

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1853. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1853.

14 Victoria – Chapter 87 (1852)

An Act to incorporate the Albert Mining Company. Passed 7th April 1852.

Whereas a Joint Stock Company has been formed for the purpose of opening and working Mines in the County of Albert, who have expended a large sum of money in mining operations, and in the purchase of lands, erection of buildings, and making other improvements in connection therewith: And whereas the better to enable the said Company to prosecute the said business, it is deemed advisable it should be incorporated;'

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

1. That Edward Allison, Jonathan C. Allison, David Allison, William Cairns, John Cairns, Alexander Wright, Nathaniel Gould, and James Dowie, their associates, successors and assigns, shall be and they are hereby erected into a Company, and declared to be a body politic and corporate, by the name of The Albert Mining Company, and by that name shall have all the general powers and privileges made incident to a Corporation by Act of Assembly in this Province, for the purpose of opening and working Mines in the County of Albert, and establishing all necessary works connected therewith, and for the convenient carrying on and managing the same.
2. That the first meeting of the said Corporation, for the organization thereof, shall be held at Hillsborough, in the County of Albert, after fifteen days notice given in the Royal Gazette by one member of the said Corporation; provided that the corporate powers shall not be deemed to be conferred upon said Company until a majority of members present at a meeting called as aforesaid shall determine to accept this Charter.
3. The capital stock of the said Corporation shall consist of the sum of thirty thousand pounds of lawful money, to be paid at such times and in such portions as the business of the Company may from time to time require, and to be divided into twelve hundred shares of twenty five pounds each.
4. The joint stock and property of the Company shall alone in the first instance be responsible for the debts and engagements of the said Company; and no creditor, or person or persons having any demand against the said Company, for or on account of any dealings with the said Company, shall have recourse against the separate property of any shareholder on account thereof, except in case of deficiency, or when the joint stock of the said Company shall fall short or not be equal to the payment of any debt, due or demand against the same, that then and in such case the goods and chattels, lands and tenements of each shareholder, shall and may be levied upon and seized respectively to satisfy such debt or demand, to the extent of double the amount of the share or shares or interest of such shareholder in the joint stock of the said Company, but no more.

5. That each and every shareholder in the said Corporation shall be held liable to the said Company for each and every call or assessment made (not however to exceed in amount the stock so subscribed for) for the purpose of enabling the said Company to pay the debts and engagements of the said Corporation, or to carry on the operations for which the said Company is incorporated, and shall and may be sued for by the said Corporation, and recovered in any Court of Record within the Province.

6. So soon as the capital stock shall have been paid in and expended for the purposes of this Corporation, it shall and may be lawful for the said stockholders, at any general meeting to be for that purpose called, to increase the said capital stock from time to time, in such sums as they may deem expedient, to a sum not exceeding one hundred thousand pounds, and they shall have power from time to time to increase the number of shares accordingly, or from time to time to assess such increase upon the original number of shares, or to increase the capital by both assessments and increase of shares.

7. The Company shall have power to levy and collect assessments upon the shares from time to time, of such sums of money as may be deemed necessary for carrying on the business of the said Company; and whenever any assessment shall be made by the stockholders of the Company, it shall be the duty of the Treasurer to give notice thereof in a newspaper printed and published in this Province, and also in the Royal Gazette, requiring payment of the same within thirty days; and if any stockholder shall neglect or refuse to pay to the Treasurer the amount of such assessment upon his shares at the time prescribed, it shall be the duty of the Treasurer to advertise all such delinquent shares for sale at public auction, giving at least thirty days notice of the time and place of such sale; and all shares upon which the assessment is not then paid, with interest from the time such assessment became due, shall be sold to the highest bidder, and after retaining the amount of such assessment and interest due on each share, and the expense of advertising and selling, the residue, if any, shall be paid over to the former owner, and a new certificate or certificates of the shares so sold shall be made out and delivered to the purchaser; provided always, that no assessment shall be made except by a vote of the stockholders and a majority of all the shares.

8. If at any time it shall be deemed necessary by the said Corporation, their agents or servants, to enter upon the estate, lands or grounds, being the private property of any person or persons, for the purpose of carrying on their mining operations, they shall allow to the owners of such lands such reasonable compensation, by way of rent or otherwise, as may be agreed upon, for the damages such owner may sustain by reason thereof, and if the said Corporation shall not be able to agree with such owner or owners of the soil, as to the amount to be paid to the said owner or owners, for the damages he or they may sustain in consequence of such mining operations being carried on upon his or their land, then such compensation and satisfaction shall be determined by three disinterested arbitrators, one to be chosen by the said Corporation, and one by the owner or owners, occupier or occupiers of the private property in question, which two arbitrators so chosen shall choose a 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 the application of the said Corporation,

to appoint the third arbitrator; and the award of the said arbitrators, or any two of them, shall be final and conclusive in the matters referred to them; and in case any of the owners or occupiers of such private property shall decline making any such agreement or appointing such arbitrator, then and in every such case the said Corporation shall make application to the Supreme Court, or any Judge thereof, stating the grounds of such application, and such Court or Judge is hereby required from time to time, upon such application, to issue a writ or warrant in such form as the said Court or Judge may prescribe, to the Sheriff of the County of Albert, or in case he is interested, then to one of the Coroners of the said County, and in case the Sheriff and Coroners are all interested, then to some person or persons, commanding such Sheriff, Coroner, person or persons as the case maybe, to summon and empanel a jury of five freeholders within the said County, who may be altogether disinterested, and do not reside within ten miles of the land in question, 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 to give evidence in the matter, the Sheriff, Coroner, or person or persons summoning such jury, is hereby empowered to administer,) shall inquire, ascertain and assess the distinct sum or sums of money or annual rent to be paid as the amount of compensation and satisfaction for the damages that may and shall be sustained by such owner or owners, occupier or occupiers of such private 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, shall be final and conclusive between the parties; which amount so assessed as aforesaid, and the costs and expenses of such proceeding to be taxed and allowed by the said Supreme Court, shall be borne by the said Corporation, and shall be paid within thirty days after the said inquisition, award or verdict shall be filed as aforesaid, and until such payment shall be made the said Corporation shall not be entitled to enter upon the said land; and in case an annual rent shall be awarded, unless such rent is paid within thirty days after it falls due, the power to enter under the said award shall be deemed to be annulled and discontinued.

9. Before the said Corporation shall contract any debts, a certificate shall be filed in the Office of the Secretary of the Province, verified by the oath of the Secretary or other principal officer of the Corporation, which oath any Justice of the Peace is hereby authorised to administer, to the effect that the sum of eight thousand pounds has been actually paid and expended for the purposes of the said Company, and unless such certificate be filed in manner herein directed, within three calendar months after the acceptance of this Charter, the corporate powers hereby conferred shall cease and become of no effect.

10. Nothing in this Act contained shall be construed to interfere with or compromise in any way the rights of the respective parties between whom suits are now pending, for any matter, cause or thing which has happened or been committed before the passing of this Act, any thing herein contained to the contrary notwithstanding.

11. Notwithstanding the provisions of the eighth section of this Act, the power and authority and provision contained in the said section, to enable the said Corporation to enter upon private property, shall only be deemed and taken to extend to the tract of wilderness land of one mile square, comprised in the Lease or Licence from the Crown made under the Great Seal of this Province to Peter Duffy and John Duffy, bearing date the eleventh day of January one thousand

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eight hundred and fifty, and registered in the Office of the Secretary and Register of this province on the twelfth day of January one thousand eight hundred and fifty; nor shall this Act come into operation or be in force until Her Majesty's Royal approbation be thereto first had and declared.

[This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council, dated the 16th day of October 1852, and published and declared in the Province the 17th day of November 1852.]