

Laws of Her Majesty's Province of United Canada, passed in the year 1851. York: Stewart Derbshire and George Desbarts, 1851.

14 & 15 Victoria – Chapter 152

An Act for incorporating and granting certain powers to a Company for the encouragement of Manufactures on the Welland Canal. 30th August, 1851.

Whereas the establishment of an Incorporated Company, with power to loan Money to persons desirous of erecting Mills and Manufactories on the Welland Canal, would induce the investment of a large amount of private capital in Manufactories, and lead to the most beneficial results, both to the Government, by the increase of trade and tolls on the Welland Canal, and to the inhabitants of Canada, by the increase of a home market for their produce: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the 'Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That James Rea Benson, Nehemiah Merritt, Andrew Heron, John Ker, John Latham Ramify, William Hamilton Merritt, the younger, John Hamilton Conolly, and William Austin Chisholm, and their successors, and such other and so many other persons or parties as may or shall become Shareholders in the Capital Stock hereinafter mentioned, shall be and they are hereby constituted a Body Politic and Corporate, by the name of the Welland Canal Loan Company and by that name shall and may sue and be sued, implead and be impleaded, answer and be answered unto, in all Courts of Law or Equity whatsoever, and shall have perpetual succession, with a Common Seal, which may be changed or varied at their pleasure.

II. And be it enacted, That the right to all estate, property, privileges or advantages sold or granted, or agreed to be sold or granted by the Crown, through the Commissioners of Public Works, to James Rea Benson, Nehemiah Merritt, Andrew Heron, John Ker, John Latham Ranney, William Hamilton Merritt, the younger, John Hamilton Conolly, and William Austin Chisholm, on the twenty-second day of April, one thousand eight hundred and fifty-one, at St. Catharines, in the County of Lincoln, at the Government Sale of Welland Canal Lands, and purchased by the said parties on the understanding and agreement that they should form themselves with others into a Company, with a Capital of Fifty Thousand Pounds, shall be transferred to and vested in the Corporation established hereby, in the same manner as though the said Purchasers had fully assigned and set over their rights and property in the same to the said Company by Deed; and that the said Corporation shall be and stand in the place and stead of the said James Rea Benson, Nehemiah Merritt, Andrew Heron, John Ker, John Latham Ranney, William Hamilton Merritt, the younger, John Hamilton Conolly, and William Austin Chisholm, and become and be liable to Her Majesty for the Purchase Money due and owing on account of the same: Provided always, nevertheless, that nothing herein contained shall relieve the said parties above named from their present liability to the Crown for the Purchase Money due on the said Sale; but the said parties,

their heirs, executors and administrators shall be jointly and severally liable to the Crown for the payment of such Purchase Money, according to the terms of the said sale.

III. And be it enacted, That the Capital Stock of the Corporation hereby constituted shall be Fifty Thousand Pounds, and be divided into Two Thousand Shares, which shall be numbered from one to two thousand, and be respectively distinguished by the numbers affixed to them.

IV. And be it enacted, That no Shareholder in the said Corporation shall be in any manner whatsoever liable for, or charged with the payment of any debt or demand due by the said Corporation, beyond the amount of his or their Shares in the Stock of the said Corporation.

V. And be it enacted, That all Shares in the said Company shall be personal property, and transmissible and assignable as such.

VI. And be it enacted, That it shall be lawful for the said Company to acquire by purchase, mortgage, or otherwise, and to hold, either absolutely or conditionally, any lands, real property, or hydraulic privileges, and to lay out and apply the Capital and other property for the time being of the Company, or any moneys raised by the Company, in acquiring by purchase, mortgage, or otherwise, such property, lands and privileges in the Counties of Lincoln and Welland: Provided that the said Company shall not have a larger amount than Twenty-five Thousand Pounds invested in lands at any one time.

VII. And be it enacted, That the Company shall be, and they are hereby authorized and empowered to lay out and invest their Capital, in the first place in paying the cost of this Act, in paying the Purchase Money due to Her Majesty as aforesaid, and all expenses in laying out their property to the best advantage, in streets and lots, or, in the purchase of such lands within the said Counties as it may appear suitable or advantageous for the Company to buy. The remainder of their Capital, as it is called in, as well as the Capital hereinafter authorized to be raised by the Company, they may loan, and advance by way of Loan, on the Security of Real Estate within either of the Counties aforesaid, at such rates of interest, not exceeding six per centum per annum, as to the Company shall be deemed satisfactory, for the following purposes, namely: for the Building, Erecting, Enlarging, or Improving of any Mills, Factories, or Machinery whatsoever, on the line of the Welland Canal.

VIII. And be it enacted, That it shall be lawful for the said Company, from time to time, to deal with, and dispose of any or all lands acquired or held in trust for the said Company, or contracted for, or to which the said Company shall be entitled, or of any trust thereof, by such mortgage or lease or other disposition thereof which they may deem most conducive to promoting the objects and advantages of the said Corporation; and the said Company shall, and are hereby authorized to lay out and invest their Capital and property for the time being, or any moneys to be raised by them, in so dealing and disposing of their lands.

IX. Provided always, and be it enacted, That nothing in this Act shall authorize the said Company to issue Bank Notes for in any way to act as Bankers.

X. And be it enacted, That the said Company may, and are hereby empowered to receive in advance, from any person or persons, the half yearly interest from time to time to accrue on any loans made by the Company, under and by virtue of the powers given them by this Act; any Law or Statute of this Province notwithstanding.

XI. And be it enacted, That the Company shall keep a Book, to be called "The Register Book of Shareholders," and in such Book shall be fairly and distinctly entered, from time to time, the names of the several Corporations, and the names and additions of the several persons, being Shareholders of the Company, the number of Shares to which such Shareholders shall be respectively entitled, distinguishing each Share by its number, and the amount of the subscriptions paid on such Shares; and such Book shall be authenticated by the Common Seal of the Company affixed thereto.

XII. And be it enacted, That the Shares in the Stock of the said Company shall be assignable by delivery of the Certificates to be issued to the Holders of such Shares respectively, and by assignment in the form of the Schedule annexed to this Act, or in any other convenient form to be prescribed by any By-law of the said Company, and that by such assignment, on the same being duly entered on the Register Book of the Company, the party accepting such transfer shall thenceforth become, in all respects, a Member of the said Corporation, in respect of such Share or Shares, in the place of the party transferring the same, but no such transfer shall be valid until all the calls or instalments due on the Shares purporting to be transferred, and all debts due to the Corporation thereon, shall have been paid; and a copy of such transfer, extracted from the Register Book of the Company, signed by the Clerk or other Officer of the Company, shall be *prima facie* evidence of such transfer in all the Courts of this Province.

XIII. And with respect to the Registration of Shares, the interest in which may become transmitted in consequence of the death, or bankruptcy, or insolvency of any Shareholder, or in consequence of the marriage of a female Shareholder, or by any other legal means than an assignment, according to the provisions of this Act, Be it enacted, That no person claiming, by virtue of any such transmission, shall be entitled to receive any Share of the profits of the said undertaking, nor to vote in respect of any such Share or Shares as the Holder thereof, until such transmission has been authenticated by a declaration, in writing, as hereinafter mentioned, or in such other manner as the Directors shall require; and every such declaration shall state the manner in which, and the party to whom such Share or Shares shall have been so transmitted, and shall be made and signed by some credible person before a Justice of the Peace, or before a Master or Master Extraordinary in the Court of Chancery, and such Declaration shall be left with the Secretary, and thereupon he shall enter the name of the person entitled under such transmission in the Register Book of Shareholders of the Company, whereby such person shall be and become a Shareholder in the said undertaking; and for every such entry, the Secretary may demand any sum not exceeding Five Shillings.

XIV. And be it enacted, That if such transmission be by virtue of the marriage of a Female Shareholder, the said Declaration shall contain a copy of the Register of such marriage, and shall

declare the identity of the wife with the Holder of such Share; and if such transmission have taken place by virtue of any Testamentary Instrument, or by Intestacy, the Probate of the Will, or Letters of Administration, Act of Curatorship, or other Document proving the right, or an Official Extract therefrom, shall, together with such Declaration, be produced to the Secretary; and upon such production, in either of the cases aforesaid, the Secretary shall make an entry of the Declaration in the said Registry of Transfers.

XV. And be it enacted, That if any money be payable to any Shareholder, being a minor, idiot or lunatic, the receipt of the guardian of such minor, or the receipt of the committee of such idiot or lunatic, shall be a sufficient discharge to the Company for the same.

XVI. And be it enacted, That from time to time the Company may make such Calls of money upon the respective Shareholders, in respect of the amount of Capital respectively subscribed or owing by them, as they shall think fit, provided that thirty-one days' notice, at the least, be given of each Call, and that no Call exceed the amount of Two Pounds per Share, and that two successive Calls be not made at a less interval than three months, and that the aggregate amount of Calls made in any one year do not exceed the amount of Eight Pounds per Share; and every Shareholder shall be liable to pay the amount of the Calls so made in respect of the Shares held by him, to the persons, and at the times and places from time to time appointed by the Company.

XVII. And be it enacted, That if before or on the day appointed for payment, any Shareholder do not pay the amount of any Call to which he may be liable, then such Shareholders shall be liable to pay interest on the same, at the rate of Six Pounds per centum per annum, from the day appointed for the payment thereof to the time of the actual payment.

XVIII. And be it enacted, That the Company may, if they think fit, receive from any of the Shareholders, willing to advance the same, all or any part of the money due upon their respective shares, beyond the sums actually called for; and upon the principal money so paid in advance, or so much thereof as from time to time shall exceed the amount of the Calls made upon the Shares in respect of which such advance shall have been made, the Company may pay interest at such Rate, not exceeding Six Pounds per centum per annum, as the Shareholder paying such sum in advance and the Company shall agree upon.

XIX. And be it enacted, That if at the time appointed by the Company for the payment of any Call, the Holder of any Share fail to pay the amount of such Call, the Company may sue such Shareholder for the amount thereof in any Court having competent jurisdiction, and may recover the same with interest, at the rate of Six Pounds per centum per annum, from the day on which such Call may have been made payable.

XX. And be it enacted, That in any action to be brought by the Company against any Shareholder, to recover any money due for any Call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to declare that the Defendant is a Holder of one Share or more in the Company, (stating the number of Shares,) and is indebted to the Company in the sum of money to which the Calls in arrear shall amount, in respect of one Call or more upon one Share

or more (stating the number and the amount of each of such Calls,) whereby an action hath accrued to the Company by virtue of this Act.

XXI. And be it enacted, That on trial of such action, it shall be sufficient to prove that the Defendant, at the time of making such Call, was a Holder of one Share or more in the Company, and that such Call was in fact made, and such notice thereof given, as is directed by this Act; and it shall not be necessary to prove the appointment of the Directors who made such Call, nor any other matter whatsoever; and thereupon the Company shall be entitled to recover what shall be due upon such Call, with interest thereon, unless it shall appear either that any such Call exceeds the amount of Two Pounds per share, or that due notice of such Call was not given, or that the interval of three months between two successive Calls had not elapsed, or that Calls amounting to more than Eight Pounds per year per Share had been made.

XXII. And be it enacted, That the production of the Register Book of the Shareholders of the Company, shall be *primâ facie* evidence of such Defendant being a Shareholder, and of the number and amount of his Shares, and of the sums paid in respect thereof.

XXIII. And be it enacted, That if the Holder of any Share fail to pay a Call payable by him in respect thereof, together with the interest, if any, that shall have accrued thereon, the Directors, at any time after the expiration of one month from the day appointed for the payment of such Call, may declare such Share forfeited, and that whether the Company have sued for the amount of such Call or not.

XXIV. And be it enacted, That before declaring any Share forfeited, the Directors shall cause notice of such intention to be left at the usual or last known place of abode of the person appearing by the Register Book of Proprietors to be the proprietor of such Share; and if the proprietor of any such Share be abroad, or if the interest in any such Share shall be known by the Directors to have become transmitted otherwise than by assignment, as hereinbefore mentioned, but a declaration of such transmission shall not have been registered as aforesaid, and so the address of the parties to whom the same may have been transmitted shall not be known to the Directors, the Directors shall give public notice of such intention by advertisement in a newspaper, as hereinafter provided, and the several notices aforesaid shall be given twenty-one days, at least, before the Directors shall make such declaration of forfeiture.

XXV. And be it enacted, That such declaration of forfeiture shall not take effect, so as to authorize the sale or other disposition of the Share, until such declaration have been confirmed at some General Meeting of the Company, to be held after the expiration of two months, at the least, from the day on which such notice of intention to make such declaration of forfeiture shall have been given, and it shall be lawful for the Company to confirm such forfeiture at any such meeting, and by an Order at such meeting, or at any subsequent General Meeting, to direct the Shares so forfeited to be sold or otherwise disposed of; and after such confirmation, the Directors may sell the forfeited Shares, either separately or together, or in lots, as to them shall seem fit.

XXVI. And be it enacted, That a declaration, in writing, by an Officer or Servant of the Company, or by some credible person (not interested in the matter), made before any Justice, or before any Master or Master Extraordinary in the Court of Chancery, that the Call in respect to a Share was made, and notice thereof given, and that default in the payment of the Call was made, and that the forfeiture of the Share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated; and such declaration and the receipt of the Secretary of the Company for the price of such Share shall constitute a good title to such Share, and thereupon the purchaser shall be deemed the proprietor of such Share, discharged from all Calls made prior to such purchase; and a Certificate of Proprietorship shall be delivered to such purchaser, upon his signing the undertaking to hold the Shares so purchased by him as aforesaid, subject to the provisions of this Act, and he shall not be bound to see to the application of the purchase money, nor shall his title to such Share be affected by any irregularity in the proceedings in reference to any such sale.

XXVII. And be it enacted, That the Company shall not sell or transfer more of the Shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any Calls, together with interest and the expenses attending such sale and declaration of forfeiture; and if the money produced by the sale of any such forfeited Share, be more than sufficient to pay all arrears of Calls and Interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale thereof, the surplus shall, on demand, be paid to the defaulter, or in default thereof, applied in and towards satisfaction of any Calls made thereafter, but prior to such demand being made as last aforesaid, in respect of the remaining unsold Shares of such defaulter.

XXVIII. And be it enacted, That if payment of such arrears of Call and Interest, and expenses be made before any Share so forfeited and vested in the Company shall have been sold, such Share shall revert to the party to whom the same belonged before such forfeiture, in such manner as if such Calls had been duly paid.

XXIX. And be it enacted, That it shall be lawful for the Company to borrow, on mortgage of any or all their Real Property, or Bond, such sums of money at a rate not exceeding six per cent interest as may appear to them necessary; Provided the sum so owing by the Company at any one time shall not exceed Twenty-Five Thousand Pounds.

XXX. And be it enacted, That every share shall entitle the Holder thereof to one Vote at the General Meetings and Elections of the said Company, and that the right of voting may be exercised in person or by proxy, but that no person shall by proxy represent more than ten Shareholders.

XXXI. And be it enacted, That if several persons be jointly entitled to a Share, the person whose name stands first on the Register of Shareholders as one of the Holders of such Share, shall, for the purpose of voting at any meeting, be deemed the sole proprietor thereof, and on all occasions the Vote of such first named Shareholder alone, either in person or by proxy, shall be allowed as the

Vote in respect of such Share, and proof of the concurrence of the other Holders thereof shall not be requisite.

XXXII. And be it enacted, That for managing the affairs of the said Corporation there shall be elected out of the Members of the Company seven persons, being each a proprietor of not less than ten Shares of the Capital Stock, to be Directors of the Company, for ordering, managing and directing the affairs of the Company: any four of the Directors shall form a *quorum* of the Board, and any majority of such *quorum* may exercise the powers of Directors; they shall exercise all the powers of the Company, and, amongst other things, they may use and affix, or cause to be used and affixed, the Seal of the Company to any Document or Paper requiring the same; may make and enforce Calls, declare Forfeitures of Shares not duly paid; they may make any Payments, Loans and Advances for the building, erecting and enlarging any Mills, Factories or Machinery whatsoever on the line of the Welland Canal, on such landed security as they may deem expedient; they may effect Loans or borrow Money on the Bonds, or secured on the real property of the Company, to the extent allowed by this Act; they may generally deal with, treat, sell and dispose of and exercise all other acts of Ownership over the lands, property and effects of the Company for the time being, in such manner as they shall deem expedient and conducive to the benefit of the Company, in such and the same manner as if the same lands, property and effects were held, not by a Body Corporate, but by any of Her Majesty's subjects being *sui juris* or of full age, and for whom they were fully empowered to act; they may make By-laws regulating the affairs of the Company, providing for the retirement of Directors, the filling of vacancies in the Board, regulating the appointment, control, and power of the Officers and Servants of the Company, the mode of calling General Meetings of the Company, and for the General Management of the business of the Company, whether herein enumerated or not, which said By-laws and Regulations shall be submitted for approval, rejection, or alteration by the Shareholders at the next General Meeting, or at one called for that purpose; and when ratified and confirmed, shall be entered of Record in the Books of the Company, and be binding upon, observed and taken notice of by all the Members of the Corporation; and any copy of the said By-laws, purporting to be under the Hand of the Clerk, Secretary or other Officer of the Company, and bearing the Seal of the Corporation affixed thereto, shall be received as *prima facie* evidence of such By-laws in all Courts of this Province: Provided always, that the Shareholders may, at any General or Special Meeting, appoint such Salary or Compensation to the President and Directors respectively as to them shall seem reasonable and proper; the election of Directors, except the first one hereinafter provided for, shall take place yearly, on the first Monday in October, and at their first meeting after their election, the Directors shall elect one of their number to be President, who shall, in all cases of equal division, have a Second or Casting Vote.

XXXIII. And be it enacted, That any person holding the requisite amount of Stock in the Company, may be elected a Director, although such person be not a subject of Her Majesty, and do not reside within this Province.

XXXIV. And be it enacted, That James Rea Benson, John Ker, and William Hamilton Merritt, the younger, Esquires, shall be Commissioners, who shall, on or before the first Monday in January next, at St. Catharines, open Books to receive Subscriptions to the Capital Stock of the Corporation;

and that thirty days' notice shall be given of the same in one or more newspapers, and that the said Books shall remain open for thirty days at the said place, under the direction of one or more of the said Commissioners, and such sum as they may think expedient, not exceeding five per cent., shall be paid on each Share subscribed, at the time of subscribing.

XXXV. And be it enacted, That the said Commissioners shall assemble at Saint Catharines, as soon as Twenty-five Thousand Pounds of the Capital Stock of the Company shall be subscribed for, and shall proceed to deliver Certificates for the said Stock to the Subscribers thereto; and as soon as the same shall be distributed, the Commissioners shall give public notice in one or more newspapers published in the Counties of Lincoln and Welland, of a Meeting of the Shareholders at Saint Catharines, to choose seven Directors; and such election shall be made at the said time and place, by such of the Shareholders as shall attend for that purpose; and the Commissioners shall deliver the Subscription Money and Books to the Directors, and the said Directors shall immediately proceed to the election of a President from out of their own number, and the said President and Directors shall serve and hold their respective offices until their successors are appointed, at the next Annual Election.

XXXVI. Provided always, and be it enacted, That if at the expiration of thirty days, during which the said Books are to be kept open, (as required by the thirty- fourth clause), the whole amount of the Capital shall not be subscribed, the Books of Subscription shall be kept open by the Directors until the whole Capital shall have been subscribed.

XXXVII. And be it enacted, That the failure to hold any such election of Directors or President at the time appointed, shall not dissolve the Company, but such omission may be supplied by a Special Meeting of the Shareholders, called by the Directors, for the purpose of electing Directors, and that until such election the said President and Directors shall continue in office.

XXXVIII. And be it enacted, That the Directors shall cause notices, minutes, or copies, as the case may require, of all Appointments made, or Contracts entered into by the Directors, to be duly entered in Books, to be from time to time provided for the purpose, which shall be under the Superintendence of the Directors; and every such entry shall be signed by the Chairman of the Meeting at which the matter in respect of which such entry was made, was moved, or discussed, at or previously to the next meeting of the said Company or Directors, as the case may be: and such entry so signed, shall be received as *primâ facie* evidence in all Courts, and before all Judges, Justices and others, without proof of such respective meeting having been convened, or of the persons making or entering such Orders or Proceedings being Shareholders or Directors, or Members of the Committee respectively, or by the Signature of the Chairman, all of which last-mentioned matters shall be presumed; and all such Books shall, at any reasonable times, be open to the inspection of any of the Shareholders.

XXXIX. And be it enacted, That all acts done by any Meeting of the Directors, or of a Committee of Directors, or by any person acting as a Director, shall, notwithstanding it may be afterwards discovered that there was some defect or error in the appointment of any person attending such

Meeting as a Director, or acting as aforesaid, or that such person was disqualified, be as valid as if such person had been duly appointed and was qualified to be a Director.

XL. And be it enacted, That no Director, by being a party to, or making, signing or executing, in his capacity of Director, any Contract or other Instrument on behalf of the Company, or otherwise lawfully executing any powers given to the Directors, shall be subject to be sued or prosecuted, either collectively or individually, by any person whomsoever; and the bodies or goods, or lands of the Directors, or any of them, shall not be liable to execution of any legal Process by reason of any Contract or other Instrument so entered into, signed or executed by them, or any of them, or by reason of any other lawful act done by them, or any of them, in the execution of any of their powers as Directors, and the Directors, their heirs, executors and administrators, shall be indemnified out of the Capital of the Company for all payments made, or liabilities incurred in respect of any acts done by them, and for all losses, costs and damages, which they may incur in the execution of the powers granted to them; and the Directors for the time being of the Company shall apply the existing Funds and Capital of the Company for the purposes of such indemnity, and shall, if necessary for that purpose, make Calls of the Capital remaining unpaid.

XLI. And be it enacted, That the Directors shall have power to make Dividends on the paid up Capital each half year, when, in their opinion, it shall be advisable; provided always, that no such Dividend shall be declared or made, whereby the Capital Stock will be in any degree reduced.

XLII. And be it enacted, That the word "land", in this Act, shall include all lands, tenements and hereditaments, and real and immoveable property whatsoever; and the word "Shareholders", shall include the heirs, executors and administrators, curators, legatees or assigns, of such Shareholders, or any other party having the legal possession of any Share, whether in his own name or that of any other, unless the context shall be inconsistent with such construction.

XLIII. And be it enacted, That the said Company shall annually submit to three Branches of the Legislature, within the first fifteen days of each Session, a Statement shewing the amount of Landed or other Property held by the said Company, — the total amount of money borrowed by them under the provisions of this Act, with the Rates of Interest paid thereon, — and a Statement of the various sums loaned by them, with the Rate of Interest thereon.

XLIV. And be it enacted, That this Act shall be deemed a Public Act.

Schedule.

Know all men by these presents, that I, A. B., of _____, have assigned, and do assign to C. D., of _____, for value received of him, _____ Shares in the Stock of "The Welland Canal Loan Company": Witness my Hand, this day of _____, one thousand eight hundred and fifty-_____.

A. B.

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And I, the said C. D., hereby accept the said Shares, and all liabilities and obligations thereunto attached.

Witness my Hand, this _____ day of _____, one thousand eight hundred and fifty-
_____.

C. D.