

C H A P. XVII.

AN ACT to Incorporate certain persons therein mentioned under the style and title of "The Welland Canal Company."

[PASSED JAN. 19th, 1824.]

WHEREAS George Keefer, Thomas Merritt, George Adams, William Chisholm, Joseph Smith, Paul Shipman, John Decow, William Hamilton Merritt, and others, have petitioned to be incorporated for the purposes of this Act:—

PREAMBLE:

Petition of certain persons to be incorporated.

BE IT THEREFORE 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 Upper-Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to Repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled, 'An Act for making more effectual Provision for the Government of the Province of Quebec, in North America, and to make further Provision for the Government of the said Province,'" and by the authority of the same:— That the said George Keefer, Thomas Merritt, George Adams, William Chisholm, Joseph Smith, Paul Shipman, John Decow, and William Hamilton Merritt, or either of them, together with all such persons as shall become Stockholders of the Company hereinafter mentioned, shall be, and are hereby ordained, constituted, and declared to be a Body Corporate and Politic, in fact, and by

Incorporation of a Company to be called the Welland Canal Company.

the name of "The Welland Canal Company;" and by that name they and their successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts and places whatsoever; in all manner of actions, suits, complaints, matters and causes whatsoever; and that they and their successors may and shall have a common seal, and may change and alter the same at their will and pleasure; and also that they and their successors, by the same name of "The Welland Canal Company," shall be in Law capable of purchasing, having, and holding, to them and their successors, any estate, real, personal, or mixed, to and for the use of the said Company, and of letting, conveying, or otherwise departing therewith, for the benefit and on account of the said Company, from time to time, as they shall deem necessary or expedient.

Directors of said Company empowered to survey the Country between River Welland and Lake Ontario, and said River & the Ouse.

To have and hold the line, &c. of two intended Canals with the necessary Locks, &c.

On convenient Sites to erect Mills, &c. as may be required, and to purchase the same for the use of the Company.

No person compelled by this Act to sell such site, &c.

II. *And be it further Enacted by the authority aforesaid, That the Directors of the Welland Canal Company shall have full power and authority to explore the country lying between the River Welland, in the District of Niagara, and Lake Ontario, and between the said River Welland and the Grand River, or Ouse, in the said District, and to designate and establish, and for the said Company to take, appropriate, have and hold, to and for the use of them and their successors, the line and boundaries of two intended Canals, with their necessary locks, towing-paths, basons, and railways, the one to connect the River Welland with Lake Ontario, and the other to connect the River Welland with the said Grand River, as near the mouth as practicable, and also to select such convenient scites for such and so many mills, manufactories, warehouses, and other erections as may be required by the said Company for the purposes thereof, and to purchase the same to and for the use of the said Company.—Provided always, That nothing herein-before contain-*

ed shall extend, or be construed to extend, to compel the owner or owners of any mill-seat to sell, convey, or otherwise depart with, the same to the said Company.—*Provided also*, That the owner or owners of any mill-seat or mill-seats using any additional supply of water brought thereto by the said Canal, shall pay a reasonable compensation therefor to the said Company, to be determined as herein-after provided for determining any damage done to property by the said Company.

The owner of Mills using any additional supply of Water by means of such Canal to pay a reasonable compensation.

III. *And be it further Enacted by the authority aforesaid*, That it shall and may be lawful for the said Company, and they are hereby authorised and empowered, from and after the passing of this Act, to supply the said Canal, whilst making and when made, with water from all such brooks, springs, streams, water-courses, hollows, or other repositories of water, as shall be found in making the said Canal, or within the distance of one thousand yards, (except as herein-before or herein-after mentioned,) from any part of the said Canal, or from any reservoir or reservoirs to be made for supplying the said Canal with water; and the said Company are hereby also authorised and empowered, by themselves and their deputies, agents, servants, and workmen, to make one or more reservoir or reservoirs, and such or so many feeders, tunnels, and aqueducts for supplying the said reservoirs and Canal with water, and conveying water from any such reservoir or reservoirs to the said Canal, as to them shall seem necessary and proper, (excepting as herein-after or above-mentioned;) and for the purposes aforesaid, the said Company, and their agents, servants and workmen, are hereby authorised and empowered to enter into and upon the lands and grounds of, or belonging to, the King's Majesty, his Heirs or Successors, or to any other person or persons, bodies politic or corporate, (excepting as is herein-before provided,) and to survey and

Company to supply the Canal with water from springs &c. found in making same within 1000 yards therefrom, (except as before and after mentioned.

Empowered to make one or more reservoirs and feeders & to supply Canal with water.

For this purpose may enter upon Lands of His Majesty or other persons, (except as provided for) and survey such parts as they think necessary for making Canal and reservoirs, &c.

take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said Canal, and any such reservoir or reservoirs, feeders, tunnels, and aqueducts, and all such other matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing, and using in the said intended navigation; and also to bore, dig, cut, trench, remove, take, carry away, and lay earth, soil, clay, stone, rubbish, trees, roots of trees, beds of gravel or sand, or any other matter or things which may be dug or got in the making of the said Canal, or in making of any reservoir or reservoirs, feeders or aqueducts, or out of any lands or grounds of any person or persons adjoining or laying contiguous thereto, and which may be proper, requisite, or convenient for carrying on, continuing, or repairing the said Canal, or other the said works, or which may hinder, prevent, or obstruct the making, using, completing or maintaining the same; and also to make, build, erect, and set up in and upon the said Canal, or upon the lands adjoining or near to the same, such and so many bridges, tunnels, aqueducts, sluices, locks, wears, pens for water, tanks, reservoirs, drains, wharves, quays, landing-places, and other works, ways, roads, and conveniences, as the said Company shall think requisite and convenient for the purposes of the said navigation; and also from time to time to alter, repair, amend, widen or enlarge the same, or any other of the conveniences above-mentioned, as well for carrying or conveying goods, commodities, timber, and other things, to and from the said Canal, as for the carrying or conveying of all manner of materials necessary for making, erecting, furnishing, altering, repairing, amending, widening, or enlarging the works of, and belonging to, the said navigation; and also place, lay, work, and manufacture the said materials on the grounds near to the place or places where the said works, or any of them, are, or shall be, intended to be made, erected, repaired, or done,

And such matters &c. as are necessary or making, &c. such Navigation.

May bore, dig, &c. carry away, and lay rubbish, soil, clay, stone &c. for making said Canal &c. on the grounds of persons adjoining.

May erect on said Canal, or lands adjoining, Bridges, Tunnels, &c.

May from time to time alter, repair, &c. if necessary.

May place, work, &c. materials on grounds adjoining.

and to build and construct the several locks, bridges, works, and erections belonging thereto; and also to make, maintain, repair, and alter any fences or passages over, under, or through the said Canal, or the reservoirs and tunnels, aqueducts, passages, gutters, water-courses and sluices respectively, which shall communicate therewith; and also to make, set up, and appoint drawing-boats, barges, vessels, or rafts, passing in, through, along, or upon the said Canals, as they, the said Company, shall think convenient; and to construct, 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 on the sides thereof; and also to construct, make, and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving, improving, completing and using the said Canal, in pursuance, and within the true meaning of this Act; they, the said Commissioners, doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction, in manner herein-after mentioned, for all damages to be sustained by the owner or occupiers of such lands, tenements, or hereditaments.—*Provided*, That nothing in this Act contained shall extend, or be construed to extend, to authorise the said Company to divert, or take away, for the use of the said Canal, the water of any stream or river, so as to injure any mills within the limits of the said intended Canal, without the consent of the owner or owners thereof.

May repair and alter fences.

May make and appoint boats, barges, &c. on said Canal.

May construct and keep in repair, piers, arches, &c. on any brook, river, &c. for making &c. said Canal and towing paths.

And other matters and things necessary & convenient for the purposes of this Act.

Doing as little damage as possible and making satisfaction as hereinafter mentioned.

Not to take away any water belonging to any mills, without the consent of owner, &c.

IV. *And be it further Enacted by the authority aforesaid*, That should the owner or owners, occupier or occupiers, of any mill-seats on the line of the said Canal, or within five hundred yards thereof, consider the same in any manner injured, or the value thereof in any way depreciated, from the erection of rival estab-

Should owners of mill-seats on the line of the Canal, or within 500 yds. thereof, consider the same injured or value diminished from rival establishments, or by means of the Canal, the Company required to

purchase the same at a fair valuation, to be ascertained by Arbitrators as hereinafter provided.

This not to compel any person to sell such mill-seat.

Company in making such Canal, may take as much water as they think necessary from Niagara, Grand, and Welland Rivers.

May erect a Pier at the mouth of the River Welland and other places.

And as many wharves, quays, &c. as may be necessary for transporting, &c.

No such erections to obstruct the navigation, &c.

Not to prejudice any establishment of the Royal Navy, or other public department, &c.

ishments, or from any other cause growing out of the cutting and making the said Canal, and for the compensation of which no provision is made in this Act, it shall and may be lawful for the said Company, and they are hereby required to purchase the same at a fair valuation, founded on an average of former years, to be ascertained by arbitrators, as herein-after provided, to ascertain the value of lands and tenements to be purchased, or the amount of damages in any case sustained.—*Provided always*, That nothing herein contained shall extend, or be construed to extend, to compel the said owner or owners, occupier or occupiers of any such mill-seats, to sell, convey, or otherwise dispose of the same to the said Company.

V. *And be it further Enacted by the authority aforesaid*, That it shall and may be lawful for the said Company, in constructing and making the said Canal, from Lake Ontario to the River Welland, and from the said Grand River to the River Welland; to take and appropriate for the use of the said Canal as much water as they may find necessary from out of the Niagara River, the said Grand River, and River Welland; and it shall be lawful for the said Company to erect at the mouth of the River Welland a Pier, and at the points of departure of the said Canal from the said Grand River, and from the River Welland, and at the place of its termination at Lake Ontario, such and so many wharves, quays, piers, forebays, locks, and other erections, as may be necessary for the use of the said Company, and the purposes of transport on the said Canal.—*Provided always*, That no such erection, work, or device of the said Company, shall obstruct the navigation of the said River Welland, or the said Grand River, or in any manner prejudice any establishment, work, or depot of or for the use of the Royal Navy, or other department of the public service, now formed and

situate at or near the mouth of the Grand River, or River Welland, or upon the banks thereof, or be placed on any ground more than one hundred yards distant from such points of departure and termination, as aforesaid, and that the powers of obtaining any land for that purpose shall be governed by the provisions herein contained.

Power of obtaining land for such purposes governed by provisions herein contained.

VI. *And be it further Enacted by the authority aforesaid, That* after any lands or grounds shall be set out and ascertained to be necessary for making and completing the said Canal, and other purposes and conveniences herein-before mentioned, it shall and may be lawful for all bodies, politic communities, corporations, aggregate or sole guardians, and all other trustees whomsoever, not only for and on behalf of themselves, their heirs and successors, but also for and in behalf of those whom they represent, whether infants, lunatics, idiots, femmes-coverts, or other person or persons, who are, or shall be, possessed of, or interested in, any lands or grounds which shall be set out and ascertained as aforesaid, to contract for, sell, and convey unto the said Company 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 any wise notwithstanding; and the amount thereof shall be established in the manner herein-after mentioned, for the determination of the value of lands or other tenements to be purchased by the said Company, and of the amount of damages committed thereby.

After ground ascertained to be necessary for making the Canal, all bodies, corporations, trustees, &c. not only for themselves, heirs, &c. but also for those whom they represent, whether infants, &c. femmes-coverts, idiots, &c. interested in such land may sell the same and all such sales shall be valid. Amount to be ascertained as hereinafter mentioned.

VII. *And be it further Enacted by the authority aforesaid, That* the Directors of the said Company shall be, and the same are hereby empowered, to contract, compound, compromise, and agree, with the owners and occupiers of any land through or upon which

The directors may contract with the owners of land through which the Canal shall pass, for the absolute purchase of so much as they require.

they may determine to cut and construct the said intended Canal, with all necessary and convenient locks, towing-paths, rail-ways, and other erections and constructions contemplated by this Act, to be cut, erected, constructed, and built, either for the absolute purchase of so much of the said land as they shall require for the purposes of the said Company, or for the damages which he, she, or they shall and may be entitled to recover from the said Company in consequence of the said intended Canal, locks, towing-paths, rail-ways, and other constructions and erections being cut and constructed in and upon his, her, or their respective lands; and in case of any disagreement between the said Directors and the owner or owners, occupier or occupiers aforesaid, it shall and may be lawful from time to time, as often as the said Directors shall think fit, for each owner or occupier so disagreeing with the said Directors, either upon the value of the lands and tenements proposed to be purchased, or upon the amount of damages to be paid to them, as aforesaid, to nominate and appoint one indifferent person, and for the said Directors to nominate and appoint an equal number of indifferent persons, who, together with one other person, to be elected by ballot by the said persons so named, shall be arbitrators to award, determine, adjudge, and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of a majority of whom shall be final; and the said arbitrators shall, and they are hereby required, to attend at some convenient place in the vicinity of the route of the said intended Canal, to be appointed by the said Directors, within eight days after notice be given them by the said Directors for that purpose, then and there to arbitrate, award, adjudge, and determine such matters and things as shall be submitted to their consideration by the parties interested; and that each arbitrator shall be sworn before some one of His Majesty's Justices of the Peace in and for the said District, any of whom may be required

Or for damages occasioned by said Canal, &c.

In case of disagreement, each party to nominate Arbitrators, who, together with one chosen by Ballot by said Arbitrators the majority of whom shall award the sum to be paid by the company.

Arbitrators to attend within eight days after notice at a place appointed by the Directors, there to decide.

Arbitrators to be sworn by a Justice of the Peace to assess the damages well and truly.

to attend the said meeting for that purpose, well and truly to assess the damages between the parties according to the best of his judgment.—*Provided always*, That no arbitrator shall be compellable to attend any such meeting of the arbitrators aforesaid, who shall usually reside more than fifty miles from the place of meeting.

No Arbitrator compelled to attend if not residing within fifty miles of the place of meeting.

VIII. *And be it further Enacted by the authority aforesaid*, That any award made under this Act shall be subject to be set aside on application to the Court of King's Bench, in the same manner, and on the same grounds as in ordinary cases of submission by the parties, in which case, a reference may be again made to arbitrators, as herein-before provided.

Such award may be set aside by the Court of K. B. the same as ordinary submission.

Reference again to Arbitrators.

IX. *Provided always, And be it further Enacted by the authority aforesaid*, That if any part of the said Canal shall pass through any tract of land in the possession of any tribe or tribes of Indians in this Province, or if any act occasioning damage to their property or their possessions shall be done under the authority of this Act, compensation shall be made to them therefor, in the same manner as is provided with respect to the property, possessions, or rights of other individuals; and that in any arbitration required for settling the amount of such compensation, the chief officer of the Indian department within this Province is hereby authorised and required to name an arbitrator on the behalf of the said Indians, and the amount which shall be awarded in any such case, shall be paid to the said chief officer of the Indian department to the use of the said Indians.

Property of the Indians to be ascertained the same as other individuals.

Arbitrator on their part to be named by the Chief Officer of their department, to whom the sum awarded shall be paid.

X. *And be it further Enacted by the authority aforesaid*, That when and so often as it shall be necessary to cut into any highway, in order to conduct the said Canal through the same, the said Company of Proprietors shall, within one month, cause to be con-

If it be necessary to cut into any highway, Company within one month shall build a bridge under the penalty of £5 per day.

structed a secure, sufficient, and commodious bridge, for the passing of carriages, in order to re-establish the communication between the several parts of such high-ways, under the penalty of Five Pounds currency for each and every day after the expiration of the said time which the said Company shall neglect to construct such secure, sufficient, and commodious bridge, as aforesaid.

Any proprietor of land may (at his own cost) erect bridges to connect his property, separated; but not to obstruct the navigation more than the other bridges.

XI. And as the division of lands may render the erection of new bridges over the said Canal necessary, *Be it further Enacted by the authority aforesaid,* That every proprietor of land who may chuse, at his own cost and charges, to erect any bridge to communicate with the several parts of his property, separated by the said Canal, may do so, provided such bridge do not present more obstacles to the navigation of the said Canal than the neighbouring bridges erected thereon.

Any person destroying any work erected by this Act, shall pay the damages and costs to be recovered by action, or committed to the gaol for a time not exceeding 3 months.

XII. *And be it further Enacted by the authority aforesaid,* That if any person or persons shall wilfully, maliciously, or to the prejudice of the said Company, 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, or completing, supporting, or maintaining the said Canal, every such person or persons so offending, shall forfeit and pay to the said Company 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 same; or in case of default of payment, such offender or offenders may be committed to the common gaol for any time, not exceeding three months, at the discretion of the Court before which such offender shall be convicted.

XIII. *And be it further Enacted by the authority aforesaid,* That if any person shall float any timber upon the said Canal, or shall suffer the loading of any boat, or vessel, or raft navigating in or upon the said Canal, so as by such over-loading, to obstruct the passage of any other boat, vessel, or raft, and shall not immediately, upon due notice given to the owner, or person having the care of such boat, vessel, or raft, so obstructing the passage aforesaid, remove the same, so as to make a free passage for the other boats, vessels, or rafts, every such owner or person floating such timber, or having the care of such boat, vessel, or raft so obstructing the passage, as aforesaid, shall forfeit and pay for every such offence, the sum of Five Pounds currency; and if any person shall throw any ballast, gravel, stones, or rubbish, into any part of the said Canal, every such person shall, for every such offence, forfeit a sum not exceeding Five Pounds currency; which said respective forfeitures shall be paid to the Company, to be by them applied for the purposes of the said navigation.

Every person obstructing the Canal with boat, timber, &c. and upon due notice not removing the same shall forfeit £5.

Persons throwing gravel, &c. in the Canal shall forfeit not more than £5.

Such forfeitures, how applied.

XIV. *And be it further Enacted by the authority aforesaid,* That if any boat, vessel, or raft shall be placed in any part of the said Canal so as to obstruct the navigation thereof, and the person having the care of such boat, vessel, or raft shall not immediately, upon the request of any of the servants of the said Company made for that purpose, remove the same, he shall, for every such offence, forfeit a penalty of Ten Shillings of lawful money of Upper-Canada for every hour such obstruction shall continue; and it shall be lawful for the agents or servants of the said Company to cause any such boat, vessel, or raft to be unloaded, if necessary, and to be removed in such manner as shall be proper for preventing such obstruction in the navigation, and to seize and detain such boat, vessel, or raft, and the loading thereof, or any part of such loading, until the charges occasioned by such unloading and removal are paid;

Persons placing any vessel, &c. so as to obstruct the navigation and not removing the same at request, shall pay 10s. for every hour.

Company may cause such boat, &c. to be unloaded and removed;

And may detain the same until all charges are paid.

If any boat, &c. is sunk in Canal, and the owner not drawing up the same, the Company, &c. may do it, and detain the same until all expenses are paid.

and if any boat or vessel shall be sunk in the said Canal, and the owner or owners, or the person or persons having the care of such boat or vessel, shall not, without loss of time, weigh or draw up the same, it shall be lawful for the agents or servants of the said Company to cause such boat or vessel to be weighed or drawn up, and to obtain and keep the same until payment be made of all expenses necessarily occasioned thereby.

Owners of land adjoining may use pleasure boats, or boats for conveying cattle from one fence to the other, without the interruption of the Company, &c. without paying toll, (not passing through a lock without consent).

XV. *Provided always, And be it further Enacted by the authority aforesaid,* That it shall and may be lawful to and for the owners and occupiers of any lands adjoining to the said Canal to use any pleasure-boats, or any boats upon the said Canal for the purpose of husbandry, or for conveying cattle from one farm, or part of a farm or lands, to any other farm or lands of the same owner or occupier, (not passing through any lock without the consent of the said Company, their successors, or their principal agent for the time being,) without interruption from the said Company, or their successors, and without paying any rate or duty for the same, so as the same be not made use of for the carriage of any goods, wares, or merchandize to market, or for sale, or for any person or persons for hire, and shall not obstruct or prejudice the navigation of the said intended Canal, or the towing-paths thereof.

But not for the carriage of goods, &c. to market, or for the purposes of gain; and not to obstruct the navigation.

If the weirs, flood-gates, &c. give way, Company or their servants, &c. may enter upon any land and dig and take stone, gravel &c. for the purpose of repairing the same, doing as little damage as possible, and making reparation within six months, as before mentioned.

XVI. And whereas it may hereafter happen, from floods or from some unexpected accident, that weirs, flood-gates, dams, banks, reservoirs, trenches, or other works of the said navigation, may be damaged or destroyed, and the adjacent lands, or the property thereon thereby damaged, and that it may be necessary that the same should be immediately repaired or rebuilt, to prevent further damages, *Be it therefore further Enacted by the authority aforesaid,* That when and so often as any such case may happen, it shall be lawful for the said Company from time to time, or for

their, or any of their, servants, agents, or workmen, without any delay or interruption from any person or persons whomsoever, to enter into any lands, grounds, or hereditaments adjoining or near to the said intended Canal, or branches, reservoirs, or trenches, or any of them, (not being an orchard, garden, or yard,) and to dig for, work, get, and carry away and use all such stones, gravel, and other materials, as may be necessary or proper for the purposes aforesaid, without any previous treaty whatsoever with the owner or owners, occupier or occupiers of, or other person or persons, interested in such lands, grounds, or hereditaments, or any of them, doing as little damage thereby as the nature of the case will admit of, and making recompense for such damages to the owners and occupiers of, or other persons interested in, such lands, grounds, property, or hereditaments, within the space of six calendar months next after the same shall have been demanded, for all damages which shall or may be done by means of such accident, and means of the digging for, getting, working, taking, carrying away, and using such stones, gravel, and materials, or any of them; which damages, and the satisfaction and recompense in respect thereof, shall be settled, adjusted, ascertained, and determined by the ways and means herein-before described with respect to other damage done by the making and completing the said navigation.

XVII. *And be it further Enacted by the authority aforesaid,* That the said Company shall and may, in such parts of the said Canal as shall not be of sufficient breadth for admitting a boat, vessel, or raft to turn about, or ly, or for two boats, or other vessels or rafts to pass each other, to open or cut proper spaces or places in the lands adjoining to the said Canal, at convenient distances from each other, for the turning, lying, and passing of any such boat, vessel, or raft, and that the said boats, vessels, and rafts, being hauled or navigated upon the said Canal, shall, upon meeting any other boat

Directors &c. may cut spaces for boats to turn and lie in, in adjoining lands.

Boats meeting shall go back and lie in such spaces as the

majority of directors under their hands shall direct.

or vessel, stop at, or go back to, and ly in the said places or spaces, in such manner as the said Directors, or the major part of them, under their hands shall direct and appoint.

President, &c. may regulate the toll.

XVIII. *And be it further Enacted by the authority aforesaid,* That it shall and may be lawful for the President and Directors of the said Company to regulate from time to time, and establish the rates of Toll payable by persons navigating upon the said Canal; and the said Company shall annually, if required, exhibit an account to either branch of the Legislature of the Tolls collected upon the said Canal, and of the sums expended in keeping the same in repair, and also of the goods, wares and merchandize transported in and along the same.—*Provided always,* That if at any time after the expiration of five years from the time of the commencement of the navigation upon any part of the said Canal, the Legislature shall deem the Tolls levied thereon excessive, it shall be lawful for them to reduce the same to such a standard as they may think just, so that the same shall not be reduced to a rate which will produce to the said Company less than twenty per cent. on the capital actually expended in making the said Canal.

Shall if required exhibit to the Legislature the amount collected and expended.

And of goods &c. transported.

After five years from commencement of navigation, the Legislature if they deem the tolls too high, may reduce them at a rate not less than 20 per cent on capital expended.

Such Canal from L. Ontario to the River Welland, (as survey by Mr. H. Tibbet) to be completed in five years.

XIX. *And be it further Enacted by the authority aforesaid,* That the said Company, to entitle themselves to the benefit and advantages to them granted by this Act, shall, and they are hereby required, to make and complete the said Canal, railway, towing-paths, and other erections required for the navigation thereof, (as laid down in the Report of Mr. Hiram Tibbet, engineer,) from Lake Ontario to the River Welland, within five years from the date hereof, and from the River Welland to the said Grand River, within seven years from the date hereof, so as to be navigable for boats, barges, and rafts, otherwise this Act, and every matter and thing herein contained, shall cease, and be utterly null and void.—*Pro-*

And from Welland to Grand River in seven years.

So as to be navigable for Boats under forfeiture of charter.

vided nevertheless, That the said Company shall be entitled to all the advantages of this Act, in as much as relates to the cut to the River Welland, in case they complete and finish that part of it within the time limited by this Act.

If the cut to the River Welland is finished in five years, they shall be entitled to the privileges of this Act as far as relates to the same.

XX. *And be it further Enacted by the authority aforesaid,* That the said Company shall, at their first general meeting held after any part of the Canal shall be finished, ascertain and fix the rates and dues to be taken by virtue of this Act; and that it shall and may be lawful for the Directors of the said Company to alter the the said rates at any subsequent meeting, after giving three months public notice of the same, and that a schedule of rates shall be affixed on the different public places on the route of the said Canal.

After any part of the Canal is finished, the Company at a general meeting to fix the rate of toll.

Directors may alter the same after three months notice.

Schedule to be affixed in public places,

XXI. *And for preventing disputes touching the damage of any boat, barge, or other vessel navigating upon the said Canal, Be it further Enacted by the authority aforesaid,* That the owner or master of every such boat, barge, or vessel, shall permit and suffer every such boat, barge, or vessel to be gauged or measured, and refusing so to permit and suffer, shall forfeit and pay the sum of Forty Shillings currency; and it shall be lawful for the said Company, or their Toll-gatherer, or such person or persons as shall be appointed by them for that purpose, and such owner or master, each to choose one person to measure and ascertain such tonnage, and to mark the same on such boat, barge, or other vessel, which mark shall always be evidence of the tonnage in all questions respecting the payment of the aforesaid rates or dues; and if such owner or master shall refuse or decline to choose a person in his behalf, as aforesaid, then the person appointed by the said Company, or their Toll-gatherer, shall have alone the power of ascertaining such tonnage.

Persons refusing to have their boats measured shall forfeit 40s.

Company or their toll gatherer and owner of Boats shall choose a person to ascertain the measurement of the same, whose decision shall be evidence of the tonnage in all questions about the toll.

If the owner shall refuse to choose, the person chosen by the company shall ascertain it.

Persons allowed to use with horses the private road for the purposes of transportation;

And to navigate the Canal with boats, and use the quays.

And towing-paths at a rate to be established by the Company.

Said dues to be paid to persons, and at places which the Directors shall appoint.

May sue for the same if refused:

Or detain such vessel, &c. until payment thereof.

Stock of said Company not to exceed £40,000.

XXII. *And be it further Enacted by the authority aforesaid, That all persons whatsoever shall have free liberty to use, with horses, cattle, and carriages, the private roads and ways to be made as aforesaid, (except the towing-paths,) for the purpose of conveying any goods, wares, merchandize, timber, and commodities whatsoever, to and from the said Canal, and also to navigate on the said Canal with any boats, barges, vessels, or rafts, and to use the said wharves and quays for loading and unloading any goods, wares, merchandize, lumber, and commodities, and also to use the said towing-paths, with horses for drawing and hauling such boats and vessels, upon payment of such rates or dues as shall be established by the said Company.*

XXIII. *And be it further Enacted by the authority aforesaid, That the said several dues shall be paid to such person or persons, at such place or places near to the said Canal, in such manner, and under such regulations, as the said Directors shall direct or appoint; and in case of denial, or neglect of payment of any such rates or dues, or any part thereof, on demand to the person or persons appointed to receive the same, as aforesaid, the said Company may sue for and recover the same in any Court having jurisdiction thereof, or the person or persons to whom the said rates or dues ought to be paid, may, and he is, and they are hereby empowered to seize and detain such boat, vessel, barge, or raft, for, or in respect whereof, such rates or dues ought to be paid, and detain the same until payment thereof.*

XXIV. *And be it further Enacted by the authority aforesaid, That the whole amount of the stock, estate and property which the said Company shall be authorised to hold, including the capital stock or shares herein-after mentioned, shall never exceed in value Forty Thousand Pounds.*

XXV. *And be it further Enacted by the authority aforesaid,* That each share in the said Company shall be Twelve Pounds Ten Shillings Provincial Currency and the number of shares shall not exceed Three Thousand and that Books of Subscription shall be opened in the several Assize Towns in this Province, within two months after the passing of this Act, by such person or persons, and under such regulations as the majority of the said Petitioners assembled at a meeting to be called by any one of them in the town of Niagara for that purpose, shall direct.

Each share to be £12 10s.

Number of shares not to exceed 3,000.

Books of subscription within 2 months shall be opened in all the assize towns, by such persons, & under such regulations as the majority of petitioners to meet at Niagara shall direct.

XXVI. *And be it further Enacted by the authority aforesaid,* That it shall and may be lawful for any person or persons, His Majesty's subjects, or others, to subscribe for any number of shares, (not exceeding, in the first instance, eighty,) the amount whereof shall be due and payable to the said Company in the manner herein-after mentioned, that is to say, ten per cent. on each share so subscribed, shall be payable to the said Company immediately after the Stockholders shall have elected the number of Directors herein-after mentioned, and the remainder by instalments of not more than ten per cent. at such periods as the President and Directors shall from time to time direct and appoint for the payment thereof.—*Provided,* That no instalment shall be called for in less than thirty days after public notice shall have been given in all the newspapers in every District of this Province where any stock shall have been subscribed.—*Provided always,* That if any Stockholder or Stockholders, as aforesaid, shall neglect or refuse to pay to the said Company the instalment due on any share or shares held by him, her, or them, at the time required by law, such Stockholder or Stockholders shall forfeit such share, as aforesaid, with the amount previously paid thereon; and the share or shares shall be sold by the Directors at public auction, after having given thir-

Persons taking any number of shares (not more than 50 in first instance,) shall pay 10 per cent on each share immediately after election of directors.

The remainder by instalments of not less than 10 per cent. as the Directors shall appoint.

Thirty days notice to be given in all the Newspapers in District where stock is subscribed.

Stockholders refusing to pay the instalment shall forfeit their shares, & the amount previously paid thereon. Directors may sell the same at auction, and may apply the proceeds, with the amount previously paid for the use of the Company.

The purchasers shall pay the instalment required, besides the purchase money, immediately, and before certificate of transfer.

ty days notice, and the proceeds thereof, together with the amount previously paid thereon, shall be accounted for and applied in like manner as any other funds of the said Company.—*Provided always*, That such purchaser or purchasers shall pay to the said Company the amount of the instalment required, over and above the purchase-money of the share or shares to be purchased by him, her, or them, as aforesaid, immediately after the sale, and before they shall be entitled to a certificate of the transfer of such share or shares so to be purchased, as aforesaid.

If the whole number of shares shall not be subscribed within two months after opening the books, any person may increase his subscription.

XXVII. *And be it further Enacted by the authority aforesaid*, That if the whole number of shares shall not be subscribed within two months after the books of subscription shall have been opened, as aforesaid, then and in such case, it shall and may be lawful for any former subscriber to increase his, her, or their subscription; and that after the first instalment shall have been paid to the said Company, the said shares shall become transferable on the books of the said Company.—*Provided always*, That until the said Canal shall be completed from the River Welland to Lake Ontario, no part of the funds paid in shall be applied to any other purpose whatsoever, and after the same is completed, not more than Five Thousand Pounds shall be expended in the erection of machinery, until the cut to the said Grand River is completed; and the said Company shall proceed to the completion of the whole with as little delay as possible.

After first instalment, shares transferable.

Until the Canal is complete from River Welland to Lake Ontario, no money to be expended for any other purpose.

Not more than five thousand pounds shall be expended in erecting machinery, until the whole Canal is finished.

After £5000 subscribed, subscribers may call a meeting to elect directors.

XXVIII. *And be it further Enacted by the authority aforesaid*, That so soon as Five Thousand Pounds shall have been subscribed, it shall and may be lawful for such subscribers, or any of them, to call a meeting at some place to be named, (in the Town of Niagara,) for the purpose of proceeding to the election of the number of

Directors herein-after mentioned ; and such election shall then and there be made by a majority of shares, voted for in manner herein-after prescribed, in respect of the annual election of Directors, and the persons then and there chosen shall be the first Directors, and be capable of serving until the first Monday in April succeeding their election ; and the Directors so chosen shall, as soon as a deposit amounting to Five Hundred Pounds, upon the shares subscribed, as aforesaid, shall be paid to the said Directors, commence the business and operations of the said Company.—*Provided always*, That no such meeting of the said subscribers shall take place until a notice is published in all the Newspapers in this Province, at the distance of not less than thirty days from the time of such notification.

Directors shall be elected by the majority of shares voted for.

Directors so elected shall serve until the first Monday in April, succeeding such election.

Directors so soon as they receive £500 to commence operations.

No meeting of the subscribers until at least thirty days notice in all the newspapers.

XXIX. *And be it further Enacted by the authority aforesaid*, That the stock, property, affairs, and concerns of the said corporation shall be managed and conducted by Five Directors, one of whom shall be chosen President, who shall hold their offices for one year, which Directors shall be Stockholders, and shall be inhabitants of this Province, and be elected on the first Monday in April in every year, at such time of the day, and at such place, near the line of the said intended Canal, as a majority of the Directors for the time being shall appoint ; and public notice shall be given by the said Directors in the different newspapers printed within this Province, of such time and place, not more than sixty, nor less than thirty days previous to the time of holding the said election ; and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper persons, or by proxy ; and all elections for Directors shall be by ballot, and the five persons who shall have the greatest number of votes at any election shall be Directors, except as is herein-after directed ; and if it should happen at any election that

The affairs of the company to be managed by five Directors of whom one shall be President.

Such Directors, &c. how chosen and elected.

two or more persons have an equal number of votes, in such manner that a greater number of persons than five shall, by plurality of votes, appear to be chosen as Directors, then the said Stockholders, herein-before authorised to hold such election, shall proceed by ballot a second time, and by plurality of votes, determine which of the said persons, so having an equal number of votes, shall be the Director or Directors, so as to complete the whole number of five; and the said Directors, so soon as may be after the said election, shall proceed, in like manner, to elect by ballot one of their number to be President, and two of the Directors which shall be chosen at the preceding year, excepting the President, shall be ineligible to the office of Director for one year after the expiration of the time for which they shall be chosen Directors; and in case a greater number than three of the Directors, exclusive of the President who served for the last year, shall appear to be elected, then the election of such person or persons, above the said number, and who shall have the fewest votes, shall be considered void, and such other of the Stockholders as shall be eligible, and shall have the next greatest number of votes, shall be considered as elected in the room of such last-described person or persons, who are hereby declared ineligible, as aforesaid; and the President for the time being shall always be eligible to the office of Director, but Stockholders not residing within the Province shall be ineligible; and if any Director shall absent himself from this Province, and cease to be an inhabitant thereof for the space of six months, his office shall be considered as vacant, and if any vacancy or vacancies should at any time happen among the Directors, or if the office of President, by death, resignation, or removal from the said Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen by a person or persons to be nominated by a majority of the Directors.—*Provided always, That no person shall be*

The Directors by ballot to elect a President.

Two Directors shall be ineligible the next year.

If more than 3 elected, the election of those having fewest votes to be void.

The President for the time being, shall always be eligible to the office of Director.

If any Director shall absent himself for 6 months from the Province, his Office shall be void.

Such vacancies how filled up.

A Director must be a Stockholder of at least 10 shares.

eligible to be a Director who shall not be a Stockholder to the amount of at least ten shares.

A Director must be a stockholder of at least 10 shares.

XXX. *And be it further Enacted by the authority aforesaid,* That each Stockholder shall be entitled to a number of votes proportioned to the number of shares which he or she shall have held in his or her own name, at least three months prior to the time of voting, (except at the first election,) according to the following rates, that is to say, at the rate of one vote for each share, not exceeding four; five votes for six shares; six votes for eight shares; seven votes for ten shares; and one vote for every five shares above ten.

Stockholders to have votes according to the number of shares.

XXXI. *And be it further Enacted by the authority aforesaid,* That in case it should at any time happen that an election of Directors should not be made on any day when, pursuant to this Act, it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but that it shall and may be lawful, on any other day to hold and make an election of Directors in such manner as shall have been regulated by the laws and ordinances of the said corporation.

If Directors not elected on the proper day, charter not void.

But may elect the same on any other day, according to their bye laws.

XXXII. *And be it further Enacted by the authority aforesaid,* That it shall be the duty of the Directors to make half yearly dividends of so much of the profits of the said Company as to them, or to the majority of them, shall appear advisable; and that once in every three years, and oftener if thereunto required by a majority of the votes of the Stockholders, to be given agreeable to the ratios herein-before established, at a general meeting to be called for that purpose, an exact and particular statement shall be rendered of the debts which shall have remained unpaid after the expiration of the

Dividend to be made half-yearly, by the Directors if they think it advisable.

If required by the stockholders a general statement to be given once in 3 years, or oftener.

original credit, for a period of treble the term of that credit, and of the surplus profits, if any, after deducting losses, dividends, and expenditures.

Directors for the time being may make such laws as they think necessary.

XXXIII. *And be it further Enacted by the authority aforesaid,* That the Directors for the time being, or a major part of them, shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate, and effects of the said corporation, and touching the duty and conduct of the officers, clerks, and servants employed by the said Company, and all such other matters as appertain to the business of the said Company, and shall also have power to appoint as many officers, clerks and servants, for carrying on the said business, and with such salaries and allowances as to them shall seem meet.—*Provided,* That such rules and regulations be not repugnant to the laws of this Province.

And appoint officers, clerks, &c. with proper salaries.

No bye law to be contrary to the laws of this Province.

Treasurer, with two securities to give bond.

XXXIV. *And be it further Enacted by the authority aforesaid,* That every Treasurer, before he enters into the duties of his office, shall give bond, with two or more sureties, in such sum as may be satisfactory to the Directors, with condition for the faithful discharge of his duty.

The penalties for infringing such bye laws, upon proof before two Justices of the Niagara District shall be levied by distress, by warrant of the Justices.

XXXV. *And be it further Enacted by the authority aforesaid,* That all penalties and forfeitures for offences against this Act, or against any rule, order, or bye-law of the said Company, to be made in pursuance thereof, for the levying and recovering whereof no particular mode is herein-before directed, shall, upon proof of the offences respectively before any two Justices of the Peace for the District of Niagara, either by confession of the party or parties, or by the oath of one credible witness, (which oath such Justices are

hereby empowered and required to administer without fee or reward,) be levied by distress and sale of the goods and chattels of the parties offending; by warrant under the hand and seal of such Justices, (which warrant such Justices are hereby empowered to grant,) and the overplus, after such penalties and forfeitures, and the charges of such distress and sale are deducted, shall be returned, upon demand to the owner or owners of such goods and chattels; and in case such sufficient distress cannot be found, or such penalties and forfeitures shall not be forthwith paid, it shall be lawful for such Justices, by warrant under their hands and seals, to cause such offender or offenders to be committed to the common gaol of the District of Niagara, there to remain without bail or mainprise, for such time as such Justices may direct, not exceeding twenty days, unless such penalties and forfeitures, and all reasonable charges attending the same, shall be sooner paid and satisfied; all which said penalties and forfeitures, when levied and satisfied in manner aforesaid, shall be paid to the said Company, to be by them applied for the purposes of the said navigation.

If no distress, the party refusing to pay the penalty and costs shall be committed to the gaol of the Niagara District for a time not exceeding 20 days.

Such penalties, how applied.

XXXVI. *And be it further Enacted by the authority aforesaid,* That the land and ground to be taken and used for the said Canal, the towing-paths, and the ditches, drains, and fences to separate any such towing-paths from the adjoining lands, shall not exceed forty yards in breadth, except in such places where the said Canal shall be raised higher, or cut above five feet deeper, than the present surface of the land; and in such places where it shall be judged necessary for boats, and other vessels and rafts, to turn, ly, or pass each other, not more than sixty-five yards in breadth in any of those places, without the consent of the owner or owners of such land or ground respectively, under his, her, or their hand or seal, in writing, first had and obtained; nor shall any land or ground be let out, ascertained, contracted for, or sold, for the purpose of ma-

The Canal not to exceed 40 yards in breadth, including ditches, drains, &c.

Except where boats are to lie and pass each other,

Without the consent of the owners of the land adjoining.

king any navigable cut, trench, or sluice, to convey goods or other things to or from the said Canal, without such consent, as aforesaid, any thing in this Act contained to the contrary notwithstanding.

At the expiration of 30 years His Majesty may assume the property of the Canal, by paying to the company, their heirs, &c. the full amount of their shares, and an advance of 25 per cent.

XXXVII. *And be it further Enacted by the authority aforesaid,* That after a period of thirty years after the making and completing of the said Canal, it shall and may be lawful for His Majesty, His Heirs and Successors, to assume the possession and property of the same, and of all and every the works and dependencies thereon belonging, or in any wise appertaining, upon paying to the said Company, their heirs, executors, administrators, and assigns, the full amount of their respective shares, or of the sums furnished and advanced by each subscriber towards the making and completing of the said Canal, together with such further sum as will amount to twenty-five per centum upon the monies so advanced and paid, as a full indemnification to such Company; and the said Canal shall, from the time of such assumption, in manner aforesaid, appertain and belong to His Majesty, His Heirs and Successors, who shall from thenceforth be substituted in the place or stead of the said Company, their heirs and assigns, for all and every the purposes of this Act, in so far as regards the said Canal.

And shall belong to His Majesty in the stead of the company, for all the purposes of this Act.

All actions brought for any thing done in pursuance of this Act, must be brought in 6 months.

XXXVIII. *And be it further Enacted by the authority aforesaid,* That if any plaint 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 execution of the powers and authorities, or the orders and directions herein-before given or granted, every such suit shall be brought or commenced within six calendar months next after the fact committed; or in case there shall be a continuation of damages, then within six calendar months next after the doing or committing of such damages shall cease, 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, at 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 be so done, or if any action or suit shall be brought after the time herein-before limited for bringing the same, then a verdict shall be given for the defendant.

Defendants may plead the general issue and give the special matter in evidence.

If brought after the expiration of 6 months a verdict for defendant.

XXXIX. *And be it further Enacted by the authority aforesaid,* That nothing herein contained shall affect in any manner or way whatsoever the Right of His Majesty, His Heirs and Successors, or of any person or persons, or of any bodies politic or corporate, except as is herein expressly provided.

Nothing in this Act contained shall affect the right of His Majesty, or any other person, except as herein provided.

XL. *And be it further Enacted by the authority aforesaid,* That this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace, and other persons, without being specially pleaded.

This Act a Public Act.

C H A P. XVIII.

AN ACT to Repeal part of, Continue, and Amend the Laws now in force imposing a Duty on Licences to Innkeepers within this Province.

[PASSED JAN. 19th, 1824.]

WHEREAS an Act passed in the fifty-ninth year of His late Majesty's Reign, entitled "An Act to Alter the Laws now in force for Granting Licences to Innkeepers, and to give to the Justices of the

PREAMBLE.