

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday, First day of February, 1827, in the Eighth 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 First Session of the Thirteenth General Assembly, convened in the said Province.

8 George IV – Chapter 17

An Act in addition to the Act, entitled, “An Act to authorise the Incorporation of a Company, for making a Canal by the River and Lakes of the Shubenacadie.”

Whereas, by the said act, the Governor, Lieutenant-Governor, or Commander-in-Chief for the time being, was authorized to grant letters patent for incorporating, under the title of the Shubenacadie Canal Company, all the persons, their heirs and assigns, who, from time to time, should be adventurers or parties, in making a navigable water communication between the harbour of Halifax and the Basin of Mines [Minas Basin], by the course of the River Shubenacadie and the lakes thereof:

And whereas, pursuant to the said statute, letters patent, under the great seal of the province, and dated the first day of June, one thousand eight hundred and twenty-six, were duly, and in conformity to the said statute, made and granted by His Majesty, whereby certain persons, inhabitants of Halifax, particularly named in the said letters patent, were incorporated by the name and title, and for the purposes aforesaid, as by the said letters patent, will, on reference thereto, at large appear:

And whereas, some further powers and regulations have been found necessary for the better establishing of the said company, and more effectually accomplishing the objects thereof:

I. Be it therefore enacted by the Lieutenant-Governor, Council and Assembly, that all and singular the lands, works, waters, water courses, streams, lakes, channels, and all and singular other the estate, rights, interests, powers, benefits, privileges and immunities, in and by the eighth clause or section of the said act, granted to the said company, for the term of ninety-nine years; shall be, and the same are hereby vested in, and declared to be, the sole and exclusive property of the said corporation, henceforth forever.

II. And be it further enacted, that the joint stock, and real and personal estate of the said corporation, shall be liable for, and subject to, the payment of all debts contracted by the company, and none of the present or future members of the said company shall be liable for the payment of any debt contracted by the company, beyond the amount of the shares or stock held by such individual member.

III. And be it further enacted, that the president, vice-presidents and directors, of the said company, named in the letters patent, or hereafter to be chosen, shall constitute the board

of directors of the corporation. And that such members of the said board, as shall be directed in the rules and Bye Laws of the said company, shall go out of office on the first day of March in every year; and shall not be again re-elected to the same office, before the next annual meeting; and the persons chosen in their stead, or to fill any vacancies in the said offices, not previously supplied, shall come into office on that day; and the general meeting of the said company, for the choice of such officers, and for its general business, shall be held in the month of February in every year, and at such time and place as the directors shall appoint: the first annual meeting to be held in the month of February next ensuing the passing hereof.

IV. And be it further enacted, that at every annual meeting, a full, explicit and correct, account of the affairs, debts, engagements, property and state, of the said company, shall be by the board of directors prepared, and laid before the stock-holders; who, if they think proper, may, at such or any future meeting, choose fit and proper persons to examine and audit such account, and to report thereon: and all the books, papers, accounts, vouchers and documents, of the company, necessary for that inspection and audit, shall be produced before, and be submitted to such auditors, by the persons having the same in charge.

V. And be it further enacted, that whenever a requisition for a general meeting of the stockholders of the said company shall be presented to the board of directors, signed by ten members of the company, the directors shall cause such general meeting to be held at some convenient time and place, within ten days after the delivery of such requisition.

VI. And be it further enacted, that, upon complaint made on oath, to the judges of the supreme court, at any of its sittings in Halifax, that any person holding any office in the said company, has been guilty of any fraud or criminal misconduct in managing the affairs of the said company; or the stock, funds or property, real or personal, belonging thereto, it shall be lawful for the said supreme court to examine into the subject matters of such complaint; and to hear and try the same, either by jury or in a summary way; and upon conviction, to remove the person or persons so convicted, from the office held by him or them, in the said corporation.

VII. And be it further enacted, that every vacancy occasioned in the board of directors, or other offices of the company, by the death, resignation or removal from the province, of the person filling the same, or by the judgment of the said supreme court, shall be supplied by the choice of another officer at some general meeting of the company, to be specially convened for that purpose, agreeably to the bye laws.

VIII. And be it further enacted, that the books and accounts of the said company shall at all times be open to the examination of such person or persons, as the Governor, Lieutenant-Governor or Commander-in-Chief, by and with the consent and advice of His Majesty's council, shall appoint to inspect the same.

IX. And be it further enacted, that no part of the capital stock of the company, when paid in, shall be applied or converted to the payment of any dividends whatever, to the members of the said company; but shall be wholly applied to, and expended in, the works of the said navigation, and towards the making, using, navigating, and maintaining the same. And it shall not be lawful for the said company, unless thereto specially authorised, to make or execute any bond, bill, note or obligation, to bind the said company, for any sum of money less than twenty pounds.

X. And be it further enacted, that no bye law of the said company shall be in force, or executed, until the same is approved of by the Governor and Council:— And no alteration, amendment or repeal, of any such rules or bye laws of the said company, shall be of any force or effect whatever, unless the same shall be also allowed and approved of by the Governor and Council, in such and the like manner, as by the said letters patent is appointed with respect to the original bye laws.

And whereas, it may happen that the said canal or water communication, or the works thereof, may be injured by unforeseen accidents, whereby the navigation thereof may be interrupted, and the lands adjacent thereto be exposed to damage:

XI. Be it therefore enacted, that for the speedy reparation of such injury, whenever and as often as such case shall happen, it shall be lawful for the said company, and their servants, to enter with workmen, carts, carriages and cattle, upon the lands contiguous to the said canal, and the works connected therewith, and thereon and therefrom, to dig, work, get, carry away and use, all such stone, gravel, clay, timber and other materials, fruit trees and ornamental timber trees excepted, as may be necessary or proper, in the opinion of the company or their servants, for such reparation; doing as little damage thereby, as the nature of the case will permit. And in case damages shall be claimed by the owner or owners of any land entered upon for the purpose of obtaining materials as aforesaid, and the company cannot agree with him or them, touching the extent or payment of such damages, then the amount thereof shall be ascertained and settled in the manner hereinafter prescribed.

XII. And be it further enacted, that whenever any damage, trespass, waste or injury, shall be done to any person in his lands, rights or property, by making or opening the said canal or water communication, or by the erection of any of the dams, locks, embankments or works, thereof, or by the flooding or overflowing any lands, or by diverting the waters of any stream or lake from the person or persons legally entitled to the same, or to the use thereof, or by entering upon any lands contiguous to such canal, and digging, cutting, carrying away or using, any stone, gravel, clay, timber, wood or other materials, for the purpose of the said canal, or the works thereof; or by any other way or means whatsoever, injuring or impeding such rights or property, it shall and may be lawful, either for the party grieved and subjected to injury, or for the said company, to apply to any two judges of the supreme court of the province, by petition, stating the nature and situation of the lands, rights or property injured, and praying for the appointment of appraisers to estimate the same. Whereupon the said judges shall direct proper notices to be given to all parties interested, to attend

before them, at a day and place to be appointed for the purpose, and shall, at the time so appointed, call on the company and party injured, each to nominate one or two appraisers, as the said judges may think necessary. And the said judges shall name another appraiser; and shall, by an order in writing, constitute and appoint the persons so chosen and named, to act as appraisers of the damages arising from the injury complained of; and in case the said company or party injured, shall neglect or refuse to name appraisers as aforesaid, the said judges shall name a fit and discreet person or persons, as the case may require, to act on behalf of the said company or person, declining to make such nomination when called on as aforesaid. And the persons so named and chosen shall, before they enter upon the duties of their appointment, severally take and subscribe an oath before a judge of the said court, faithfully and impartially to perform the trust and duties so required of them, by the order of the said judges; which oath shall be filed with the said petition in the office of the prothonotary of the said court at Halifax. And the said appraisers, or a majority of them, shall make a just and equitable estimate and appraisal of the loss and damage of the respective owner or owners, or parties interested in the lands, rights, property or premises, so entered upon, injured or pretended or alleged to be injured or impaired, by the said company, and shall certify and return their determination and award in writing, under their hands, or the hands of the major part of them, touching all such damage, loss and injury, of whatsoever nature it be, into the office of the said prothonotary of the supreme court at Halifax. Whereupon, if the said court shall be of opinion, that the said award hath been fairly, equitably and impartially made, and if no good and sufficient cause shall be shewn, against such award and determination, the said court shall allow and confirm the same. And thereupon, the said company shall, within such time as the court shall appoint, pay and satisfy into the said court, or unto the person or persons whom the court shall find entitled to receive the same, the amount so awarded, together with such costs and expenses as shall be adjudged against the company in that behalf. And the payment of the amount so awarded, and costs, shall forever discharge the said company, their servants and all persons acting for the said company, from, and be a bar to, all actions, suits, claims and demands whatsoever, for or in respect of such trespass, damage, loss or injury done, committed, suffered or sustained, by the means aforesaid.

XIII. And be it further enacted, that the said judges, and also the said supreme court, shall have, with respect to the proceedings touching such appraisement and estimate of damages, by the means aforesaid, and with respect to the taxation and allowance of costs to or against the parties, all necessary discretion, powers and authority, and shall and may inquire into the proceedings, by the oath of witnesses, or otherwise; and shall and may also, on good cause shewn, set aside any such award and appraisement, and either direct the parties' appraisers again to view, estimate and decide upon, the injuries and damages complained of, or otherwise if the court make an order for their making a new appraisement and valuation of the damages arising from the injury complained of; and the appraisers, so nominated, shall be sworn as aforesaid, and the award and appraisement so by them, or the major part of them, made and returned in writing, when confirmed and approved of by the court, shall be final between the parties, and may be carried into effect as aforesaid.

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Provided always, and be it further enacted, that the award made on the second
appraisement shall be final and conclusive to all intents whatsoever.