable river, canal or stream which is subject to be opened for the purposes of navigation, the trains shall in every case be stopped at least three minutes, 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 railway company shall be subject to a fine or penalty of four hundred dollars.

Company to use the best apparatus for communication between tinctors

59. 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 suffi-

cient 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 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 railway committee may order.

60. Every railway company which fails to comply with any of the provisions contained in the next preceding section of this act, shall forfeit to her majesty a sum not exceeding two hundred dollars for every day during which such default continues.

61. 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.

62. 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 one minute.

63. 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.

64. 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; and for any contravention of the provisions of this and the three next preceding sections the company shall incur a penalty of one hundred dollars.

65. If the railway committee orders 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,

and engine-drivers and for stopping or disconnecting cars, fixing seats in cars, &c.

Penalty for not complying with the 59th section.

Further precautions at level crossings.

Further precautions when one railway crosses another on a level.

Or runs through a city, town, &c.

Or moves reversely.

Foot passengers to use foot bridge, if provided for that purpose at level crossings.

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.

No cattle to be allowed to be at large on any highway within half a mile of any railway.

66. 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 within 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.

Such cattle may be impounded.

67. 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.

If killed, owner not entitled to any action.

68. No person, any of whose cattle being at large, contrary to the provisions of section sixty-six, 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.

Crossings to be fenced.

69. At every road and farm crossing on the grade of the railway, the crossing shall be sufficiently fenced on both sides so as to allow the safe passage of the trains.

Ground belonging to the Company to be cleared of weeds, &

70. Every railway company, shall cause all thistles and other noxious weeds growing on the cleared land or ground adjoining the railway and belonging to such company to be cut down and kept constantly cut down or to be rooted out of the same.

Consequences of omitting to do so.

71. 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, or chief officer of the municipality in which the land or ground lies, or from any justice of the peace therein, 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 anything which they are lawfully required to do by such notice, and the said mayor, chief officer or justice of the peace 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 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.

Interest of purchase mo-

72. 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.

ney or rent of real property to be deemed working expenses.

PENAL CLAUSES.

73. Every person who, by any means or in any manner or way whatsoever, obstructs or interrupts the free use of the railway, or the carriages, vessels, engines or other works incidental or relative thereto, or connected therewith, shall on conviction thereof, be punished by imprisonment in the common gaol of the district where the conviction takes place, for any term less than two years;

Penalty on persons obstructing free use of railway

2. All persons wilfully breaking, throwing down, damaging or destroying the railway, or any part thereof or any of the buildings, stations, depots, wharves, vessels, fixtures, machinery or other works or devices incidental or relative thereto, or connected therewith, or doing any other wilful hurt or mischief, or wilfully 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, unless the offence committed amounts, under some other act or law, to a felony, be liable on conviction, to be punished in the same manner as is prescribed by the preceding subsection;

Penalty on persons damaging railway.

If the offence be a felony.

3. If any person wilfully displaces or removes any railway switch or rail of any railway, or breaks down, rips up, injures or destroys any railway track or railway bridge or fence of any railway or any portion thereof, or places any obstruction whatsoever on any such rail or railway track or bridge, such person shall be punished by imprisonment 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.

Punishment of persons doing any thing to Railway with intent to injure persons or property.

74. If any person wilfully does or causes to be done, any act whatever whereby any building, fence, construction or work of any railway, or any engine, machine or structure of any railway, or any matter or thing appertaining to the same is stopped, obstructed, impaired, weakened, injured or destroyed, the person shall be punished by imprisonment not exceeding one year, in the common gaol of the territorial division in which the offence was committed or has been tried.

Punishment of persons committing any injuries, stoppage, &c.

75. Every person who bores, pierces, cuts, opens, or otherwise injures any cask, box or package, containing wine, spirits or other liquors or any case, box, sack, wrap-

Punishment of persons boring or cutting casks or

packages on
railway.

per, 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 unlawfully to obtain or to injure the contents, or any part thereof, or who unlawfully drinks, or wilfully spills or allows to run to waste, any such liquors, or any part thereof, shall be liable, on summary conviction before one or more justices of the peace, 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, for not more than one month.

Punishment of
persons ob-
structing in-
spectors in the
execution of
their duty.

76. Every person wilfully obstructing any inspecting engineer 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 general or of quarter sessions in the usual manner.

Punishment
of officers,
&c., contra-
vening by-
laws, &c.

77. 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 railway committee, or of the inspecting engineer or engineers, 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 person convicted thereof shall, in the discretion of the court before whom the conviction is had, be punished by fine or imprisonment, so as no such fine exceeds four hundred dollars, nor any such imprisonment the term of five years.

Penalty in
certain cases,
and how re-
covered.

78. 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 any one 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.

79. One moiety of such penalty shall belong to her majesty for the public uses of this 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. Application of penalty.

80. The company may in all cases under the three next preceding sections pay the amount of the penalty and costs, and recover the same from the offender or deduct it from his salary or pay. The Company may pay penalty and deduct from wages.

APPLICATION OF PENALTIES.

81. All penalties recovered under this act, in respect to the application of which no other provision is made, shall be paid to the treasurer of this province to the credit of "the railway inspection fund," How penalties recovered and applied.

CERTAIN SECTIONS LIMITED.

82. In the construction of the provisions of this act, from and including section twenty-three, the expression "railway company" or "company" shall include any person being the owner or lessee of or a contractor working any railway constructed or carried on under the powers of an act of parliament. What the words "Railway Company," shall include.

83. The word "railway", in this act, shall mean and include any iron railway, any wooden railway, or any railway of wood and iron combined, of a length exceeding ten miles, on which passengers or freight may be conveyed by steam locomotive power. "Railway."

84. In this act and in any other act of the legislature of this province, unless it is otherwise provided, or there is something in the context or provisions thereof indicating a different meaning, or calling for a different construction, the term "wooden railway" shall mean a railway the rails of which are made of wood only. "Wooden Railway."

85. The lieutenant-governor whenever he shall deem it advisable, may, by order in council, make, in lieu of the provisions of the said part second of this act, such other regulations as he may deem expedient for the inspection, supervision and control of wooden railways, with a view to the prevention of accidents and the protection of persons and property, for the government and discipline of the officers and employees of such railways, for the ma- Lieut. Gov. make substitute regulations for part second.

king and carrying out of traffic arrangements, and, generally, concerning all such matters as are provided for by the said part second, in so far as they are applicable to wooden railways.

When regulation shall come into force.

86. The said order in council and regulations shall come into force on such day as shall be fixed by proclamation of the lieutenant-governor, and thereupon, from that day, the said part second of this act shall cease to apply to wooden railways.

C A P . L I I .

An Act for the encouragement of certain Colonization Railways.

[Assented to 5th April, 1869.]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

Provincial aid to certain railways.

1. Provincial aid, to the amount, in the manner, and subject to the conditions and limitations hereinafter set forth, is hereby assured to the construction in wood, maintenance and working, of the following projected lines of colonization railway communication, namely :

The Quebec and Gosford Railway,

The Levis and Kennebec Railway,

The Montreal Northern Colonization Railway, and

The Richelieu, Drummond and Arthabaska Counties Railway.

Conditions, amount and duration of the subsidy.

2. For such continuous and unbroken length, not less than fifteen miles of each of the said railways, as shall have been constructed in wood, and be in *bonâ fide* operation, to the satisfaction of the lieutenant-governor in council, on or before the first day of July eighteen hundred and seventy-two, there shall be paid from the consolidated revenue fund of the province,—by yearly payments to fall due on the first day of September in every one of the twenty years next following the first of such payments, during which such length of railway shall be continuously maintained in such *bonâ fide* operation, but not otherwise, nor for any longer term,—a subsidy at the rate of three per cent on the *bonâ fide* cost of the construction thereof; such cost however (unless for exceptional bridges) not to exceed the average amount of five thousand dollars per mile.

How bridges shall be reckoned in calculating subsidy.

3. In calculating such subsidy, any bridge over any river or stream exceeding fifty yards in breadth at high water, the reasonable and actual cost of which, at such site

