

Laws of His Majesty's Province of Upper Canada, passed in the year 1834. York: Robert Stanton, 1834.

4 William IV — Chapter 30

An Act to Incorporate certain persons under the style and title of the President, Directors and Company, of the Port Hope and Rice Lake Canal Company. Passed 6th March, 1834.

Whereas John David Smith, Richard Bullock, John Allan, Thomas Ward, John Crawford, Charles Hughes, Thomas Benson, John McSpadden, Richard Grierson, and others, have petitioned to be Incorporated for the purposes of this Act: 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 John David Smith, Richard Bullock, John Allan, Thomas Ward, John Crawford, Charles Hughes, Thomas Benson, John McSpadden, Richard Grierson, 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 the name of "The Port Hope and Rice Lake Canal Company;" and by that name they and their successors shall and may have continued succession, and by that 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 Port Hope and Rice Lake 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.

II. And be it further enacted by the authority aforesaid, That the Directors of the Port Hope and Rice Lake Canal Company shall have full power and authority to explore the country lying between the Rice Lake, in the Newcastle District, and Port Hope, 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 the intended Canal, with its necessary locks, towing-paths, basins and rail-ways, to connect the Rice Lake with Lake Ontario at the Port Hope Harbour; and also to select such convenient sites for such and so many Mills, Manufactures, Ware-houses 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 hereinbefore contained 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 hereinafter provided for determining any damages done to property by the said Company.

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 hereinbefore or hereinafter 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, (except as hereinafter 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 most Excellent Majesty, His Heirs and Successors, or to any other person or persons, Bodies Politic or Corporate, (excepting as is hereinbefore provided) and to survey and 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, feeder or feeders, aqueduct or aqueducts, or out of any lands or grounds of any person or persons adjoining or lying 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 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 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 Canal, 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 Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner hereinafter mentioned for all damages to be sustained by the owner or occupier 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.

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 establishments, 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 hereinafter provided, to ascertain the value of lands or 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 Rice Lake to Port Hope, to take and appropriate for the use of the said Canal as much water as they may find necessary from out of the said Rice Lake; and it shall and may be lawful for the said Company to erect at the mouth of the Canal a Pier or Piers, if necessary, and at the point of departure of the said Canal from the said Rice Lake, for the use of the said Company and the purposes of transport on the said Canal: Provided, nevertheless, that the said Company shall not at any time, nor in any way, take from the Rice Lake any greater quantity of water than is necessary for the purpose of the said Canal for navigation only, and shall not lower the depth of water

in the Rivers Otanabee and Trent, so as in any way to affect their navigation, or the machinery thereon erected, or that may be hereafter erected on either of the said Rivers.

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 hereinbefore 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 on behalf of those whom they represent, whether infants, lunatics, idiots, femmes covert, or other person or persons who are or shall be possessed of or interested in any lands or grounds which shall be set out 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 hereinafter 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.

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 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 or any of the said owners or occupiers 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 another person, 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 being 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 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; And provided always, that the damages so awarded shall be paid by the said Company within three months after such award shall have been made, and in default thereof, the owner or owners may re-enter, possess and enjoy the same, as if this Act had not been passed.

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 hereinbefore provided.

IX. 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 constructed, a secure, sufficient and commodious Bridge for the passing of carriages, in order to re-establish the communication between the several parts of such highways, and keep the same in repair, 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.

X. 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 the 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.

XI. And be it further enacted by the authority aforesaid, That if, any person shall float any timber on the said Canal, or shall suffer the overloading of any boat, or vessel or raft, navigating in or upon the said Canal, so as by such overloading 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.

XII. 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 the Province 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; 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 retain and keep the same until payment be made of all expenses necessarily occasioned thereby.

XIII. 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.

XIV. 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 re-built, 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 hereinbefore described with respect to other damages done by the making and completing the said Navigation.

XV. 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 lie, 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 or vessel, stop at or go back to and lie 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.

XVI. 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.

XVII. 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 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.

XVIII. And for preventing disputes touching the tonnage 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 Five Pounds; 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.

XIX. 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.

XX. 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 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.

XXI. And be it further enacted by the authority aforesaid, That each Share in the said Company shall be Twelve Pounds Ten Shillings, and the number of Shares shall not exceed Four Thousand, and that Books of Subscription shall be opened at such places 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 three or more of them in the Town of Port Hope for that purpose shall direct.

XXII. 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 Shares,) the amount whereof shall be due and payable to the said Company in the manner hereinafter 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 hereinafter 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 ninety days after public notice shall have been given in three or more of the Newspapers of this Province: 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 ninety 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.

XXIII. 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 Rice Lake to the Port Hope Harbour no part of the funds paid in shall be applied to any other purpose whatsoever, and the said Company shall proceed to the completion of the whole with as little delay as possible.

XXIV. And be it further enacted by the authority aforesaid, That so soon as five thousand pounds shall have been subscribed, it shall be lawful for such subscribers, or any of them, to call a meeting at some place to be named in the said Town of Port Hope, for the purpose of proceeding to the election of the number of Directors hereinafter mentioned, and such election shall then and there be made by a majority of Shares, voted for in manner hereinafter 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 three or more Newspapers in this Province, at the distance of not less than thirty days from the time of such notification.

XXV. 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 three or more 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 hereinafter directed; and if it shall happen at any election, that 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 hereinbefore 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 smallest number of votes, shall be considered void, and such other 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 the Province and cease to be an inhabitant thereof for the space of six months, his office shall be considered vacant; and if any vacancy or vacancies should at any time happen among the Directors, or in the office of President, by death, resignation or removal from the 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 eligible to be a Director who shall not be a Stockholder to the amount of at least ten Shares.

XXVI. 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.

XXVII. 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.

XXVIII. 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 a 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 agreeably to the ratio as 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 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.

XXIX. 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 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.

XXX. 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.

XXXI. 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 by-law of the said Corporation, to be made in pursuance thereof, for the levying and recovering whereof no particular mode is hereinbefore directed, shall, upon proof of the offences respectively before any two Justices of the Peace for the District of Newcastle, 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 forthwith be paid, it shall and may 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 Newcastle

District, there to remain without bail or mainprize, 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.

XXXII. And be it further enacted try 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 four 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, lie 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 making 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.

XXXIII. And be it further enacted by the authority aforesaid, That after a period of fifty 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 thereto belonging or in anywise 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.

XXXIV. 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 hereinbefore 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 hereinbefore limited for bringing the same, then a verdict shall, be given for the Defendant.

XXXV. 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.

XXXVI. 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 within seven years from and after the passing of this Act.

XXXVII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for any person or persons possessing lands through which the said Canal shall pass to erect a Bridge or Bridges at his or their own expense to connect the parts of such land which shall be divided by the said Canal: Provided always, that such Bridge or Bridges shall not present greater obstacles to the navigation of the said Canal than the Bridges erected thereon by the said Company.

XXXVIII. And be it further enacted by the authority aforesaid, That notwithstanding the privileges hereby conferred on the said Company, the Legislature may at any time hereafter make such alterations of any of its provisions as they may think proper, for affording just protection to the public or to any person or persons, in respect to their estate or property, or any interest therein, or advantage, privilege or convenience connected therewith.

XXXIX. And be it further enacted by the authority aforesaid, That nothing in this Act contained shall extend or be construed to extend to authorise the said Company to carry on the business of Banking.

XL. And be it further enacted by the authority aforesaid, That the Locks on the said Canal shall not be less than seven feet in width and sixty feet in length, and the quantity of water in said Locks not less than three feet in depth over the mitre sill.