

AN ACT TO INCORPORATE THE TOBIQUE RIVER
LOG DRIVING COMPANY.

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Passed 5th March, 1895.

Be it enacted by the Lieutenant Governor and Legislative Assembly, as follows:-

1. That Frederick H. Hale, George T. Baird, M.P.P., Archie Fraser, Adam J. Beveridge, Allan H. F. Randolph, Richard A. Estey, George A. Murchie, James M'Nair, Jeremiah J. Hale, and J. Edward M'Collom, their associates, successors and assigns, be and they are hereby created a body corporate by the name of "The Tobique River Log Driving Company," and by such name and style shall have and enjoy perpetual succession, and have all other powers and privileges made incident to a Corporation by Act of Assembly or otherwise, and may make and adopt all necessary regulations and bye laws not repugnant to law, and may adopt a common seal, and may purchase and hold real and personal estate sufficient for carrying on its business, and raise money by loan for all its necessary purposes.
2. The said Company shall have the right, privilege and authority each year to drive down the Tobique River from the Forks (so called) to the mouth of said River, all logs, timber and other lumber floating or coming down said River within said limits, and may, for the purposes aforesaid or for holding lumber, make such improvements and construct such works, and do anything that may be required upon such River between the points aforesaid, subject to the approval of the Lieutenant Governor in Council; and it shall be the duty of the said Company and any person or persons acting under the authority of this Act, in driving logs, timber and lumber, as herein provided, to do such driving with all reasonable speed, and to make a clean drive of the same between the points and places in this Act mentioned.

3. The officers of the said Company shall be five Directors, one of whom shall be chosen by themselves to be President of the Company, a Secretary and Treasurer or a Secretary-Treasurer, and a Director or Directors may be appointed to either one or both offices, or any other person or persons may be appointed; provided however, that only one member of a firm shall be eligible for a Director. Three of the Directors shall form a quorum to transact business. The Directors shall have full power to appoint any agent or agents or other officer that may be necessary to carry on the business of the Company, and fix and pay the salaries of all the officers of the Company at such rates as they may deem right; provided always, that the President and Directors shall not get any pay for their services, but they may be paid their necessary travelling expenses. The first annual meeting of the Company shall be held at the Village of Andover, in the County of Victoria, in the Province of New Brunswick, on the first Wednesday in the month of April next after the passing of this Act, notice of which shall be given by any two of the persons named in the first Section of this Act, and such notice shall be published in at least six consecutive issues of a weekly newspaper published in the Town of Woodstock, in the County of Carleton, and also in the Royal Gazette, and by notice addressed (postage prepaid) to the persons hereinbefore named, at such place and hour as may be named in the notice. After the said first annual meeting of the Company, an annual meeting thereof shall be held at the Village of Andover aforesaid, on the first Tuesday in April in each and every year, the hour and place of the meeting to be named and settled by the Board of Directors, and two weeks' notice thereof to be given in one public newspaper published in the said Town of Woodstock, and also in the Royal Gazette, which notice shall be signed by the President and Secretary. The Directors of the Company, notwithstanding any change in

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the membership of the Company, shall hold office for one year or until their successors are appointed. If any Director should become the purchaser of the driving rights provided for by this Act, or contract with the Company for the driving, he shall at once cease to be a Director, and his place shall be filled up by the other Directors, or as the bye laws direct. The Company may at any annual meeting or at any special meeting for that purpose called, make, ordain and pass any bye laws not inconsistent with the powers contained in this Act, for the government of the Company and the transaction of its business.

4. Every owner of logs or other lumber intended to be driven down said river between the points aforesaid, may become a member of the Company, and entitled to attend all meetings of the Company and vote thereat, for the year from one annual meeting to the next annual meeting, which shall include the driving season, during which his lumber is intended to be driven down, by filing with the Secretary of the Company, a statement in writing signed by such owner or owners, his or their authorized agent or agents, of all such logs or lumber, the number of feet board measure, of all such logs and other lumber and the marks thereon, and also at the same time filing with said Secretary his or their the said owner or owners, or agent or agents post office address; and the Directors or one of them may require such owner or owners, or agent presenting such statement, to make oath that the same is in his or their judgment and belief true, which oath any Justice of the Peace is hereby empowered to administer; and no one who has not so filed such statement shall be entitled to attend the meetings of the Company or vote thereat. Notwithstanding any owner or owners shall neglect or refuse to file a statement in the manner herein prescribed, the Directors may assess such owner or owners for his or their portion of the expenses provided for in this Act, in such sum or sums as may be just and equitable, according to the quantity of such owner's

lumber to come down the river that season, as estimated by the Directors; provided always, that the contractor who may agree with the owner or licensee of the land upon which the logs, timber and lumber may be cut, shall in all cases where the logs, timber and lumber are to be delivered by the contractor at, near to, or below the mouth of said river, for the purposes of this Act, be considered the owner or owners mentioned in this Act. The person or persons for whom the logs, timber and lumber referred to in this Act shall be driven and may be cut and procured by the said contractor or contractors, shall at all times be members of this Company and shall be qualified to hold any office in or under the same and vote at any meeting thereof, under the provisions of the bye laws to a like extent, and with the same power as if they severally were within the meaning of this Act owners of one hundred thousand superficial feet of lumber, and had done every act and taken every step required of such an owner or owners to do and take to make themselves members of this Company to the extent of being such owner or owners of one hundred thousand superficial feet aforesaid; a firm of partners to be considered a person under this Section, and all the powers, rights and duties by this Section given any such person or persons, shall and may be exercised, enjoyed and performed from time to time by any member of any such firm.

5. So soon as the statement referred to in Section four of this Act shall be handed to the Secretary of the Company, the person or firm or corporation owning the lumber referred to and mentioned in the statement, shall immediately be and become a member of the Company, with full power to attend meetings and vote at any meeting of the Company, provided always, that such person or persons, firm or firms, Corporation or Corporations, shall only remain members of this Company, by virtue of any such statement or statements, for the year or part which will include the driving season during which such owner's lumber is to be

driven, or until a new statement or statements shall be handed in, as in this Act provided, and so on from year to year, the membership of the Company shall change as such statement and statements may be handed in. Every member of the Company shall have one vote for every hundred thousand superficial feet of lumber he owns to be driven.

6. The Directors of the Company are hereby authorized to make an assessment upon the owners of all logs, timber and lumber to come down the said river, and upon logs and lumber of each owner in anticipation of the actual cost and expense of driving said logs, timber and lumber, either at the time of or after the holding of any annual meeting of the Company, which assessment shall be binding upon the owner of any such logs, timber and lumber, and be a lien upon the said logs, timber and lumber as in this Act prescribed, and shall also be recoverable in an action at the suit of the Company against the owner; and if after said logs, timber or lumber shall have been driven as aforesaid, and all expenses actually ascertained, it shall be found that said assessment shall be more than sufficient to pay the said cost and expenses, with an allowance of one cent per thousand feet for running expenses of the Company, then the balance remaining shall be repaid to the said owner or owners in proportion to the said sum on them respectively assessed.

7. In making any assessment under this Act, the Directors may add to such assessment an amount sufficient to meet and pay the ordinary and running expenses of the Company and conducting the business thereof, and which amount so added shall form a part of the assessment so made; provided always, that the amount so to be added to such assessment under the provisions of this Section of this Act, shall not equal the sum of one cent per thousand superficial feet; and if after one assessment is made it shall appear to the Directors that the same is not sufficient or will not be sufficient to defray the expense of driving the logs and lumber to the mouth of the said Tobique River and ^{the} one cent per thousand feet cost of running expenses of the Company,

the Directors may make further assessment and assessments until sufficient means is provided to pay expenses of driving and running expenses of the Company. In making assessments the Directors may accept the statements filed as correctly stating the quantities, or they may on ascertaining the correct quantity disregard them. It shall not be necessary that all assessments shall be for the same rate upon every owner or quantity of lumber, but under-assessment formerly made upon any owners or quantities of lumber may be made up by a greater subsequent assessment, and over-assessments formerly made may be allowed for by smaller subsequent assessments so that in the end all shall be assessed equitably and proportionately and obliged to pay ratably for the expense of driving their lumber. In all assessments made the Directors may assess according to their then knowledge or estimate of the quantity of lumber of each owner, and they may afterwards in subsequent assessments increase or diminish the quantity as they shall have better information, and allow accordingly, and they may assess in the name of the owner in respect of his lumber, or upon the lumber by description or mark, or part one way and part the other as may seem to them most convenient. All assessments made upon the owners in respect of their lumber or upon lumber by description or mark, shall be liens upon the lumber, and may be recoverable by action against the owner at the suit of the Company.

8. In making any assessment the Directors shall have authority to make the same payable at such time or by such instalments, and at such times, as they shall deem right and fair, and the same shall become due and payable accordingly. It shall be lawful for the said Company hereby incorporated, if they through the Directors see fit to do so, to take promissory notes, drafts, bills of exchange, or other negotiable securities, with or without endorsers, in payment or security for payment of any assessment or assessments made under this Act,

which notes, drafts, bills of exchange or other negotiable securities, may run for such time or times as the said Directors may approve of; and the said Directors may, in the name of this Company, to the fullest extent, transfer and dispose of the said notes, drafts, bills of exchange or other negotiable securities and get the same discounted without any person or persons, bank or banks, or bodies corporate, with whom the said Company may deal or transact any business with reference to said promissory notes, drafts, bills of exchange or other negotiable securities, being under any responsibility or liability in regard to the application of the funds thereof.

9. In case any error should arise or occur in any assessment or assessments to be made under this Act, such error shall not affect the whole assessment, but only the portion thereof in which such error may occur, and the Directors of the Company can correct such errors in any assessment made under this Act at any time; and after such corrections for all the purposes of this Act, the corrected assessment shall have the same effect as if correctly made in the first instance.

10. The Directors of the Company shall give the Treasurer a list of all assessments by them made, with a warrant in due form under their hands authorizing him to collect such assessments; and the Company shall have a lien on all logs, timber and lumber concerning which any such assessment or assessments shall be made upon the same; and it shall be the duty of the Treasurer of the Company, promptly, after he shall receive from the Directors a list of said assessments, to notify in writing by letter, duly posted or mailed and addressed to the owner or owners where known, of the amount assessed upon them in respect of their lumber, of their several marks or the marks used by them respectively; and when the owner or owners of any said logs, timber or lumber are unknown, he shall publish for at least two weeks in a newspaper in the Town of Woodstock, and also in the

Royal Gazette, a list of all such marks of logs, timber and lumber, with the amount assessed upon each mark. All owners of such logs, timber and lumber are required without delay to pay or satisfactorily secure the amount of their several assessments in the manner hereinbefore in this Act provided for; and the Treasurer of the Company shall have power, immediately after any assessment or any part thereof shall fall due, and shall not be paid or secured as aforesaid, to take possession of a sufficient quantity of any and all such logs, timber and lumber so assessed, upon which the assessment has not been paid or secured, and retain possession of the same until disposed of as hereinafter provided; and all logs, timber and lumber upon which such assessment shall not be thus paid or secured, shall be advertised two weeks in succession in some newspaper published in the Town of Woodstock, and also in the Royal Gazette, and if not paid within ten days after the last publication, with the necessary costs and expenses, the Treasurer shall then advertise them for sale at public auction, by posting up in some conspicuous place in the Town of Woodstock and at the Court House in Andover, in the County of Victoria, notice of such sale, with a list of all the marks and the amount of assessment upon each mark, twenty days before the day of sale, and unless such assessments, with the expenses incurred in regard thereto, and in collecting or attempting to collect, are previously paid, he shall then proceed to sell to the highest bidder sufficient quantity of the logs, timber and lumber of the different marks upon the list to pay such assessment, with all proper costs and expenses in so proceeding to sell and selling the same, selling separately logs, timber and lumber, according to the several separate marks thereof, the place of sale to be in front of the Court House in Andover, in the County of Victoria, and the proceeds of the sale to be paid into the treasury of the Company.

11. All such logs, timber and lumber as may be driven by the Company shall for the purposes of this Act, and the

enforcement of any lien created by this Act, be considered as in the possession of the Company until the said assessment or any assessment legally put thereon shall be paid; provided always, that such lien shall cease and be determined as soon as the said logs, timber and lumber shall pass out of the control of the Fredericton Boom Company, upon such portions thereof as shall pass from such control except in the hands of the manufacturer thereof, who shall have notice that such assessment has not been paid, but in the hands of such manufacturer with the notice of the assessment and non-payment thereof, such lien shall continue and the manufacturer shall be liable to pay such assessment to the Company, in case he shall part with the possession of the said manufactured lumber without satisfying such lien, and may be sued therefor in an action of tort, in which action the assessments made shall be conclusive and indisputable by him, and the said Company shall have the full right to recover in any Court of competent jurisdiction as in an action founded on contract from the person or persons who should under this Act pay the tolls and assessments in this Act referred to, the full amount of said tolls and assessments.

12. The tolls for driving logs, timber and lumber between the points aforesaid may be ascertained in the manner following: The said Directors may by a notice published in one public newspaper published in the Town of Woodstock for at least four consecutive weeks before the annual meeting, advertise for sale by ~~auction~~ the driving such logs, timber and lumber, which sale shall be held in front of the Court House at Andover, in the County of Victoria, on the day of such annual meeting and the person or persons bidding therefor the lowest sum per thousand superficial feet for such driving shall have such driving knocked down to him or them; provided always, that before the said person or persons so being the lowest bidder or bidders ~~there~~ aforesaid

shall be and become the person or persons entitled to do such driving, he or they shall enter into a contract with the Company therefor, with such conditions, clauses and limitations as may be prescribed by the Directors, and he or they with two sureties, to be approved of by the Directors, or any three of them, at the time of the auction, shall enter into, sign, seal, execute and deliver to the said Company a bond in a sum not exceeding three thousand dollars, in accordance with the form in Schedule (A) of this Act, or to the like effect, and upon the execution and delivery of such bond, such person or persons in this Section mentioned shall have the powers and duties in regard to such driving as this Company would or could have by virtue of this Act if it had done or proceeded to do the driving itself; and if the said bond shall not be executed and delivered as provided for by this Section of this Act, immediately after the said driving powers shall be knocked down to the lowest bidder therefor, then the said driving powers may again be put up to sale as aforesaid, and the sale proceeded with as in this Act provided for, until a purchaser shall be had who shall complete the purchase and give the bond, or the Directors or any three of them decide that a sale of said driving power cannot be effected for want of bidders or failure to furnish bond. In the event of the death or insolvency of any of the sureties in said bond, the Company by its Directors may require a new bond, and if such new bond be not furnished they may declare the contract terminated; and provided also, that in so selling said driving ^{sale} the said ~~/~~ shall be under and for different rates from the following places: The relative value of driving from the different points to the mouth of the Tobique River is hereby declared to be from the Forks of said River forty cents per thousand superficial feet; from the mouth of Two Brooks, thirty cents per thousand; from the mouth of Gulquac, twenty five cents;

from the mouth of Burnt Land Brook, twenty five cents;
from the mouth of Wapsekhegan, twenty cents; and from all
points below, ten cents per thousand superficial feet. All
bidding shall be made and taken upon the driving from the Forks,
so called, on said river, and the rates from the other points
shall be proportionately made according to the scale above
stated.

13. A sale under Section twelve shall be for not less
than three or more than five years, as the Directors and the
contractors may agree upon, provided the advertisement for
sale states the number of years that the sale will be for.

14. The Directors may make regulations requiring drives
of the river to be made at stated periods, and fixing the
times, the manner and all details thereof.

15. All logs delivered within said corporate limits on
or before the tenth day of June in each and every year, shall
be driven without unnecessary delay; and any lumber owner
driving his lumber into the limits of the Company after the
tenth day of June in each and every year, shall have the
right to drive his lumber to the mouth of the said River,
and neither the said Log Driving Company nor their contractors
shall be bound to drive the said lumber. In case part of any
owner's lumber shall be driven by the owner and part by the Log
Driving Company or their contractors, the Directors shall
determine, on such information as they shall be able to obtain,
the quantity for which the Company or their contractors shall
be paid.

16. The Directors may appoint a Superintendent or Driving
Master, who may exercise all such powers and authority as may
be delegated to him by the Directors in the directing, con-
trolling and superintending of the driving, and securing a
satisfactory and efficient driving and fulfillment of the
contract for driving.

17. Any person making or putting marks upon logs, timber

or lumber, that may come unmarked within the limits of the said Corporation, shall be liable to a penalty of twenty dollars for each mark so put on any unmarked logs, which penalty may be recovered before any Justice of the Peace or Parish Court Commissioner in the County where the unlawful act may be done, at the suit of the Company as if it were a debt due the Company, and when so recovered, the same shall be paid into the Office of the Provincial Secretary and form part of the assets of the Province, after deducting thereout all expenses incurred by the Company in prosecuting suit for the recovering said penalties.

18. It shall be the duty of two of the Directors of this Company, or two competent persons appointed by the Directors for that purpose, at the close of the driving season, and before payment shall be made in full for said driving, or the right to drive, to pass over and along the said River from the Forks to the mouth thereof, for the purpose of ascertaining if the person or persons who may have done the driving upon the said River between the points aforesaid, have made a clean drive, and if, in the opinion of the said two Directors or competent persons aforesaid, a clean drive shall not have been made, and if the matter of making a clean drive and all things connected therewith and incidental thereof, or any dispute as to the performance of the contract for driving cannot be settled by and between the Company and the person or persons whose duty it may be to make a clean drive as aforesaid, then the Company shall choose an arbitrator in their behalf, and the said person or persons shall choose one on his or their behalf, and the two arbitrators shall choose a third arbitrator, and the award of the arbitrators, or any two of them, shall be final; and in case either party to the dispute or difference shall fail to choose an arbitrator in the premises, or if the two arbitrators shall fail to choose a third arbitrator within ten days **from** their appointment, then the party who may

have appointed an arbitrator, or the party whose arbitrator did not fail to join in the appointment of a third arbitrator may appoint all three of the arbitrators, and their award, or the award of any two of them, shall be final in the premises; the costs of such arbitration to be in the discretion of the arbitrators, or any two of them. The Company shall distribute any moneys realized for unclean driving, after deducting expenses, among the owners of the undriven logs in proportion to their quantities.

19. In case no sale or contract shall be effected for doing said driving in any year, or the contractor shall fail to drive, it shall be the duty of the said Company to immediately take the necessary steps toward doing the driving, as is provided for in this Act, through and by its own agents, workmen and servants; and the assessment in regard thereto shall be made from the estimates to be made by the Board of Directors of the Company to the best of their knowledge as to the probable cost and expenses of doing said driving.

20. If the purchaser or purchasers of the driving powers aforesaid, or the contractor for driving, shall not proceed with the driving of the logs, timber and lumber under this Act, with all reasonable speed, diligence and skill, to the satisfaction of the Directors or a majority of them, then the Directors of the Company or a majority of them may, after two days' notice given to such driver or the person in charge of the drive, if he does not at the end of said two days satisfactorily to the Directors or a majority of them proceed with such work, enter upon the work of driving said logs, timber and lumber and complete the same, and their so doing shall not in any way interfere with the bond from time to time to be given under this Act; and they shall charge the expense of the driving then to be done by the Directors, when the same is done, against and deduct it from any amount that would have been coming to such purchaser or contractor, had the purchaser

proceeded with the driving as he or they should have done.

21. In all cases when it may be necessary for the Company to ascertain the quantity of the logs, timber and lumber driven by this Company for any purpose connected with this Act, the said Company shall take the survey of such logs, timber and lumber made by the Fredericton Boom Company, together with the survey of logs, timber and lumber rafted outside the limits of the Fredericton Boom Company, as the surveys to guide the Company in so ascertaining said quantity; and the Company is hereby authorized and empowered to demand and receive from the Fredericton Boom Company and all persons rafting lumber outside of the limits of said Fredericton Boom, at the close of each and every rafting season, a detailed statement of all logs, timber and other lumber rafted by the said Fredericton Boom Company or other person or persons for each and every person during the season whose lumber came down the said Tobique River, which ^{said} detailed statement the said Fredericton Boom Company and person or persons rafting any such lumber outside of the said Fredericton Boom Company's limits are hereby required to furnish and give, they being paid a reasonable compensation therefor.

22. The liability of each stockholder in the Company hereby incorporated shall be and is hereby limited to the payment of the assessment made upon and against him or them for the driving of his or their own logs, timber and lumber as aforesaid.

23. The Directors who were such at the time of entering into any contract for driving shall be personally and jointly bound to the contractor to pay the said contractor the amount that may from time to time be coming to any such contractor under the purchase of driving powers or contract entered into under this Act, in case such purchaser or contractor shall not be paid by the Company, provided that any Director being

obliged to pay any sum by reason of such liability, shall be recouped out of any moneys of the Company.

24. It shall be the duty of the Company and all persons doing and driving under the authority of this Act, in driving the logs, timber and lumber referred to in this Act, to so drive the same as to keep the piers of all bridges now upon or across, or hereafter to be put upon or across said Tobique River, reasonably clear of the said logs, timber and lumber so at any time being driven.

25. The moneys received upon the assessment of one cent per thousand superficial feet for ordinary and running expenses of the Company, and any premiums, bonus, or price, or profit the Company may receive for the sale of a contract to drive upon tender, shall form a fund which shall be answerable for the working or running expenses of the Company, and for the paying or satisfying of any claim against the Company for debt or damages claimed from or recovered against the Company, and the Company may expend any balance there may be in hand in removing stones, rocks and such like obstructions from the bed of the River, and erecting piers and booms for the holding of lumber along said River, and otherwise improving the driving facilities of the River, or may refund the same to the owner or owners upon whom the same was assessed, proportionately to the sums on them respectively assessed.

26. The Company are hereby authorized and empowered by its officers, servants, agents and contractors, to enter upon the lands of the riparian owners along the said river and fasten any booms, and hang and maintain such booms in front of any lands, and erect and maintain piers for the holding of lumber along said river, paying therefor to any riparian proprietor such annual or other compensation as may be awarded by arbitrators. There shall be three arbitrators and they shall be disinterested persons and not riparian owners, and shall be chosen, one by the land owner, one by

the Company, and they two shall choose a third, and if either party neglect to choose and notify the other party the name of his chosen arbitrator within three days after request, the other party may apply to a Judge of the Supreme or County Court for the appointment of an arbitrator on behalf of the party omitting to choose an arbitrator, giving five day's notice of such application; such Judge may appoint an arbitrator on behalf of the omitting party, and the arbitrator so appointed with the arbitrator appointed by the party appointing shall choose the third, and if they cannot agree upon a third person either party may apply to a Judge of the Supreme Court or County Court for the appointment of such third person on notice to the other, and such Judge may appoint such third arbitrator. The award of any two arbitrators shall be binding and may be in the form (B) to this Act, or to the like effect, and it shall state the annual sum to be paid by the Company for the fastening and maintaining or fastening or maintaining alone, as the case may be, of such boom, or the sum payable for any damage arising from the erecting and maintaining of piers or other works. Payment or tender of the amount of the award shall vest in the Company the immediate right and power to do whatever such award provided compensation for. The Company may at any time remove any boom so fastened and hung and shall from thenceforth not be liable to continue to pay the sum awarded by the arbitrators. The person in possession of the land shall be deemed for the purposes of this Section the riparian owner.

SCHEDULE (A)

Know all men by these presents, that we,.....
are jointly and severally held and firmly bound unto the Tobique River Log Driving Company, their successors and assigns, in the sum of.....thousand dollars, to be paid to the said Company, their successors and assigns, for which payment well and truly to be made, we bind ourselves, and each of ourselves, our and each of our executors and administrators, firmly by these presents,

Sealed with our seals, and dated the.....day of.....
AD. 18.....

Whereas, the said.....has contracted with the said
Company for the driving of the logs, timber and lumber coming
down the Tobique River for the season or seasons of.....,
for the right, power and duty of driving logs, timber and
lumber on said River;

And whereas, these presents are executed and delivered as a
security for the due performance of the said contract in the
premises.

Now the condition of the foregoing obligation is such, that
if the above bounden.....does well, sufficiently and in a
proper manner during said driving season, and with all reason-
able speed and facility drive down the logs, timber and lumber
from the Forks of the Tobique River to the mouth thereof, that
by said contract he became bound to drive, or that the said
Company could have driven if said contract had not been made,
and shall in all respects well and faithfully perform and
fulfill the said contract on his part, then this obligation
to be void, otherwise to remain in full force and effect.

Signed, sealed and delivered)
in the presence of)
)

(B)

We, the Arbitrators, or two of them, appointed to assess the
damages sustained by....., arising out of the works and
operations of the "Tobique River Log Driving Company," do
assess the damages at the sum of....., the same to
be paid yearly for (here state for what the damages are allowed).

Dated this.....day of....., A. D. 18.....