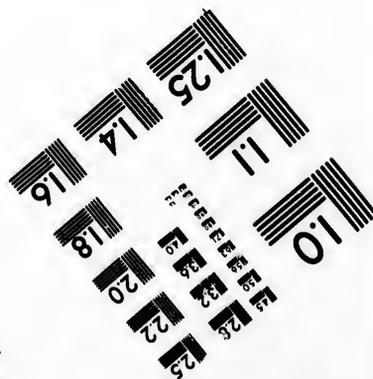
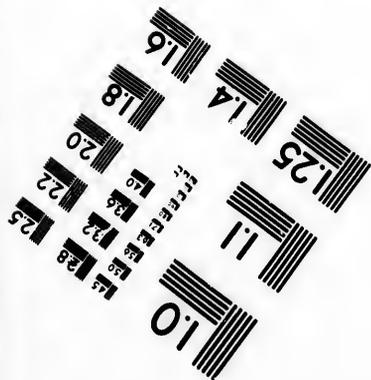
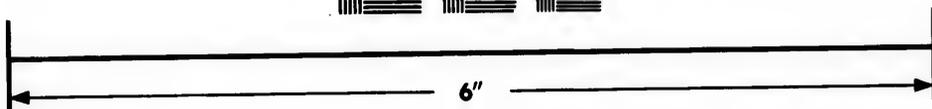
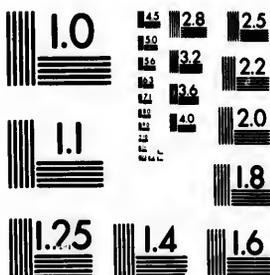


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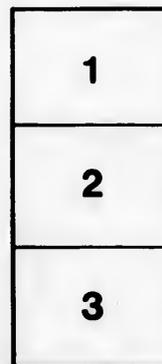
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THE HISTORY

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Railroad Difficulty,

BEING AN

ADDRESS,

DELIVERED AT A

PUBLIC MEETING

OF THE

INHABITANTS OF PORT HOPE,

IN THE

TOWN HALL, ON SATURDAY, THE 23RD APRIL, 1859.

BY JOHN FOWLER, ESQUIRE.



C. Roger, Printer and Publisher,  
PORT HOPE.

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THE UNIVERSITY

OF THE STATE OF NEW YORK

IN SENATE

JANUARY 18, 1880

REPORT

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# THE HISTORY

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## RAILROAD DIFFICULTY,

BY JOHN FOWLER, ESQ.

The public lecture-room in the Town Hall at Port Hope, was filled to its utmost capacity on Saturday, the 23rd April last, to listen to an address from Mr. John Fowler, the lessee of a portion of the Port Hope and Lindsay Railroad, and the Proprietor of a portion of the Branch to Peterboro', in which it was his purpose to recapitulate all the difficulties, past and present, of the road, his own exertions in connection with the construction of the Branch, and to point out the tyrannical, tricky, and otherwise unjustifiable course of conduct, pursued towards him and the stockholders of the Railway generally, by those Directors of the P. H. L. & B. R. R. Co. who held, if they do not now hold, a controlling influence over its affairs, and are attempting to sacrifice the interests of those, who are responsible for the money incurred to make the road, to provide and maintain the rolling stock, and for keeping the road in working order. There were fully six hundred persons present when Mr. Fowler rose and said:—

Gentlemen, I stand here to give a lecture, and must beg your indulgence, for it is not a calling of mine, but one that I have been forced into. When a man sees an enemy ahead of him, he naturally makes up

his mind to fight for his life, and I am in that position. I am here to maintain my own rights, never having asked for more, and fully as determined to have, as to assert them. It is well known to you that I undertook the construction of the Branch Railroad to Peterborough, when no one else would, and when Grand Trunk and Port Hope influences were opposed to it, and were fighting against me. The proposed branch I looked upon as a first rate project, and fought strenuously for it, expending thousands of pounds of my own money. I was determined to make the railroad or ruin myself; and at that time I knew nothing of Peterborough nor Port Hope, but I had seen the country through which the road was to pass and no one besides myself had then seen it, and I knew that a road could be cheaply built, and must ultimately pay. I went on step by step, and when the branch to Peterboro' was contemplated, I was taken over the line, through swamps, and over hills, and was told that I could not build the road for less than £5000 a mile; but I thought that £3000 would cover my outlay and agreed to take £4000, and I have built two miles more than I agreed upon out of my own pocket. I obtained the contract and went vigorously to work. The road was graded in an inconceivably short space of time, and the result was that representations were made that I could never finish the road, as the embankments and indeed the whole road being made up of slop and slush, and snow, would disappear with the spring. People went so far as to assert that £20,000 a day would not finish it within the given time, and they wanted to let me go. Even John Shuter Smith said it was all rubbish, dirt, ice, snow, mud, stumps of trees, and such like, and that it would disappear when the warm weather came; but it did not disappear, nor will it disappear. It is I whom they want to disappear, and for whom they have set a trap, which, being ever jealous of them, I perceived in time, and the trap, which was set for me, they themselves have fallen into. (laughter.) They said it would take twenty thousand

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pounds to finish it, but I have not received a single shilling. Those who want to rob me out of the railroad could not finish it. They cannot bear to see me, and intend to choke me off. It is very clear to all what their present object is. There have been repeated bickerings between the Smiths and me; but these difficulties have been made up. They have pretended to be my friends and all difficulties have been lost sight of. Had they acknowledged themselves to be, what they undeniably are, my greatest enemies, I could have known how to treat them. I have never asked anybody to do for me a dishonourable action—I have never required anybody to do a dishonourable action in any shape whatever—and I can put the Smiths and all such as they are at defiance.

The making of the railroad went on and I thought that this slop quarrel was made up. I thought that the Smiths had learning enough to know the difference between right and wrong, and I thought they would do right. When all was apparently right again and a general election coming on, John Shuter Smith says, "Fowler, just assist me and you shall see what I can do." I said I would, but found that I had done wrong in doing so, and during election time I went to Peterborough to keep out of the way. He told me afterwards that if I could have come and gone through the country with him, he would have got in, and I could perhaps have got him in, but I asked nobody to vote for him. It would have been the worst thing that ever happened me had he got in. He spoke of what he would have done, and he would certainly have done something for the railroad and for me, but not to the particular advantage of either. I had seen too much of him to trust him. He felt annoyed and did everything to annoy me, because I had not used my influence to send him to Parliament. But, dropping this mode of petty annoyance, he became considerate and even kind. Another election was fully expected, and I was asked to see Mr. Needle, and did see him, but did not speak to him about the election.

James Chambers asked me to endorse a note for him, stating a party connected with the Smith family would discount it for him; but Mr. John Shuter Smith tried to persuade me not to endorse it unless Chambers would support Shuter in the election. I endorsed the note without caring for that, being always suspicious of him, and things went on much as before. You will excuse me for digressing occasionally, as I am unaccustomed to this kind of public speaking, and I will endeavor to astonish you with facts. You know in a short time I got the branch ready, I was determined to make it before the Parliament met to take away the charter as was designed. I was determined to give the members of Parliament a ride upon the railway, and then they could not abrogate the charter, and with that view I worked night and day. I put on extra hands, paid extra wages, and drove it through. Only one month, from the time of signing the contract and grading the road, elapsed.

All this was so quietly done that the Directors thought I had abandoned the work, and were about to send men on it themselves. About this time a short letter appeared in the *Peterboro' Review*, intimating that the Road might not be running before the 13th of November, instead of the end of the earlier period verbally agreed upon. There was great excitement. The Directors thought they had a full right to the road as soon as it was finished, and came to me respecting the opening of the road. They met, and here is the resolution which they adopted:—

Copy of a resolution adopted at a meeting of the Directors of the Port Hope, Lindsay and Beaverton Railway Company, held 24th April:—

*Resolved*,—That in consideration of the contractors opening the Millbrook and Peterboro' section of the Railway by the 10th of May next, this Company agree that 13-31 parts of the gross earnings of the trains from Peterboro', as well as from any point more than two miles beyond Millbrook to Port Hope *vice versa* from that date to the thirteenth of November next, be paid to the contractors, the Lessees of the Lindsay Railway running the same with locomotives and cars of the Company free of charge against the Contractors, the Company agreeing that 18-31 parts of such earnings be expended in running expenses; and overplus to be credited to the Company, and Mr. Clark to be paid at the rate of £— per month for his services as superintendent, the contractor maintaining the line between Millbrook and Peterboro' in good order to the satisfaction of

the Engineer of the Company, and to keep at least a man per mile constantly on the line to maintain the track in good order, and this arrangement not to interfere in any way with the due fulfillment of the contract for the construction of the said section—the Lindsay and Peterboro' traffic to be divided as the same may be collected.

'That's a resolution which I agreed to, and they started under it, kept running along, and my returns were pretty good; and so they should have been. I expected to make £3,000. The running under the agreement went on until the 19th of October last, business still continuing to be brisk, but the Smiths were disappointed. They thought that I was getting more money than I ought to get, and by way of annoying me, these fellows—I do not call them gentlemen, because that would be calling them out of their names, and I don't wish to do it—spoke to me of getting rolling stock to put upon the branch by the 13th of November. They said that I could get rolling stock from them on as good terms as I could get elsewhere, and I assented. A conversation then occurred, in which something was said about buying me out; a proposition which I scouted. I would not listen to it for a moment, and the result was sharp talk for a few minutes. This was in the Board room at a meeting, and they told me to go out for a minute, and I withdrew for half an hour; on my return Mr. John Shuter Smith said:—"Fowler, there is only one course to be followed," and I said well what is it—only name it, perhaps we shall agree. He said, "it is to buy you out." I laughed. Mr. Smith then read the resolution, when I said "it is a fair offer; I will agree to that." I will read those resolutions over:

Extract from the minutes of the Board of Directors of the Port Hope, Lindsay and Beaverton Railway Company, held on the 19th of October, 1858.

It was moved by Mr. Beamish, seconded by Mr. Kirkehoff:—

That the interest of Mr. Fowler, and of Messrs. Tate and Fowler, in the Peterboro' section of the Road be purchased and a surrender taken of the lease, and an assignment of the stock to which they are entitled, under the Contract, the stock £10,000 to be taken off by the Company at par, every balance unpaid of the subscriptions of the Municipalities of Peterboro' and Port Hope to be paid in full, and all extra work, including all work done within the limits of Peterboro' and extra weight of iron to be paid for upon the estimate of Samuel Keefer, Esquire, Government Inspector of Railways—the purchase money to be paid as follows, that is to say:—£5,000 to be paid on the completion of the

Contractors agreement, and the balance to be paid in monthly payments of £500 each, until the whole be liquidated, such last payments to be secured by first mortgage Bonds of the Company upon the Branch, guaranteed by the Municipal Council of Port Hope; the purchase of the right of way to be completed by Mr. Fowler, and the deeds of the whole to be handed over to the Company.

Dated this 19th October, 1858.

I accept the above proposition.

(Signed)

JOHN FOWLER.

Such is the bargain under which the road has been running up to Saturday last, and with not very many insurmountable difficulties to contend with.

I must say a little about the election of Directors. These parties, who would be all-powerful in the management of the Road, said to me :—"If we only had Fowler we could do anything we wanted, but we can't work with that (meaning the existing) Board." Well, I said, I will soon put an end to that. I can elect five Directors from Port Hope and from Peterboro'. They declared themselves satisfied; said they would work with me, and that it was the best thing could be done. I picked out Elias Smith, James Smith, Waddell, Kirkechoffer and Fraser, as the Directors for Port Hope. John Shuter Smith expected to be Mayor, and would have been in that event a Director ex-officio. I agreed to fix that, and said that when they were prepared to buy me out I would go about my business. It had been agreed to put off the election until a certain time; but the Smiths said that there was a By-Law, which did not amount to any thing, and although I protested against it, insisted upon having the election at what they said was the proper time. They would not put it off, and I was satisfied that it should immediately take place. A meeting was held on the night before the election took place, when Mr. John Shuter Smith spoke of himself as a Director, when I remarked, "You are Mayor, are'n't you?" and he said no; when Fraser's name was taken out and Smith's substituted. The election took place on the 18th of January, and the first meeting of the Board took place on the 2nd of February. There were three Peterboro' men present, the Smiths and Waddell. Resolution after resolution was adopted, and Ferguson,

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one of the Peterboro' Directors, was appointed a member of the Committee to arrange about the payment of the men. They simply flattered him; knowing better than to contradict him just then. The matter was discussed whether it would not be better that the Bondholders should come in. It was the best thing possible that the Bondholders should take it. The project seemed very feasible. Then there was some talking about their own petty bits of claims. John Shuter Smith wanted himself protected, when the Board nodded assent that the debt incurred to Mr. Smith for travelling expenses to England, was a just debt and ought to be paid. They knew what it was for, the President said it was all right; and the Peterboro' members said "if it was right they had no objection." But John Shuter Smith had obtained his writ of execution for this debt before this conversation occurred, and the President, his brother, had it in his pocket, otherwise the Road could not have been stopped so soon. James Smith must have had the writ in his pocket. The next subject of conversation was Waddell's wood. It, too, was a just debt, and one that ought to be paid. The case of that debt was also very feasibly stated, and the Peterboro' Directors had no objection to its payment. That meeting passed off very nicely, and Ferguson thought everything as fine as could be. He wrote me a letter (and that letter opened my eyes) saying what they had done and were doing. He told me about the executions—Shuter Smith, Ridout and others, wanting protection; that it was the best plan to let the Bondholders come in; and that there could be no trouble so long as I got my thirteen-thirty-ones. I told Ferguson that it looked suspicious; that it was clap-trap to deceive the stockholders and himself. That meeting took place on the 3rd, and the Road stopped on the 10th of February. A telegraphic dispatch was sent to all the Peterboro' Directors to come down. The cars did not stop at Peterboro', but were seized here. I saw Fraser and said to him, "you ought to be on your guard; you are going

to lose the road and destroy me;" and I told him about the resolution to hand over the road to the bondholders. I said further, that if no trains came they would insist upon having the Branch, and that I would find out if there were going to be any tricks. He said what can be done, when I replied all you can do is to break up the meeting. Well, after it had been standing idle for three weeks, Smith said to me, the road will be going again in a day or two, when I exclaimed, "what is it stopped for?" He said pressing executions, and made a number of excuses of a like kind; but I did not believe all that the Smiths said by a long chalk. I went home and waited there anxiously for about a week. I noticed that very little was said about the stoppage in the *Guide*; occasionally a short article would appear stating that it would soon be arranged, and that was all.

I began to think it was now time for me to move, as I was the loser on account of the idleness of the road, and I went to Toronto. There at the Rosin House I heard that the Railway Company had been sued by the President and the Engineer, and that judgment had been permitted to go by default, and not knowing but that such might be the case, I came down to Port Hope as hard as I could lick to talk to the Directors. They had gone to Lindsay to sell the *Clifton*, and I wandered about town. I saw Ridout at Hetherington's, and told him it was most disgraceful, and that it not only was injurious to the Port Hope and Lindsay, but to all the railroads in the country. He said that the running had been stopped on account of pressing executions, and that no other course was possible but that of stopping the road. I talked as sharply as I could. A telegraph dispatch was then sent to the Peterborough folks, but they were too wide-awake and would not come. The Port Hope Directors then made up their minds to go next day to Peterbor', and thought to slip off without me; but in that they were disappointed, as I was on hand. James Smith had a set of resolutions in his pocket which he read to me and said "do this, and all will be well." When I

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stepped on board of the cars I was asked where I was going and I said to Peterboro' to look after these chaps. James Smith said "Fowler, you need not look so shy, I have been told that you blame me," and I replied, it looks very like it, and alluded to the executions as being most disgraceful, and told him of what I had heard at the Rosin House. He said that Shuter did it for his own protection, but he could not make me believe that. I went up to Peterboro'. The object of the journey was that of getting a resolution passed so as to obtain from the Grand Trunk Railway Company the sum of £30,000 in lieu of certain bonds, which they had. That resolution would have covered the Branch if passed. The Branch being now in existence and under the same charter as the main road, they thought it might be covered by the resolution, but the oily tongue of the Smiths had persuaded the Peterboro' Directors that it would not have that effect. It was loudly asserted that if this dodge was accomplished the executions would be staid, and there would be money in plenty. I attended the meeting. Only one Director voted against the resolution, and that Director was Ferguson. I saw into it next day and was satisfied that mischief had been done. A telegram came from Haycock, one of those poor individuals who ought to be paid, stating that he wanted his money. I telegraphed that I would come up. I remonstrated when I got up about the absurdity of stopping the road for not more than £5,000, not by disinterested parties but by the managers of it. The Smiths now received a telegram from Haycock intimating that if he could get £300 he would stay the executions. The question arose, "who is to raise this sum?" I said to the Smiths "will any of you?" and they answered, "if we were to, the people of Port Hope would try all they could to make us loose it." Well, said I, I shall raise it myself, and I went to the Bank and got the money, paid it to Haycock, sent for the Sheriff to liberate the rolling stock, and so forth, stood my chance of being reimbursed from their 18-31sts of the road, and thus for

the paltry sum of £300, was a railway liberated which had been chained by the Sheriff and was idle for three weeks. Who will say that this money could not have been raised on the very day of the seizure? And yet in the course of three weeks a sum not less than £900 had been lost, as the earnings of the Branch alone, while all could have been made right for a third of that amount. The road could not possibly have been making less than £900. I thus had greased the wheels, setting all free, and the only thing was to keep the road going. It was however said that the road would be again stopped if the other executions were not paid, when I replied that is folly, as a man, on behalf of the Sheriff, can be named to collect from the amount of receipts all that is due, and the road be kept in proper working condition—anything would be better than that the road should be stopped. The Smiths now said that the only thing that could be done was to hand over the road to the Bondholders. I said that is very fine doctrine, but I do not believe in it, my road is not in trouble. They said “take the road and work it. You ought to have it and we will assist you.” My reply was, place me in a safe position and I’ll take it; the rolling stock for a railway is rather a serious matter. They then said they would furnish the stock, and that I might run over the road, during twelve months for nothing; but I would not accept that offer, but said that I was willing to pay £100 a month for the privilege, and would take from them one third of their rolling stock, allowing £5 a day for the locomotive, and so much for cars, when Ferguson wrote out a resolution to meet my views, but it did not exactly please Mr. John Shuter Smith, and he made out another to the same effect but worded somewhat differently. I, believing that they were acting in good faith, gave Mr. Ferguson power to make contracts, and then they went away and did not meet again until the 18th of March, when Cumberland was present and endeavoured to drive me off the track. He has not done it however. (Laughter.) At that meeting what

was done may be seen on a perusal of the subjoined document :—

OFFICE OF THE PORT HOPE AND BEAVERTON RAILWAY COMPANY. }  
Port Hope, 19th March, 1859. }

JOHN FOWLER Esq., Cobourg.

SIR,—I have the honour to send to you the following copy of Resolutions, adopted at a meeting of the Board of Directors, of the Company, held on the 18th instant, viz:—

*Resolved*—That the arrangements under which the Peterboro' section has been worked up to this date, be terminated on the 15th day of April next, and that the lessee be required to work the same on and after that date, according to the terms of the lease.

Moved by Mr. Kirchoffer, seconded by the Mayor of Port Hope. And also

*Resolved*—That Samuel Keefer, Esquire, Government Inspector of Railways, be appointed Arbitrator, on behalf of this Company to fix and determine the amount of compensation to be paid to this Company by the said lessee, for the use of the road from Millbrook to Port Hope, and the works and premises of the Company at the latter place under the terms of the lease, and that the lessee be required to name an arbitrator on his behalf—Moved by Mr. John Shuter Smith, seconded by Mr. Kirchoffer.

Your Obedient Servant,  
THOMAS RIDOUT, Secretary.

It was easy to perceive the course of the coming storm. The Company evidently intended to repudiate their bargain of £5,000 in cash and £500 monthly, until a specified balance was made up, and their security of 13-31sts also. I rode round, and I telegraphed in every direction. But I did not get any satisfactory information, and not seeing my way clear I came to the resolution of standing still. Matters were left in this state until the 14th of April, and during the interim of three weeks I had seen the Smiths frequently. From conversations, and from what I could gather respecting the course of action intended by the Smiths, I became more than ordinarily jealous of them and somewhat afraid of Cumberland. In none of these parties could I place confidence. While matters stood thus, I saw Mr. John Shuter Smith and showed him figures to satisfy any person of the fact that if well managed the road would more than pay; and I said if you will come in with me I will consider myself safe; if you do not I shall be jealous of you. Mr. Shuter Smith said he was childless and had no great object in any speculation of the kind,

but that his brother James had sons, and that he might go in with me. To me it was unimportant which of the Smiths took hold of the business on their own particular accounts; and I somewhat carelessly added, if any of the Smiths go in with me, I shall consider myself safe. I went and saw Mr. James Smith. He said that he dare not go directly or indirectly into the matter; his reason being that all those blackguards here (meaning the members of the Town Council) would be round him and upon him instantly if he did, and have us all in the Court of Chancery. Then, said I, I will not move from my present position.

Thus did matters rest until the 14th. At this time I had some conversation with Mr. Elias Smith, who advised me to go Peterboro' and call a meeting. I said to Ferguson that I would be present at the meeting of the Directors to defend my interests, and I advised him to say nothing to Cumberland nor have anything to do with him. He had nothing to do with the matter, and was my enemy. Before this meeting was called a resolution was drafted to be submitted to the meeting, with the view of giving me the full use of the Lindsay road to Millbrook, in conjunction with the the uncontrolled management and profits of the Peterboro' road, for £100 a month, and rolling stock at certain previously specified rates, which would have been satisfactory. The Directors started for Peterboro' and took Cumberland with them, and I was prepared for the latter. Well, when the meeting had been organised it was ordered that the room should be cleared of all but the Directors, but Cumberland would not go. His dignity was considerably hurt, and he kicked up a deal of fuss. What, was it courteous, reasonable, or proper that he, the representative of £125,000 of property should be turned out of a room in which the interests of the Bondholders would necessarily be the subject of discussion? He would not go out. They wanted to put him out of the room that the Bondholders property might be easily destroyed. He would not take a part in the proceedings,

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not open his lips, unless the matter in discussion was to the prejudice of the Bondholders. He was not put out, and he lectured the Directors for the whole of their sitting, and he, furthermore, lectured me. He said I was a most obstinate individual; that I could not be led and would not be driven, and he vapoured astonishingly until exhausted with the effort. He gasped at last that it was impossible to do anything with me, and suddenly, in his very next breath, declared that he thought he could "fix it." Well, said I, if you will only do business, you will find me neither obstinate nor impracticable. He prepared a resolution, but, as a matter of course, put a trap in it, which I saw and was prepared for. It ran thus:—

That inasmuch as Mr. Fowler has notified his inability to run the Millbrook and Peterboro' road by reason of the shortness of the time which has been at his disposal for providing rolling stock, the Company do provide him with such rolling stock as he may require for giving effect to his Lease, at such prices per day as may be awarded as rental for the use thereof, and from one month from this date if the Company shall so long control the said stock, Mr. Fowler to be answerable for the return of the stock in good order, and the payments for the use of the same to be made weekly.

And that Mr. Walter Shanly be appointed to arbitrate upon this matter as well as those referred to Mr. Keefer by resolution of the 18th March.

The rental for stock to include wages of the Engine driver and fireman who shall be the servants of the Company, all the officers of the Company now upon the Peterboro' road to transfer their services to Mr. Fowler on to-morrow and be there employed by him. Carried 14th April, 1859, Moved by Mr. Kirkechoffer, seconded by Mr. Fraser.

(Signed)

JAMES SMITH,  
*President.*

I accept the above,  
 (Signed)

JOHN FOWLER.

Witness,

(Signed)

F. W. CUMBERLAND.

The trap was apparent. According to the Sheriff's bill of sale he had advertised only half of the rolling stock, and the other half is quite enough for me. I am not afraid of the bondholders but of the sheriff. I however, did not notice this trap much then. The payments were to be made weekly, and the general manager of the Grand Trunk Railway, Mr. Shanly, was to determine the amount which I was to pay for running over that part of the Lindsay road which is between Port Hope

and Millbrook, and for the use of the rolling stock. This agreement included the payment of the salaries of conductors, engineers, firemen, brakemen, &c.; and this indenture of agreement, this binding obligation upon both parties, is witnessed by F. W. Cumberland, the fellow that wants to get the road from me! He has not got it yet however. Mr. Shanly's award was to this effect:—

COPY OF MR. SHANLY'S REPORT.

In the matter referred to me this day by the Port Hope, Lindsay & Beaverton Railway Company as regards the amount of rental to be paid by John Fowler, Lessee of the Millbrook Branch of the said line, for the several description of rolling stock to be furnished by the said Company for the space of one month from the date hereof.

I award as follows:—

For Engine and Tender—making one full trip—equal to 62 miles daily.	
Rate per day.....	\$20 00
For the same Engine and Tender making a double Trip, equal to 124 miles daily—Rate per day.....	32 00
For each passenger Car—per day.....	3 00
For each P. O. and Express Car—per day.....	2 00
For each box freight Car—per day.....	1 00
For each Platform Car—per day.....	0 35

The whole of the engine service to be furnished by and at the cost of the Port Hope, Lindsay and Beaverton Railway Company—including all wages, oil, waste, fuel, &c.,—save and except such fuel as may be taken on the Millbrook Branch—which shall be at the cost of the said Fowler.

The Car service, including wages to Conductors, Brakemen, &c., and the cost of all repairs to be defrayed by the said Fowler, he paying to the Company the rates above stated for the use only of the Cars—which are to be furnished to him in good and efficient repairs. Each day that each car is in the hands of the said Fowler, whether running or not, to be counted as a day in the settlement of account, the cars to be subject to inspection from time to time by the Superintendent of the P. H. L. & B. Railway line.

The load to be carried by each Freight Car is not to exceed 10 tons, and to be subject to the supervision of the Superintendent of the P. H. L. and B. Railway.

(Signed)

W. SHANLY.

Port Hope, 14th April, 1859.

There's the award, and you may place on it what weight you choose. Well, that was all right; but Cumberland said there were some other matters to settle. I was glad to perceive that he was disposed to do business, and said so, but was very suspicious and jealous nevertheless. Desiring to see the Sheriff about some matters, I went to Cobourg and drove down to the

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residence of the Sheriff. Mr. Sheriff was dressing when in came a boy with a telegraph despatch asking him to "come up this morning," and stating that bills had been placarded all around announcing a sale of the company's stock. The *Clifton* was to be sold at Lindsay. It was from Haycock; and the Sheriff, addressing me, said "what can this fool mean?" I remarked that Haycock was second on the list of executions. He said to me tell Haycock "all's right." I came up to Port Hope and brought the telegram with me. In the director's room I told what had happened at the Sheriff's, and handed the telegram to one of the Smiths, who said to me, if you should see Haycock tell him not to act hurriedly, and I said I will see him. I saw Cumberland, when he said \$200 were required to pay some back charges. Then, lest he should think I was without money, I showed to Haycock a handful of bank bills, saying, if you think I am without money you are mistaken. I then said that the road would not pay running expenses, and Cumberland, who was present, said he would take it down as evidence against me hereafter. It now occurred to me that the sooner I shut my mouth the better I said to Cumberland, you are an intruder; I have nothing to do with you; my business is with the President of the road. There was quite a fuss. He said he was unaccustomed to having such discourse dictated to him, and he seemed about to strike me. I did expect a clip; but he did not strike, fancying perhaps that he might have got another. I, shortly afterwards, walked away and left him, with my mind fully made up not to speak to him, any more than I would to any other loafer that I should chance to meet. Haycock went to Cobourg, and all the rolling stock fell into the hands of the Sheriff on bogus executions. It was supposed that I could not get in to take possession of my road.

Williams met me and said this is a very fine thing now, and Cumberland came up and said that's a block in your way old fellow, when I sharply replied, go to

hell with your blocks. He answered you'll better work with me, and I retorted, I'll see you damned first, and have not spoken to him at all since. It was now my business to take care of myself; I soon got every thing fixed. I had prepared myself for every contingency. I got locomotives, cars, and so forth, of my own, and was prepared for the Smiths, and indifferent to their hurried words. Ferguson saw Fraser and Kirkchoffer, who stated that it would never do to stop the road. I afterwards saw James Smith, who said that the rolling stock which I required would be all right, but I did not believe what he said. He told me that I had served Cumberland right, and that he deserved such treatment. I said to Ferguson who was with me, let us go and have some tea; when he put the question to me, what will be the consequence of all this? I simply said "nothing." I dare not let even him into the secret, nor any one indeed only myself. It was not long until Mr. John Shuter Smith came to me at Hastings'. We had a long conversation about going to see Fraser and have a meeting, and have every difficulty settled; otherwise the road would be destroyed, and the business of the town ruined. I said you may take the responsibility of that upon yourselves, I shall not go. But he said, come, come, go to the meeting. It's of no use, I rejoined, I shan't believe in any thing that may be said or done there. However, with a little pressing I did go to the meeting, and I was there thus accosted:—"Fowler, let us know what rolling stock you want, and you shall have it." Acting upon this suggestion, I put in a requisition in writing, which, together with the answer, I shall here read to you:—

PORT HOPE, 15th April, 1859.

*To the President of the P. H. L. & B. Railway Company:—*

DEAR SIR:—I shall require the following rolling stock, viz:—One Locomotive, One Passenger Car, One Express Car, Six Platform Cars. And I wish to start the train at the usual time, 11 o'clock, A. M., to-morrow, as per agreement yesterday.

Yours, truly,

JOHN FOWLER.

To A. T. Williams, Esq., Superintendent,—

Sir:—You will please supply Mr. Fowler with engine and train to-morrow, according to the above requisition.

JAMES SMITH, *President.*

Port Hope, 15th April, 1859.

Matters looked promising enough, but I did not take it for granted that all was right—no, not by a long chalk; I sent for my own engine driver, whom I had told to take my own engine to pieces, and said to him don't talk to Williams, and do not, on any account, take your engine so much to pieces that you can't put her up again in half an hour. He knew what I meant, but the Smiths did not. They were looking around, and saw the locomotive bolts out and things scattered carelessly around. The engine looked as if she were all to pieces. I now went to the Engine House, and some sharp sparring took place between Mr. Smith and me. I said to Mr. James Smith, in future I shall look upon all the Smiths as my greatest enemies. The train, however, was all made up, and the Company's locomotive attached; but I was jealous; some mischief was meant which I did not clearly perceive. Yet I was not kept long in suspense. Clark and Haycock had gone off to Cobourg in a buggy, and the result was that the Sheriff sent a telegram to the Superintendent Williams, who told me that the train could not proceed, because the rolling stock had been detained by the Sheriff, and I immediately went to the ticket agent and made him give to the passengers their money back. Williams now handed me a telegram, saying look at that. I threw it down, and he read it telling me that the rolling stock must not go out. I went and told my engineer to screw up my locomotive, the *Queen*, as quickly as possible. I saw that the enemy were on hand. It was speedily put in order and immediately fired up, and attached to G. T. R. carriages, which were laden.

Here are the telegrams:—

To Mr. A. T. Williams, Superintendent.

Certainly not.

COBOURG, 16th April, 1859.

J. B. FORTUNE, *Sheriff.*

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N FOWLER.

And afterwards sent another telegram containing these words :—

COANORA, 16th April, 1859.

To Mr. A. T. Williams, Superintendent.

Do not let any of the locomotives or rolling stock leave Port Hope. I will see you this afternoon.  
J. B. FORTUNE.

Possession is a great thing. It must have been a matter of astonishment to the Smith directors to see a train made up, and in legal possession of the road in spite of such legal objections, and of still greater wonderment that I actually set off for Peterboro' at one o'clock or only half an hour later. It was now my turn to be ironical and turning to James Smith, I told him that after all, I considered myself a lucky fellow, inasmuch as my engine had been in a shed of theirs and in their keeping for one night and had been got out of it again, but I would not run such another risk and would for the future change and lodge my engines for the night at Peterboro'. He said, "Don't insult me." And I scarcely meant to insult him, as the allegation that they were capable of trickery, it seemed to me, would be looked upon by a Smith as a compliment.

I soon left him and went off to my friend Roger. I told him to get bills out, stating the running time to Peterboro', and to advertise it in the *Atlas*, over my name as proprietor. That was done, and thereupon a telegram was despatched to Toronto to bring down the bondholders. The bondholders came in the persons of Messrs. Woodruff and Cumberland, and the road was said to be transferred from the Company to the Bondholders. I was called a tresspasser and many other names, and it was whispered that Mr. Birmingham, the station master of the Grand Trunk Railway, had been ordered to take his Company's trespassing stock off the Lindsay and Peterboro' track. I met Mr. Birmingham and he said; People say that the Company wont let you run: would it not be better that you should see Cumberland? I refused to act upon that suggestion. Mr. Birmingham then said he had received orders to bring the Grand Trunk cars back. I said, O yes, you

have told me, and have done your duty : have the Directors given you these orders in writing, and if so, will you be good enough to give me a copy? He said the President had told him. But he evidently looked upon the President as I did upon the bondholders, for it was not until the presence of Williams that he said, I demand the return of the G. T. R. cars ; when I quietly said, I shall not bring them back to-day.

I next received the following letter :

PORT HOPE, 19th April, 1859.

JOHN FOWLER, Esq.,

Sir,—Having received notice from the representative of the bondholders, Port Hope and Lindsay Railway, to remove all our rolling stock now occupying their road, as they consider it trespassing, you will be good enough to have the cars lent you by our company on Saturday, 16th inst., returned to the Grand Trunk Railway Station, Port Hope, on the receipt of this notice. Should you fail to do so, you do it at your own risk.

J. BIRMINGHAM, Agent G. T. R.

He says if I do not return the cars it will be at my own risk. He may rest satisfied of that. (Laughter.) I have the cars yet and will keep them until I get others. They think if they could get the cars off the track that the lease would be closed, as it is imperative on me to run a train a day ; but they are mistaken even in this. Even the removal of their cars would not forfeit the lease ; but they think so and have been acting in that behalf. On that day my engineer became timid. It had been rumoured that the employees of the Company would stop the trains, but I knew the poor unpaid men would not do anything of the kind and told him so. As for the Directors they knew better than to do that ; they had sufficient knowledge as to be aware that there is a place in Kingston, to which they would speedily be consigned if they attempted anything of that nature ; and were learned enough in law to keep out of that.

The Railway Company have given me a lease of the Peterboro' Branch for 999 years, and the privilege of running over the main road ; but they cannot run over the Branch, and shall not. They had possession once and might have kept possession ; but in obtaining it they merely set a trap for me, but by stopping my road

they stopped their own, on account of those most pressing executions, all of which I could myself satisfy in six months. Let me tell them that I have bought some more cars, and have paid for them, and will have them here next week ; and I will also tell them and you that they are not going to sell the rolling stock. That is another piece of *bogus*. But sell or not, they are not going to have my road on which to ride into Parliament, as I may want to ride there myself some day. Their course of procedure with the view of embarrassing me is of the most paltry kind. On Monday last they would not allow me to take water, thinking that that would trouble me. I enjoyed it amazingly, as fortunately they could not stop the creek. I was short of wood, and seeing a boy loading wood, I said to him, "my lad, if you take that wood up to the locomotive, I will give you a dollar more than anybody else;" but Williams, the Superintendent of the Company, saw the boy, who was the son of one of the employees, and interdicted the delivery. There was nothing for it, but to send a man into a store to buy an axe. I knew that when we got into the woods we could help ourselves. Mr. Quinlan, one of the ex-Directors of the Company, stepped up to me and said, "this is too bad, go into my yard and get what you want." It was kind of him ; and I here acknowledge the obligation, but I refused, saying I could myself use an axe ; I got water—perhaps I stole it from the Company's tank—and the train set off, arriving safely at Peterboro'.

On Wednesday morning, when the train returned to Port Hope, the points were locked. When I learned the fact on arriving in town from Cobourg, after the train had started, I told my agent what to do. I saw Roger, and got him to print placards, offering a reward for the conviction and punishment of the switchman, or rather those who instructed him not to open the switch. I have a lease of the road for 999 years, and it is a Penitentiary offence to obstruct passenger or other Railway carriages. To make this known I caused the

switchman to be arrested, and he has been arrested and held to bail to appear at the Assizes. I do not wish to punish any poor man, but I wish it to be clearly understood that he was doing a thing that he had no right to do. On Wednesday the train brought down some lumber, but on account of this obstruction it had to be taken up to the Grand Trunk Station; and there are some hundreds of bushels of oats locked up in one of the Company's box-cars. I could not even have my locomotive turned. Had I been here it would have been turned. To-day I shall clear the track. To-day I shall act as Conductor, and will put the train wherever I want it. I am sorry to be compelled to resort to force, but will resort to it sooner than be obstructed. The Company's proceedings, petty as they are, have been a source of embarrassment to me, but I will get over them all. Although they have damaged my credit at the banks, I have got both rolling stock and money. All will come right end up to-morrow, however. You may stake your life upon.

Here is a letter which I have received from a gentleman, who is a director of the Company and Solicitor for the bondholders:—

PORT HOPE, 19th April, 1859.

SIR:—As Solicitor for the Bondholders of the Port Hope, Lindsay & Beaverton Railway Company, who, as such, are in possession of that portion of the road lying between this place and Lindsay; I am instructed to forbid your running over, or otherwise making use of the same; and further, to give you notice that should you persist in doing so, they will hold you responsible for any consequential loss or damage, and also will pursue such proceedings to restrain you, as they shall or may be advised to adopt in the premises.

I am, Sir, your obedient, &c.,

N. KIRKCHOFFER, Solicitor, &c.

JOHN FOWLER, Esq., Township of Hamilton, Cobourg, P. O.

For fear I should not receive it two copies were addressed to me; hundreds of copies would have no more effect than one, and Mr. Kirchoffer might know that.

You have all of you seen in the *Guide* a letter copied from the *Globe*? It appears from it that the holders of the remaining £19,000 are liable for the debts of the Company, and why then stop the road? The pressing executions are:—

Tate and Clark.....	\$1,545	9	3
Commercial Bank.....	31	3	8
Edward Haycock.....	925	13	4
John Shuter Smith.....	871	12	6
Tate and Clark.....	269	8	6
Wm. Lansbury.....	430	0	0
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	£5,110	3	7

I have paid Haycock some £300 of this, and there are some of these pressing executions which I would be ashamed to pay. The Commercial Bank, it is noticeable, is lugged in as a pressing executioner. The Railway is indebted to that great monied institution in the very large sum of £31. (Laughter.) Why, if I had possession of the whole road I could dispose of every one of these executions within an hour. Their object, however, is not to pay that trifling sum of money, but to rob me out of my road, which they shall not do if I can help it. When I am here I fear them not, but it is positively dangerous to be away. The schemers require perpetual watching, and I will watch, in view both of your interests and of my own. They have caused my locomotive to run upon the line backwards, which is contrary to law, and subjects me to a heavy penalty—some £500 a-day, perhaps—but that I would risk sooner than they should drive me off the line and my lease be forfeited. I desire, gentlemen, nothing but fair play and I shall have it. (Cheers.)

Immediately after the above lecture was delivered, the Sheriff offered the Company's rolling stock for sale, but there were serious objections offered by both Peterboro' and Port Hope, and the Sheriff refused to proceed without indemnity. The road to Lindsay, however, is again in running order, the Bondholders having paid off all the pressing executions. Mr. Fowler is now permitted to have and enjoy all the benefits and advantages appertaining to his lease.

Only had Mr. Fowler concluded his discourse, when Mr. Sheriff Fortune, having before him another audience, mounted the platform. There were now present all, or nearly all, the Port Hope Directors of the Railway Company, John Armour, Esquire, Barrister-at-law, *pro tempore* Sheriff's adviser, Messrs. Cumberland and Woodruff, representing the Bondholders of the Railway, and numerous other persons directly or indirectly interested in the sale. Mr. Sheriff Fortune at once proceeded to read over the list of articles, which he had seized and was about to sell, to wit:—

The Locomotives *Hope, Clifton, Lindsay* and *Havelock*, 3 Passenger Cars, 2 Baggage do., 15 Box do. (freight), 48 Platform do., 25 Gravel do., Tools in Machine Shop, 3 Engine Lathes, 1 Planing Machine (iron), 1 Upright Drill, 1 Bolt Cutter, 1 Wheel Press, a quantity of Steel Tools, 1 Stationary Engine and Boiler, Vices, Drills, Tools, &c., Grind Stone (fine shafting a quantity of Tools in Blacksmiths' Shop,— also, a quantity of Wood Stoves, &c., 11 Hand Cars, with numerous other articles.

He paused for a moment, and D'Arcy Edward Boulton, Esquire, rose and objected to the sale, and handed to Mr. Fortune the following document:—

PORT HOPE, April 23rd, 1859.

To *J. B. Fortune, Esq., Sheriff, &c.*

SIR:—I am instructed by the Municipality of the Town of Peterboro' (stockholders in the Port Hope, Lindsay and Beaverton Railway Company to the extent of thirty thousand pounds), and also by private stockholders to the extent of £7,500, to protest against the sale as advertised to take place to-day, and now announced by you, of the Railway Rolling stock or motive property of the said Company, and I do so upon the following grounds, viz:—

First. That the Rolling Stock is a component part of the real estate or Railway, provided and constructed under a charter producing and protecting interests, which without the plant now offered for sale would be ruined, and which, if sold, would render the remaining property of the said Company valueless and unproductive, and also deprive the public community represented in my clients of a guarantee of easement or mode of intercommunication.

Second. That the seizure and sale of a property so valuable as that advertised for so small an aggregate amount as the executions named, would be a sacrifice unwarranted by law or usage. I accordingly forbid the sale.

I am, Sir, your obedient servant,

D. E. BOULTON, Solicitor.

As soon as he had taken his seat George Brogdin, Esquire, Solicitor to the corporation of Port Hope, rose and also made an objection to this effect:—

1st. Forbidding the sale of the Havelock upon the ground that the same is the property of the corporation of Port Hope.

2nd. General protest against proceedings of the Sheriff, setting forth that the corporation of Port Hope are stockholders in the Railway to the amount of £170,000, and are otherwise interested in the Railway to a large amount, and upon the grounds—1st. That the property seized and detained, and this day offered for sale, forms part and parcel of the realty or freehold of the said Railway, and therefore not liable to be seized, detained or sold under execution against the goods and chattels of the Railway Company. 2nd. That a number of the Executions under which you are acting, and to a large amount thereof are paid and satisfied. 3rd. That if the said property is liable to be seized and sold under executions against goods and chattels, then that you the said Sheriff have made an excessive seizure and levy, one fourth part thereof being sufficient to pay and satisfy executions.

The Sheriff now declared that he could not proceed to sell unless indemnified, and there being no person present prepared to indemnify, the sale was abandoned.

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