

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1846.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1846.

9 Victoria – Chapter 49

**An Act for the Incorporation of the Saint Croix River Canal Company. Passed 11th April 1846.**

Whereas increasing the facilities of trade and intercourse between different sections of the Province will greatly advance the general interest thereof, and it is considered expedient to encourage persons to devote their time and means to such objects;

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That George M. Porter, John Porter, Nehemiah Marks, Japhet H. M'Allister, William E. M'Allister, William Todd, Junior, Daniel Hill, Horatio N. Hill, Abner Hill, Stephen Hill, Columbus Bacon, George Downs, Anson G. Chandler, William P. Trott, Noah Smith, Junior, Levi L. Lowell, Ferdinand Tinker, Ninian Lindsay, Gilman D. King, David Upton, William Porter, Frederick A. Pike, Samuel King, William Eaton, Emerson Eaton, Daniel Harmon, their associates, successors and assigns, be and they are hereby declared to be a Body Corporate and Politic, by the name of The Saint Croix River Canal Company, and by that name shall have all the general powers and privileges made incident to a Corporation by Act of Assembly of this Province, for the purpose of opening a water communication by means of a Canal and other improvements, from the sources of the Saint Croix, or Cheputnecticook River, and thence down along the said River and Lakes to the Tideway, and for other purposes connected therewith.

II. And be it enacted, That the said Company shall, and they are hereby declared to have the right, power and privilege so to improve the said River Saint Croix, and Lakes OP the same, from its head or source on Monument Brook to the Lower Bridge, near the head of Tide waters, in the County of Charlotte, by flowage, and by removing obstructions, and making excavations and embankments thereon, and to make, excavate, build, construct and erect a Canal and sections of slack water therein and upon its borders, and for this purpose may make all necessary excavations, embankments, locks, gates, dams, towpaths, booms, piers, inclined planes, wharves, sluices, and all other things which they may deem necessary and expedient for the convenient attainment of their object, for drifting or floating thereon logs, timber or other lumber, and for the passing up and down of merchandise and other things, with greater facility than can now be done, and for making the same boatable, and may and shall for all said purposes control said River and Canal, and all the works, in such way and manner as said Company shall deem proper; and that the said Company may, and they are hereby empowered to diverge with the said Canal from the said River, and then again to connect it with the same, so often and at such places as they may deem it expedient and beneficial to do so.

III. And be it enacted, That the Capital Stock of the said Company shall consist of seventy five thousand pounds, to be divided into as many shares of such an amount as to the said Company, or the majority thereof, shall seem meet; and that ten per cent, of the said Capital shall be paid in within three years from the passing of this Act, and the residue in such instalments as may be

required for the services of the said Company, to be declared by the Stockholders, or majority thereof, at any meeting to be called pursuant to any bye law of the said Corporation to be for that purpose enacted; and that in the management of the affairs and business of the said Company, every Stockholder shall have as many votes as he may possess shares.

IV. And be it enacted, That the said Company shall, in addition to the provisions made for the payment and collection of toll in this Act, have a lien therefor on all boats, lumber, or other things, subject to toll, passing through or over the said Canal or improvements.

V. And be it enacted, That if any person or persons shall wilfully or maliciously destroy, injure, impair or obstruct any of the rights, privileges or property of the said Corporation, such person or persons shall forfeit and pay to the said Company treble damages, with costs of suit, to be sued for and recovered by action of Trespass, in any Court of competent jurisdiction; and if any person or persons shall, by boat, raft, lumber, or otherwise, wilfully or unnecessarily delay or obstruct the approaching, entering, passing or re-passing of any lock, wasteway, inclined plane, sluice, or other avenue or passage-way, or do any other act or thing whereby the operations of the said Company, or the transportation, floating or passage of any lumber, merchandise, or other thing, in the said River or Canal, shall be hindered, obstructed or delayed, he, she or they shall, for every such offence, forfeit and pay double damages, with costs of suit, to be recovered in an action on the case, in any Court having competent jurisdiction.

VI. And be it enacted, That the first meeting of the said Corporation shall and may be called by notice signed by any four or more of the Members thereof, to be posted in three conspicuous places, in the Parish of Saint Stephen, in the County of Charlotte, at least twenty days before the day of such meeting, and by publishing the same at least three weeks in some public newspaper published in the said County.

VII. And be it enacted, That the said Company shall have no right to retain divert or keep back the waters of the said River, or any of the Lakes thereon, to the detriment or injury of any Mills or Machinery now erected or which may be hereafter erected thereon.

VIII. And be it enacted, That all and every person or persons shall have the right, under the direction and control of the said Company or its Agents, to use the said works and improvements for the purposes for which they were erected and intended, at all proper and suitable times, according to the regulations of the said Company, by paying therefor the usual and legal toll or compensation.

IX. And be it enacted, That the said Company shall make, allow and pay reasonable and proper compensation and satisfaction for all lands, tenements and hereditaments, taken, used, occupied, altered or damaged by means of and for the uses and purposes of the said Company, to be agreed upon by the said Company and the respective owners and occupiers of such lands, tenements and hereditaments; and in case of disagreement between the said Company and the said owners and occupiers, or any of them, then such compensation and satisfaction shall be determined by three arbitrators, one to be chosen by said Company, and one to be chosen by the owner or owners,

occupier or occupiers of the private property in question; which two arbitrators so chosen shall choose the third arbitrator, and in case of their not agreeing in such choice within ten days after their appointment, then and in such case it shall and may be lawful for the Lieutenant Governor or Administrator of the Government for the time being, upon application of the said Company, to appoint a third arbitrator, the award of whom or any two of whom shall be final and conclusive in the matters referred to them; and in case any of the owners or occupiers of such property shall decline making any such agreement, or appointing such arbitrators, then and in every such case the said Company shall make application to the Supreme Court of this Province, stating the ground of such application; and such Court is hereby empowered and required from time to time, upon such application, to issue a writ or warrant directed to the Sheriff of the County where such property may lie and be, or in case of the Sheriff being a party interested, to the Coroner of such County, and in case of the Sheriff and Coroner being both interested, then to one or more disinterested persons, as Elizors, commanding such Sheriff, Coroner, person or persons as the case may be, to summon and empanel a Jury of twelve freeholders within such County, who are altogether disinterested in the matters in difference, 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 in the matter, the Sheriff, Coroner, or person or persons summoning such Jury, is hereby empowered to administer,) shall enquire, ascertain and assess the sum or sums of money, or annual rent to be paid as the amount of compensation and satisfaction, for the damage that may or shall be sustained by such owner or owners, occupier or occupiers of such property as aforesaid; and the inquisition, award or verdict of such Jury shall be returned and filed in the Office of the Clerk of the Pleas of the said Supreme Court, and shall be final and conclusive between the parties; which amount so assessed as aforesaid, with costs and expenses of such proceedings to be taxed and allowed by the said Supreme Court, shall be borne by the said Company, and shall be by them paid within thirty days after the said inquisition, award or verdict shall have been filed as aforesaid.

X. And be it enacted, That the said Company, their superintendents, engineers, artists, workmen and labourers, with their tools, implements, carts, waggons, sleds, and other carriages, and beasts of burden or draught, may enter upon the land contiguous to the said Canal, whether granted or ungranted, giving or publishing notice thereof to the occupants thereof, if any, and from thence take and carry away any stone, gravel, sand, earth, wood, or other material necessary for the construction of the said Canal, doing as little damage as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damage that may be done therein, the amount of such damages, if the parties cannot agree, to be ascertained in like manner and in all respects as provided for in the seventh section of this Act in other cases.

XI. And be it enacted, That the said Company, or such person or persons as they shall from time to time appoint as Collectors or their Deputies, are hereby authorized to demand and receive of and from any persons having charge of any boat, craft, or other vessel, timber, wood, logs, bark, shingles, staves, lathwood, boards, planks, deals, scantling, goods, wares, or merchandise, live or dead stock, or other things whatsoever, passing through the said Canal, or part thereof, the rates of toll which shall be established by the said Company, and the said Company may bring suit for the same toll against the owner, shipper, supercargo, or Captain of such vessel, or other article,

before any competent tribunal: provided always, that if after the expiration of six years from the time of completing the said Canal, the rates, dues or tolls that may be established by the said Corporation under and by virtue of this Act, shall be found excessive, it shall and may be lawful for the Legislature to reduce the said rates, tolls, or dues, so as that the same shall not produce to the said Corporation a greater rate of net profit than twenty pounds annually for every hundred pounds of said Capital Stock; and in order that the true state of the affairs of the said Corporation shall be known, it shall be the duty of the President and Directors thereof to produce and lay before the several Branches of the Legislature of the Province, at the expiration of six years after the said Canal shall have been completed, as aforesaid, a just and true statement of the monies by them disbursed and laid out in making and completing the said Canal in manner aforesaid, and also of the amount of tolls and revenues of said Canal, and of the annual expenditure and disbursement in maintaining and keeping up the same during the said six years, the said several accounts and statements to be signed by the President and Treasurer of the said Corporation, and by such President and treasurer attested to on oath before any one of Her Majesty's Justices of the Peace for any County of this Province: and provided also, that it shall be the duty of the said President and Treasurer of the said Corporation, once in every year after the expiration of the said six years, to lay before the several Branches of the Legislature a like statement and account, verified on oath by the said President and Treasurer as aforesaid.

XII. And be it enacted, That it shall and may be lawful for the Collector or Collectors of such tolls, or any or either of them, to stop or prevent the passage of any person or persons, or property of any kind, for and in respect of which toll ought to be paid; or it shall and may be lawful to and for the said Collector or Collectors to seize and detain the goods and chattels of such person or persons who may be unable, or who may refuse to pay for the same; and in case the said tolls shall not be satisfied, together with all reasonable costs and charges of making, keeping and detaining such distress, within the space of five days, the said Collector or Collectors shall and may sell the same, rendering the overplus, if any, after deducting such costs and charges of making, detaining and selling such distress, to the owner or owners thereof.

XIII. And be it enacted, That the Directors of the said Company shall make yearly dividends of the tolls, income and profits arising to the said Company, first deducting thereout the annual costs, charges and expenses of the said Company, as well for the repairs of the works belonging to them as for the salaries and allowances made to their several officers and servants, and for such other purposes connected with the said Company, as may be deemed proper by the said Directors.

XIV. And be it enacted, That the Joint Stock or property of the said Company shall alone be responsible for the debts and engagements of the said Company.

XV. And be it enacted, That the Shares, Capital or Stock of the said Company shall be assignable or transferable according to such rules and regulations as may by the Directors be established in that behalf; but no assignment or transfer shall be valid or effectual unless such assignment or transfer shall be entered in a book to be kept by the Directors for that purpose.

XVI. And be it enacted, That the said Company shall so make and construct said Canal, as not to obstruct or impede the use and passage of any public road which may cross the same; and in all places where said Canal may cross or interfere with any such public road, it shall be the duty of such Company to make or cause to be made, a good and sufficient causeway or bridge over such Canal, sufficient for all the purposes of such road, and the same to maintain and keep in repair; and if said Company shall neglect or refuse to make such causeway or bridge as soon as practicable, or when made keep the same in repair, they shall be liable to pay the penalty of forty shillings for every day the same shall be neglected or refused, after having been notified in writing by the Commissioners of Roads of the Parish wherein such causeway or bridge, or the repairs thereof, is required; to be sued for and recovered by the said Commissioners in an action of debt with costs in any Court of competent jurisdiction, and when recovered, such penalties to be applied for the use of the public road in such Parish; and such Company moreover shall be liable to an action or actions at the suit of any person who may be aggrieved thereby.

XVII. And be it enacted, That the owner or owners of any land through which said Canal passes, shall not be prevented from constructing bridges over said Canal, agreeably to the form and structure of the bridges which may be constructed by said Company.

XVIII. And be it enacted, That if any person or persons shall wilfully and maliciously and to the injury or prejudice of the said Company, open or shut any lock, gate, waste gate or other gate, or by any means injure the same, so as to hinder or prevent the free use thereof, or shall throw down, injure or destroy any bridge by or over the said Canal, or shall break, injure or destroy any lock, bank, waste weir, dam, aqueduct, or any sluice or pier, or shall dig or bore through any bank with intent to injure the said Canal, or any of its works, to be erected or made by virtue of this Act, such person or persons shall be adjudged guilty of felony; and every person or persons so offending and being lawfully convicted thereof, shall be liable to the punishment prescribed for felony in the Act for improving the administration of justice in criminal cases.

XIX. And be it enacted, That the said Company shall complete their works for the floating or driving down said River logs, timber and other lumber within four years from the passing of this Act, or all authority by this Act given for that purpose shall cease; and the said Company shall complete their said works for all other purposes within eight years from the passing of this Act, or all authority by this Act given for all the said other purposes shall cease and become utterly null and void.

XX. And be it enacted, That nothing contained in this Act shall prevent, or be construed to prevent the Legislature from making any amendments thereto, any thing in this Act contained to the contrary notwithstanding.