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BILL.

An Act to amend the Act chaptered Sixty-three, of the Consolidated Statutes of Canada.

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Mr. DUNKIN.

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An Act to amend the Act chaptered Sixty-three, of the Consolidated Statutes of Canada.

Preamble.

5 **W**HEREAS it is expedient to amend, as hereinafter is set forth, the Act chaptered Sixty-three, of the Consolidated Statutes of Canada, and intituled, "An Act respecting Joint Stock Companies for Manufacturing, Mining, Mechanical, Chemical or other purposes, or for the erection of Public Hotels, or Baths, or Bath Houses, or the opening and using of Salt or Mineral Springs, or for carrying on Fishing:" Therefore, Her Majesty, &c., enacts as follows:—

10 I. Save only as to Companies already incorporated under the said Act, the second and following sections thereof, to the eighth, inclusive, the thirty-second and following sections thereof, to the thirty-eighth inclusive, the forty-first and following sections thereof, to the forty-ninth, inclusive, and the fifty-third and fifty-seventh sections thereof, are hereby repealed.

Certain sections of cap. 63 of Con. Stat. Can. repealed, except as to existing companies.

15 II. No Company under the said Act shall assume the name of any other known Company, whether incorporated or unincorporated, or any name liable to be unfairly confounded therewith, or otherwise on public grounds objectionable.

One company not to take another's name.

20 III. The statement or declaration in writing, mentioned in the first section of the said Act, shall set forth the names in full, and the address and calling, of each of the persons making the same, and also of each of the Trustees named therein; and shall be signed by each of such Trustees; and shall declare the number of shares of stock taken by each of the signers thereof,—which number, in the aggregate, shall not be less than the one-half of the total number of shares of the stock of the Company.

Declaration to be signed by the Trustees, and to contain certain particulars.

80 IV. Such statement or declaration may set forth, that the instalments of the capital stock are to be paid in, otherwise than annually,—and in such case, shall lay down the rules according to which, and a term of years (not exceeding ten) within which, the same are to be paid in; may prescribe the manner in which any shares of stock remaining unallotted, shall be distributed; may fix definitely the number of the Trustees, within the limits allowed by the said Act; may prescribe a Stock qualification for the office of Trustee; may style the Trustees, Directors,—in which case, upon the incorporation of the Company, they shall be so designated; may assign them a term of service other than annual; may provide for their gradual retirement from service,—their re-eligibility or otherwise,—the filling of vacancies among them,—the notice to be given for meetings of the Company,—the calling thereof, and the mode and rules of voting thereat; may regulate the mode in which By-Laws shall be made, amended, altered or repealed; and generally, may have embodied therein any provision which otherwise might form a part of a By-Law of the Company.

Certain further provisions may be made in and by the declaration.

Chief place of business to be designated.

V. If the operations of the Company are to be carried on in more places than one, distinguishing mention shall be made in the statement or declaration, of some one of such places as the chief place of business of the Company.

Declaration to be acknowledged in duplicate, and before whom.

VI. The parties signing the statement or declaration shall acknowledge the same in duplicate, before the Registrar or Deputy Registrar of the City, County, or Division, wherein the operations of the Company are to be carried on,—or, if such operations are to be carried on in more than one such City, County, or Division, then before the Registrar or Deputy Registrar of the City, County, or Division, wherein its chief place of business is situate; and such Registrar or Deputy Registrar shall receive such acknowledgment and grant a certificate thereof.

How the duplicates shall be disposed of.

VII. One of the duplicates of the statement or declaration shall be filed by such Registrar or Deputy Registrar, and a transcript thereof shall be made by him in a Book to be kept for that purpose; and the other of the duplicates, with a proper certificate of the acknowledgment, filing and registration thereof, endorsed thereon, shall forthwith be transmitted to, and filed in the office of the Prothonotary of the Superior Court in and for the District wherein such registration has been made, if in Lower Canada,—or of the Clerk of the County Court of the County wherein such registration has been made, if in Upper Canada.

One to be sent to the Superior or Circuit Court.

Declaration to be filed in each County, &c., where the operations of the Company are to be carried on.

VIII. If the operations of the Company are to be carried on in any City, County, or Division, other than that wherein its chief place of business is situate, a copy of the Duplicate so registered as aforesaid, duly certified by such Registrar or Deputy Registrar, shall be transmitted to, and in like manner filed and registered by the Registrar or Deputy Registrar of every other such City, County, or Division; and a proper certificate of such filing and registration shall be transmitted to and filed in the office of the said Prothonotary or Clerk, as the case may be, with the other duplicate aforesaid.

Notice of declaration to be posted by the Prothonotary or Clerk in his office, and published

IX. Upon such filing in the office of such Prothonotary or Clerk public notice thereof, under his signature, in the form of Schedule A annexed to this Act, shall during two months be kept conspicuously posted in his office, and shall also three several times during the same two months be inserted in the Canada Gazette, and in some newspaper published in the District or County wherein the office of such Prothonotary or Clerk is situate, or (in default of such newspaper, then) in some newspaper published as near thereto as may be; and all such notices, if requiring to be posted within Lower Canada, shall be so posted as well in French as in English, and shall be inserted in the Canada Gazette in both languages, and shall also (within Lower Canada) be inserted in each language in a newspaper published in such language.

Application to be made for a Decree of Incorporation, and when—who may oppose it.

X. On the day signified in such notice, or within such delay thereafter as the Court may ordain, summary application may be made by the signers of the statement or declaration, for a Decree of Incorporation in terms thereof,—and the Attorney or Solicitor General for Lower or Upper Canada, as the case may be, and all other parties claiming interest, may appear and put in such written Opposition to the granting of the Decree, as they may see fit.

Decree not to be granted

XI. Whether any Opposition be put in or not, the Decree shall not be granted, unless, upon examination, the application made and the

proceedings incident thereto, are found by the Court to be in all things correct and according to law. except after examination.

XII. No formal written pleading shall be put in, as touching any Opposition ; but the Court may order the taking of evidence on such Court may take evidence ---and grant or refuse the Decree, or grant it on terms.
 5 points and in such manner as it may deem requisite,—and if it see fit, may allow the statement or declaration to be withdrawn, and an amended statement or declaration, acknowledged before the Prothonotary or Clerk, to be substituted therefor, without further notice, or with such further notice only as it may specially ordain ; and after finally hearing the Appeal from the decision of the Court.
 10 parties, it shall either grant or refuse the Decree prayed for.

XIII. During one month after the granting or refusal of the Decree, the Attorney or Solicitor General for Lower or Upper Canada, whether at the instance of a private opposant or otherwise, in the one case, or the parties applicant in the other case, by fying in the office of the Transmission of the Record.
 15 Prothonotary or Clerk, a summary petition to that effect, together with a certified copy thereof for communication to the parties applicant in the one case, or to each party opposant in the other case, may appeal to the Court of Queen's Bench for Lower Canada, or to either of the Superior Courts of Common Law for Upper Canada, according as the Proceedings on the appeal.
 20 decision in question may be that of the Superior Court for Lower Canada, or of a County Court in Upper Canada.

XIV. On the fying of such petition, the Prothonotary or Clerk shall forthwith transmit the same, together with the whole of the Record in question, to the Court thereby appealed to.

XV. No formal written pleading shall there be put in ; but the Court, if it see fit, may allow the substitution of an amended statement or declaration, acknowledged before the Clerk of the Court, in like manner as the Superior or County Court may ; and after due examination of the Record, and hearing of the parties, it shall finally grant or refuse the Court may grant or refuse the Decree.
 25 Decree, in its discretion, and shall remit the Record, with such its judgment, to the Court appealed from.

XVI. On the granting of such Decree in appeal, or (if there have been no appeal, then) at the expiration of one month after the granting of such Decree by the Superior Court for Lower Canada, or by a County Incorporation after the granting of the Decree by the Court of Appeal, or after the lapse after time for appealing, if granted by the first Court.
 35 Court in Upper Canada, the parties applicant may require and cause an authentic copy thereof, and of the statement or declaration whereon the same is based, to be fyled and recorded in the Office of the Provincial Secretary,—and a notice to that effect, in the form of Schedule B annexed to this Act, under the signature of the Provincial Secretary, to Corporate Powers of the Company after Decree.
 40 be inserted in the Canada Gazette; and thereupon, from the date of such fying, the persons named in such statement or declaration, and their successors, shall be a Body Politic and Corporate by the name mentioned therein.

XVII. Any Company so incorporated may, in its corporate name, acquire, hold, alienate and convey any real estate necessary or requisite for the carrying on of its operations, as set forth in its statement or declaration, so judicially confirmed as aforesaid ; and shall have every other attribute and power whatsoever necessary or requisite to the carrying on of such its operations, to all intents as though incorporated by a special Act of Parliament embodying the provisions of this Act, and Corporate Powers of the Company after Decree.
 45 of such statement or declaration, and of such Decree.
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Allotment of Shares, and calling in of capital.

XVIII. If the statement or declaration of the Company makes no other definite provision, any shares of the Capital Stock, not hereby allotted, shall be distributed in such manner as the Trustees, by By-law or otherwise, may ordain, and at least one-tenth part of the allotted Capital Stock thereof shall be called in during every year.

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How the incorporation of the Company shall be stated in any action, &c.

XIX. In any action, suit or other legal proceeding, whether by or against the Company, it shall not be requisite to set forth the mode of incorporation of the Company, otherwise than by mention of the Court by which such Decree was granted, and of the dates of the granting and of the fying thereof, as aforesaid; and the notice by the Provincial Secretary in the Canada Gazette, of such fying, shall be conclusive proof of the name of the Company, and of the granting and filing of the Decree, and of the observance of every formality required in order thereto; and a copy of the Decree and of the statement or declaration whereon the same is based, being certified either by the Prothonotary or Clerk having custody thereof, or by the Provincial Secretary, shall conclusively establish every clause, matter and thing, therein set forth.

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Effect of Copy of Decree of incorporation as evidence, &c.

XX. The provisions of the ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, and nineteenth sections of the Act hereby amended, shall be held to apply to such Companies, in so far only as the same may not have been expressly derogated from (in terms of the fourth section of this Act) by the statement or declaration of the Company.

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Application of certain Sections of the Act may be modified by the Declaration.

Sect. 21 of the said Act Amended.

XXI. The twenty-first section of the said Act is hereby so amended as to read thus:—

New section.

The Trustees of every such Company may call in and demand from the Stockholders thereof, respectively, all sums of money by them subscribed, at such times and in such payments or instalments as the statement or declaration of the Company, or as this Act, may require or allow; and if payment be not made by any Stockholder, within sixty days after personal demand on him therefor, or after notice requiring such payment has been inserted as often as once a week, for six successive weeks, in a newspaper published in the City, District or County wherein the Company carries on its operations, or has its chief place of business, as the case may be, or (in default of such newspaper, then) in a newspaper published as near thereto as may be,—the shares whereon such payment is not made, and all previous payments made thereon, may be summarily forfeited, by a vote of the Trustees to that effect, reciting the facts and duly recorded in their minutes,—and shall thereupon become the property of the Company.

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Sect. 23 of the said Act Amended.

XXII. The twenty-third section of the Act is hereby so amended as to read thus:

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New section.

Every such Company shall cause a book to be kept by the Clerk, Secretary, or other Officer thereof, wherein shall be kept recorded:—

1. A correct copy of the Decree of Incorporation of the Company, and of the statement or declaration whereon the same is based,—as also, of any and every By-law and declaration for increasing the Capital Stock thereof, and of all Orders of Court allowing the same.

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2.—The names, alphabetically arranged, of all persons who are or have been stockholders;

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3.—The address and calling of every such person, while such Stockholder;

- 4.—The number of shares of stock, held by each Stockholder ;
 5.—The amounts paid in, and remaining unpaid, respectively, on the stock of each Stockholder ;
 6.—All transfers of stock, in their order as presented to the
 5 Company for entry, with the date and other particulars of each transfer, and the date of the entry thereof ; and—
 7. The names, address and calling of all persons who are or have been Trustees of the Company ; with the several dates at which each ever became, or ceased to be such Trustee.
- 10 XXIII. The twenty-fourth section of the Act is hereby so amended as to read thus :— Sect. 24 of the said Act Amended.
- Such book shall, during reasonable business hours of every day, except Sunday and obligatory holidays (*fêtes d'obligation*), be kept open for the inspection of Stockholders and Creditors of the Com-
 15 pany, and their personal Representatives, at the office or principal place of business of the Company. New section.
- XXIV. The twenty-seventh section of the Act is hereby so amended as to read thus :— Sect. 27 of the said Act Amended.
- 20 Every Officer or Agent of any Company, who knowingly makes or assists to make any untrue entry in 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. Punishment for wilfully falsifying Books.
- 25 XXV.—The Trustees may refuse to allow the entry into 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 Trustees, jointly and severally, shall be liable to the Creditors of
 30 the Company, in the same manner and to the same extent as the transferring Stockholder, but for such entry, would have been. Trustees may refuse to enter transfers in certain cases. Their Liability.
- XXVI.—The Thirty-first Section of the Act is hereby so amended as to read thus :— Sect. 31 of the said Act Amended.
- 35 No such 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 Act creating such other Corporation. New section.
- XXVII.—Each Stockholder, until the whole amount of his Stock has been paid up, shall be individually liable to the Creditors of the Company, to
 40 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. Liability of Shareholders.
- 45 XXVIII.—Any By-Law for increasing the Capital Stock of a Company may prescribe the manner in which the new Stock shall be distributed ; and in default of its so doing, the control of such distribution shall be held to vest absolutely in the Trustees. By-laws for increasing Stock may provide for its distribution.
- 50 XXIX.—Upon the passing, in the manner required by the said Act, of a By-Law for increasing the Capital Stock of a Company, Declaration by holders of

- new Stock. the persons entitled to become holders of the new Stock, whether in terms of such By-Law or by reason of the distribution thereof made by the Trustees, may (with the Trustees, or the major part of them) make and sign in duplicate a declaration setting forth :—
- Contents. 1.—The names, address and calling of each of them. 5
- 2.—The number of Shares of the new Stock taken by each of them ; amounting, in the aggregate, to not less than the one half of the total number of the Shares of such new Stock.
- Authenticated copy of By-law to be filed, &c. It may be allowed or disallowed by the Court. XXX.—A copy of such By-Law duly authenticated, and having one duplicate of such declaration appended thereto, may thereupon be fyled 10 by the Company, in the Office of the Prothonotary or Clerk of the Court having custody of the Decree of Incorporation of the Company ; and when so filed, the same shall be attested before such Prothonotary or Clerk, by the oath of at least one credible witness to every Signature thereto set ; and the Court, on summary application by the Company, 15 shall thereupon examine such By-Law and declaration, and shall allow or disallow the same according as they are found to be regular or otherwise.
- If allowed, By-law to be recorded, &c., and to take effect. XXXI.—On such allowance thereof, the Company may require and cause an authentic copy of the Order of the Court to that end, and of the By-Law 20 and declaration so allowed, to be fyled and recorded in the Office of the Provincial Secretary, and a notice to that effect in the form of Schedule C, annexed to this Act, under the Signature of the Provincial Secretary, to be inserted in the *Canada Gazette* ; and thereupon, from the date of such filing, the Capital Stock of the Company shall be and remain in- 25 creased to the amount, in the manner and subject to the conditions set forth by such By-Law.
- Judges to make Rules, &c., under this Act. XXXII.—The Judges of the Court of Queen's Bench for Lower Canada, or the major part of them, and the Judges of the Superior Courts of Common Law in Upper Canada, or the major part of them, may from 30 time to time, establish for Lower and Upper Canada respectively, such Rules as they may deem expedient, as to the practice to be followed for the obtaining of Decrees of Incorporation under this Act, whether before the Court of First Instance or in Appeal ; and, also, as to the awarding of costs in proceedings under this Act. 35
- Governor in Council to regulate fees, &c., under this Act. XXXIII.—The Governor in Council, at the instance of such Judges, or otherwise, may from time to time, by Proclamation, fix and regulate the Fees to be taken by all Registrars, and by all Officers of Courts, for the discharge of their respective functions under this Act.

SCHEDULE A.

Public Notice is hereby given, that under Chapter 63, of the Consolidated Statutes of Canada, as amended by the Act 23rd Victoria Chapter , there has been fyled in the Office of the undersigned [Prothonotary or Clerk *as may be*] of [*here designate in full the Court*] a statement or declaration signed by [*here give the names, address and calling of each signer*] and duly certified to have been fyled and registered in [*here designate each Registry Office wherein such filing and registration is certified to have taken place.*]

Also, that on the day of , application will be made to such Court, for a Decree to incorporate such signers, for the purpose of [*here state the object of the Company*] by the name of

