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No. 166.

1st Session, 5th Parliament, 18 Victoria, 1854.

(PRIVATE BILL.)

BILL.

An Act to incorporate certain persons under the style and title of the "President Directors and Company of the Fcrt Erie Canal Company."

Received and Read, 1st time, Wednesday, 25th Oct., 1854.

Second Reading, Monday, 30th Oct., 1854.

MR. FRAZER.

QUEBEC:

PRINTED BY LOVELL AND LAMOUREUX,
MOUNTAIN STREET.

(1166)

1854.]

BILL.

[No. 166.

An Act to incorporate certain persons under the style and title of the "Fort Erie Canal Company."

WHEREAS Richard Hull Thornhill, William Rainsford, Senior, John Preamble.

Cronyn, M.D, James Stanton, Alexander Douglas, Thomas Newbigging, George Hardison, Richard Graham, James L. Haggart, John Riselay, Thomas Shortis, John B. Eaton, Samuel Cowthard, and others, of the Township of Bertie, &c., in the County of Welland, have by their Petition represented that great inconvenience has been experienced by the inhabitants of that section of the Province of Canada, from its earliest settlement up to the present time, and more especially by those engaged in agricultural and commercial pursuits, by the natural impediment opposed to a free water communication between Lake Erie and the Niagara River, caused by the rapids called or known as the Fort Erie Rapids, which render transport by that route by the Lake not only dangerous but laborious and expensive: And whereas the said Petitioners have prayed that they, together with such other persons as shall become Stockholders, as hereinafter mentioned, may be incorporated for the purpose of forming a Canal for ship navigation, in order to remedy the said inconvenience: And whereas the promotion of such a work will greatly tend as well to the prosperity of the Province as to develop the resources of that part of the Country: Be it therefore enacted, &c., as follows:

20 I. The said Richard Hull Thornhill, Wm. Rainsford, Sen., John Cronyn, M.D., James Stanton, Alexander Douglas, Thomas Newbigging, George Hardison, Richard Graham, James L. Haggart, John Riselay, Thomas Shortis, John B. Eaton, and Samuel Cowthard, or such of them, together with such other persons as shall become Stockholders of the Company as 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 "Fort Erie Canal Company," and by that name they and their successors shall have continued succession, and be capable of contracting and being contracted with, 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 they and their successors shall have a common seal and may change and alter the same at their will and pleasure, and also they and their successors, by the same name of the "Fort Erie Canal Company" shall be capable in law of purchasing, having and holding any estate, real, personal or mixed, to and for the use of the said Company, conveying or otherwise departing with the same, for the benefit and on account of the said Company, from time to time as they shall deem necessary or expedient: Provided always, that nothing in this Act contained shall extend or be construed to extend to allow the said Company to carry on the trade or business of bankers

Certain persons incorporated.

Corporate name and powers.

Proviso.

Company may purchase and hold land for Canal and sites for Mills and Warehouses.

II. The Directors of the said Company, to be elected as hereinafter is mentioned, shall have full power and authority to explore the country lying between Fort Eric, in the Township of Bertie, and the River Niagara below the said rapids called the Fort Erie Rapids; and to purchase, take, appropriate, have and hold, to and for the use of them and their successors the line and boundaries of an intended Canal, with the locks, towing-paths, basins, and railways necessary to connect the waters of the Niagara River at the head of the said Rapids with the waters at the foot thereof: And also, to select such convenient sites for such mills, manufactories, warehouses and other erections as may be required by the said Company for the purposes thereof: Provided always, that nothing hereinafter 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 now situate upon or near to the intended banks of the said Canal, 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 by arbitration as hereinafter provided for, determining damage done to property by the said Company.

Proviso.

Proviso.

Company may make use of all brooks and springs, stone, gravel and materials for making Canal.

III. It shall and may be lawful for the said Company, and they are hereby authorized 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, watercourses, hollows, or other repositories of water, as shall be found in making said Canal or within the distance of one thousand yards therefrom, or from any part thereof, or from any reservoir or reservoirs to be made for supplying the said Canal with water, (save and except as herein mentioned,) and the said Company are hereby also authorized and empowered by themselves or their deputies, agents, servants or workmen, to make one or more reservoir or reservoirs, and 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 expedient, (save and except as herein mentioned;) and for the purposes aforesaid, it shall and may be lawful for the said Company, and their agents, servants and workmen, and they are hereby authorized and empowered, to enter into and upon the lands and grounds of and belonging to the Queen's most Excellent Majesty, Her heirs or successors, or to any other person or persons, body or bodies politic, corporate or collegiate, (except as is herein mentioned,) 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 or any such reservoirs, feeders, tunnels or aqueducts, and all or any such other works as they shall think proper and necessary for making, effecting, preserving, improving, completing, or using the said intended Canal, and also to bore, dig, cut, trench, remove, take and carry away earth, soil, clay, stone, rubbish, trees, roots of trees, beds of gravel or sand, or any other materials whatsoever, which may be dug or got in the making of the said Canal, or in making any reservoirs, feeders 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, or continuing or repairing the said Canal or other of the said works, or which may hinder, prevent or obstruct the making, using, completing or maintaining the same, and the same to let lie in and upon the boundaries of the said Canal or in or upon the lands or grounds of any person or persons adjoining thereto and also to make, build, 55

erect and set up in and upon the said Canal, and at the points of entrance to the same, or upon the lands adjoining or near the same, such and so many wharves, quays, piers, landing places, bridges, tunnels, aqueducts, sluices, locks, wears, pens for water, tanks, reservoirs, drains, and other
 5 ways, roads and works, as the said Company shall think requisite and convenient for the purposes of the said Canal, and also from time to time to alter, repair, amend, widen or enlarge the same or any of them, for conveying all manner of materials necessary for making, erecting, altering, repairing, widening, enlarging, and carrying on the said works;
 10 and also to place, lay, work and manufacture the said materials on the ground near to the said works, and to make, maintain, repair and alter any fences or passages, over, under or through the said Canal, or the reservoirs or tunnels, aqueducts, passages, gutters, water-courses, and sluices respectively, which shall communicate therewith; and also to
 15 make, set up and appoint drawing boats, barges, vessels or rafts, for 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, from, and across any rivers or brooks, for making, using, maintaining and repairing the said Canal and the
 20 towing paths on the sides thereof; and also to construct, make and do all other works, matters and things whatsoever which they shall think necessary and convenient for the making, effecting and 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
 25 damage as may be in the execution of the several powers hereby granted to them, and making satisfaction in manner hereinafter mentioned, for all damages to be sustained by the owner or occupiers of such lands, tenements or hereditaments: Provided that nothing in this Act contained shall extend, or be construed to extend, to authorize the said Company
 30 to divert or take away for the use of the said Canal the waters 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.

Proviso as to rights of Mill owners.

IV. After any lands or grounds shall be set out and ascertained to be necessary for making and completing the said Canal, and for other purposes hereinafter mentioned, it shall and may be lawful for all bodies politic,
 35 corporate, or collegiate, and for all guardians and other trustees whomsoever, not only for and on behalf of themselves, their heirs, successors, and assigns, but also for and on behalf of those whom they shall represent whether infants, idiots, lunatics, *femes couvertes*, or other persons who are or
 40 shall be possessed of or interested in the same, 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 so set out and ascertained as aforesaid; and that all such contracts, agreements, sales, and conveyances shall be
 45 valid and effectual in law, to all intents and purposes whatsoever, any law, statute or usage to the contrary thereof in anywise notwithstanding, and the amount of the purchase monies to be paid for such lands or grounds respectively, shall be ascertained by arbitration, in manner hereinafter mentioned.

Company may purchase land from any persons whomsoever.

V. The Directors of the said Company shall be, and they are hereby empowered to contract, compound, compromise, settle and agree with the
 50 owners or occupiers respectively, of any land through or upon which they may determine to cut or construct the said intended Canal, or any Locks, Towing Paths, Railways, or other erections or constructions contemplated by this Act to be cut, erected, constructed or built, either for the absolute
 55 purchase of so much of the said land as they may require for the purposes

Damages to property to be compensated for by Company.

of the said Company, or for the damages which he, she, or they shall or may be entitled to recover from the said Company, in consequence of the said intended Canal, Locks, Towing Paths, Railways or other constructions or erections being cut or 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, the amount of the purchase monies for the lands and tenements proposed to be purchased, or the amount of damages to be paid to them as aforesaid, shall be ascertained by arbitration in manner hereinafter mentioned. 5

Arbitration to be resorted to in case of dispute.

VI. In each and every case, where any dispute shall arise between the said Directors and any other person or persons whomsoever, touching any purchase, sale or damages, or the money to be paid in respect thereof, and in each and every case, where, under the provisions of this Act, any purchase, sale or damages, or the money to be paid in respect thereof, are directed to be ascertained and determined by arbitration, the same shall be referred to and ascertained and determined by three indifferent persons, to be chosen as hereinafter is mentioned, that is to say: one of such persons by the owner or owners, occupier or occupiers of the lands, or other the person or persons interested, who shall disagree with the said Directors in respect of the purchase money or compensation to be paid to him, her or them, respectively, pursuant to the provisions of this Act—one other of such persons by the said Directors—and the other of such persons shall be chosen by the said two persons, to be so named as aforesaid, and in case the said two persons shall not agree within ten days after their appointment in the choice of such third person, then such third person as arbitrator shall be named by the Judge of the County Court of the County of Welland, upon the application of either of the said two persons so named as aforesaid, and such three persons shall be the 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; and the award of such three persons, or any two of them 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 in writing shall be given them by the said Directors for that purpose, then and there to arbitrate, award, adjudge and determine such matters and things as shall be submitted to their consideration by the parties interested, and each of the said arbitrators shall be sworn by some one of her 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. 10 15 20 25 30 35 40 45

Proviso.

Award of arbitrators not final.

VII. Any award made under this Act shall be subject to be set aside on application to the Court of Queen'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. 50

Bridge to be built over highways cut through.

VIII. 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 shall within one month after such cut, cause to be constructed a secure, sufficient and commodious bridge for the passing of carriages

in order to establish the communication between the several parts of such highways, 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 bridge as aforesaid.

- 5 IX. If any person or persons shall wilfully or maliciously break, throw
down, damage or destroy any bank, lock, gate, sluice, or any works, ma- Persons des-
chine or device to be erected or made by virtue of this Act, to the preju- troying pro-
dice of the said Company, or do any other wilful act, hurt or mischief, to perty of Com-
disturb, hinder or prevent the carrying into execution, or completing, sup- pany, how
ported or maintaining the said Canal, or any bridge, tunnel, aqueduct, dealt with.
- 10 sluice, lock, wear, pen for water, bank, reservoir, drain, wharf, quay, or
any other work belonging to the said Company, every such person or per-
sons 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
15 been done ; such damages, together with costs of suit in that behalf incur-
red, 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 shall and may be committed to the common jail for
any time not exceeding three months, at the discretion of the Court before
20 which such offenders shall be convicted.

- X. If any person shall float any timber on the said Canal, or shall suffer
the loading of any boat, 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
25 person having the care of such vessel, boat or raft, so obstructing the pas-
sage 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
30 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 Canal.
- Persons ob-
structing na-
vigation of
Canal, how
dealt with.

- 35 XI. 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
40 lawful money of 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
45 cargo thereof, or any part of such cargo, until the charges occasioned by
such unloading and removal shall be paid or satisfied ; and if any boat or
vessel shall be sunk in the said Canal, and the owner or owners, or the per-
son 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
50 or servants of the said Company to cause such boat or vessel to be weighed
or drawn up, and to detain and keep the same until payment shall be made
of all expenses necessarily occasioned thereby.
- Obstructions
in Canal how
prevented.

Adjoining proprietors may use Canal without interruption or payment of tolls.

XII. It shall be lawful for the owners and occupiers of any land adjoining to the said Canal to use any boats upon the said Canal, for pleasure or husbandry, and 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, or their successors, or their principal agents 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 so as the same shall not obstruct or prejudice the navigation of the said intended Canal, or the towing paths thereof.

In case of injury to canal works, Company may enter upon and use property adjoining damage.

XIII. 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 Canal, may be damaged or destroyed, and the adjacent lands, or the property thereon, thereby damaged, and it may be necessary that the same shall be immediately repaired or re-built to prevent further damages; Be it therefore enacted, That when and so often as it shall happen, it shall be lawful for the said Company, and for their or any of their servants, agents or workmen, from time to time, 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 the branches, reservoirs or trenches thereof, 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 and required for the purposes aforesaid, without any previous treaty whatsoever with the respective owners or occupiers thereof, or of any other person or persons interested in such lands, grounds or hereditaments, or any of them, doing as little damage thereto as the nature of the case will admit, 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 or the digging for, getting, working, taking, carrying away and using such stones, gravel and material, or any of them as aforesaid, which damages, and the satisfaction and recompense in respect thereof, shall in case of dispute be settled, adjusted, ascertained and determined by arbitration, as hereinbefore is mentioned.

Company to make convenient places for turning vessels and rafts.

XIV. 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 cut and open proper spaces or places in the lands adjacent to or 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 all boats, vessels or rafts which shall be 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 by any By-law of the said Company shall be directed, in respect thereof.

Directors to establish rate of toll.

XV. It shall and may be lawful for the President and Directors of the said Company to regulate from time to time, and establish the rate of toll payable in respect of all timber, boats, vessels, and other craft, and of other cargoes and freightage thereof, and of all rafts 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

Company to exhibit annual account to the Legislature.

- 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 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 pounds per centum on the capital actually expended in making the said canal. Proviso.
- 10 **XVI.** The said Company to entitle themselves to the benefit and advantages to them granted by this Act, shall and they are hereby required to make and complete the said canal, railway, towing paths, and other erections required for the navigation thereof, in order to connect the waters of the Niagara River, at the head of the said rapids, called Fort Erie Rapids, with the waters at the foot thereof, within five years from the passing of this Act, so as to be navigable for schooners, boats, barges, and rafts, otherwise this Act, and every matter and thing herein contained, shall cease and be utterly null and void, to all intents and purposes whatsoever. Company to complete works within five years.
- 15 **XVII.** And for preventing disputes touching the tonnage of any boat, barge, or other vessel navigating upon the said canal; Be it concluded, that the owner or master of every such boat, barge, or vessel shall permit it and suffer every such boat, barge, or vessel to be gauged or measured, and in case of refusal so to do, the owner thereof shall forfeit and pay the sum of forty shillings currency; and it shall be lawful for the said Company or their toll-gatherer, or such other 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 in such boat, barge, or other vessel, which mark shall always be evidence of the tonnage in all questions respecting the payment of the said 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 alone have the power of ascertaining such tonnage. Vessels passing through Canal may be gauged or measured, in case of refusal on part of owner.
- 20 **XVIII.** All persons whosoever shall have free liberty to use with horses, cattle, and carriages, the private roads and ways to be made under the provisions of this Act (except the towing paths) for the purpose of conveying any goods, wares, merchandize, lumber, or commodities, to and from the said canal; and also to navigate the said canal with any schooners, boats, boats, barges, vessels, or rafts, and to use the said wharves and quays for loading and unloading any goods, wares, merchandize, lumber, or 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, as aforesaid. Roads made under this Act to be open to public use, Canal may be generally used on payment of tolls.
- 25 **XIX.** 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 by the by-laws of the said Company shall be directed; and in case of denial or neglect in payment of any such rates or dues, or any part thereof, on demand, to the person or persons appointed to receive the same, the said Company may sue for and recover the same in any Court having jurisdiction therein, or the person or persons to whom the said rates or dues ought to be paid, may, and he or they is and are hereby empowered to seize such boat, vessel, barge, or raft, for and in respect whereof Dues to be payable as provided by By-law. Company may sue for recovery of tolls.
- 30
- 35
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- 50

such rates or dues ought to be paid, and detain the same until payment thereof.

Amount of capital stock, number of shares.

XX. The whole capital or stock of the said Company, inclusive of any real estate which the Company may have or hold by virtue of this Act, shall not exceed in value one hundred thousand pounds, to be held in 5
thousand shares, of twelve pounds ten shillings each, and that the shares of the said capital stock shall, after the first instalments thereon shall have been paid, be transferred by the respective persons subscribing or holding the same, to any other person or persons, and such transfer shall be entered or registered in a book or books, to be kept for that purpose by 10
the said Company.

Books of subscription.

XXI. Books of subscription shall be opened at Fort Erie, St. Catharines, Niagara, Chippewa, Toronto, and in such other place or places as the majority of the said petitioners assembled at a meeting to be held or called by any one of them in the Town or Village of Fort Erie, for that 15
purpose shall direct.

Instalments, their amount and periods of payment regulated.

XXII. It shall and may be lawful for any person or persons, Her Majesty's subjects, or others, to subscribe for any manner of shares, the amount whereof shall be due and payable to the said Company, in the manner hereinafter mentioned, that is to say, two and a half per centum on each share at the 20
time of subscription to be paid to the person intrusted as aforesaid, with the subscription book wherein such subscriber records his subscription, and seven and a half per centum on each share to be payable to the said Company, immediately after the stockholders shall have elected the Directors, first hereinafter mentioned, and the remainder by instalments of not 25
more than ten per centum, at such periods as the President and Directors shall from time to time direct and appoint for the payment thereof: Provided that no instalment shall be called for in less than thirty days after the same public notice shall have been given, as hereinafter is mentioned, with respect to notice directed to be given of meetings to be holden under 30
this Act: Provided always, that if any stockholder or stockholders 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 the said share or shares, with the amount previously paid thereon, and such share or shares shall be sold 35
by the Directors at public auction, after having given thirty days' notice in writing, of such intended sale to such stockholders, 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 40
the said Company the amount of instalments which shall be due and unpaid on such share or shares, over and above the purchase money of the same, 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 45
aforesaid.

Provided.

Proviso.

Meeting for election of Directors.

XXIII. As soon as five thousand pounds shall have been subscribed, it shall and may be lawful for the provisional Directors hereinafter mentioned, to call a meeting of the subscribers, pursuant to the directions hereinafter contained, for the purpose of proceeding to the election of the number of Directors hereinafter mentioned, and such election shall 50
then and there be made by a majority of shareholders present, either in person or by proxy, 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 so 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, and until such election provided
 5 for in this section takes place, the affairs of the said Company shall be managed and conducted by the five first named petitioners above mentioned, who shall be subscribers each for ten shares at least, who shall constitute until such election, a provisional Board of
 10 Directors and shall choose a provisional President from amongst themselves.

XXIV. 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 the majority of whom shall
 15 be inhabitants of this Province and shall be elected on the first Monday in April in every year, at a meeting of stockholders to be then holden, 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,
 20 and the five persons who shall have the greatest number of votes at any election shall be Directors, (except as hereinafter is directed) and if it shall happen that at any election two or more persons shall 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,
 25 then the said stockholders present at such meeting, 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 reduce the whole number to five, and the said Directors as soon as may be, after the said election, shall proceed in like
 30 manner to elect by ballot one of their number to be President, and two of the Directors who shall have served as Directors for the preceding year (excepting the President) shall be incapable of serving in the office of Director for one year after the expiration of the time for which they shall have so served as Directors; and in case a greater number than
 35 two of the Directors (exclusive of the President who served for the last year) shall appear to be elected, then the election of such Director or Directors above two, who shall have the fewest votes shall be considered void, and such other of the stockholders who shall be eligible, and shall
 40 have the next greatest number of votes shall be considered as elected in the room of such last described Director or Directors, who are hereby declared incapable of serving as Directors, as aforesaid; and the President for the time being, shall always be eligible to the office of Director; and if any vacancy or vacancies shall at any time happen among the
 45 Directors, or if the office of President shall become vacant by death, resignation or otherwise, such vacancy or vacancies shall be filled for the remainder of the year in which they shall happen, by a person or persons to be nominated by a majority of the remaining Directors: Provided always, that no person shall be eligible to be a Director, who shall
 50 not be a stockholder to the amount of at least twenty shares, and provided also that at all times at least three of the said Directors shall be inhabitants of this Province.

Directors
their duties
and manner
of election.

In case of
equal number
of votes a second
ballot to
be had.

Proviso.

XXV. Each stockholder shall be entitled to a number of votes proportioned to the number of shares which he or she shall have held and
 55 shall continue to hold in his or her own name, at and at least three months prior to the time of voting, (except at the first election) according

Votes proportioned to
shares.

to the following rates, that is to say, at the rate of one vote for each share not exceeding four shares,—five votes for six shares,—six votes for eight shares,—seven votes for ten shares, and one vote for every five shares above ten.

General and special Meetings, due notice of place and time to be given.

XXVI. The first and every other meeting, whether general or special, to be holden in pursuance of this Act, shall be holden at such place in the Township of Bertie, and on such days (except when particular days for the same are herein specially appointed) and at such hour of the day as to the said first meeting as the majority of the said petitioners, and as to all other meetings as a majority of the said Directors for the time being shall appoint, and a notice of every such meeting shall be published at least thirty days and not more than sixty days prior to the time of such meeting, in the Canada Gazette, and in such other newspapers, circulated within the province, as a majority of the said petitioners as to such first meeting, and the majority of the said Directors as to all other meetings, to be holden in pursuance of this Act, shall respectively think fit to order and direct. 5
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Election not taking place on day fixed by the Act, Corporation not to be deemed dissolved.

XXVII. In case it shall, at any time happen that an election of Directors shall 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 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. 20

Directors to make half yearly dividends.

XXVIII. 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 ratios hereinbefore established at a general meeting to be called for that purpose, an exact and particular statement shall be rendered of the debts, credits and affairs of the said Company, and of the surplus profits (if any) after deducting losses, dividends and expenses. 25
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Directors to make rules and regulations.

XXIX. The Directors for the time being, or the 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 touching the securities to be given by them, or any of them, and all such other matters as appertain to the business of the said Company, and shall also have power to appoint as many officers clerks or 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. 40
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Penalties and forfeitures, how recoverable.

XXX. All penalties and forfeitures against this Act, or against any rule, order or by-law of the said Company 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 of the Justices of the Peace for the County of Welland, either by the 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 50
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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 on demand to the owner or owners of such goods and chattels, and in case sufficient distress cannot be found, or such penalties and forfeitures shall not be forthwith paid, it shall be lawful for such Justices by warrant under their hands and seals, to cause such offender or offenders to be committed to the common jail of the said County of Welland, 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 Company.

XXXI. If any plaint shall be brought or commenced against the said Fort Erie Canal Company or against any person or persons for anything 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.

XXXII. Nothing herein contained shall affect in any manner or way whatsoever the rights of Her Majesty, her heirs, or successors, or of any person or persons, or of any bodies politic, corporate or collegiate, except as is herein expressly provided.

XXXIII. Nothing herein contained shall be construed to affect any right or power heretofore granted and secured by law to the Welland Canal Company, anything to the contrary notwithstanding.

XXXIV. This Act shall be deemed to be a Public Act.

Time for
bringing com-
plaint limited.

H. M.'s rights
not affected by
this Act.

Welland Ca-
nal Company's
rights not af-
fected.

Public Act.