

*The Provincial Statutes of Lower-Canada, Being the first session of the eighth Provincial Parliament of Lower-Canada.* Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1815.

55 George III – Chapter 20

**An act to grant an Aid to His Majesty, to assist in opening a Canal from the neighbourhood of Montreal to La Chine, and further to provide for facilitating the execution of the same. (25th March, 1815.)**

MOST GRACIOUS SOVEREIGN,

Whereas by a Message from the Governor in Chief to the House of Assembly, bearing date the third day of February, one thousand eight hundred and fifteen, setting forth, that "His Majesty's Government having in contemplation the speedy opening of a Canal from the neighbourhood of the Town of Montreal to La Chine, His Excellency the Governor in Chief recommends the subject to the early confederation of the House of Assembly, and that they will grant such supply and other Legislative provision as they may deem expedient to assist in carrying into execution so important an object," and whereas the execution of such a project will greatly benefit Your Majesty's service, ameliorate the internal Communications of this Province, and thereby tend generally to the encouragement of the agriculture and commerce thereof: May it therefore please Your Majesty that it may be enacted and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America;' And to making further provision for the Government of the said Province," And it is hereby enacted by the authority of the same, that the sum of twenty-five thousand pounds, currency, to be taken out of any of the unappropriated monies which now are or shall at any time hereafter be, in the hands of the Receiver General of this Province, be granted and the same is hereby granted to His Majesty, His Heirs, and Successors to assist in, carrying into execution the said Canal.

II. And whereas it is expedient to make further provision for facilitating the tracing out, executing and maintaining the said projected Canal, be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the Governor, Lieutenant Governor or person administering the Government of this Province for the time being, by an Instrument under the Great Seal of this Province, to constitute and appoint such and so many persons as he shall think fit, to be Commissioners, and a Secretary to carry into, execution or superintend the works necessary to the making, repairing and improving of the said Canal and to administer, collect and apply the monies arising from the toll thereon, with power to remove, from time to time, the said commissioners or any of them, and to appoint others in their stead, or in the stead of such as shall, from time to time, die or resign. Provided always, that the said Commissioners, from time to time, shall pay or cause to be paid into the hands of the Receiver General of this Province for the time being, all the monies which shall come into their hands in virtue of this Act immediately upon receipt thereof, in order to the application of the said monies under the direction of

the said Commissioners with the sanction of the Governor, Lieutenant Governor or person administering the Government of this Province for the time being, by Warrant under his hand and seal, to and for the purposes of this Act. And the said Receiver General is hereby required to receive the said monies and to account for the same to His Majesty, his Heirs and Successors through the Lords Commissioners of His Majesty's Treasury for the time being, in the same manner as he at present receives and accounts for other public monies: Provided always that no portion of the said sum of twenty five thousand pounds, currency, shall be employed for the purposes of this Act, until the said canal shall be in a course of actual execution in consequence of the orders of His Majesty, His Heirs and Successors, to that effect.

III. And be it further enacted by the authority aforesaid, that the said Commissioners and their successors shall be and are hereby declared to be a body corporate and Politic in name and in deed, by the name of Board of Administration of the Royal Canal of Canada, and under that name, shall have perpetual succession and a common Seal, with power to change, alter, break and make new the same, when and as often as they shall judge the same to be expedient, and they and their successors by the same name, shall or may do all and whatsoever any Body corporate or politic, may or can legally do; and that in every suit or action to be instituted against the said corporation, Service of the Summons made upon the Secretary thereto, personally or at his Domicile, shall be taken and held to be a legal Service upon and against the said corporation, and shall sue and be sued, implead and be impleaded, answer and be answered, in all or any Court or Courts of record or Judicature within this Province, and under that name, shall exercise all the rights hereby given to them, and perform all the duties hereby imposed on them.

IV. And be it further enacted by the authority aforesaid, that the said Commissioners or a majority of them, shall be authorised and empowered, and they are hereby authorised and empowered, to open or cause to be opened, make or cause to be made, complete and maintain or cause to be completed and maintained, a navigable Canal, from the waters of the St. Lawrence at or near the City of Montreal, to the waters of the said River at La Chine; the locks whereof shall not be less than fifteen feet in breadth, and which Canal shall be navigable for Vessels drawing five feet water; to trace out and complete, or cause to be traced out and completed the same, in the line and direction which shall be most convenient and practicable for the execution of the said undertaking; and to that end shall have power and authority to purchase lands for the use of the said Canal without incurring any of the Penalties, forfeitures or disabilities created by the Laws of mortmain; to Supply the said Canal whilst the same shall be making, and when made, with water born the said River St. Lawrence and from all such Brooks, Springs, Streams and water-courses, as shall be formed in making the said Canal or within the distance of one thousand yards from any part of the said Canal or from any reservoir or reservoirs to be made for supplying the said Canal with water; and to make one or more reservoirs if the same shall be necessary for the purpose of Supplying the said Canal with water, and such and so many feeders and aqueducts for supplying the said reservoirs with water, as to them shall seem necessary and proper. And for the purposes aforesaid, they are hereby authorized to enter into and upon the lands or grounds of or belonging to any person or persons, community, Body Politic or Corporate, whatsoever, (not being within three months after the passing of this Act, the ground whereon a house shall be erected, unless with the consent of the owners and occupiers thereof, respectively,) and to survey and take levels of the same or any part thereof, and to let out and ascertain such parts thereof as they shall

think necessary and proper for making the said Canal, and all such other matters and conveniences as they shall think necessary and proper for making, effecting, preserving, improving, completing and using the said intended Canal; and also to pare, dig, cut, trench, remove, take, carry away and lay Earth, Soil, Clay, Stone, Rubbish, Trees, beds of Gravel or Sand or any other matters or things which may be dug or got in the making of the said Canal or reservoirs, tunnels, or aqueduct or aqueducts, or out of any lands of any person or persons contiguous thereto, and which may be proper, requisite or convenient for carrying on, continuing and repairing the said Canal or reservoirs, or which may hinder, prevent, or obstruct the making, using, completing and maintaining the same, and also to make, build, erect, and set up, in or upon the said intended Canal, or upon the lands adjoining or near to the same, such, and so many Bridges, tunnels, aqueducts, sluices, locks, wears, tanks, reservoirs, drains, wharves, quays, landing-places, weigh-beams, cranes and other works, ways, roads and conveniencies, as shall be deemed requisite and convenient for the purposes of the said Canal: and also, from time to time, to alter, repair, amend, widen, and enlarge the same or any other of the conveniencies above mentioned, as well for the carrying or conveying Goods, Commodities and other things to or from the said Canal as for the carrying or conveying of all materials necessary for the making, altering, repairing, amending, widening, or enlarging the works of and belonging to the said Canal, and also to place, lay, work and manufacture the said Materials on the grounds near to the place or places where the said works, so any of them shall be intended to be made, erected, repaired or done; and also to make, maintain, repair and alter any Fences or Passages over, under, or through the said Canal or the Reservoirs, Funnels, Aqueducts, Trenches, Gutters, water- courses, Drains and Sluices, respectively, which shall communicate therewith; and also to make, set up and appoint such Roads, Towing-Paths, Banks and Ways convenient for towing, hauling or drawing of Boats, Barges or other Vessels, passing in, through, or upon the said Canal as shall be deemed necessary, and to contract, erect, and keep in repair any Piers, Arches or other works, in, upon and across any Rivers or Brooks, for making, using, maintaining, and repairing the said Canal, and the Towing-Paths over the sides thereof, doing as little damage as possible in the execution of the several powers hereby granted, and making satisfaction in manner herein after mentioned, for all damages to be sustained by the Owners or Proprietors of such lands or grounds, Rivers, Waters, water-courses, or Brooks respectively as shall be taken, used, removed, diverted or prejudiced in or by the execution of all or any of the powers granted by this Act.

V. Provided always, and be it further enacted by the authority aforesaid, that the land and ground so be taken or used for such Canal and towing paths, and the Ditches, Drains and Fences to separate such Towing-Paths from the adjoining lands, shall not exceed twenty six yards in breadth, except in such places where the said Canal shall be raised higher, or cut more than five feet deeper than the present surface of the soil; and in such places, where it shall be judged necessary for boats and other vessels to turn, lie or pass each other, not more than sixty yards in any of those places, nor shall any land or ground, so set out and ascertained for the purpose of making the said Canal and Reservoirs, be applied to the said purposes, without the consent of the owner or owners of the said Lands, respectively, under his or their hands in writing first had and obtained, unless the same shall be valued and paid for in manner as herein after mentioned.

VI. And be it further enacted by the authority aforesaid, that when and as often as it shall be necessary to cut into any Highway in order to conduct the said Canal through the same, the Commissioners shall, within the shortest possible delay, cause to be constructed a secure, sufficient

and commodious Bridge to be reported, such, by Experts, for the passing of carriages, in order to re-establish the communication between the several parts of such Highway.

VII. And be it further enacted by the authority aforesaid, that if for the making of the said Canal, it shall become necessary to break down any public Bridge, within or beyond the limits of the city of Montreal, it shall and may be lawful to and for the said Commissioners to cause such public Bridge to be broken down and removed, and they are hereby required to cause to be completed within the shortest possible delay, all the necessary works of the said Canal, and to cause to be re-built new, secure, sufficient and commodious Bridges, to be reported such by Experts, for the passing of carriages, in lieu of those which they shall, have so caused to be broken down and removed.

VIII. And be it further enacted by the authority aforesaid, that whenever the said Canal shall have its course within the line or across the land of any individuals in such manner as to intercept the free communication between such land and any Highway or street: in such case, the Commissioners shall and they are hereby required to cause to be erected a secure, sufficient and commodious Bridge for the passage of carriages, as such to be reported by Experts, which Bridge they shall cause to be placed whenever the nature of the Ground admits, within the Division line between the two adjoining proprietors whose land shall so as aforesaid have been interested by the said Canal, in such manner, that the use of the said Bridge may be in common between them, for the issue from their adjoining labels, which Bridge shall be kept in repair at the expense of the said proprietors.

IX. And whereas the division of lands may hereafter render necessary the erecting of new Bridges over the said Canal, be it therefore enabled by the authority aforesaid, that every proprietor of Land who may desire at his own expense to erect a Bridge or Bridges, other than those which shall in the first instance have been erected in virtue of this Act, is hereby authorised to cause to be erected, such Bridge or Bridges under the direction of the said Commissioners, who shall give permission to that effect in every case in which it shall be established by the report of Experts that such Bridge or Bridges shall not present any greater obstacles to the navigation of the said Canal, than are presented thereto, by the neighbouring Bridges over the same.

X. And be it further enacted by the authority aforesaid, that after any such parts of the said lands or ground shall be so let out and ascertained as aforesaid, for making the said Canal, and other the purposes and conveniences herein before mentioned, it shall and may be lawful for all Bodies politic, communities, corporations aggregate or sole, Guardians, Curators and all other Trustees whatsoever not only for and in behalf of themselves, their Heirs and Successors, but also for and in behalf of those whom they represent, whether Infants, Lunatics, Idiots, Femmes-covert or other person or persons who are or shall be possessed of or interested in any Lands or Grounds which shall be set out or ascertained as aforesaid, to contract for, sell and convey unto the said Commissioners or a majority of them, all or any part of such Lands or Grounds which shall from time to time, be set out and ascertained as aforesaid, and that all such Contracts, agreements and sales shall be valid and effectual in law to all intents and purposes whatsoever, any law, statute or usage to the Contrary thereof in anywise notwithstanding.

XI. Provided always and it is further enacted by the authority aforesaid, that any Body politic, Community, Corporation, or other person or persons whomsoever, who cannot in common course of Law, sell or alienate any Lands or grounds so set out and ascertained, shall agree upon or shall have fixed in manner as herein after directed a fixed annual rent, as an equivalent and not as a principal sum to be paid for the Lands or Grounds so set out and ascertained as necessary for making the said Canal and other the purposes and conveniences relative thereto; for the payment of which annual rent and of every other annual rent agreed upon or ascertained for the purchase of any Lands or Grounds, the said Canal and the tolls to be levied and collected thereon, shall be and hereby are made liable and chargeable in preference to all other claims or demands thereon whatsoever.

XII. And he it further enacted by the authority aforesaid, that, all Questions which shall arise between the said Commissioners or a majority of them, and their several Proprietors of and persons interested in any lands, grounds or waters that shall or may be taken, affected or prejudiced by the execution of any of the powers hereby granted, or any indemnification for damages which may or shall be at any time or times sustained by any bodies politic or corporations, communities or any other person or periods respectively, being owners of or interested in any lands, grounds or waters for or by reason of the making, repairing or maintaining the said Canal or Reservoirs, Trenches, Passages, Gutters, water-courses, Roads, Ways, Locks or Sluices for supplying the same with water as aforesaid, or by the flowing, leaking or oozing of the water, over or through the Banks of the said Canal, Reservoirs or other conveniences connected therewith, or by turning or diverting any streams or brooks into the same, shall and may be settled by agreement of the parties, or by arbitration, or if either of the parties shall not be inclined to make an agreement, or to appoint Arbitrators, or by reason of absence, shall be preserved from treating, or through disability by nonage, coverture or other impediment, cannot treat or make such agreement or enter into such arbitration, or shall not produce a clear title to the premises which they claim an interest in, then and every such case, the said Commissioners, or a majority of them, may make application, to the Court of King's Bench of the District of Montreal, stating the grounds of such application, and such Court is hereby empowered and required from time to time, upon such application, to issue a Warrant directed to the Sheriff of the District of Montreal, for the time being, commanding such Sheriff, to impanel, Common and return a Jury, and the said Sheriff, is hereby required accordingly to impanel, summon and return a Jury qualified according to the Laws in his Province, to be returned for Trials of issues, joined in civil cases in the said Court of King's Bench, to appear before the said Court, at such time and place as in such Warrant shall be appointed, and all parties concerned may have their lawful challenge against any of the said jurymen, but shall not challenge the array, and the said Court is hereby empowered to Common and call before them, all and every such person or persons, as it shall be thought necessary to examine as witnesses, touching the matters in question, and the said Court may order and authorise the said Jury or any six, or more of them to view the place or places or matter in controversy, which Jury upon their Oaths, (all which Oaths as well as the Oaths to be taken by any person or persons who shall be called upon to give evidence, the said Court is hereby empowered to administer) shall enquire of, access and ascertain the distinct sum or sums of money, or annual rent to be paid for the purchase of such lands or grounds, or the indemnification, to be made for the damage that may or shall be sustained as aforesaid; and the said Court, shall give Judgment for such sum, rent or indemnification, so to be assessed by such Juries, which said verdict and the judgment so thereupon pronounced, shall be binding and conclusive to all

intents and purposes against all Bodies politic or corporate or communities and all persons whomsoever.

XIII. Provided always and it is further enacted by the authority aforesaid, that in all cases where a verdict shall be given, for more monies as an indemnification or satisfaction for any lands or grounds, or for any damage to be done to any lands or grounds or property of any person or persons whatsoever, than had been previously offered by or on behalf of the said Commissioners or a majority of them, then all the expenses of summoning and of taking such inquest, shall be settled by the said Court, and by the said Commissioners defrayed, but if any Verdict shall be given for the same or a less sum than had been so previously offered, then and in every such case, the said costs and expenses after being settled as abovesaid, shall be borne and paid by the person or persons with whom they shall have such controversy.

XIV. And be it further enacted by the authority aforesaid, that the said Court shall not be obliged by virtue of this Act, to receive or take notice of any complaint or application to be made by his person or persons whatsoever, for any injury or damage by him, her or them sustained, by virtue of this Act, reliefs application hath be made in relation thereto within the space of six calendar Months next after the time of such supposed injury or damage sustained.

XV. And be it further enacted by the authority aforesaid, that upon payment of such sum or sums of money, or annual rent as shall be contracted or agreed for, between the parties, or determined by Arbitrators, or assessed by such juries in manner respectively as aforesaid, to the Proprietors thereof, or other persons entitled to receive such money or rent respectively, or legal tender thereof made to the proprietors thereof or such other persons, or to the principal Officer or Officers of any such body politic, or corporate, or community, at any time after the same shall have been so agreed for, determined or assessed; or if he, she or they cannot be found, or shall refuse to accept such money or rent, upon payment thereof into the hands of the Clerk of the Court of King's Bench of the said District, for the use of, and to be paid upon demand to such proprietors or persons respectively as aforesaid, then and in such case, such lands and grounds, respectively, may be applied to the purpose of making the said Canal, reservoirs and other works, and shall from thence forth be vested in, and become for ever the sole property of the said Commissioners to and for the use of the said Canal, but to and for no other use or purpose whatsoever.

XVI. And be it further enabled by the authority aforesaid, that all agreements and all determinations by Arbitrations as aforesaid, and also the said verdicts and Judgements shall be transmitted to, and shall be kept by the Clerk of the Court of King's Bench for the District of Montreal, amongst the records of the said Court, and shall be deemed and taken to be, records of the said Court to all intents and purposes, and the lame or true copies thereof, shall be allowed to be good evidence in all Courts in this Province, and all persons shall have liberty to inspect the same, paying for each inspection the sum of two shillings, and to take copies thereof on paying for each copy not exceeding two Hundred words, the sum of six pence, and, so in proportion for any greater number of words.

XVII. And be it further enacted by the authority aforesaid, that if any person or persons shall wilfully, maliciously and to the prejudice of the said Canal, break, throw down, damage or destroy any Bank,

Lock, Gate, Sluice or any works, machine or device to be erected or made by virtue of this Act, or do any other wilful act, hurt or mischief to disturb, hinder or prevent the carrying into execution and completing, supporting and maintaining the said Canal, every such person or persons so offending, shall forfeit and pay to the said Commissioners treble the value of the damage, proved by the Oath of two or more credible witnesses to have been done; such damages together with costs of suit in that behalf incurred to be recovered by action in any Court of Law, in this Province having Jurisdiction competent to the sum; or in case of default of payment, such offender or offenders may be committed to the common Goal for any time not exceeding three months at the discretion of the Court, before which such offender shall be convicted.

XVIII. And be it further enacted by the authority aforesaid, that the master or owner of any Boat or other Vessel navigating upon the said Canal, shall be and he is hereby made answerable for any damage, spoil or mischief that shall be done by his boat or other vessel, or by any of the boatmen or watermen employed in and about the same respectively, unto any of the Bridges, Weirs, Locks, Dams, Engines, or other works in, upon or near the said intended Canal, or by loading or unloading any boat or other vessel, and for any injury or damage that shall or may be done to the owners of any budding or land adjoining the same, and the master or owner of such boat or other vessel, shall and may be prosecuted for the same, in any Court of Record, and if a verdict or judgment be given against him in such Court, in any such case, the Plaintiff shall recover his Damages thereby sustained, with double costs of suit.

XIX. And be it further enacted by the authority aforesaid, that the said Canal, shall be free for all persons whomsoever, who are hereby authorized and impowered to navigate freely upon the same, with any Boat, Barge, or other vessel, and to use the said towing Paths for hauling and drawing Boats, Barges and other vessels, and also to use the said wharves for loading and unloading any goods, wares and merchandize, under such conditions and regulations, and upon payment of such rates and dues, as shall or may hereafter, be enacted by an Act of the Legislature of this Province of Lower Canada, so soon as adequate information, touching the Premises shall be obtained from the Commissioners to be appointed, as aforesaid.

XX. And whereas, it may hereafter happen from floods or from unexpected accidents, that the Locks, Weirs, Flood gates, Dams, Banks, Trenches or other works of the said Canal, and Reservoirs, may be damaged or destroyed, and the adjacent lands damaged or endangered; and it may be necessary that the same should be immediately repaired or rebuilt, to prevent further damage. Be it therefore enabled by the authority aforesaid, that as often as any such case shall happen, it shall and may be lawful for the said Commissioners or a majority of them, (without any previous application to the owner or owners of lands, and without any delay or interruption from any person or persons whatsoever,) to enter into or upon any land or ground adjoining or near the said Canal and Reservoirs (not being a court-yard, or the ground whereon any House stands, or not being a Garden, Orchard, Nursery for Trees, or avenue to a House,) and to dig, get, work, take, carry away and use all stones, gravel and other materials, which may be necessary or proper for the purposes aforesaid, without any previous treaty whatsoever, with the owner or owners, occupier or occupiers of such land or ground, or any of them, doing as little damage thereby, as the nature of the works will admit, and making recompence for such damages, to the owners or occupiers of such land or ground within the space of

six Months after the same shall be demanded; which damages and the recompence to be made in respect thereof shall be settled, adjusted ascertained and determine the manner and by the means herein before prescribed, with respect to other damages done by means of the said Canal.

XXI. And be it further enacted by the authority aforesaid, that nothing in this act shall extend or be construed to extend, to restrain or hinder the owner or owners of any lands on grounds through which the said Canal shall pass, from making erecting or using any wharves, quays, landing places, cranes, weigh-beams or warehouses in or upon their own lands, grounds or waters adjoining or near to the said Canal, or from landing any goods or merchandize or other things thereupon or upon the banks lying between the same and the said Canal, or from making or using proper and convenient places for boats, barges or other vessels to lie in, so that the making, erecting or using thereof respectively shall not and do not encroach upon, obstruct or prejudice the Navigation of the said Canal or the Towing Paths thereof; and all sums of money which shall be paid for the use and benefit of the said wharves, quays, landing places, cranes, weigh-beams and warehouses, respectively, shall be and the same are hereby vested in the owner or owners of such lands or grounds who shall make and erect such Wharves, Quays, Landing places, Cranes, Weigh-beams or Warehouses respectively, his, her and their Heirs and assigns, so that the rates or dues to be granted for tonnage on the said Canal, shall not be thereby reduced or altered.

XXII. And be it further enacted by the authority aforesaid, that all fines, penalties and forfeitures for Offences against this Act, shall be paid into the hands of the Treasurer or Receiver of the monies to be raised by virtue of this Act, and shall be applied and disposed of, for the use of the said Canal.

XXIII. And be it further enacted by the authority aforesaid, that if any suit or information shall be brought or commenced against any person or persons for any thing done or to be done in pursuance of this Act, or in the execution of the powers and authorities, or the orders and directions herein before given or granted, every such suit or information shall be brought or commenced within six calendar months then within six calendar months next after the doing or committing such damages that chase and not afterwards, and the defendant or defendants in such action or suit shall and may plead the general issue, and give this Act and the special matter in evidence and any trial to be had thereon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear to have been so done, or if any action, suit or information shall be brought after the time herein before limited for bringing the same, or if the Plaintiff or Plaintiffs shall become non-suit, or discontinue his, her or their suit, action or information after the defendant or defendants shall have appeared, or if Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have treble costs, and shall have such Remedy for the same, as any Defendant or Defendants hath or have for costs of suit in other cases by Law.

XXIV. And be it further enacted by the authority aforesaid, that nothing herein contained shall extend or be construed to extend in any manner or way to affect the rights of His Majesty, His Heirs and Successors, or of any person or persons, or of any Body corporate or politic except in as far as the same are hereby affected.



XXV. And be it further enacted by the authority aforesaid, that the prefect Act shall be deemed and taken to be a public Act, and as such, shall be judicially noticed by all Judges, offices and other persons without being specially pleaded.

XXVI. And in order to the obtaining for the Commissioners hereby appointed for the making of the said Canal, more ample information, be it therefore enabled by the authority aforesaid, that the said Commissioners, before causing the works upon the said Canal to be commenced shall cause to be made a detailed plan of the intended Canal, and of its dependencies, with statements and estimates of the works necessary to the making thereof, and shall deposit the said plan and the said statements and estimates in the office of the Peace for the District of Montreal, during one Month, and shall give notice in the Quebec Gazette and in some one of the public Papers for the District of Montreal of the making of such deposit, and that they will receive all such information for the advantage of the said Canal, as it shall be desired to communicate to them.