

Laws of Her Majesty's Province of Newfoundland, passed in the year 1856.

19 Victoria – Chapter 18

An Act to Authorize the formation of Corporations for Manufacturing, Mining, Mercantile, Mechanical, Chemical, or other Purposes. (Passed 12th May, 1856.)

Be it enacted by the Governor, Legislative Council and Assembly of this Island, in Legislative Session convened, as follows:—

I. At any time hereafter, any Three or more Persons who may desire to form a Company for the purpose of carrying on Manufacturing, Mining, Mechanical, Chemical, Whaling, Sealing, Fishing, Lumbering, or any Mercantile Business whatsoever, except Banking and Insurance, may Make, Sign and Acknowledge, before a Notary Public, and file in the Office of the Colonial Secretary of this Island, a Certificate in writing in which shall be stated the Corporate name of the said Company, and the objects for which the Company shall be formed, the amount of the Capital Stock of the said Company, the term of its existence—not to exceed Fifty Years—the number of Shares of which the said Stock shall consist, the number of Directors, and their names, who shall manage the concerns of said Company for the First Year.

II. When the Certificate shall have been filed as aforesaid, the Persons who shall have signed and acknowledged the same, and all Stockholders in the said Company, and their Successors, shall be a Body Politic and: Corporate, in fact and in name, by the name stated in such Certificate, and by that name have succession, and shall be capable of suing and being sued; and they and their successors may have a common Seal, and may make and alter the same at pleasure; and they shall, by their Corporate Name, be capable, in Law, of Purchasing, Holding and Conveying any Real or Personal Estate whatsoever, which may be necessary to enable the said Company to carry on their operations mentioned in such Certificate.

III. The Stock, Property and Concerns of such Company shall be managed by not less than Three, or more than Nine Directors, who shall respectively be Stockholders in such Company, and may be British subjects, Citizens of the United States, or other Aliens, and some of whom shall be residents of this Island, who shall, except the First Tear, be Annually Elected by the Stockholders, at such place in this Island or elsewhere, and at such time, as shall be directed by the Bye-laws of the Company; and Public Notice of the time and place of holding such Election shall be published, not less than Twenty Days previous thereto, in the Royal Gazette of this Island; and the Election shall be made by such of the Stockholders as shall attend for that purpose, either in Person or by Proxy; appointed in writing. All Elections shall be by Ballot, and each Stockholder shall be entitled to as many Votes as he owns Shares of Stock in the said Company and the Persons receiving the greatest number of Votes shall be Directors; and when any vacancy shall happen among the Directors by death, resignation, or otherwise, it shall be filled, for the remainder of the year, in such manner as may be provided for by the Bye-laws of the said Company.

- IV. In case it shall happen at any time, that an Election of Directors shall not be made on the day designated by the Bye-laws of said Company, when it ought to have been made, the Company for that reason shall not be dissolved; but it shall be lawful on any other day to hold an Election for Directors, in such manner as shall be provided for by the said Bye-laws; and all acts of Directors shall be valid and binding as against such Company, until their Successors shall be Elected.
- V. There shall be a President of the Company who shall be Elected by the Directors from among themselves and also such subordinated Officers as the Company by its Bye-laws may designate who may be Elected or Appointed, and required to give such Security for the faithful performance of the duties of their Office, as the Company by its Bye-laws may require.
- VI. It shall be lawful for the Directors to call in and demand from the Stockholders respectively, all such sums of Money by them subscribed, at such times, and in such payments, or instalments, as the Directors shall deem proper, under the Penalty of Forfeiting the Shares of Stock subscribed for, and all previous payments made thereon, if payments shall not be made by the Stockholders within Sixty Days after a personal demand or notice requiring such payment shall have been published in the Royal Gazette of this Island.
- VII. The Directors of the said Company shall have power to make such Bye-laws as they shall deem proper, for the management and disposition of the Stock and Business affairs of such Company, not inconsistent with the laws of this Island, and prescribing the duties of Officers, Artificers and Servants, that may be employed for the appointment of all Officers, and for carrying on all kinds of business within the objects and purposes of such Company.
- VIII. The Stock of such Company shall be deemed Personal Estate, and shall be transferable in such manner as shall be prescribed by the Bye-laws of the Company; but no shares shall be transferrable until all previous calls thereon shall have been fully paid in, or shall have been declared Forfeited for the non-payments of calls thereon. And it shall not be lawful for such Company to use any of their Funds in the purchase of any Stock in any other Corporation.
- IX. The copy of any Certificate of Incorporation filed in pursuance of this Act, certified by the Colonial Secretary to be a true copy, shall be received in all Courts and Places as presumptive Legal Evidence of the facts therein stated.
- X. The President and One or more of the Directors, within Thirty Days after the payment of the last Instalment of the Capital Stock, fixed and limited by the Company, shall make a Certificate, stating the amount of the Capital so fixed and paid, in which Certificate shall be Signed and Sworn to by the President and One or more of the Directors, and they shall within the said Thirty Days, record the same in the Office of the Colonial Secretary.
- XI. Every such Company shall, Annually, within Forty Days from the First Day of January make a Report, which shall be published in the Royal Gazette of this Island, which shall state the amount of the Capital and of the proportion actually paid in, and the amount of its existing Debts, which Reports shall be signed by the President and a majority of the Directors, and shall be certified by the Oath of the

President or Secretary of said Company, and filed in the Office of the Colonial Secretary, to be laid before the Legislator.

XII. If any Certificate or Report made, on Public Notice given, by the Offices of any such Company, in pursuance of the provisions of this Act, shall be false in any material representation, all the Officers who shall have signed the same, knowing it to be false, shall be jointly and severally liable for all the Debts of the Company contracted while they are Stockholders or Officers thereof.

XIII. The Members of every Company Incorporated under this Act, shall not be liable under any Attachment, Judgment, Decree, or Order, which shall be obtained against such Company, or for any Debt or Engagement of such Company, farther or otherwise than is hereinafter provided.

XIV. If any Execution, Sequestration, or other process in the nature of Execution, either at Law or in Equity, shall have been issued against the property of effects of the Company, and if there cannot be found sufficient whereon to levy or enforce such Execution, Sequestration, or ether process, then such Execution, Sequestration or other process, may be issued against any of the Shareholders to the extent of the portions of their Shares respectively in the Capital of the Company not then paid up; but no Shareholder shall be liable to pay, in satisfaction of any One or more such Executions, Sequestrations, or other process, a greater sum than shall be equal to the portion of his Share not paid up; Provided always, that no such Execution shall be issued against any Shareholder except upon an order of the Court, or of a Judge of the Court, in which the Action, Suit, or other proceeding, shall have been brought or instituted, and such Court or Judge may order execution to issue accordingly, with the reasonable costs of such application and execution, to be taxed by a Master of the said Court; and for the purpose of Ascertaining the names of the Shareholders and the amount of Capital remaining to be paid upon their respective Shares, it shall be lawful for any person entitled to any such execution, at all reasonable times, to inspect the Register of Shareholders without fee.

XV. If the Directors of any such Company shall declare and pay any Dividend when the Company is known by them to be Insolvent, or any Dividend the payment of which would to their knowledge render it Insolvent, they shall be jointly and Severally liable for the Debts of the Company then existing, and for all that shall be thereafter contracted, so long as they shall respectively continue in Office; Provided that the amount for which they shall all be so liable shall not exceed the amount of such Dividend, and that if any of the Directors shall be absent at the time of making the Dividend, or shall object thereto, and shall file their objection in writing with the Clerk of the Company, they shall be exempted from the said Liability.

XVI. The Shares in the Capital Stock of the said Company shall be deemed Personal Property, and shall be liable to Attachment and Execution as other Personal Property, and the Process or Warrant in such case shall be served on the President or Directed of the said Company resident in Newfoundland, and such service shall bind the Shares of any Stockholder to the extent of such Attachment or Execution issued against him from the time that notice thereof shall be actually given at the principal Office of the said Company in this Island, where the transfer of Shares shall be Registered; and for the purpose of ascertaining the number of Shares held by any Shareholder against whom any Attachment or Execution may have issued, the President, Secretary, or Director, or other Officer of the said Company,

may be examined in like manner as any Third Person having in his possession any Goods, Monies, Debts or Effects, of any Defendant; and upon the Sale by the Sheriff or other proper Officer, of any such Shares under Execution or otherwise, the Officers or Agents of the said Company having charge of the Transfer Books, shall, on production of a Bill of Sale from the Sheriff, or other proper Officer, transfer to the purchaser thereof the number of Shares sold under such execution or other process, and belonging to the Defendant at the time of such notice being given at the Transfer Office as aforesaid, and such transfer shall be valid and effectual to all intents and purposes; Provided always, that such Sale shall be subject to any Debt that may be due from such Defendant to the said Company, and that no Sale shall be made or Judgment rendered, until at least Three Months after such notice given at the Transfer Office as aforesaid.

XVII. No Note or Obligation given by any Shareholder to the Company whereof he is a Shareholder, whether secured by any pledge or otherwise, shall be considered as payment of any Money due, from him on any Share held by him, and no Loan of Money shall be made by any such Company to any Shareholder therein; and if any such Loan shall be made to a Shareholder the Directors who shall make it, or who shall assent thereto, shall be jointly and severally liable, to the extent of such Loan and Interest, for all the Debts of the Company contracted before the repayment of the sum so lent.

XVIII. The Directors of such Company may purchase Vessels, Lands, Mines, Manufactories and other Property necessary, for their Business, and issue Stock to the amount of the value thereof in payment therefor; and the Stock so issued shall be declared and taken to be full Stock and not liable to any further calls.

XIX. Any Corporation which may be formed under this Act, may increase or diminish its Capital Stock by complying with the provisions of this Act, to any amount which may be deemed sufficient and proper, for the purposes of the Corporation; and may also extend its Business to any other Manufacturing, Mining, Mechanical, Chemical, Whaling, Sealing, Fishing, Lumbering, or any other Mercantile Business, subject to the provisions and liabilities of this Act. But before any Corporation shall be entitled to diminish the amount of its Capital Stock, if the amount of its Debts and Liabilities, shall exceed the amount of Capital to which it is proposed to be reduced, such amount of Debts and Liabilities shall be satisfied and reduced so as not to exceed such diminished amount of Capital.

XX. Whenever any Company shall desire to call a Meeting of the Stockholders, for the purpose of availing itself of the privileges and provisions of this Act, or for increasing or diminishing the amount of its Capital Stock, or for extending or changing its Business, it shall be the duty of the Directors to publish a Notice, signed by at least a Majority of them, in the "Royal Gazette" of this Island, at least Six successive Weeks, and to deposit a written or printed copy, thereof in the Post Office, addressed to each Stockholder, at his usual place of residence, at least Six Weeks previous to the day fixed upon for holding such Meeting, specifying the object of the Meeting, the time and place when and where such Meeting shall be held, and the amount to which it shall be proposed to increase, or diminish, the Capital, and the Business to which the Company, would be extended or changed; and, a Vote of at least Two-thirds of all the Shares of the Stock shall be necessary to an increase or diminution of the amount of its Capital Stock, or the extension or change of its Business, as aforesaid, or to enable the Company to avail itself of the provisions of this Act.

XXI. If at any time and place specified in the Notice provided for in the preceding Section of this Act, Stockholders shall appear in Person, or by Proxy authorised in writing, in number representing not less than Two-thirds of all Shares of all Stock of the Corporation, they shall organise by choosing one of the Directors Chairman of the Meeting, and also a suitable person for Secretary, and proceed to a Vote of those present, in Person or by Proxy authorised in writing; and if on canvassing the Votes, it shall appear that a sufficient number of Votes has been given in favor of increasing or diminishing the amount of Capital, or of extending or changing its business as aforesaid, or for availing itself of the privileges and provisions of this Act a Certificate of the proceedings showing a compliance with the provisions of this Act, the amount of Capital actually paid in, the business to which it is extended or changed the whole amount of Debts and Liabilities, of the Company; and the amount to which the Capital Stock shall be increased or diminished shall be made out, signed and verified by the affidavit of the Chairman and be countersigned by the Secretary; and such certificate shall be acknowledged by the Chairman, and filed as required by the first section of this Act; and when so filed and advertised, the Capital Stock of such Corporation shall be increased or diminished to the amount specified in such certificate, and the business extended or changed as aforesaid: and the Company shall be entitled to the privileges, and provisions, and be subject to the liabilities, of this Act as the case may be.

XXII. Every Company formed under this Act, shall paint or affix, and shall keep painted and affixed, its Name on the outside of every Office or, Place in which the business of the Company is carried on, in a conspicuous position in letters easily legible, and shall, have its Name, engraven in legible characters on its Seal, and shall have its Name mentioned, in legible, characters in all Notices, Advertisements and other Official Publications of such Company, in all Bills of Exchange, Promissory Notes, Cheques, or Orders, for Money, Bills of Parcels, Invoices, Receipts, Letters, and, other Writings used, in the transaction of the business of the Company.

XXIII. It shall be the duty of the, Directors of every such Corporation or Company to cause a Book to be kept by the Treasurer or Clerk thereof, containing the Names of all Persons, alphabetically arranged, who are or shall within Six Years have been Stockholders of such Company, and showing their places of Residence, the number of Shares of Stock held by them respectively, and the time when they became, respectively the owners of such Shares, and the amount actually paid in; which Book shall, during the usual business hours of the day, on every lawful day, be open for the inspection, of Stockholders and Creditors of the Company and their personal Representatives, at the Office or principal place of business of such Company in this Island and any, and every such Stockholder, Creditor or Representative, shall have a right to make Extracts from such Book; and no Transfer of Stock shall be valid for any purpose whatever, except to render the person to whom it shall, be transferred, liable for the Debts of the Company, according to the provisions of this Act, until it shall have been entered therein, as required by this section, by an entry showing to and from, whom transferred: such Book shall be presumptive evidence of the facts therein stated, in favor of the Plaintiff in any Suit or Proceeding against such Company or against any one or more Stockholders. Every Officer or Agent of any such Company, who shall neglect to make any proper entry in such Book, or shall refuse or neglect to exhibit the same, or allow the same to be inspected, and extracts to be taken therefrom as provided by this section, shall be deemed guilty of a Misdemeanor, and the Company shall forfeit and pay to the party injured, a Penalty of Forty Pounds sterling for every such neglect or refusal, and all the damages

resulting therefrom; and every Company that shall neglect to keep such Book open for inspection as aforesaid, shall forfeit to Her Majesty the sum of Forty Pounds sterling for every day it shall so neglect, to be sued for and recovered in the name of Her Majesty by the Attorney General of this Island, and when so recovered, the amount shall be paid into the Office of the Receiver General of this Island for the use thereof.

XXIV. Whenever any Person or Persons owning Fifteen per cent, of the Capital Stock of any Company formed under the provisions of this Act, shall present a written request to the Treasurer thereof, demanding a Statement of the Affairs of such Company, it shall be the duty of such Treasurer to make a Statement of the Affairs of said Company, under oath, embracing a particular account of all its Assets and Liabilities in minute detail, and to deliver such Statement to the Person who presented the said written request to the Treasurer, within Twenty Days after such presentation; and shall also, at the same time, place and keep on file in his Office, for Six Months thereafter, a copy of such Statement, which shall at all times during business hours be exhibited to any Stockholder of said Company demanding an examination thereof: such Treasurer, however, shall not be required to deliver such statement in the manner aforesaid, oftener than once in any Six Months. If such Treasurer shall neglect or refuse to comply with any of the provisions of this Act, he shall forfeit and pay to the person presenting said written request, the sum of Ten Pounds, and a further sum of Two Pounds for every Twenty Four Hours thereafter, until such Statement shall be furnished; to be sued for and recovered in any Court having cognizance thereof.

XXV. In the case of any Company which has obtained a Certificate of limited liability, whenever, on taking the yearly accounts of such Company, or by any Report of the Auditors thereof, it appears that Three-fourths of the subscribed Capital Stock of the Company have been lost or have become unavailable in the course of trade, from the Insolvency of Shareholders, or from any other cause, the trading and business of such Company shall forthwith cease, or shall be carried on for the sole purpose of winding up its affairs; and the Directors of such Company shall forthwith take proper steps for dissolution of such Company, and for the winding up of its affairs, by petition to the Supreme Court, which shall make such Order, Judgment, or Decree thereon, as shall be just, or by such other lawful course as the Directors may think most fit.

XXVI. Every Sale, Assignment or Transfer of any of the Property or Effects of such Company, made thereby, when in contemplation of a declaration, of Insolvency, or after or in contemplation of a declaration of the Insolvency of any Shareholder, with the intent to give a preference to any Creditor of such Company or Insolvent Shareholder over other Creditors of such Company, and every Judgment confessed, Lien created or Security given by such Company, under the like circumstances and with the like intent, shall be void as against the Creditors of such Company.

XXVII. Every such Sale, Assignment or Transfer of any of the Property or Effects of a Shareholder made by such Shareholder when in contemplation of a declaration of Insolvency, or after or in contemplation of a declaration of the Insolvency of the Company, with the intent of giving to any Creditor of his own, or of the Company, a preference over Creditors of the Company; and every Judgment confessed; Lien created, or Security given, by any such Shareholder, under the like circumstances and with, the like intent, shall be void as against the Creditors of the Company.

XXVIII. That at any time hereafter any Society or, association formed for Religious, Charitably Educational, or other lawful purpose, being desirous to promote the objects for which it is or may be established, may, through the Office Bearers, Trustees or Members, make, sign, and acknowledge, before a Notary Public, and file in the Office of the Colonial Secretary of this Colony a Certificate in writing in which shall, be stated the proposed Corporate name of the said Society or Association, and the objects for which the same is or shall be formed, the names of its Office Bearers, Trustees, or Members, and the Bides, Regulations, Orders and Bye-laws thereof.

XXIX. When such Certificate shall have been filed as aforesaid, the Persons who shall have signed and acknowledged the same, and all other Members of such Society or Association, and their Successors, shall be a Body Politic and Corporate in fact, and in name, by the name stated in such Certificate, and by that name have Succession, and shall be capable of suing and being sued, and they and their Successors may have a Common, Seal, and may make and alter the same at pleasure and they shall have power to elect Officers, and make, confirm, alter, amend or repeal alt Bye-laws, Rules and Regulations, for the management of the affairs of such: Society or Association; Provided the same shall not be repugnant to the Laws of this Colony: and they shall, by their Corporate name, be capable in Law of purchasing, holding and conveying any landed or personal Estate whatever and of transacting all business appertaining to such Society or Association, according to such Bye-laws, Rules and Regulations as aforesaid.

XXX. Immediately upon filing the said Certificate in manner aforesaid, all the Bands, Tenements, Funds, Monies, Securities, and other Property belonging to such Society or Association, shall, by virtue of this Act, and without further or other conveyance, be transferred and vested in such Corporate Society or Association for the uses thereof.

XXXI. The Governor of this Island shall have the power of directing an Audit of the Accounts of any such Companies in such manner and at such times as may be deemed necessary or expedient.