

Laws of Her Majesty's Province of United Canada, passed in the year 1854. Quebec: Stewart Derbyshire and George Desbarts, 1854.

18 Victoria – Chapter 221

An Act to incorporate the Montreal Locomotive, Marine and Steam-Forge Works Manufacturing Company. Assented In 19th May, 1855.

Whereas William Lighton Kinmond and Peter L. Kinmond, of Montreal, in the District of Montreal, have petitioned the Legislature that an Association under the style and title of “The Montreal Locomotive, Marine and Steam-Forge Works Manufacturing Company,” may be incorporated to enable and empower the said Association or Company to enter into, carry on, and conduct all the necessary business connected with, or appertaining, or belonging to the manufacture of Cars, Locomotive Power, and Engines required for Railroads, for Steamboats, or for Mills or other Factories, and for all repairs connected with the same, or for furnishing and supplying all furniture that may be required for Railroads or other purposes connected therewith, and with any thing appertaining to Locomotive Power; And whereas it is considered that such an Association would be greatly beneficial to the interests of Lower Canada, and tend to develop the powers and capabilities of the same, employ the labour thereof, and retain a large amount of the expenditure which is now taking and which will take place, within the Province, instead of being expended in a foreign country or without the Province: 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, as follows:

I. William L. Kinmond and Peter L. Kinmond, Thomas Brown Anderson, William Charles Evans, Alexander Morris, and George Hague, of Montreal, Charles DeBergue, of Manchester, and Richard Madigan, of London, in the United Kingdom of Great Britain and Ireland, or each of them, and all such other persons as now are or shall become Shareholders of the said Company, shall be and are hereby ordained, constituted and appointed to be a body Corporate and Politic in law, fact and in name, by the style and title of “The Montreal Locomotive, Marine and Steam-Forge Works Manufacturing Company,” and also that they and their successors by and under the said name, style and title, shall be capable in Law of purchasing, holding or conveying, in any way whatever, any estate, real or personal, for the use of the said Corporation, subject to the rules and conditions hereinafter contained; Provided always that the said Company shall hold no real estate except for actual use and occupation of the Corporation, save only in the case hereinafter provided for; Provided also, that the said real estate so held for the use of the said Company shall not exceed in value ten thousand pounds currency, which shall be included in and form part of the amount of the said Capital; and the place of carrying on the business of the said Company shall be at some place within the City or Island of Montreal.

II. The Capital Stock of the said Company shall be fifty thousand pounds, to be composed of two thousand Shares, of the value of Twenty-five Pounds for each Share.

III. It shall be lawful for any person or persons to subscribe for such and so many Shares as he, she, or they think fit, and not less than two and a half per cent, shall be paid at the time of subscription, or within one month thereafter, and the remainder shall be payable as the majority of the Directors shall determine upon; Provided always that no call exceed twenty per cent., and that no instalment shall become payable until after sixty days' notice shall be given by the said Directors in more than one Public Newspaper, published in the City of Montreal; and if any Stockholder or Stockholders shall after such notice refuse or neglect to pay to the said Directors such call or instalment due upon such share or shares held by him, her or them, such share or shares shall or may in the option of the Director or Directors for the time being, as hereinafter provided for, become forfeited, together with the amount or amounts paid thereon, and such forfeited share or shares may be disposed of as the Directors for the time being may think fit, in any manner whatsoever, or the same may become vested in and for the benefit of said Company, as the said Directors may determine.

IV. In case the said share or shares shall not be forfeited for or by reason of the non-payment of any of the calls or instalments thereon to be made, as aforesaid, the said Company may sue for the same or any thing due thereon; and in all actions or suits for the recovery of such calls or arrears, it shall be sufficient for the said Company to prove that the defendant was owner of certain shares, and the call or calls thereon, and the notice required by this Act, and no other fact or thing whatsoever.

V. In all actions or suits at law, by or against the Company, or to which the Company may be a party, in Lower Canada, recourse shall be had to the rules of evidence laid down in the laws of England as recognized by the Courts in Lower Canada in commercial cases, except as regards actions for real estate, or incidental thereto, in Lower Canada, in which case the laws of Lower Canada shall prevail: Provided always, that no Shareholder shall be deemed an incompetent witness, either for or against the Company, unless he be incompetent otherwise than as a Shareholder; and further provided, that the service of all writs, process and legal proceedings at the office of the said Company at the said works, shall be and be held to be legal service upon the said Company.

VI. The business of the said Corporation shall be, and they shall have full power and authority to make, construct and build all and every kind of Engine, Car, Locomotive, and furniture, for or connected with anything that may be required for Railroads, Steamboats, for Mills or other Factories, or for the repair or refitting of the same, and every thing connected with and appertaining thereto.

VII. It shall and may be lawful for the said Corporation to purchase, acquire and hold any lands, tenements, real or personal estate, necessary for carrying on the business of the said Corporation, and not exceeding in value ten thousand pounds currency as aforesaid, or any debentures or other securities, public or private, which shall come into their hands *bonâ fide* in the course of their

business aforesaid, in payment of or for securing the payment of any debt due to them in the course of such business, or any lands or real property which, having been mortgaged or pledged to them for securing debts to them incurred *bonâ fide* in the course of their business aforesaid, may by reason of such pledge or mortgage become their property, or shall be purchased by them at any sale thereof in execution of any order or judgment of a competent Court in their favour, and to sell, exchange and dispose of any property, real or personal, which they may lawfully purchase or acquire under this section in such manner as the said Company or the Directors thereof for the time being, may deem expedient.

VIII. Nothing in this Act shall authorize the said Company to issue Bank notes, or in any way to act as Bankers.

IX. 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.

X. 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 any convenient form to be prescribed by any By-law of the said Company; and by such assignment, and 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 share 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 *primâ facie* evidence of such transfer in all Courts of this Province.

XI. 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 any 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 to 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 any 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 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.

XII. If such transmission be by virtue of the marriage of a female Shareholder, the said declaration shall contain a sufficient proof 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.

XIII. The Shareholders shall not as such be held liable for any claim, engagement, loss or payment, or for any injury, transaction, matter or thing relating to or connected with the said Company, or the liabilities, acts or defaults of the said Company, beyond the amount of their shares in the said Company, or the sums, if any, remaining due to complete the amount thereof.

XIV. 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 Shareholder shall be liable to pay interest on the same, at the rate of six per centum per annum, from the day appointed for the payment thereof to the time of the actual payment.

XV. 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.

XVI. The production of an extract duly certified by the Secretary of the said Corporation, and purporting to be a true extract from the Register Book of the Shareholders of the Company, shall be *primâ facie* evidence of any Defendant being a Shareholder, and of the number and amount of his shares, and of the sums paid in respect thereof.

XVII. 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 any such share; and if the proprietor of any share be abroad, or if the interest in 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 the Canada Gazette, and in some other newspaper published in the city of Montreal, and the several notices aforesaid shall be given at least three times a week in such Montreal newspaper during twenty-one days at least before the Directors shall make such declaration of forfeiture.

XVIII. 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

the last 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.

XIX. 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 of the Peace, that the call in respect to a share was made and notice thereof given, and that default in 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 share 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.

XX. 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 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.

XXI. 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.

XXII. It shall be lawful for the Company to borrow, on mortgage of any or all their real property except such as shall be used by the Company for manufacturing purposes, or bond, such sums of money as may appear to them necessary; Provided that the sum so owing by the Company at any one time shall not exceed twelve thousand five hundred pounds, not including the real property as aforesaid used by them.

XXIII. The affairs and concerns of the said Company shall, be managed by a Board of seven Directors, one of whom shall be chosen President of the said Company, but in the first instance Thomas Brown Anderson, Richard Madigan, William Charles Evans, Alexander Morris and Thomas Hague, or the majority of them, shall have full power and authority to organize the said Company

and for the said purposes appoint any Officer of the said Company whom they may deem requisite; and they shall within one year from the passing of this Act, open books in the City of Montreal, to receive subscriptions to the Capital Stock of the Corporation, and thirty days' notice shall be given of the same in one or more Newspapers published in the City of Montreal, and the said books shall remain open for thirty days at the said place, unless the whole Stock shall have been subscribed before that time, under the direction, of the persons named; and such sum as they may think expedient, not less than two and one half per centum per share shall be paid on each share at the time of subscribing.

XXIV. It shall be lawful for the said Provisional Directors, or any of them, or the Directors of the Company, to open or cause to be opened Stock Books for the subscription of parties desiring to become Shareholders in the Capital Stock of the said Company, in as many and in such places in this Province and in the United Kingdom of Great Britain and Ireland and elsewhere, as they shall think fit.; and any person may become a Shareholder in the said Company, whether resident in this Province, in the United Kingdom of Great Britain and Ireland or elsewhere; Provided always, that no subscription merely in the said Stock Books shall create the party or parties so subscribing a Shareholder or Shareholders in the said Company.

XXV. So soon as one half of the said Capital Stock of the said Company shall be subscribed and twelve thousand five hundred pounds thereof shall be paid up, the business and affairs of the said Company shall and may commence, and the said Company be considered to begin operations from the time hereinafter provided: Provided always, that in the event of the Company purchasing upon such terms as may be agreed upon, the tools, machinery and materials now or then in use in the Locomotive Factory conducted at Montreal by the said Kinmonds and allotment, of paid up Stock for the same or a portion thereof, or for moneys theretofore advanced by any party or parties therefor, such allotment shall be held equivalent to the actual payment of like amounts of the said Capital Stock by the several parties respectively; Provided always, that this Act shall not go into operation or have effect for the purposes of the Company until the subscriptions and payment of the Stock as provided in this clause shall have been established to the satisfaction of the Governor, who shall thereupon, by Proclamation to be published in the usual manner, notify the same to the Public, and give operation to this Act.

XXVI. The first Annual General Meeting of the Company shall be held not sooner than one month nor later than six weeks after the publication of the Proclamation aforesaid; and on the same day (not being a Sunday or Statutory holiday) in each year following, it shall and may be lawful to and for the Shareholders and Subscribers of such Stock, to proceed to the Election of seven Directors by ballot, notice having been given in some more than one public Newspaper published in the City of Montreal, at least sixty days before such Election; and any person (but no other) who shall be holder of at least ten shares of the said Stock, shall be eligible to be appointed such Director or Directors; and such Directors as shall be so chosen, shall proceed within ten days to appoint one of the said Directors so chosen, to be the President of the said Company; and the said Directors shall go out of office annually but shall be eligible for re-election and may be replaced by others to be appointed at the Annual Meetings: Provided that no person shall be eligible to be elected such Director, if he shall be in any way in default to the said Company for or on account of any share

held by him: And provided also, that the Directors shall have full power and authority at any time after the said Company shall go into operation or in case of the death of any Director, to call a meeting of the Shareholders of the said Company and proceed to the Election of other Directors or Director as herein provided for, or any other lawful business of such meeting.

XXVII. Every Stockholder shall be entitled to vote for every share that he may at the time of such Election hold or be entitled to, provided he be not in default in any way; and he may vote personally or by proxy, provided such proxy be a Stockholder not in default, whose appointment as such proxy shall bear date within twelve months of the time of such Election, and sufficient proof be given thereof.

XXVIII. The said Directors appointed hereby and the Directors to be appointed at the said Annual Meetings, or the majority of them, shall have ample power and authority to make, alter and enact all and every necessary By-laws, Rules and Regulations for the regulation and management of the said Company, either as to the amount of the calls and instalments on the said stock, the way or manner or time in or at which the same shall be paid, and to do any thing they may deem expedient as to the direction, management, carrying on and satisfactory working and progress of the said Company, and to declare and distribute any dividend or dividends or profits arising from the business of the said Company at such times or seasons as they shall deem expedient, and to appoint any officer or officers of or for the said Company, at such salary as they may think fit; Provided such By-laws shall not be repugnant to this Act.

XXIX. The stock of the said Company shall be personal property, and shall and may be transferred and assignable as such; but no shares shall be transferable until after payment: of all previous calls thereon or until their forfeiture for nonpayment of calls; and it shall not be lawful for the said Company to use any of its funds for the purchase of any Stock in any other Corporation.

XXX. In all actions, suits or prosecutions, in which the said Company may be at any time engaged, any Officer or Stockholder in the said Company shall be a competent witness for or on behalf of, or against the said Company, notwithstanding any interest he may have therein as such.

XXXI. 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. 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 *prima 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 of the signature of the Chairman, all of which last mentioned matters shall be presumed and all such books shall, at any reasonable time, be open to the inspection of any of the Shareholders.

XXXIII. 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.

XXXIV. No Director, 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 and prosecuted individually by reason thereof, 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.

XXXV. 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.

XXXVI. If the liabilities of the Corporation shall at any time exceed the amount of its Capital Stock, the Directors shall be jointly and severally individually liable to any creditor of the Corporation for any debts thereof to the amount of such excess of liabilities.

XXXVII. 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 Shareholders, or any other party having the legal possession of any share either in his own name or that of any other, unless the context shall be inconsistent with such construction.

XXXVIII. The said Company shall submit to the three Branches of the Legislature, within the first fifteen days of each Session, a Statement showing 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.

XXXIX. This Act shall be deemed a Public Act, and the Interpretation Act shall apply to this Act.

XL. This Act shall be null and void unless the Company shall go into operation within five years from the passing thereof.