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No. 94.

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1st Session, 2nd Parliament, 36 Victoria, 1873.

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BILL

An Act to incorporate the Merchants'  
Warehousing Company.

PRIVATE BILL.

MR. BEAUBIEN.

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An Act to incorporate "The Merchants' Warehousing Company."

**WHEREAS** in view of the increasing trade of the Dominion of Canada, it is desirable that additional facilities should be afforded at the City of Montreal, in the Province of Quebec, at the City of Toronto, in the Province of Ontario, and elsewhere in the Provinces of Ontario and Quebec, for the storage, safe keeping and transport of produce and other merchandize, and for the deposit or otherwise of coin, bullion and other valuables, stocks, bonds, promissory notes, certificates and other evidences of debt; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Andrew Allen, George A. Drummond, Daniel Butters, Alexander Dennistoun, Robert A. Smith, Robert Peddie, and every such person or persons, body and bodies politic and corporate, as shall under the authority of this Act be associated with them, and their several and respective successors, executors, administrators and assigns, as stock-holders in the corporation hereby created, shall be a body politic and corporate by the name of "The Merchants' Warehousing Company," and by that name shall and may have perpetual succession and a common seal, with power to break and alter the same, and by that name may sue and be sued, implead and be impleaded, in all Courts of Law or Equity in this Dominion; and the said Corporation shall have their principal place of business at Montreal aforesaid, but may open such office or offices, at such places, either in this Dominion or elsewhere, as may be found necessary or convenient for the purposes of their business.

2. The said Company is hereby authorized and empowered, at its own costs and charges, to erect and build, buy and acquire, hire and lease, sheds, stores, warehouses, wharves, slips, piers, cranes, tramways, and all other buildings, machinery and appurtenances which may be necessary or convenient to conduct the business of the said Company in any place in the Provinces of Ontario and Quebec, for the reception and storage of produce, goods, wares and merchandize, free of duty or in bond or otherwise, together with such barges or other craft, tramways, elevators and other constructions and erections whatsoever as may be requisite or useful for the reception, safe keeping, transportation and shipment of produce, goods, wares and merchandize, and to receive upon storage, deposit or otherwise, bullion, specie, plate, stocks, bonds, promissory notes and evidences of debt upon such terms as may be agreed upon between the parties.

**Real Property.** 3. The said Company may, from time to time, purchase, hire, lease and hold such immovable property as may be necessary for carrying on the business of the said Company, and may sell, lease or otherwise dispose of such property, from time to time, as they may see fit. 5

**Issue of certificate of goods and warehouse receipts.** 4. The Company may issue certificates of goods received, or warehouse receipts therefor, on the production of which by the holder thereof, and on compliance by him with the terms thereof, the said Company shall be compellable to deliver such goods, and such warehouse receipts shall be transferable by 10  
**Transferable.** endorsement, either special or in blank, and such endorsement shall transfer all right of property and possession of such goods to the endorsee or holder of such warehouse receipts, as fully and completely as if a sale and delivery of the goods mentioned therein had been made in the ordinary way, and on delivery of 15  
**Proviso.** such goods by the said Company, in good faith, to a person in possession of such warehouse receipts, the said Company shall be free from all further liability in respect thereof; Provided always, that the said Company shall be subject, in respect of such goods, and in respect of such warehouse receipts, to all the 20  
obligations and duties imposed upon warehousemen, either by the statute law or by the common law of such part of Canada where the produce, goods, wares and merchandize mentioned in such certificates respectively, may be held, stored or warehoused. 25

**Company may make advances on goods, &c.** 5. The Company may, from time to time, make advances on goods or securities transferred to or in the custody or possession of the said Company, and such advances may be made either in cash or by negotiable paper, made, endorsed or accepted by the Company, and the Company may charge a commission on such 30  
advances, not exceeding two and a half per centum on the amount thereof; for which advances and commissions the said Company shall have a lien upon such goods and securities, but no lien shall attach in favor of the Company on any goods, wares and merchandize for which it may issue a receipt, the 35  
**Proviso; sale of goods for non-payment of advances.** extent and nature of which lien shall not be clearly expressed upon the face of, and be evidenced by such receipt itself; Provided, that in the event of the non-payment of such advances when due, the Company may sell at public auction or private sale the goods whereon such advances have been made, and 40  
retain the proceeds, or so much thereof as shall be equal to the amount due to the Company upon such advances, with any interest, charges and costs, returning the surplus, if any, to the owner thereof; but no sale of any goods shall take place under  
**Notice of sale.** this Act until or unless, ten days' notice of the time and place of 45  
such sale has been given by registered letter, transmitted through the post office, to the owner of such goods, prior to the sale thereof, unless otherwise provided in the contract between the parties; and in case any property deposited with the Company  
**Provision in case goods are perishable.** upon which they have made advances shall, before the maturity 50  
of the contract, from any cause decrease in value from the price originally fixed, said Company may give notice to the pledger or his agent, by means of a registered letter, or otherwise, to perform the conditions of the contract, or make good the deficiency

caused by such decrease in value; and in default thereof the Company may sell and dispose of such property in the manner hereinbefore provided.

6. The Company may make contracts of insurance against all <sup>Company may insure goods, &c.</sup> loss, damage or injury of the goods and effects entrusted to its safe keeping, or upon which it may have made advances to the full amount of the value of such goods and effects, and may obtain policies in the name of the Company, evidencing such insurances, and shall have a right to recover from the insurers the full amount of damages or loss caused by any accident or <sup>10</sup>casualty against which it shall have been insured, notwithstanding that it may not be interested in such goods and effects to the extent of such loss or damage, and notwithstanding that at the time of such insurance, and at the time of such action or casualty, <sup>15</sup>it was only bailee of such goods and effects; and it may sue for and recover the amount of such loss and damage as owner of such goods and effects, and shall be deemed for the purpose of such recovery to be owner of such goods and effects, any law, usage or custom to the contrary notwithstanding.

7. The Company may also transfer to the owners, pledgors or <sup>And may transfer its claim.</sup> pledgees of such goods and effects, its claim against the insurers under any such policies of insurance, to the extent of any amount agreed upon between the Company and such owners, <sup>form of transfer.</sup> pledgors or pledgees, and such transfer may be made by means of a certificate signed by the Company, purporting that the effects <sup>25</sup>in the custody or charge of the Company, and mentioned in such certificate are insured under the policies (describing them) to the amount agreed upon and set forth in the certificate, the loss upon which effects (if any) may be made payable to the holder or <sup>30</sup>endorsee of such certificate, provided such holder or endorsee, be also at the same time the owner or consignee of the goods mentioned in the said certificate, or the holder of the warehouse receipt representing such effects, if such receipt has been issued; and thereafter the right of action of the Company under the <sup>35</sup>policy shall be reduced by the amount of loss or damage paid or payable by the Insurance Company to the holder of such certificate, and the holder of the certificate shall be entitled to recover from the insurers, who issued the policy, such amount of loss or <sup>40</sup>damage as the goods purporting to be insured may have suffered, and as may be recoverable under the policy.

8. It shall be the duty of the Company to use all reasonable <sup>Not to be deemed insurers of goods</sup> care and diligence in the keeping of all property deposited with or entrusted to them, but they shall not be deemed the insurers thereof, nor responsible for any loss or damage not specially <sup>45</sup>provided for by contract, nor shall the Company be held to guarantee the solvency of the insurers, nor the payment of any loss under any insurance certificate issued by the Company as hereinbefore provided. Nor shall the Company, with respect to produce, <sup>Not responsible for dangers of navigation.</sup> goods, wares and merchandize lost or damaged whilst afloat in <sup>50</sup>their custody or possession, be liable for such loss or damage when caused by the dangers of navigation in canals, harbours, rivers, lakes or seas, or by any insurable peril such as is ordinarily excepted in bills of lading,

Fees charge-  
able by the  
Company.

9. The Company may charge on all property placed with them, or in their custody a fair remuneration or such sums as may be agreed upon for the storage, warehousing, transport, wharfage, either at top or side, dockage, slippage, cranage, 5  
craulage, gauging, testing, cooperage, elevating, weighing or other care or labor in and about such property on the part of the said Company, or which such property may have received while in its care or custody.

Capital stock  
and shares.

10. The capital stock of the Company shall be *two hundred and fifty thousand dollars* current money of this Dominion, in 10  
shares of *one hundred dollars* each, and such shares shall be transferable upon the books of the said Company in such manner and subject to such restrictions as shall be fixed by the by-laws of the said Company; provided always that no person to whom shall be allotted any stock in the said Company, shall be 15  
exempted from liability to the creditors thereof, or from payment of any calls thereon, by reason of any transfer which he may make of such stock, until the whole amount of the stock so allotted to him be paid in full by the holder thereof, or unless the transfer thereof be consented to by the said Company; and such 20  
stock shall be called in and paid, in such instalments, and upon such notice as shall be fixed by the Directors; provided always that the said Company shall not commence operations until one half of the said capital shall be subscribed in good faith and ten per centum thereon paid in. The Company may also issue Bonds 25  
bearing any legal rate of interest, payable in Montreal or elsewhere, and secure the same, if deemed expedient, by mortgage of its property or franchises, and dispose of the same in such manner and to such extent, and at such price as the Directors may think best, and may also, for the purposes of the business of the 30  
said Company, grant, sign and indorse promissory notes in such forms, and under such restrictions as may be fixed by the by-laws of the said Company.

When Com-  
pany may  
commence  
operations.

Company  
may issue  
bonds, &c.

Certificates of  
shares.

11. The Company may, so soon as the shares in the capital stock thereof allotted to any person have been paid up, issue to, 35  
and in favor of, the said shareholder, who shall have so paid up, a certificate, in such form as the by-laws to be made may provide, of the number of paid up shares so held by the said shareholder, and such shares so mentioned in the said certificate may be trans- 40  
ferred by special or blank indorsation by the said shareholder on the said certificate, and the person in whose favor such certificate is specially endorsed, or the bearer of such certificate when endorsed in blank by such shareholder, shall be considered and be the proprietor and owner of the shares mentioned in the said certificate; but such transferee shall have no right to vote at 45  
any of the meetings of the said Company until he shall have produced the said certificate at the office of the said Company, and required an entry in the books of the said Company of such transfer in his favor, which entry the said Company shall then and there make. 50

Transfer of  
certificate.

Stock may be  
issued in pay-  
ment of pro-  
perty purcha-  
sed.

12. The Directors shall have power to issue paid up stock in the said Company in payment of the price of any property, real or 5  
*personal*, which it may require for the purposes of this Act, and

such paid up stock shall be free from all calls whatsoever, and from all claims and demands on the part of the said Company, or of the creditors thereof, to the same extent as if the amount of the same had been regularly called in by the said Company and 5 paid by the holder thereof in full.

13. If any stockholder neglects or refuses to pay any such call or calls as shall be lawfully made as aforesaid upon any shares, such stockholder so refusing or neglecting shall forfeit such shares with any amount which shall have previously been 10 paid thereon, and the said shares may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid in, shall be accounted for and applied in like manner as other moneys of the said Company. Provided always that the purchaser shall pay the said Company the amount of the 15 calls due thereon, in addition to the price of the shares so purchased by him, immediately after the sale, and before he shall be entitled to the certificate of the transfer of such shares so purchased as aforesaid, and shall hold the shares so purchased subject to all future calls thereon. Provided also that notice of the 20 sale of such forfeited shares shall be given in the same manner as shall be provided for the notice of calls, and that the instalments due, and the costs incurred in advertising the same may be received in redemption of any such forfeited shares at any time before the day appointed for the sale thereof. And provided also that nothing herein contained shall prevent the said 25 Company from proceeding against any defaulter, before any court of justice of competent jurisdiction to compel the payment of any call or calls in arrear, if they should see fit so to do.

Forfeiture of shares for non-payment.

Provided, calls to be paid by purchasers.

Provided, notice of sale.

Calls may be recovered.

14. At all meetings of the stockholders held in pursuance of 30 this Act, whether the same be annual or special, every stockholder shall be entitled to as many votes as he shall have shares in the said stock, and such vote or votes may be given in person or by proxy, and all questions proposed or submitted for the consideration of the said meetings shall be finally determined by 35 the majority of the votes of the stockholders present in person or by proxy, except in any case or cases otherwise provided for by this Act; and provided also that no person shall be entitled to vote as proxy at any meeting unless he shall be a stockholder in the said Corporation, and produce written authority as such 40 proxy.

Votes at meetings.

15. If at any future period the said sum of *two hundred and fifty thousand dollars* shall be found insufficient for the purposes of this Act it shall be lawful for the said Company to 45 increase their capital stock by a further sum not exceeding one million dollars currency, subscribed either among themselves or by the admission of new stockholders; such new stock being divided into shares of one hundred dollars each; provided always that such increase be decided upon and ordered by a majority of the stockholders in value of the said Company, present in person or by proxy, at a meeting held for the purpose. 50

Increase of capital stock.

16. Until the election of Directors as hereinafter mentioned the said Andrew Allan, George A. Drummond, Daniel Butters, 55

Provisional directors,

shall be the provisional Directors of the said Company with power to open books for the subscription of stock therein, and generally to exercise the usual functions of provisional Directors until such first election, and such first election of Directors shall be made at a general meeting of the Stockholders of the said Company to be held for that purpose at the City of Montreal so soon as one half of the capital stock of the said Company shall have been subscribed for, and after such notice thereof shall have been given, as is hereinafter required, for special general meetings of stockholders of the said Company, and at such meeting not less than six Directors shall be elected to hold office until the first Tuesday in the month of April then next and after such first election; the stock, real estate, property, affairs, and concerns of the said Company shall be managed and conducted by not less than six Directors, to be annually elected by the stockholders, at a meeting of the stockholders, to be held for that purpose on the first Tuesday in the month of April in each year, notice of which annual meeting shall be given in the manner hereinafter mentioned, and no person shall be a Director of the said Company unless he be the proprietor of at least ten shares of stock therein.

First meeting of shareholders.

Election of directors.

Proceedings at election of directors.

**17.** Such meeting shall be held and such election made by such of the stockholders of the said Company as shall attend for that purpose in their own proper person or by proxy; and at all elections for such directors, the six (or such greater number as the by-laws may enact), persons who shall have the greatest number of votes at any such election shall be directors, and if it shall happen at any such election that two or more persons shall have an equal number of votes in such manner that a greater number of persons than six shall by a majority of votes appear to chosen directors, then the said stockholders hereinbefore authorized to hold such election, shall proceed to ascertain by ballot, which of the said persons so having an equal number of votes shall be a Director or Directors to complete the whole number of such Directors, and if any vacancy shall at any time happen among the Directors by death, resignation or otherwise, such vacancy shall be filled for the remainder of the year in which it may happen, and until the next annual meeting for the election of Directors, by a person to be elected by the Directors at a special meeting duly called for that purpose.

Failure of election not to dissolve corporation.

**18.** 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 Company shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any subsequent day, to make and hold an election of Directors in such manner as shall have been regulated by the by-laws of the said Company, and the previous Directors shall in every case hold office until the election of their successors.

Special general meetings.

Notice.

**19.** Special general meetings of the stockholders may be convened on the requisition of any three Directors or of a Stockholder or Stockholders possessing fifty shares of the stock of the said Company, and notice of such meeting, and of the annual



meetings of the said Company, shall be held to be validly given, if inserted three times as a advertisement in any two newspapers published in the city of Montreal, the first of which insertions shall be at least ten days previous to the day fixed for such meeting.

**20.** The Directors for the time being, or the majority of them, shall have full power in all things to administer the affairs of the Company, and may from time to time, make, alter and repeal such by-laws, rules and regulations as to them shall appear needful and proper for the purposes of this Act, and, among others, for the following, to wit:—

Powers of the directors to control affairs of the company and to make by-laws

1. For the direction, conduct, and government of the said Company, and of its property, real and personal, and its improvement and regulation throughout the year.

2. For the appointment, regulation, and removal of the officers, clerks and servants of the said Company, and the election and remuneration of the Directors thereof.

3. For regulating the mode in which all contracts to be entered into by the said Company, of whatever nature, may be entered into and executed on behalf of the said Company.

4. To regulate the allotment of stock, the making of calls thereon, the payment thereof, the transfer of stock on the books of the Company, the declaration and payment of dividends, the number of Directors, the appointment, functions, duties and removal of all agents, officers and servants of the Company, the security to be given by them to the Company and their remuneration.

5. And finally, for the doing of every thing necessary to carry out the provisions of this Act according to their intent and spirit; provided always that such by-laws shall have force and effect only until the next annual meeting of the Company after the passing of the same, when they shall be submitted to such meeting, and in default of confirmation thereat, shall at and from the time of such meeting, cease to have force, until sanctioned by a majority of stockholders, present in person or by proxy, at any annual or other general meeting.

Proviso.

**21.** The Directors may elect from among their numbers a President, a Vice-President, and a Managing Director of the said Company.

Officer.

**22.** Any Director of the said Company may vote by proxy upon all questions arising at any meeting of Directors at which he is unable to attend by reason of absence or sickness, upon a written power given to any other Director to represent such absentee, and such power need not be for any particular vote, but may be general for the whole time of absence of such absent Director.

Directors may vote by proxy.

**23.** The said Company shall have power to collect and receive all charges, subject to which goods or commodities may come into their possession, and on payment of such back charges, and without any formal transfer, shall have the same lien for the amount thereof upon such goods or commodities as the persons to whom such charges were originally due had upon such goods

Collection and payment of back charges.

or commodities while in their possession, and shall be subrogated by such payments in all the rights and remedies of such persons for such charges.

Dividends an  
yearly state-  
ments of  
affairs.

24. It shall be the duty of the directors to make annual dividends of so much of the profits of the said Company as to them, 5 or a majority of them, shall seem advisable; and once in each year an exact and particular statement shall be rendered by them of the state of the affairs, debts, credits, profits and losses by the said Company, and such statements shall appear on the books, and be open for the perusal of any stockholder upon request, at 10 least one month before the annual meeting of the said Company.

Liability  
limited.

25. No Stockholder in the said Company shall be, in any manner whatsoever, liable for, or charged with the payment of any debt or demand due by the said Company, beyond the amount remaining unpaid of his, her or their subscribed share or shares 15 in the capital stock of the said Company.

Certain sec-  
tions of 32, 33  
V., c. 21 to  
apply.

26. The eighty-eighth, eighty-ninth, ninetieth and ninety-first sections of the statute, thirty-second and thirty-third Victoria, chapter twenty-one, being an *Act respecting larceny, and other similar offences*, shall be applicable, and shall be applied to all 20 false warehouse and other receipts referred to in this Act, and any person or persons knowingly giving, accepting, transmitting and using the same, shall be subject to all the pains and penalties imposed by the said eighty-eighth, eighty-ninth, ninetieth and ninety-first sections of that Act, or by any of them in respect of 25 the receipts therein specified.

Lien of Com-  
pany not to  
affect previous  
claims.

27. The right of the Company to any lien shall in no way affect, nor be construed to affect, impair or lessen, any pre-existing pledge, mortgage, lien or sale of any goods in respect of which a privilege may be claimed by the said Company; this section 30 shall not be so construed as to give to any person holding a mortgage or lien upon goods and effects, or to any purchaser or pledgee of goods and effects upon which the Company claims any privilege, any greater, further or better right as pledgee, 35 mortgagee or purchaser than such person, purchaser or pledgee would have against any individual holding the privilege claimed by the Company; the true intent and meaning of this section being that the respective rights of the Company, and of any such mortgagee, pledgee or purchaser, shall stand in the same position towards each other, as they would be in the case of individuals 40 holding similar conflicting claims according to the laws of such province of this Dominion in which the transactions upon which such rights may be based, shall have taken place.

But such title  
not to be in-  
creased.

Act to be sub-  
ject to any  
general act.

28. The powers hereby given, and any rights hereby granted, shall be subject to any future legislation passed regulating the 45 business of warehousemen.