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No. 68.

4th Session, 6th Parliament, 24 Vic., 1861.

BILL.

**The Joint Stock Companies General Clauses
Consolidation Act.**

Received and read, first time, Thursday, 4th
April, 1861.

Second reading, Monday, 8th April, 1861.

Mr. DUNKIN.

QUEBEC:

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The Joint Stock Companies General Clauses Consolidation Act.

WHEREAS it is expedient to provide for the incorporation of certain Preamble.
 general clauses into all Acts incorporating Joint Stock Companies for any of the purposes hereinafter mentioned; therefore Her Majesty, &c., enacts as follows:

5 I. When not otherwise expressly enacted, this Act shall apply to every Joint Stock Company incorporated by any Act hereafter to be passed, for any of the following purposes: To what companies this Act shall apply.

1. The carrying on of any kind of manufacturing, ship-building, mining, mechanical or chemical business;

10 2. The erection and maintenance of any building or buildings to be used in whole or part as a Mechanics' Institute, or Public Reading or Lecture Room, or as a place for holding Agricultural or Horticultural Fairs or Exhibitions, or as a place for Educational, Library, Scientific or Religious purposes, or as a Public Hotel, or as a place for Baths and
 15 Bath-houses;

3. The opening and using of Salt or Mineral Springs;

4. The carrying on of any Fishery or Fisheries in this Province, or the waters thereto adjacent, or in the Gulf of St. Lawrence, and the building and equipping of vessels required for such Fishery or Fisheries.

20 5. The carrying on of any general Forwarding business, and the construction, owning, chartering or leasing of ships, steamboats, wharves, roads, or other property required for the purpose of such Forwarding business;

25 6. The supplying of any place with Gas or Water, or with both Gas and Water;

7. The constructing of any line or lines of Telegraph;

30 8. The acquiring or constructing, and maintaining of any dam, slide, pier, boom or other work necessary to facilitate the transmission of timber down any river or stream in this Province, and the blasting of rocks, the dredging or removing of shoals or other impediments, or the improving otherwise of the navigation of such streams for such purpose;

9. The acquiring or constructing, and maintaining, of any plank, macadamized or gravelled road, or of any bridge, pier, wharf, dry dock, or marine railway;

To be incorporated with the Act incorporating Joint Stock Companies.

And this Act shall be incorporated with every such Act; and all the clauses and provisions of this Act, unless they are expressly varied or excepted by any such Act, shall apply to the Company thereby chartered, so far as applicable thereto, and shall, as well as the clauses and provisions of every other Act incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act. 5

How such incorporation shall be effected.

II. For the purpose of incorporating this Act, or any of its provisions with a Special Act, it shall be sufficient in such Act to enact, that the clauses of this Act, or such of them as in such Act may be particularly designated to that end, shall be incorporated with such Act; and thereupon, all such clauses save in so far as they are expressly varied or excepted by such Act, shall be construed as if the rest of such clauses were formally embodied and reproduced therein. 10

Meaning of expression "Special Act."

III. The expression "the Special Act," used in this Act, shall be construed to mean any Act incorporating a Company for any of the above purposes, and with which this Act is in manner aforesaid incorporated,—and also all Acts amending such Act. 15

Interpretation clause.

IV. The following words and expressions, both in this and the Special Act, shall have the meanings hereby assigned to them, unless there is something in the subject or context repugnant to such construction, that is to say: 20

1. The expression "the Company" shall mean the Company incorporated by the Special Act;

2. The expression "the undertaking" shall mean the whole of the works and business of whatever kind, which the Company is authorised to undertake and carry on; 25

3. The expression "Real Estate" or "Land" shall include all Real Estate, messuages, lands, tenements and hereditaments, of any tenure;

4. The word "Shareholder" shall mean every subscriber to or holder of Stock in the Company, and shall extend to and include the personal representatives of the Shareholder. 30

General corporate powers of every such Company.

V. Every Company incorporated for any of the above purposes, under any Special Act, shall be a body corporate under the name declared in the Special Act, and may acquire, hold, alienate and convey, any real estate necessary or requisite for the carrying on of the undertaking of such Company, and shall be invested with all the powers, privileges and immunities necessary to carry into effect the intentions and objects of this Act and of the Special Act, and which are incident to such corporation, as are expressed or included in the Corporation Act. 35 40

Powers under Special Act to be subject to this Act.

VI. All powers given by the Special Act to the Company, shall be exercised, subject to the provisions and restrictions contained in this Act.

Board of Directors.

VII. The affairs of every such Company shall be managed by a Board of not less than three, nor more than nine Directors.

First Directors.

VIII. The persons named as such, in the Special Act, shall be the Directors of the Company, until replaced by others duly named in their stead. 45

Qualification of Directors.

IX. No person shall be elected or named as a Director thereafter, unless he is a Shareholder, owning Stock absolutely in his own right,

and not in arrear in respect of any call thereon. And the major part of the after Directors of the Company shall, further, at all times, be persons resident in this Province, and subjects of Her Majesty by birth or naturalization.

5 X. The after Directors of the Company shall be elected by the Share- Election.
holders, in general meeting of the Company assembled, at such times, in such wise, and for such term, not exceeding two years, as the Special Act, or (in default thereof) the By-laws of the Company, may prescribe.

10 XI. In default only of other express provisions in such behalf, by the Special Act or By-laws of the Company,— As to elections when not otherwise provided for.

1. Such election shall take place yearly, all the members of the Board retiring, and (if otherwise qualified) being eligible for re-election ;

2. Notice of the time and place for holding general meetings of the Company shall be given at least ten days previously thereto, in some 15 newspaper published at or as near as may be to the office or chief place of business of the Company ;

3. At all general meetings of the Company, every Shareholder shall be entitled to as many votes as he owns Shares in the Company, and may vote by proxy ;

20 4. Elections of Directors shall be by ballot ;

5. Vacancies occurring in the Board of Directors may be filled for the unexpired remainder of the term, by the Board, from among the qualified Shareholders of the Company ;

25 6. The Directors shall from time to time elect from among themselves a President of the Company ; and shall also name, and may remove at pleasure, all other officers thereof.

30 XII. If at any time an election of Directors be not made or do not take effect at the proper time, the Company shall not be held to be thereby dissolved ; but such election may take place at any general meeting of the Company duly called for that purpose ; and the retiring Directors shall continue in office until their successors are elected. In case of failure of election.

35 XIII. The Directors of the Company shall have full power in all things to administer the affairs of the Company ; and may make or cause to be made for the Company any description of contract which the Company may by law enter into ; and may from time to time make 40 By-laws not contrary to law, nor to the Special Act, nor to this Act, to regulate the allotment of Stock, the making of calls thereon, the payment thereof, the issue and registration of certificates of Stock, the forfeiture of Stock for non-payment, the disposal of forfeited Stock and of the proceeds thereof, the transfer of Stock, the declaration and payment of dividends, the number of the Directors, their term of service, 45 the amount of their Stock qualification, 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, their remuneration and that (if any) of the Directors, the time at which and the place where the Annual Meetings of the Company shall be held, the calling of meetings, regular and special, of the Board of Directors, and of the Company, the quorum, the requirements as to proxies, and the procedure in all things at such meetings, the imposition and recovery of all 50 penalties and forfeitures admitting of regulation by By-law, and the conduct in all other particulars of the affairs of the Company ; and may from time to time repeal, amend or re-enact the same ; but every such Powers of Directors.

- By-law, and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a General Meeting of the Company duly called for that purpose, shall only have force until the next Annual Meeting of the Company, and in default of confirmation thereat, shall, at and from that time only, cease to have force: Provided always, that 5
 one-fourth part in value of the Shareholders of the Company shall at all times have the right to call a special meeting thereof, for the transaction of any business specified in such written requisition and notice as they may issue to that effect.
- Proviso :
Special Meet-
ings.**
- Proof of By-
laws.** XIV. A copy of any By-law of the Company, under their seal, and 10
 purporting to be signed by any Officer of the Company, shall be received as *prima facie* evidence of such By-law in all Courts of Law or Equity in this Province.
- Stock to be
personally :
transfer.** XV. The Stock of the Company shall be deemed personal estate ; 15
 and shall be transferable, in such manner only, and subject to all such conditions and restrictions as by this Act, or by the Special Act or By-laws of the Company, shall be prescribed.
- Allotting
Stock.** XVI. If the Special Act makes no other definite provision, the Stock 20
 thereof shall be allotted, when and as the Directors, by By-law or otherwise, may ordain.
- Calling in in-
stalments.** XVII. The Directors of the Company may call in and demand from 25
 the Shareholders thereof, respectively, all sums of money by them subscribed, at such times and places, and in such payments or instalments, as the special Act, or as this Act, may require or allow ; and interest shall accrue and fall due, at the rate of six per centum per annum, upon the amount of any unpaid call, from the day appointed for pay-
 ment of such call.
- Ten per cent.
at least to be
called in year-
ly.** XVIII. Not less than ten per centum upon the allotted Stock of the 30
 Company shall by means of one or more calls, be called in and made payable within one year from the incorporation of the Company; and for every year thereafter, at least a further ten per centum shall in like manner be called in and made payable, until the whole shall have been so called in.
- Action for
calls : what
only need to
be alleged and
proved.** XIX. The Company may enforce payment of all calls and interest 35
 thereon, by action in any competent Court: and in such action it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the Defendant is a holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more upon one share 40
 or more, stating the number of calls and the amount of each, whereby an action hath accrued to the Company under this Act; and a certificate under their seal, and purporting to be signed by any Officer of the Company, to the effect that the Defendant is a Shareholder, and that so much is due by him and unpaid thereon, shall be received in all Courts 45
 of Law and Equity as *prima facie* evidence to that effect.
- Forfeiture for
Non-payment.** XX. If, after such demand or notice as by the Special Act or By- 50
 laws of the Company may be prescribed, any call made upon any share or shares be not paid within such time as by such Special Act or By-laws may be limited in that behalf, the Directors, in their discretion, by vote to that effect, reciting the facts, and duly recorded in their minutes,

may summarily forfeit any shares whereon such payment is not made; and the same shall thereupon become the property of the Company, and may be disposed of as by By-law or otherwise they shall ordain.

5 **XXI.** No share shall be transferable, until all previous calls thereon have been fully paid in, or until declared forfeited for non-payment of calls thereon. Calls must be paid before transfer.

XXII. No Shareholder being in arrear in respect of any call, shall be entitled to vote at any meeting of the Company. Shareholders in arrear not to vote.

10 **XXIII.** The Company shall cause a book or books to be kept by the Secretary, or by some other Officer specially charged with that duty, wherein shall be kept recorded;— Books to be kept.

1. The names, alphabetically arranged, of all persons who are or have been Shareholders; What to contain.

2. The address and calling of every such person, while such Shareholder;

3. The number of shares of stock, held by each Shareholder;

4. The amounts paid in, and remaining unpaid, respectively, on the stock of each Shareholder;

20 5. All transfers of stock, in their order as presented to the Company for entry, with the date and other particulars of each transfer, and the date of the entry thereof; and—

6. The names, addresses and calling, of all persons who are or have been Directors of the Company; with the several dates at which each ever became, or ceased to be such Director.

25 **XXIV.** The Directors may refuse to allow the entry into any such book, of any transfer of Stock whereof the whole amount has not been paid in; and whenever entry is made into such book, of any transfer of Stock not fully paid in, to a person not being of apparently sufficient means, the Directors, jointly and severally, shall be liable to the creditors of the Company, in the same manner and to the same extent as the transferring Shareholder, but for such entry, would have been; but if any Director present when such entry is allowed do forthwith, or if any Director then absent do within twenty-four hours after he shall have become aware thereof and able so to do, enter on the minute book

30 of the Board of Directors his protest against the same, and do within eight days thereafter publish such protest in at least in one newspaper published at, or as near as may be possible to, the office or chief place of business of the Company, such Director may thereby, and not otherwise, exonerate himself from such liability. Directors may disallow transfer of stock in certain cases. Their liability if they allow transfers to persons without means.

35 of the Board of Directors his protest against the same, and do within eight days thereafter publish such protest in at least in one newspaper published at, or as near as may be possible to, the office or chief place of business of the Company, such Director may thereby, and not otherwise, exonerate himself from such liability.

40 **XXV.** No transfer of Stock shall be valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and as rendering the transferee liable *ad interim* jointly and severally with the transferor, to the Company and their creditors,—until entry thereof has been duly made in such book or books. Effect of transfer limited until allowed.

45 **XXVI.** Such books shall, during reasonable business hours of every day, except Sundays and statutory and obligatory holidays, be kept open for the inspection of Shareholders and creditors of the Company, and their personal representatives, at the office or chief place of business of the Company; and every such Shareholder, creditor or representative may make extracts therefrom. Books to be open to Shareholders and Creditors of Company.

50

- Effect as evidence.** XXVII. Such books shall be *prima facie* evidence of all facts purporting to be thereby stated, in any suit or proceeding against the Company or against any Shareholder.
- Penalty for making untrue entries.** XXVIII. Every Director, officer or servant of the Company, who knowingly makes or assists to make any untrue entry in any such book, or who refuses or neglects to make any proper entry therein, or to exhibit the same, or to allow the same to be inspected and extracts to be taken therefrom, shall be guilty of a misdemeanor, and being convicted thereof, shall be punished accordingly. 5
- Forfeiture of rights for not keeping.** XXIX. Every Company neglecting to keep such book or books open for inspection as aforesaid, shall forfeit its corporate rights. 10
- Company not bound to see to Trusts on shares.** XXX. The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, in respect of any shares; and the receipt of the Shareholder in whose name the same may stand in the books of the Company, shall be a valid and binding discharge to the Company for any dividend or money payable in respect of such shares, and whether or not notice of such trust shall have been given to the Company; and the Company shall not be bound to see to the application of the money paid upon such receipt. 15
- Contracts, &c., by the Company, how to be executed.** XXXI. Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or endorsed, and every promissory note and cheque made, drawn or endorsed on behalf of the Company, by any agent, officer or servant of the Company, in general accordance with his powers as such under the By-laws of the Company, shall be binding upon the Company; and in no case shall it be necessary to have the seal of the Company affixed to any such contract, agreement, engagement bargain, bill of exchange, promissory note or cheque, or to prove that the same was made, drawn, accepted or endorsed, as the case may be, in pursuance of any By-law, or special vote or order; nor shall the party so acting as agent, officer or servant of the Company, be thereby subjected individually to any liability whatsoever to any third party, therefor; Provided always, that nothing in this section shall be construed to authorize the Company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money, or as the note of a Bank. 20 25 30 35
- Proviso: as to bank-notes.**
- As to holding Stock in other Corporations.** XXXII. No Company shall use any of its funds in the purchase of stock in any other Corporation, unless in so far as such purchase may be specially authorised by the Special Act, and also by the Act creating such other Corporation.
- Liability of Shareholders.** XXXIII. Each Shareholder, until the whole amount of his Stock has been paid up, shall be individually liable to the creditors of the Company, to an amount equal to that not paid up thereon; but shall not be liable to an action therefor by any creditor, before an execution against the Company has been returned unsatisfied in whole or in part; and the amount due on such execution shall be the amount recoverable with costs, against such Shareholders. 40 45
- Liability of Shareholders.** XXXIV. The Shareholders of the Company shall not as such be held responsible for any act, default or liability whatsoever, of the Company, or for any engagement, claim, payment, loss, injury, transaction, matter or

thing whatsoever, relating to or connected with the Company, beyond the amount of their respective shares in the capital stock thereof.

5 XXXV. No person holding stock in the Company as an executor, administrator, tutor, curator, guardian or trustee, shall be personally subject to liability as a Shareholder, but the estates and funds in the hands of such person, shall be liable in like manner, and to the same extent, as the testator or intestate, or the minor, ward or interdicted person, or the person interested in such trust fund, would be, if living and competent to act, and holding such stock in his own name; and no person holding such stock as collateral security, shall be personally subject to such liability, but the person pledging such stock shall be considered as holding the same, and shall be liable as a Shareholder accordingly.

As to Stock held by persons in a representative capacity.

15 XXXVI. Every such executor, administrator, tutor, curator, guardian or trustee, shall represent the stock in his hands, at all meetings of the Company, and may vote accordingly as a Shareholder; and every person who pledges his stock may nevertheless represent the same at all such meetings, and may vote accordingly as a Shareholder.

Voting on such Stock.

20 XXXVII. If the Directors of the Company declare and pay any dividend when the Company is insolvent, or any dividend the payment of which renders the Company insolvent, or diminishes the capital stock thereof, they shall be jointly and severally liable, as well to the Company as to the individual Shareholders and creditors thereof, for all the debts of the Company then existing, and for all thereafter contracted during their continuance in office, respectively; but if any Director present when such dividend is declared do forthwith, or if any Director then absent do within twenty-four hours after he shall have become aware thereof and able so to do, enter on the minutes of the Board of Directors his protest against the same, and do within eight days thereafter publish such protest in at least one newspaper published at, or as near as may be possible to, the office or chief place of business of the Company, such Director may thereby, and not otherwise, exonerate himself from such liability.

Penalty for paying dividends when Company is insolvent, &c.

How a Director may exonerate himself.

35 XXXVIII. No loan shall be made by the Company to any Shareholder, and if such be made, all Directors and other officers of the Company making the same, or in any wise assenting thereto, shall be jointly and severally liable to the Company for the amount of such loan,—and also to third parties, to the extent of such loan with legal interest, for all debts of the Company contracted from the time of the making of such loan to that of the re-payment thereof.

Penalty for lending Company's money to Shareholders.

45 XXXIX. The Directors of the Company shall be jointly and severally liable to the laborers, servants and apprentices thereof, for all debts not exceeding one year's wages, due for service performed to the Company whilst they are such Directors respectively; but no Director shall be liable to an action therefor, unless the Company has been sued therefor within one year after such debt became due, nor yet unless such Director is sued therefor within one year from the time he ceased to be a Director, nor yet before an execution against the Company has been returned unsatisfied in whole or part; and the amount due on such execution shall be the amount recoverable, with costs, against the Directors.

Liability of Directors for certain debts of Company. Limitation of actions.

Service of
Process on a
Company.

XL. Service of all manner of summons or writ whatever upon the Company, may be made by leaving a copy thereof at the office or chief place of business of the Company, with any grown person in charge thereof, or elsewhere with the President or Secretary thereof; or if the Company have no known office or chief place of business, and have no known President or Secretary, then, upon return to that effect duly made, the Court shall order such publication as it may deem requisite to be made in the premises, for at least one month, in at least one newspaper; and such publication shall be held to be due service upon the Company. 5 10

Actions be-
tween Com-
pany and
Shareholders.

XLI. Any description of Action may be prosecuted and maintained between the Company and any Shareholder thereof; and no Shareholder, not being himself a party to such suit, shall be incompetent as a witness therein.

Short title of
this Act.

XLII. Whenever this Act is referred to, it shall be sufficient, in citing the same, to use the expression "*The Joint Stock Companies General Clauses Consolidation Act.*" 15