



---

1st Session, 4th Parliament, 16 Victoria, 1863.

---

H. H.

432

**B I L L .**

An Act to amend the Act of Upper  
Canada incorporating *The Marmora  
Foundry Company.*

---

Received and Read a first time, Wednesday, 1st  
June, 1863.

Second Reading, Thursday, 2nd June, 1863.

---

[250 Copies.]

BILL.

An Act to amend the Act of Upper Canada, incorporating *The Marmora Foundry Company.*

WHEREAS the Marmora Foundry Company were incorporated by Preamble.  
 an Act of the Legislature of Upper Canada, passed in the first  
 year of the Reign of His late Majesty King William the Fourth, and intituled,  
*An Act to incorporate certain persons under the style and title of the Mar-*  
*mora Foundry Company,* for certain purposes therein mentioned; And  
 whereas the said Company have been hitherto unable to profitably carry  
 out the objects contemplated by the said Act; and whereas the said Com-  
 pany by virtue of the powers contained in said Act have by their duly  
 authorized agent in England agreed to sell and depart with all their real  
 estate, and other the interests of said Company; and whereas Alexander  
 Tilloch Galt, of Montreal, Esquire, Alexander Simpson, of Montreal,  
 Esquire, the Honorable Peter McGill, William Rhodes, of Quebec, William  
 C. Evans, of Montreal, Esquire, William Turton, of London, Esquire,  
 Edward Burstall, of Quebec, Esquire, W. A. Mathews, Mayor of Sheffield,  
 England, Esquire, have become interested therein, and it is desirable to  
 amend the Act incorporating, said Company for the purpose of empower-  
 ing the said parties and such persons as may hereafter become interested  
 with them and their successors, in, by and under the name of "*The*  
*Marmora Foundry Company,*" with enlarged capital to carry on exten-  
 sively the manufacture of iron and steel, and other works connected with  
 the manufacture of articles from ores, metals and minerals which may at  
 any time become the property of said Company; Be it enacted, &c.,

That the Act cited in the Preamble to this Act, excepting so far as may  
 be necessary on the part of the present Directors or on the part of the said  
 Company to carry out the said agreement of sale, and other the provi-  
 sions hereinafter contained on their behalf to be done and executed, shall  
 be and is hereby repealed, and the several clauses following substituted  
 therefor.

4 William, 4  
 cap. 12. Re-  
 pealed except  
 in so far as to  
 enable present  
 Directors to  
 carry out the  
 sale.

II. And be it enacted, That the said A. T. Galt, Alexander Simpson, the  
 Honorable Peter McGill, William Rhodes, Wm. Turton, William C. Evans,  
 Edward Burstall, W. A. Mathews and all such persons as shall hereafter  
 become Shareholders in the said Company to be formed under this Act,  
 shall be and are hereby ordained, constituted and declared to be a body  
 corporate and politic in fact and in law, by the said name of "*The Marmora*  
*Foundry Company,*" and by that name they and their successors shall and  
 may have continual succession, and by such name shall be capable of con-  
 tracting and being contracted with, of suing and being sued, pleading and  
 being impleaded, answering and being answered unto, in all Courts and  
 places whatsoever, in all manner of actions, suits, complaints, matters and  
 causes, and that they and their successors may and shall have a common  
 seal and may change and alter the same at their will and pleasure, and

Company  
 declared a  
 Body Politic  
 under the  
 name of the  
 Marmora  
 Foundry  
 Company.

also that they and their successors by the name of "*The Marmoras Foundry Company*," shall in law and equity be capable, from time to time, of purchasing and taking, leasing, having and holding to them and their successors any estate real or personal, or mixed of every description, to and for the use of said Company, and from time to time of letting, conveying or otherwise departing therewith or any part thereof for the benefit and on account of the said Company, as the Directors shall deem necessary and expedient. 5

**Capital Stock £80,000, Sterling, with power to increase the same.** III. And be it enacted, That the Capital Stock of the said Company shall be eighty thousand pounds sterling, to be divided into forty thousand shares of two pounds sterling each, with power to the said Company by a By-law for that purpose to increase the said Capital to £160,000, Sterling. 10

**Stock Books to be opened, subscription of Shares not to constitute a Shareholder till actual payment of the amount of Shares.** IV. And be it enacted, That it shall be lawful for the Directors herein-after named 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 that 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 in the said Stock Books shall create the party or parties so subscribing a Shareholder or Shareholders in the said Company, without and until full payment shall be made by him to the person or persons authorized by the Directors to receive the same of the amount of the shares so subscribed for, and until the issue of Stock Certificates by the proper officer or officers of the said Company for the number of shares so paid for, in the manner and form, and as shall be prescribed by the said Directors. 15 20 25

**Shares to be personal property.** V. And be it enacted, That the Shares in the Capital Stock of said Company shall be personal property, and may be sold and disposed of by the holders thereof, respectively, and shall be transferable in such way as the Directors shall, from time to time, determine or appoint. 30

**Affairs to be managed by five Directors, to be Shareholders of £500 Stg.** VI. And be it enacted, That the business and affairs of the said Company shall be conducted and managed, and its powers exercised by five Directors, who shall be severally Shareholders to the amount of £500 sterling of the said Stock, and shall be elected in manner hereinafter described by the Shareholders then present in person, or by proxy, and which Directors from the passing of this Act and until the General Meeting hereinafter mentioned shall be, the Hon. Peter McGill, Alexander Tilloch Galt, Esqr., William Rhodes, Esqr., William Turton and William C. Evans. 35

**Meeting of Shareholders for election of Directors to be called. Such Directors to continue in office for a specified time.** VII. And be it enacted, That as soon as Stock to the amount of thirty thousand pounds sterling shall have been subscribed, it shall and may be lawful for the Directors hereinbefore named to call a meeting in some place either in the City of Montreal, or in England, or elsewhere, as to them may seem most proper, of the Stockholders of the said Company, for the purpose of proceeding to the election of five Directors as hereinafter mentioned, by giving notice of said meeting and of the time and place of holding thereof in the same manner as is provided for calling meetings in the next following section, and such election shall then and there be made, by a majority of the shares voted upon in manner hereinafter prescribed, and the persons then and there chosen shall be 40 45 50

Directors of the Company and shall continue in office until the first Monday in August next succeeding their election, unless such election shall take place in the month of June or July, one thousand eight hundred and fifty three, in which case such Directors so chosen shall continue in office until the first Monday in August, in the year one thousand eight hundred and fifty-four.

VIII. And be it enacted, That the Annual General Meeting of the Stockholders for the election of Directors and for the transaction of such other business as may be brought before them, shall be held on the first Monday of the month of August in each and every year, except as to the first meeting of the Stockholders as provided for by the next preceding Section—in such place in this Province, in England, or elsewhere, as may be appointed by the Directors from time to time, and public notice shall be given by the said Directors in the *Canada Gazette* and in such other newspapers as the Directors may appoint, of the time and place of such meeting, not less than thirty days previous to such meeting. The said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose, in person or by proxy; such election shall be made by ballot, and the five persons duly qualified having the greatest number of votes shall be Directors; and if it should happen at any election that two or more persons have an equal number of votes, a second ballot shall be had to ascertain which of the persons so having an equal number of votes, shall be the Director or Directors so as to complete the number of five; and the said Directors shall, as soon as may be after their election, proceed in like manner to elect by ballot, one of their number to be President; and if any vacancy should at any time happen among the said Directors, or in the office of President, by death, resignation or disqualification, such vacancy or vacancies shall be filled for the remainder of the year in which such shall happen, by a person or persons duly qualified, to be nominated by a majority of the said Directors.

Annual meeting to be held in August in each year. Mode of election of Directors at annual meetings or in case of death or resignation provided for.

IX. And be it enacted, That if it shall happen at any time or times hereafter that an election of Directors should not be made on any day when pursuant to this Act it ought to have been made, the said Company 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 and upon such notice as shall be provided by the By-laws of the Company; and until such election of new Directors, those who may be in office for the time being, shall be and continue to exercise all the rights and powers of Directors until such new election be made.

Omission of election of Directors not to operate a dissolution of the Company, but election may be had as provided for.

X. And be it enacted, That the Directors of the said Company shall have full power and authority to make Bills of Exchange and Promissory Notes, and to make, prescribe, alter, amend, repeal and re-enact all such By-laws, Rules and Regulations as shall appear to them proper and needful, touching the well ordering of the Company, the acquirement, management, and disposition of its Stock, property, estate and effects and of its affairs and business, and may generally deal with, treat, purchase, lease or sell any lands, tenements, property and effects for and on behalf of the said Company, and may let, release, mortgage and dispose of and exercise all acts of ownership over the same; but for such purposes a majority of the whole body of Directors

Authority of Directors defined.

shall be present in person or by proxy, and subsisting at the meeting or meetings at which said business shall be transacted; and from time to time to provide for the issuing of Stock certificates, the transfer of shares, the declaration and payment of profits of the said Company, and dividends in respect thereof—the appointment, removal and remuneration of all such 5 managers, agents, officers, clerks or servants of the said Company, as they shall deem necessary for carrying on the business of the Company—the calling of General, Special, or other Meetings of the said Company or of the Directors thereof, and the business to be transacted thereat respectively—the making and entering into Deeds, Bills, Bonds, Notes, 10 Agreements, Contracts, and other documents and engagements, whether under the seal of the Company or not, and also in respect to the dissolution and winding up of the Company, and in general to do all things whatsoever that may be necessary or requisite to carry out the objects of the Company, and the exercise of any other powers incident to the 15 said Company by virtue of their incorporation by this Act

**Directors may vote by proxy.** XI. And be it enacted, That the Directors of the said Company may vote by proxy, such proxies being themselves Directors, and the proxy shall be in such form as the Directors shall direct and appoint.

**By-laws made by Directors for time being, valid till altered or repealed.** XII. And be it enacted, That all such By-laws, Rules, and 20 Regulations made by the Directors for the time being, shall be valid and have effect in the same way as if the same had been contained and enacted in this Act, until the same are altered or repealed by said Directors or by the majority of the Shareholders present, in person or by proxy, voting at an Annual or Special or General Meeting, to whom 25 power is hereby given to alter or repeal the same.

**Copy of By-laws, evidence** XIII. And be it enacted, That a copy of all such By-laws as aforesaid, or of any one or more of them, sealed with the Seal of the Company and signed by the Secretary or by one or more of the Directors, shall be *prima facie* evidence in all Courts of Law or Equity of such By-law or 30 By-laws, and that the same were or was duly made and are or is in force; and in any action or proceeding at Law or in Equity between the Company and any Shareholder, or any other person or persons whomsoever, it shall not be necessary to give any evidence to prove the Seal of the Company, and all documents purporting to be sealed 35 with the Seal of the Company, shall be taken to have been duly sealed with the Seal of the Company without further proof than their production.

**Stockholders to have votes equal to the number of their shares.** XIV. And be it enacted, That each Stockholder shall be entitled to a number of votes equal to the number of shares which he shall have held in his own name at least three months prior to the time of 40 voting (except at the first election after the passing of this Act).

**Company not bound to see to execution of any trusts, to which shares may be subject.** XV. And be it enacted, That the Company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any of the said shares may be subject, and the receipt of the party in whose name any such share shall stand in the Books of the 45 Company, shall from time to time be a discharge to the Company for any dividend or other sum of money payable in respect of such share, notwithstanding any trusts to which such share may then be subject, and whether or not the Company have had notice of such trusts, and the Company shall not be bound to see the application of the money paid 50 upon such receipt.

1297

XVI. And be it enacted, That except in so far as it is herein otherwise provided for, all transactions, questions and matters to be determined at any General, Special or other Meeting of the Company, or at any meeting of the Directors, shall be determined by the majority of the 5 votes of the Shareholders or Directors, as the case may be, present and at such meeting, either in person or by proxy, and in case of an equality of votes at any such meeting, the Chairman of such meeting shall have a casting vote, and that a majority of the whole number of Directors shall form a quorum for the transaction of business, and a majority of such 10 quorum shall decide.

All questions to be decided, by a majority of votes of Directors or Shareholders, as case may be, who may be present personally or by proxy.

XIX. And be it enacted, That the Directors of the said Company may appoint one or more agents in this Province, or in the United Kingdom, and for such time and on such terms as to them shall seem expedient; and the Directors may, by any By-law to be made for such purpose, empower 15 and authorize any such agent or agents to do and perform any act or thing, or to exercise any powers which the Directors themselves, or any of them, may lawfully do, perform and exercise, except the power of making By-laws; and all things done by any such agent by virtue of the powers in him vested by such By-laws, shall be valid and effectual to all intents and pur- 20 poses, as if done by the Directors themselves, and as such shall bind the Company. anything in this Act to the contrary notwithstanding.

Directors may appoint agents and empower them to perform certain acts.

XX. And be it enacted. That acts done by any person or persons acting as Directors or Director, shall, notwithstanding there may have been some defect in the appointment of any such persons or person, or that they, or 25 any of them, were disqualified, be as valid as if every such persons or person had been duly appointed and was qualified to be a Director, and shall bind the Company and every person interested in said Act or Acts.

Acts of persons acting as Directors valid notwithstanding defects in appointment.

XXI. And be it enacted, That in all actions or suits at law by or against the Company, or to which the Company may be a party, in Lower Canada, 30 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 35 witness either for or against the Company, unless he be incompetent otherwise than as a Shareholder.

In all actions recourse to be had to English rules of evidence, except as regards real estate in Lower Canada.

XXII. And be it enacted, That every contract, agreement, engagement or bargain by the Company, or by any one or more of the Directors on behalf of the Company, or by any agent or agents of the 40 Company, and every Promissory Note made or endorsed, and every Bill of Exchange drawn, accepted or indorsed by such Director or Directors, or by any officer on behalf of the Company, or by any such agent or agents, in general accordance with the powers to be devolved to and conferred on them respectively under the said By-laws, and in pursuance of the same or 45 any of them, shall be binding upon the said Company; and in no case shall it be necessary to have the Seal of the Company affixed to any such contract, agreement, engagement, bargain, Promissory Note, or Bill of Exchange, or to prove that the same was entered into, made or done in strict pursuance of the By-law or By-laws of the Company; nor 50 shall the party entering into, making or doing the same as Director or agent

Contracts of Directors and agents to be binding on the Company.

be thereby subjected individually to any liability whatsoever: Provided always, that nothing in this Section shall be construed to authorize the said Company to issue any note payable to the bearer thereof, or any Promissory Note intended to be circulated as money, or as the Notes of a Bank.

Shareholders not to be liable beyond amount of their Stock.

XXIII. And be it enacted, That the Shareholders in the said Company shall not, as such, be held personally 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 paid by them respectively on their Stock.

10

Deeds of President of Marmora Foundry Company under the Act 1st W. 4, to be hereafter made to be binding and conclusive on said Company.

XXIV. And be it further enacted, That all and every deed or deeds of conveyance made or which shall hereafter be made in the name of the said "*The Marmora Foundry Company*," so incorporated by the said Act of 1st William the Fourth, as aforesaid, by the President of the said Company, in office just before and at the passing of this Act, under the Seal of the said Company, and signed in the name of the said Company by the said President, with the concurrence of a majority of the Directors of the said Company so incorporated as aforesaid, in office immediately before the passing of this Act, in pursuance of the said agreement of sale made by the agent of said Company in England, and in accordance therewith shall convey and fully vest in the grantee or grantees in the said deed or deeds named, all the rights, interests, powers and property in the said agreement and in said deed or deeds mentioned and described, and agreed to be conveyed by the said Company as mentioned in said agreement, and the said deed or deeds of conveyance. And said deed or deeds of conveyance shall in all Courts of Law or Equity be taken to be the deed or deeds of the said *The Marmora Foundry Company* in this Clause above named, and as such binding and conclusive on the said Company, and all parties interested therein, notwithstanding the repealing of the Clauses of said Act above mentioned, or any thing in the said repealed Act contained.

Directors of the original Company empowered to wind up the same, and distribute the proceeds of the property thereof.

XXV. And be it further enacted, That the Directors of the said Company so incorporated under said Act of 1st William the Fourth, shall for the purposes of winding up the affairs of the said Company, be empowered, and they are hereby empowered to receive and take the purchase money to be paid on such sale, and in the name of said Company, take, receive and collect the securities which shall be given to secure the payment of any part of the said purchase money under and in pursuance of said agreement of sale, and grant discharges therefor, and that they shall carry out the said agreement in all respects, for the following purposes, that is to say :

*First.* Out of the said purchase money to pay all the debts due by the said original Company, and the expense attending the winding up the said Company ; and afterwards to divide the balance of said purchase money amongst the original Stockholders in the said Company of which they were Directors as aforesaid at the time of the passing of this Act, who had paid up the whole or some part of the calls upon their Stock in said original Company, such division to be made rateably upon and according to the sum actually paid by each Shareholder respectively, upon his or her Stock.

51



Second, And in case the said purchase money is paid by Instalments, according to conditions contained in said agreement, to take and receive such money as is or shall be paid, and take and receive, in the name of the said Company, the securities for the balance of the said purchase money according to the terms of the said agreement of sale and in accordance therewith, and to collect the same, in the name of said Company, and, as collected, to divide the same after first paying out thereof as above provided in the manner above mentioned, in case the whole purchase money is paid at once.

10 XXVI. And be it further enacted by the authority aforesaid, That all the corporate powers of the said *The Marmora Foundry Company* incorporated by the said Act 1 Wm. 4, shall continue in the Directors elected at the last General Meeting of the said Company, so far as is necessary to make valid and binding on the Stockholders in said original Company  
15 their acts in winding up the affairs of the said Company, and in conveying the property thereof, and in all respects carrying out said agreement of sale, and that they shall exercise said powers until the said trusts are completed, the said property conveyed, the money received thereon, the liabilities of the Company paid, and the claims due said Company collected,  
20 and the affairs thereof wholly wound up and closed, and the division made as above mentioned, and that immediately upon the same being done, and upon the last dividend being declared and paid over, the said powers shall cease and end, and said winding up shall be final upon all interested therein, and the said Directors shall be freed and forever discharged of and from  
25 all liability in respect thereof: Provided always, that the said Directors shall with all convenient and possible despatch have the said business wound up, the dividends declared, and the business of the Company finally completed as aforesaid.

Corporate powers of original Company continued so far as to bind the Stockholders in winding up its affairs.

XXVII. And be it enacted, That the shares in the Capital Stock of the Company shall be deemed personal estate, and shall be transferable as such.

Shares to be personal estate.

XXVIII. And be it enacted, That nothing in this Act contained shall in any manner derogate from or affect the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, Body Politic or Corporate,  
35 excepting so far as the same may be specially derogated from or affected by the provisions of this Act.

Act not to affect rights of Her Majesty or others, except as specially provided.

XXIX. And be it enacted, That this Act shall be a Public Act, and shall be subject to the provisions contained in the Interpretation Act, which shall be held to form part thereof so far as the same shall apply.

Act a Public Act.