

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday, the Eighth day of January, 1824, in the Fourth year of the Reign of our Sovereign Lord George the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith &c. &c. being the Fourth Session of the Twelfth General Assembly, convened in the said Province.

4 George IV – Chapter 3

An Act to authorise the Incorporation of a Company for making a Canal by the River and Lakes of the Shubenaccadie.

Be it enacted by the Lieutenant-Governor, Council and Assembly, that whenever a sufficient number of persons shall have associated themselves together, for opening and making a navigable cut canal, or water communication, between the harbour of Halifax and the bason of Minas [Minas Basin], by, along, or near to, the course of the river Shubenaccadie [Shubenacadie], and the lakes thereof, and shall have agreed to raise sufficient monies to effect the same, it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief for the time being, at any time within five years from the passing hereof, by letters patent, under the great seal of this province, to make, erect, and incorporate, all and singular the persons who, from time to time, shall be adventurers in, or parties to, the said undertaking, and their assigns, into one body politic and corporate, in deed and in name, under the title of – the Shubenaccadie Canal Company, and, by that name to have succession, to sue and to be sued, to have a common seal, and to possess and enjoy such powers with respect to the choices of a president and other officers, making bye laws, and regulating the affairs of the said company, as shall be expressed in the same letters patent.

II. And be it further enacted, that the said company, when so incorporated, shall, and they are hereby declared and made capable in law, to have, hold, purchase, receive, possess, enjoy, and retain, lands, rents, and tenements, to the amount of fifty thousand pounds, and no more at one time; and also, monies, goods, chattles and effects, to the amount of twenty-five thousand pounds, and no more, at any one time; and also, to sell, grant, demise, alien, or otherwise dispose of, such lands, tenements, rents, monies, goods, chattles, and effects, at their free will and pleasure.

III. And be it further enacted, that in such letters patent, the necessary officers of such corporation, shall be named and designated, and proper persons appointed to be such officers for the first year; and that the said corporation may make, establish, and put in execution, such laws and regulations as may be necessary for making such canal and the works thereof, levying the assessments, and for the government of the said corporation, provided, the same shall in no case be repugnant to the laws of this province.

IV. And be it further enacted, that the capital or joint stock of the said corporation, shall be divided into such, and so many, shares or portions, as the said corporation, by their bye laws

or ordinances, shall from time to time appoint, and such shares shall be transferrable, and be conveyed in such manner, and under such restrictions and conditions, as in such bye laws shall be appointed.

V. And be it further enacted, that it shall and may be lawful for the said company, when so incorporated, to make, open, and cut, a sufficient canal or water communication of such breadth, depth and dimension, as shall be deemed fit and necessary, from the waters of the harbour of Halifax, through the Dartmouth Lake so called, the lakes and channels or course of the river Shubenaccadie, or by, or along, the sides or banks of such lakes and river, to such part of the River Shubenaccadie between its place of discharge into the Basin of Minas, and the Great Lake, as shall be found practicable, or most convenient or proper for making a continued navigable channel or canal for the passage of boats or vessels, to and from the Bason of Minas, and the harbour of Halifax, respectively; and also, to dig and excavate such lock pits, chambers or basons, and to make, build and erect, such locks, sluices, dams, wears [weirs], and embankments, in, over, across or upon, the course of the said river, or along the sides thereof, or at or near to the several lakes or streams connected therewith, as shall be considered necessary or proper for effecting such inland water communication, and at all such places or parts of the said river, lakes or streams, and in such lines, courses and directions, from one part to another of the said river, lakes or streams, as the said company shall deem expedient; and further, to make, place and erect, such and so many lock gates or doors, as shall be necessary in the line, course, or direction, of such canal, or required in the locks, dams or sluices thereof, and likewise to dig, excavate and deepen, the channels and courses of the said river, lakes and streams, whenever necessary, whether at the places of junction of the said lakes, river and streams, respectively, or elsewhere in the course, channel or basons thereof; and moreover to divert, turn, change or alter, the course, channel and direction, of the river, lakes, or streams, aforesaid, whenever necessary; and to make, dig and excavate, a channel, or course for the said river, or the waters thereof, and to form the said canal in any other manner, or different direction, between the said lakes respectively, or between any one or more of the said lakes, and the said river, or any particular part thereof, than the course or direction which the waters of the said river or outlets of the said lakes do now run in or follow – and furthermore to retain, dam up and confine, the waters of the river, lakes, and streams aforesaid, in the natural basons, courses, or reservoirs thereof, or in other artificial basons or reservoirs, to be made by the said corporation, and to lessen or reduce the actual surface, waters, or depths of such lakes, river, or streams, whenever necessary or proper, for the purposes of the said canal or water, communication – and generally to use and appropriate the waters of the said river, lakes, and streams, and the channels and water courses thereof, to and for the use and benefit of, and for rendering effectual, navigable and useful, the said intended canal or water communication from Halifax aforesaid, to the said bason of Minas.

VI. And be it further enacted, that the said company shall have power and authority to make, open and complete, in all such places where the same shall be thought necessary, in or upon the said canal, river and lakes, and the shores or banks thereof respectively, such towing paths, walks or roads, as shall be found necessary or useful for the tracking or towing

along the line of such canal, river or lakes, the boats, barges or vessels, to be used or employed thereupon; and such towing-paths, walks or roads with all necessary appendages thereof, from time to time, to repair, amend, alter or sustain, as the said corporation shall see fit.

VII. And be it further enacted, that, it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief for the time being, by whom such letters patent of incorporation shall be granted, to give and convey thereby to the said company all such other powers, privileges, authorities and immunities, in regard to the making, executing, repairing and sustaining, such canal or water communication, as are commonly and usually granted to such canal companies, and as shall appear to him, with the advice and consent of His Majesty's council, to be reasonable, fit and proper, in this behalf; and further, by and with the consent aforesaid, to impose such restrictions and conditions on the said company as may be proper or expedient in regard to the size and dimensions of the said canal, and the locks and works thereof, the rates or tolls to be taken, or other subjects connected with such canal.

VIII. And be it further enacted, that the course and channel of such canal or water communication; and the dams, weirs, embankments, sluices, locks, lockpits or chambers, lockgates, reservoirs and basons, by the said corporation to be erected and made, as aforesaid, and the waters and streams of the said river and lakes, so far as the same are or may be required or necessary to be used, retained, directed or appropriated, to and for the use and benefit of such canal, and the beneficial enjoyment thereof; and all lands or real estate, purchased or obtained for such canal, and through which it shall be made, and the towing or tracking paths or roads aforesaid, along the said canal, river and lakes, shall be, and they are hereby, vested in, and declared and made the sole exclusive property of, the company, for and during the term of ninety-nine years from the date of such letters patent.

IX. Provided always, and be it further enacted, that a way and passage in, through and along, the said canal or water communication, and the locks, gates and passages thereof, and in and upon the towing-path, roads or side-path, of the said canal, or [blank] the said company to be constructed or made for the use and benefit of the said canal, shall be, at all convenient times and seasons, free and open to all His Majesty's subjects, with their boats, vessels and goods, and horses or cattle, towing or drawing the same, after payment or tender of the toll or pass-money, which shall be established and ordained by the said corporation, upon and for the several parts of the said communication.

X. And be it further enacted, that the several rates, tolls and pass-mones, hereinafter to be ordained or established by the said company upon the line of the said canal, shall be subject and liable to the regulation of His Majesty's council, in the manner to be o[blank]ted by the said letters patent.

XI. And be it further enacted, that wheresoever the course, line or direction, of such canal or water communication, shall be crossed by any public highway, now or hereafter to be

established under the provisions of the present or any future laws of this province, the said corporation shall be, and is hereby required and made, subject and liable to build and erect, at the proper costs and charges of such corporation, such sufficient and substantial bridges or draw-bridges as shall be necessary for the convenient use of the said highways where they cross such canal, and such bridges or draw-bridges respectively, shall, from time to time, be kept in repair and sustained by the said corporation, and be free and open to all His Majesty's subjects at all times and seasons.

XII. And be it further enacted, that wheresoever the line of such canal or communication shall be crossed or intersected by any private way, or shall pass through land, owned by any one of His Majesty's subjects, on both sides of the said canal, or whenever, in future, any private way shall be required to be made across such canal, or whenever, in future, any private way shall be required to be made across such canal, then, and in every such case, the right of privilege of erecting and sustaining a bridge, or other mode of crossing such canal for the use of the party entitled or requiring such private way or passage, and the proceedings for obtaining such right or privilege, shall be obtained, regulated and pursued, in such and the like manner, and under such and the like conditions as private ways may now, or shall, by any future laws of this province, be procured, regulated or established.

XIII. And be it further enacted, that whenever, for the course, channel or scite, of such canal, or the works thereof, or for cutting or opening such canal, or for making or erecting any of the locks, dams, reservoirs or embankments thereof, or for any of the other purposes mentioned and authorised by this act, the said corporation, their engineers or servants, shall consider or find it necessary that any lands, lying or being in the course or direction of such canal, or water communication, or contiguous thereto, or upon the shores or banks of the said river, lakes or streams, should be purchased by, or vested in, the said corporation, to enable them to make and complete, and beneficially use, the said canal, then, and in every such case, it shall and may be lawful for the said corporation to have, use, adapt and take, such and the like course and proceedings in regard to such lands, and the obtaining the same, for the use of the said corporation, as by any present or future law of this province, are or shall be enacted, or in force, touching the making or altering any public highway through the lands of any private person in this province; and such an the like process and course of proceedings, as are or may be requisite for divesting the right and interest of the individual owner of the land required for a public highway, and appropriating such land for the use of the public, shall and may be used, pursued and taken, for divesting the estate and interest of the respective proprietors of the lands required for the use of the said corporation, and vesting such lands, with their appurtenances, in the said corporation. And in every such case, after such and the like proceedings had as may be taken with respect to highways, and after the verdict of a jury taken and confirmed, and the damages assessed in favour of the proprietor, paid and satisfied, and all other the provisions and requisites in force as respects highways, in all particulars observed and confirmed, the said lands and tenements described in, and forming the subject matter of, such proceedings, shall be, and they are hereby, with their respective appurtenances, vested in, and appropriated to, the

use of the said corporation, and shall be and remain to, and be enjoyed by, the said corporation in fee simple.

XIV. And be it further enacted, that whenever in the making or opening such canal, and performing the works thereof, it shall be necessary for the said company or their servants to procure materials for the said works from any uncultivated lands lying on or contiguous to the said canal, river or lakes; and the owner of such uncultivated land, shall be absent, or no agreement can be made with him, then and in every such case, it shall and may be lawful for the said company, and their servants, to enter with workmen, carts, carriages and cattle, upon such uncultivated lands, and, thereon and therefrom, to dig up, take and carry away, stones, earth and gravel, and to cut down, and carry away therefrom, trees and brushwood, logs, poles and brushes, for the works of such canal; and the damage thereby done, shall be appraised and ascertained by the judgment of three indifferent freeholders, to be nominated by the nearest justice of the peace, for that purpose; and the sum so ascertained, shall be paid or tendered by the company to the owner of the soil, if demanded within three months from such appraisement.

XV. Provided always, and be it further enacted, that no damage be done to any particular person in his land or property, nor the course of any river or stream, or waters whatsoever, be turned or diverted without due recompense to be made by the said corporation as the said corporation and the parties interested may agree, as shall be ordered by the justices in general or quarter sessions, upon enquiry in the same, by a jury to be summoned for that purpose.

XVI. Provided always, and be it further enacted, that if any dam, wear or embankment, shall be made across the present course or channel of the River Shubenaccadie, below the Great Lake, so called, the said corporation shall make and maintain therein a sufficient waste gate, opening or passage, for allowing fish to pass up and down the said river, and with respect to such waste gate, opening or passage, shall be subject and liable to the rules, orders, regulations and penalties, from time to time made, or to be made, by the general sessions of the peace, in respect to the preservation of the river fishery, under the acts now or hereafter to be in force thereupon.

XVII. And be it further enacted, that nothing herein contained, shall extend, or be construed to extend, to pledge the government of this province to have any concern, share, or interest in the proposed canal or water communication, or to give the said corporation, or any of the persons composing the same, any claim of any sort or kind upon the treasury or government of this province, for any monies or pecuniary aid, it being the true intent and meaning of this act, that those who may engage therein should proceed upon their own responsibility, and opinions of the advantages and practicability thereof.

XVIII. And be it further enacted, that, unless the said corporation, within the space of ten years from the passing of this act, shall have made such progress towards the completing of the said navigation as shall satisfy the Governor, Lieutenant-Governor, or Commander in

Chief, and His Majesty's council, that there is a reasonable prospect that such corporation shall, within a limited period, be able to complete the said navigable canal, then and in such case this act, and every matter and thing therein contained, shall cease, and be no longer in force.