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No. 99.

3rd Session, 8th Parliament, 61 Victoria, 1898

BILL.

An Act to incorporate the Lake Champlain and St. Lawrence Ship Canal Company.

First reading, March 24th, 1898.

(PRIVATE BILL.)

MR. PRÉFONTAINE.

OTTAWA

Printed by S. E. DAWSON
Printer to the Queen's most Excellent Majesty
1898

An Act to incorporate the Lake Champlain and St. Lawrence Ship Canal Company.

WHEREAES the persons hereinafter named have, by their petition, prayed to be incorporated, and it is expedient to grant the prayer of the said petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

1. In this Act, unless the context otherwise requires,— Interpretation.

(a.) The word "canal" means "canal or navigation, and any branch canal," and includes every kind of work necessary or done in respect of the canals for the purpose of carrying out "Canal."

10 the objects of this Act;

(b.) The word "land," wherever used in *The Railway Act* "Land." or in this Act, includes land covered by water;

(c.) The word "vessel" includes any ship, barge, boat or raft "Vessel." passing through any of the canals hereby authorized, or plying 15 upon any lake or river connecting therewith;

(d.) The word "goods" includes any goods, merchandize "Goods." and commodities of whatsoever description, passing through any of the canals hereby authorized.

2. The Honourable Alfred A. Thibaudeau and the Honourable William Owens, of the city of Montreal, in the province Incorporation. of Quebec; the Honourable Smith M. Weed, of the city of Plattsburg; Charles F. Burger and J. Wesley Allison, both of the city of New York, in the state of New York; Charles H. Cummings, of Mauch Chunk, in the state of Pennsylvania, in 25 the United States; Raymond Préfontaine, Samuel H. Ewing, Albert J. Corriveau, Henri A. A. Brault, Robert Bickerdike, A. Haig-Sims, Paul Galibert, the Honourable Trefflé Berthiaume, and Charles Berger, all of the said city of Montreal; Samuel T. Willett, of Chambly Canton; Maurice Perrault, the 30 Honourable Jean Girouard, and Louis E. Morin, all of the town of Longueuil; James Ocain and Alexander MacDonald, both of the town of St. Johns, in the province of Quebec; Thomas Gauthier, William G. Reid, of the said city of Montreal; together with such persons as become shareholders in 35 the company, are hereby incorporated under the name of "Lake Champlain and St. Lawrence Ship Canal Company," Corporate name. hereinafter called "the Company."

3. The undertaking of the Company is hereby declared to Declaratory. be a work for the general advantage of Canada.

4. The head office of the Company shall be in the city of Head office. Montreal, in the province of Quebec, or at such other place in Canada as the Company from time to time determines by law.

- Capital stock.** **5.** The capital stock of the Company shall be six million dollars, divided into shares of one hundred dollars each, and may be called up by the directors from time to time as they deem necessary.
- Provisional directors.** **6.** The first twelve persons named in section 2 of this Act **5** shall be the first or provisional directors of the Company.
- First meeting of Company.** **7.** So soon as five hundred thousand dollars of the capital stock have been subscribed, and fifty thousand dollars thereof has been paid into some chartered bank in Canada, the provisional directors shall call a meeting of the shareholders of **10** the Company at the city of Montreal or at such other place in Canada as they determine, at which meeting the shareholders shall, from the shareholders who have paid all calls due on the stock held by them, elect seven persons to be directors of the Company, but the Company may at any time by **15** by-law increase or decrease the number of directors;
- Election of directors.** **2.** Notice in writing of the date and place of holding such meeting, signed by the provisional directors, and mailed, postage prepaid, to the post office address of each shareholder, not less than ten days previous to the calling of such meeting, **20** shall be deemed sufficient notice of such meeting.
- Notice of meeting.** **8.** The Company may,—
- Powers of Company. Canal.** **(a.)** lay out, construct and operate a canal from some point on the south shore of the River Saint Lawrence to some point on the Chambly Canal, Richelieu River or Lake Champlain, **25** whichever may be found most desirable and convenient, of such dimensions as to make a navigable channel of any depth, but not less than nine feet, and of any width not less than eighty feet at the bottom of the said channel;
- Locks, tow-paths, etc.** **(b.)** construct, and operate by any kind of motive power all **30** such locks, dams, tow-paths, branches, basins, feeders to supply water from the said lake, or from any rivers, creeks, reservoirs, cuttings, apparatus, appliances and machinery as may be desirable or necessary for the construction and operation of the canal;
- Appropriation of lands.** **(c.)** enter upon and take such lands as are necessary and proper for the making, preserving, maintaining, operating and using the canal and other works of the Company hereby authorized; dig, cut, trench, get, remove, take, carry away, and lay earth, clay, stone, soil, rubbish, trees, roots of trees, **40** beds of gravel or sand or any other matters or things which may be dug or got in making the canal and other works, on or out of the lands of any person adjoining or lying convenient thereto, and which may be proper, requisite, or necessary, for making or repairing the canal or the works incidental **45** thereto or connected therewith, or which may hinder, prevent or obstruct the making, using or completing, extending or maintaining the same, respectively, according to the intent and purposes of this Act;
- Passages.** **(d.)** make, maintain and alter any places or passages over, **50** under or through the canal or its connections;
- Water supply.** **(e.)** obtain, take and use, during the construction and operation of the canal, from the rivers, lake, brooks, streams, watercourses, reservoirs, and other sources of water supply

adjacent or near to the canal, water sufficient for the purposes of constructing, maintaining, operating and using the canal and works hereby authorized, and sufficient to establish and maintain a current at the rate on the average of

5 three miles per hour, through the navigable channel of the canal; and the Company shall, in the exercise of the powers granted by this paragraph do as little damage as possible, and shall make full compensation to all persons interested for all damage by them sustained by reason of the exercise of such
10 powers, and such damage in case of disagreement shall be settled in the same manner as is provided for fixing compensation under the provisions of *The Railway Act*;

Compensation for damages.

(f.) lay out, construct and operate by any motive power, a double or single track railway of iron or steel rails, of any
15 gauge not less than three feet, along or near the side or sides of the canal, and construct and operate branch lines connecting with the lines of the Montreal and Southern Counties Railway Company, the Montreal and Province Line Railway Company, the South Shore Railway Company, the Grand
20 Trunk Railway Company, the Canadian Pacific Railway Company and other railway companies;

Line of railway.

(g.) acquire, construct, operate, lease or otherwise dispose of, terminals, harbours, wharfs, docks, piers, elevators, warehouses, dry docks and other structures, and building and re-
25 pairing yards, and all works incidental thereto, upon the canal or upon lands adjoining or near the same;

Harbours, warehouses, etc.

(h.) acquire, lay out, lease and otherwise dispose of land, and use, lease and otherwise dispose of water brought by or for the canal or works but not requisite for the same; and
30 may also construct and operate works for, and produce hy-
draulic, pneumatic, electric, natural gas, steam and other power, and sell, lease, supply and otherwise dispose of light, heat and power from the same, and propel vessels in and through the canal by any kind of force, and sell, lease or
35 otherwise dispose of the said works;

Land. Surpluswater.

Power works.

(i.) acquire, construct, navigate and dispose of vessels to Vessels.
ply on the canal, and the lakes, rivers and canals connecting therewith, and may also make agreements for vessels to ply upon the said canal, lake and rivers;

40 (j.) acquire, by licence, purchase or otherwise, any rights Patent rights.
in letters patent, franchises, or patent rights, for the purposes of the works hereby authorized, and again dispose of such rights;

(k.) the Company may divide its undertaking into sections. Sections.

45 9. The Company may, subject to the provisions contained in section 10 of this Act, construct, operate and maintain telegraph and telephone lines, and lines for the conveyance of electric and other power by wires or pipes, along the whole length of the said canal and its approaches, and from and be-

Telegraphs and telephones.

50 tween the said canal and cities, towns and incorporated villages, and may establish offices for the transmission of messages for the public, and collect tolls therefor, and, for the purposes of erecting and working such telegraph and telephone lines and electric plant, the Company may enter into contracts with
55 any other company, or may lease the Company's lines.

Electric power.

Arrangements
with telegraph
and telephone
companies.

Rates to be
approved by
Governor in
Council.

R.S.C., c. 132.

Power to
enter on
highway.

Erect poles.

Stretch wires.

Break up
highway.

Travel not to
be obstructed.

Height of
wires.

Kind of poles.

Cutting poles
or wires in
case of fire.

Injury to
trees.

Supervision of
municipality.

Surface of
street to be
restored.

Future legis-
lation as to
carrying wires
underground.

Workmen to
wear badges.

2. The Company may enter into arrangements with any other telegraph or telephone company for the exchange and transmission of messages, or for the working in whole or in part of the lines of the Company.

3. No rates or charges shall be demanded or taken from any person for the transmission of any message by telegraph or for leasing or using the telegraphs or telephones of the Company, until such rates or charges have been approved of by the Governor in Council.

4. *The Electric Telegraph Companies Act* shall apply to the 10 telegraphic business of the Company.

10. The Company may enter on any highway or public place for the purpose of constructing and maintaining its lines of telegraph and telephone, and lines for the conveyance of electric power, and, when deemed necessary by the Company 15 for the purpose of its telegraph and telephone systems, and its system for supplying electric power, may erect, equip and maintain poles and other works and devices, and stretch wires and other telephonic, telegraphic, or other electrical contrivances thereon, and, as often as the Company think proper, 20 may break up and open any highway or public place, subject, however, to the following provisions :—

(a.) The Company shall not interfere with the public right of travel, nor in any way obstruct the entrance to any door or gateway, or free access to any building ;

(b.) The Company shall not affix any wire less than twenty-two feet above the ground, nor, without the consent of the municipal council, erect more than one line of poles along any highway ;

(c.) All poles shall be as nearly as possible straight and 30 perpendicular, and shall, in cities, be painted, if so required by any by-law of the council ;

(d.) The Company shall not be entitled to damages on account of its poles or wires being cut by direction of the officer in charge of the fire brigade at any fire, if, in the 35 opinion of such officer, it is advisable that such poles or wires be cut ;

(e.) The Company shall not cut down or mutilate any shade, fruit or ornamental tree ;

(f.) The opening up of streets for the erection of poles or for 40 carrying wires underground, shall be subject to the direction and approval of such person as the municipal council shall appoint, and shall be done in such manner as the said council directs ; the council may also designate the places where such poles shall be erected, and the streets shall, without any unnecessary delay, be restored, as far as possible, to their former condition, by and at the expense of the Company.

(g.) In case efficient means are devised for carrying telegraph and telephone wires under ground, no Act of Parliament requiring the Company to adopt such means, and 50 abrogating the right given by this section to carry lines on poles, shall be deemed an infringement of the privileges granted by this Act, and the Company shall not be entitled to damages therefor ;

(h.) Every person employed upon the work of erecting or 55 repairing any line or instrument of the Company shall have

conspicuously attached to his dress a badge, on which are legibly inscribed the name of the Company and a number by which he can be readily identified;

(i.) Nothing herein contained shall be deemed to authorize the Company to enter upon any private property for the purpose of erecting, maintaining or repairing any of its works, without the previous assent of the owner or occupant of the property for the time being ;

(j.) If, for the purpose of removing buildings, or in the exercise of the public right of travel, it is necessary that the said wires or poles be temporarily removed, by cutting or otherwise, the Company shall, at its own expense, upon reasonable notice in writing from any person requiring it, remove such wires or poles; and in default of the Company so doing, 15 such person may remove such wires and poles at the expense of the Company. The said notice may be given either at any office of the Company, or to any agent or officer of the Company in the municipality wherein are the wires or poles required to be removed, or, in the case of a municipality where 20 there is no such agent or officer, then either at the head office, or to any agent or officer of the Company in the nearest or any adjoining municipality to that in which such wires or poles are ;

(k.) The Company shall be responsible for all damage which it causes in carrying out or maintaining any of its said works. [Provided that the Company shall not be responsible to consumers of electricity for any interruption in the supply of light or power arising from that cause, or in the carrying out of the purposes herein mentioned.]

30 11. The Company shall make due provision for, take care and dispose of, all water and drainage, to the extent to which it disturbs or interferes with artificial drains, natural streams or water-courses which the canal crosses, touches or interferes with, and which are in existence at the time of construction 35 of the canal.

2. All subsequent questions, disputes or complaints as to the construction of new drains, and as to the alterations, enlargement and change of existing drains and of natural streams or water-courses, and as to who shall make such alterations, 40 enlargement and change, and by whom the expense thereof shall be paid, and also any complaint or dispute as to the sufficiency of compliance with the provisions of the next preceding subsection, shall be enquired into, heard and determined by the Railway Committee of the Privy Council, in 45 the same manner as is provided for other matters to be enquired into, heard and determined by the said committee under *The Railway Act*.

12. When the Company and the owners or occupiers of private property entered upon cannot agree as to the compensation for the lands required for the construction or maintenance of any works authorized under this Act, or for damages to lands injured by the Company, the matter shall be settled in the same manner as is provided for obtaining title and fixing compensation under *The Railway Act*, so far as the same 55 may be applicable.

Private rights.

Temporary removal of wires and poles.

Notice to Company.

Liability for damage.

Proviso.

Interference with drainage systems.

Disputes to be determined by Railway Committee.

Proceedings when land required for undertaking.

"Lands"
defined.

2. In sections 8, 12, 13, 16 and 17 of this Act, the expression "lands" means the lands the acquiring, taking or using of which is incident to the exercise of the powers given by this Act.

Rights of
Company in
cases of
accident to
canal.

13. In case of any accident requiring immediate repair on the canal, the Company may enter upon the adjoining land, provided such land is not an orchard or garden, and may dig for, work, get and carry away and use such gravel, stone, earth, clay or other materials, as may be necessary for the repair of the accident aforesaid, doing as little damage as possible to such land, and making compensation therefor; and in case of dispute or difference regarding the amount to be so paid, the same shall be decided by arbitration as provided in *The Railway Act*; but before entering upon any land for the purposes aforesaid, the Company shall, in case the consent of the owner is not obtained thereto, pay into one of the superior courts of the province of Quebec, such sum, with interest thereon for six months, as is fixed, on the *ex parte* application of the Company, by a judge of the Superior Court of the district in which such land is situate. 20

Arbitration
in case of
disputes.

14. The Company may open, cut and erect such ponds and basins for the laying up and turning of vessels using the canal at such points thereon as they deem expedient, and may also build and erect such dry docks, slips and machinery for the hauling out and repairing of vessels as they think proper, 25 or may lease or hire the same.

Basins for
laying up
vessels.

Dry docks.

15. The Company shall, at every place where the canal crosses any railway, highway, or public road, (unless exempted from the provisions of this section as far as any highway or public road is concerned, by the municipality having jurisdiction over such highway or public road,) construct and maintain, to the satisfaction of the Governor in Council, bridges for passage over the canal, so that the public thoroughfare or railway may be as little impeded as possible, and the Company shall not, in making the canal, cut through or interrupt the 35 passage on any highway or public road, until it has made a convenient road past its works for the use of the public; and for every day on which it shall neglect to comply with the requirements of this section, the Company shall incur a penalty of ten dollars. 40

Penalty for
impeding
traffic.

Extend of
appropriated
land limited.

16. The lands, ground or property to be taken or used, without the consent of the proprietors, for the canal and works, and the ditches, drains and fences to separate the same from the adjoining lands, shall not together exceed four hundred yards in breadth, except in places where basins and 45 other works are required to be cut or made as necessary parts of the canal as shown on the plan to be approved as hereinafter provided by the Governor in Council, or where flooding or drowning of land is unavoidable, on account of the construction of dams. 50

Company's
rights when
person errone-

17. The Company may make, carry or place the canal or works into, and across or upon the lands of any person

whomsoever in the line shown on the plan adopted (or within ^{ously named} as owner.
a distance of five hundred yards from such line, except at the points of entering the river and canal aforesaid, or Lake Champlain, where they shall be confined to the line shown on the said plan), although the name of the said person be not entered in the said book of reference through error, want of sufficient information, or any other cause, or although some other person be erroneously mentioned as the owner of, or the party entitled to convey, or as interested in such lands.

10. 18. The Company may take, use, occupy and hold, but not Public beach. alienate, so much of the public beach or beach road, or the land covered with the waters of the rivers or lakes which the canal may cross, start from or terminate at, as may be required, for the wharves and other works of the canal, for making easy entrance thereto, and for the other works which they are hereby authorized to construct, doing no damage to nor causing any obstructions in the navigation of the said rivers or lake, and conforming in all respects to the plan and modes of construction sanctioned as aforesaid by the Governor in Council, except in so far only as he may at any time authorize a deviation from such plan and mode of construction.

19. With the consent of the Governor in Council, the Company may, in connection with the works hereby authorized, improve, widen, deepen and straighten the Richelieu River channel, the Chambly Canal, Lachine Canal, St. Ann's Canal, Carillon Canal, and Grenville Canal, or any of them, but shall carry out the said works of improvement in such a way as not to impair or impede navigation therein, or impair the efficiency of the existing locks in the said canals; or may construct wholly new canals parallel to those above named, or a wholly new canal parallel to any of them, as to avoid, so far as possible, interference with works now existing; and the Company may also dredge and open a suitable navigable channel, in the Ottawa River, the Mattawan River, and the French River, and the waters connecting the same, wherever it may be advisable so to do to carry out the objects authorized by this Act; but the Company shall carry out the works necessary to dredge and open such channel in the said rivers, and the waters connecting the same, in such a way as not to impair or impede navigation therein.

20. If any lock, canal, dam, slide, boom, bridge, or other works the property of the Government of Canada, and whether now in its possession or leased to any person, is required by the Company for the purposes of its undertaking, the Company may, with the consent of the Governor in Council, and upon such terms as may be agreed upon between the Company and the Government, take such locks, canals, dams, slides, booms, bridges, or other works, for the purposes of its undertaking.

21. Before the Company shall break ground or commence the construction of any of the canals or works hereby authorized, the plans, locations, dimensions and all necessary particulars of such canals and works shall be submitted to and approved by the Governor in Council.

Irrigation.

22. The Company may take, use and dispose of water for the purposes of the said canals, and for irrigation purposes, as well as for the production and operation of electric power and energy as aforesaid.

Terms for power, etc., to be agreed upon.

2. The water, hydraulic power and electricity supplied by the Company, or its grantees, shall be supplied upon the terms and conditions to be agreed upon between the parties interested. 5

Company may examine apparatus.

3. The Company may examine and repair all the apparatus which is used to distribute such water, hydraulic power and 10 electricity; and its employees may enter upon private property for such purposes only.

Directors may make by-laws.

23. The directors may make by-laws regulating the qualification of directors, the transfer of shares, and the time and place of shareholders' and directors' meetings. 15

Capital may be increased or decreased.

24. The directors may also, by by-law, change or convert the shares or capital stock of the Company from Canadian currency to sterling, or francs, and *vice versa*, and increase or decrease the par value of such shares.

Company may make by-laws.

25. In addition to the general powers to make by-laws under 20 *The Railway Act*, the Company may, subject to the approval of the Governor in Council, make by-laws, rules or regulations for the following purposes, that is to say:—

Speed.

(a.) for regulating the speed at which, and the mode by which, vessels using the Company's works are to be propelled; 25

Hours of arrival and departure of vessels.

(b.) for regulating the hours of the arrival and departure of such vessels;

Loading and draught.

(c.) for regulating the loading or unloading of such vessels and the draught thereof;

Tobacco.

(d.) for preventing the smoking of tobacco upon the works, 30 the bringing into or upon the property of the Company of dangerous or deleterious substances, and for the proper care and preservation of the Company's property;

Travel.

(e.) for regulating the travelling and transportation upon and the using and the working of the canal; 35

Conduct of employees.

(f.) for regulating the conduct of the officers, servants and employees of the Company;

Use of canal.

(g.) for the maintaining, preserving and using the canal and all other works hereby authorized to be constructed or connected therewith, for the governing of all persons and 40 vessels passing through the said canal;

Management of affairs.

(h.) for providing for the due management of the affairs of the Company in all respects.

Issue of bonds.

26. The directors, whenever authorized by by-law for that purpose, approved by the votes of holders of at least two-thirds 45 in value of the subscribed stock of the Company, present or represented by proxy at a special general meeting called for considering such by-law, as the shareholders deem necessary, issue bonds or debentures in sums of one hundred dollars each or for the amount determined by the by-law, at such rate of 50 interest and payable at such time and places, and secured in such manner, by mortgage or otherwise, upon the whole or any portion of the property, or undertaking, of the Company, as

may be prescribed in such by-law, or decided upon by the directors, upon the authority thereof, and the Company may make such provision respecting the redemption of such securities as it deems proper.

5 **27.** The directors may issue, as paid up stock, shares of the capital stock of the Company in payment of and for all or any of the businesses, franchises, undertakings, properties, rights, powers, privileges, letters patent, contracts, real estate, stock and assets, and other property of any person or municipal corporation which it may lawfully acquire by virtue of this Act, and may allot and hand over such shares to any such person or corporation or its shareholders; and may issue, as paid-up and unassessable stock, shares of the capital stock of the Company, and allot and hand over the same in payment for right of way, lands, rights, plant, property, letters patent of invention, rolling stock or materials of any kind, [or services rendered to the Company,] and any such issue and allotment of stock shall be binding on the Company, and such stock shall not be assessable for calls, nor shall the holders thereof be liable in any way thereon, and the Company may pay for any such property [or services rendered to the Company], wholly or partly in paid-up shares, or wholly or partly in debentures, as the directors deem proper.

28. The Company may amalgamate with any other company, and may acquire the property, rights, franchises and privileges, in whole or in part, of other companies, with the consent of the majority of the shareholders at a meeting specially called for the purpose of considering the same.

25 **29.** The directors may, from time to time, with the consent of the majority of the shareholders present or represented by proxy at a meeting called for such purpose, issue debenture stock which shall be considered as a part of the regular debt authorized by section 26 of this Act, in such amounts and manner, on such terms, and bearing such rates of interest, as the directors from time to time, think proper, and the Company may, from time to time, borrow money to an amount which shall not exceed five times the amount of its paid up and unimpaired capital, and it may, for that purpose, execute, negotiate, and issue obligations or bonds, or debentures, in sums of one hundred dollars, or as authorized by section 26 of this Act, redeemable at a fixed period or within a definite term, by means of drawings, with or without premiums or prizes. It may stipulate and pay on its obligations or bonds, or debentures, which may be issued by it, any rate of interest that may be lawfully taken by individuals at the place where they are issued.

30. The mortgage bonds, debentures or other securities of the Company, issued under the provisions of this Act, may be issued in the denominations of pounds, dollars or francs, or any and all of them, and may be made payable, both as to principal and interest, in Canada, the United States or Europe, and the coupons attached, representing the interest on

such bonds or obligations, may correspond to the denomination of the bond to which they are attached.

Exchange of bonds for debenture stock.

31. The Company may make such arrangements and regulations respecting the conversion and exchange of its mortgage bonds and debentures into and for debenture stock, as may be deemed expedient by the respective holders thereof, and the Company may exchange and reconvert the same. The Company may also mortgage or pledge the bonds which it is hereby authorized to issue, for the construction of its works or otherwise. 5

Power to mortgage bonds.

Bonds, how apportioned.

32. The Company may issue the bonds, debentures and other securities authorized to be issued by this Act, separately, with respect to each of the sections, or as to certain sections combined, or on the whole work and property of the Company; and such bonds, debentures or securities, if so issued, shall, 15 subject to the provisions contained in section 94 of *The Railway Act*, form a first charge upon and be limited to the particular section or sections in respect to which respectively they are issued, and upon all the property of the Company belonging to such section or sections. 20

Agreements with other companies for sale, etc., of Company's property.

33. The Company may enter into and make any agreement with any other company for leasing, selling or transferring to such company any of the Company's property, rights, franchises, and privileges, in whole or in part, and may acquire the property, rights, franchises and privileges of 25 any other company; provided that such agreement has been first approved by two thirds of the votes at a special general meeting of the shareholders duly called for the purpose of considering the same, at which meeting shareholders representing at least two thirds of the stock are present or represented by proxy, and that such agreement has also received the sanction of the Governor in Council. 30

Approval of shareholders and Governor in Council.

2. Such sanction shall not be signified until after notice of the proposed application therefor has been published in the manner and for the time set forth in section 239 of *The Railway Act*, and also for a like period in one newspaper in each of the counties through which the canal of the Company runs and in which a newspaper is published. 35

Notice of application for sanction.

Obstruction of canals.

34. If any person shall in any way obstruct or interrupt the free use of the said canals, or the flumes or works incident thereto or connected therewith, or do damage thereto, or to any of the docks, piers, wharves, warehouses, sheds, buildings, tanks, cranes, weigh beams, elevators, or other erections or works of the Company, such person shall, for every such offence, in addition to paying the Company the actual 40 amount of damage caused, incur a forfeiture or penalty of not less than twenty-five dollars and not exceeding four hundred dollars, to be recovered before one or more justices of the peace for the district in which the offence was committed; and one half of such penalty shall go to the prosecutor or informer, 50 and the other half to Her Majesty; and in default of the payment of such fine, within fifteen days from the rendering of the judgment, the person so condemned may be imprisoned for a

Penalty.

period of not less than fifteen days, and not more than two months, which imprisonment shall cease upon payment of the said fine, and costs.

35. In all cases where there is a fraction of a mile in the distance which vessels, rafts, goods, wares, merchandize or other commodities or passengers shall be conveyed or transported on the canal, such fraction shall, in ascertaining the rate of charge be deemed and considered as a whole mile ; and in all cases where there is a fraction of a ton in the weight of any such goods, wares, merchandize and other commodities, a proportion of the said rate shall be demanded and taken by the Company, calculated upon the number of quarters of a ton contained therein ; and in all cases where there is fraction of a quarter of a ton, such fraction shall be deemed and considered as a whole quarter of a ton.

36. Every vessel using the canal shall have her draught of water legibly marked in figures not less than six inches in length, from one foot to her greatest draught, upon the stem and stern posts ; and any wilful mistatement of such figures so as to mislead the officers of the Company as to any vessel's true draught, shall be punishable as an indictable offence on the part of the owner and master of such vessel, and the Company may detain any such vessel upon which incorrect figures of draught are found, until the same are corrected at the expense of her owner.

37. Every owner or master of a vessel navigating the canal shall permit it to be gauged and measured, and every such owner or master who refuses to permit the same shall forfeit and pay the sum of two hundred dollars ; and the proper officer of the Company may gauge and measure all vessels using the canal, and his decision shall be final with respect to the tolls to be paid thereon, and he may mark the tonnage or measurement on every vessel using the canal ; and such measure so marked by him shall always be evidence respecting the tonnage in all questions respecting the tolls or dues to be paid to the Company by virtue thereof.

38. Any Act hereafter passed by Parliament, or any order of the Governor in Council, with regard to the exclusive use of the canal by the Government at any time, or the carriage of Her Majesty's mails or Her Majesty's forces, and other persons or articles, or the rates to be paid for carrying the same, or in any way respecting the use of any electric telegraph or any service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges conferred by this Act.

39. The Company shall, within six months after any land shall be taken for the use of the canal, divide and separate, and shall keep constantly divided and separated, the land so taken, from the lands and grounds adjoining thereto, with a sufficient port and rail, hedge, ditch, bank or other kind of fence sufficient to keep off hogs, sheep and cattle, to be set and made on the lands or grounds purchased by, conveyed to, or

Rates of
charge.

Draught to be
marked on
vessels.

Use of canal
by Govern-
ment.

Lands taken
for use of canal
to be separated
by fence, etc.

vested in the Company, as aforesaid, and shall, at its own cost and charges, from time to time maintain, support and keep in sufficient repair the said posts, fences, rails, hedges, ditches, trenches, banks and other fences so set up and made as aforesaid.

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Canal to be measured.

40. So soon as possible be after the canal is completed, the Company shall cause it to be measured, and stones or posts, with proper inscriptions on the sides thereof denoting the distances, shall be erected and maintained at convenient distances from each other.

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Sunken vessels.

41. If any vessel is sunk or grounded in any part of the canal or in any approach thereto, and if the owner or master thereof neglects or refuses to remove it forthwith, the Company may forthwith proceed to have it raised or removed, and may retain possession of it until the charges and expenses necessarily incurred by the Company in so raising and removing it are paid and satisfied; and the Company may sue for and recover in any court of competent jurisdiction such charges and expenses from the owner or master of such vessel.

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Crown may take over canal.

42. Her Majesty may at any time assume the possession and property of the canal and works, and all the rights, privileges and advantages of the Company, all of which shall, after such assumption, be vested in Her Majesty, on giving to the Company one month's notice thereof, and on paying to the Company the value of the same, to be fixed by three arbitrators or the majority of them, one to be chosen by the Government, another by the Company, and a third arbitrator by the two arbitrators; and the arbitrators may, in such valuation, take into account the expenditure of the Company, its property, the business of the canal and other works hereby authorized, and their past, present and prospective business, with interest from the time of the investment thereof.

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Notice to Company.

Time for construction limited.

43. If the construction of the canal hereby authorized to be constructed is not commenced within three years from the passing of this Act, or if the said canal is not finished and put in operation within seven years from the passing of this Act, then the powers granted by this Act shall cease and be null and void as respects so much of the canal as then remains uncompleted.

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1888, c. 29.

44. *The Railway Act* shall, so far as applicable, and when not inconsistent with the provisions of this Act, and except sections 3 to 25, both inclusive, 36, 37, 38, 41, 89, subsection 3 of section 93, sections 103, 104, 105, 112, 120, 173 to 177, both inclusive, 179, 180, 182 to 199, both inclusive, 209, 210, 214, 240 to 263, both inclusive, 271 to 274, both inclusive, 276 to 286, both inclusive, and 288 to 293, both inclusive, apply to the Company, and to the canal and works of the Company, except the railways authorized under paragraph (f) of section 8 of this Act, to which railways the whole of *The Railway Act* shall apply.

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2. Wherever in *The Railway Act* the expression "railway" occurs, it shall, unless the context otherwise requires, and in so far as it applies to the provisions of this Act, or to the Company, mean the "canal" "or other works" hereby 5 authorized to be constructed; and in any section of *The Railway Act* relating to the collection of tolls, where the expressions "passengers" and "goods," or either of them, occur, such expressions shall be held to include any vessel passing through the canal, whether laden or otherwise.

10 45. *The Companies Clauses Act* shall not apply to the Company. R.S.C., c. 132
not to apply.

46. Any Act hereafter passed for the purpose of controlling railway companies incorporated by or subject to Parliament, as to the issuing of stock or bonds, and as to rates or tolls and 15 the regulation thereof, and as to running powers over or other rights in connection with the railway of any company by any other company, and the exercise of powers conferred upon railway companies, shall apply to the Company from the time such Act goes into effect; but this section shall not be construed to imply that such Act would not apply to the Company without the enactment of this section.