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No. 31.

3rd Session, 1st Parliament, 33 Vict., 1870.

BILL.

An Act to incorporate the Ontario and
Erie Ship Canal Company.

PRIVATE BILL.

Mr. ANGUS MORRISON (Niagara).

OTTAWA :

Printed by I. B. TAYLOR, 29, 31 & 33 Rideau Street.

1870.

An Act to Incorporate the Ontario and Erie Ship Canal Company.

WHEREAS, the Municipalities of the Town and Township of Niagara, the respective Boards of Trade of the Cities of Chicago, Oswego, Toledo, the Chamber of Commerce of the City of Milwaukee, and others interested in obtaining greater inland navigation facilities than at present exist, have petitioned for the incorporation of a Company to construct a Ship Canal in accordance with this Act; therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

10 1. Hon. Walter Dickson, Henry Paffard, S. S. J. Brown, William Kirby, Angus Smith, John Brown, J. M. Richards, F. J. King, J. S. McMurray, S. H. McRae, Robert F. Sage, Donald Robertson, Cheney Ames, A. G. P. Dodge, D. B. Chambers, Hon. J. B. Robinson, Alexander Kirkland, Duncan Milloy, Edward
15 O'Neill, S. H. Follett, Angus Morrison, Thomas Walton, Daniel C. Gunn, or either of them, together with all such persons (subjects of Her Majesty, or others), as shall become stockholders of the Company hereinafter mentioned, shall be, and are hereby, ordained, constituted, and declared, to be a body corporate and politic in fact,
20 and by the name of the "Ontario and Erie Ship Canal Company," and by that name they and his successors shall and may have continued succession; and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered
25 unto, in all courts and places whatsoever, in all manner of actions, suits, complaints, matters, and causes whatsoever; and they and their successors may, and shall, have a common seal, and may change and alter the same at their will and pleasure; and also, they and their successors by the same name of the Ontario and Erie Ship Canal
30 Company, shall be in law capable of purchasing and holding to them and their successors, any real estate, personal, or mixed, to and for the use of the said Company, and of letting, selling, conveying, or otherwise departing therewith, for the benefit, and on the account of the said Company, from time to time as they shall deem expedient
35 or necessary.

Certain powers incorporated.

Corporate powers.

2. The Directors of the said Company shall have full power and authority to survey and explore the country lying between the waters of the Niagara River and Lake Erie, and to designate and establish, and for the said Company to take, appropriate, have and
40 hold, to and for the use of them and their successors, the line and boundaries of a Ship Canal, to commence on the Niagara River, at or near Fort George in the town of Niagara, and thence to a point at or near the village of Thorold, and from thence to the waters of Lake Erie, at or near Port Colborne, or to the waters of the Upper
45 Niagara River, at or near the village of Chippewa; and to build and erect the same, with the necessary locks, dams, tow-paths, branches, feeders, basins, and tramways, and also, to select such

Power to construct a Ship Canal.

Proviso. sites for such warehouses and other erections as may be considered expedient by the said Directors, and to purchase and dispose of the same to and for the use and profit of the said Company; Provided that nothing hereinbefore contained shall be construed to extend to compel the owners of any mill seat which shall be in existence 5 before the construction of the said Canal, or any of its branches or feeders, to sell or convey the same to the said Company, unless the same shall be in the line of the said Canal, or that the possession of the same shall be necessary to the construction of the said Canal or any of its branches and feeders; Provided also, that the owner 10 or owners of any mill seat or mill seats, using any additional supply of water brought thereto by the said canal, or its branches or feeders, shall pay a reasonable compensation therefor to the said Company, to be determined, as hereinafter provided for determining any damage done to property by the said Company. 15

Plan to be submitted to Governor in Council. 3. Before the said Company shall break ground, or commence the construction of the said Canal, the plan, location, dimensions, and all necessary particulars of the said Canal, and the locks, bridges, and other works therewith connected, and the points at which it is to leave the River Niagara, shall have been submitted 20 to, and received the sanction of, the Governor in Council; and the said Canal, and locks, and works thereon, shall not be of a less size, depth, or capacity, than the Cornwall Canal, on the River St. Lawrence;—[and all maps, plans, surveys, levels, reports, and documents, relating to a survey of a Branch Canal to connect the 25 Welland Canal with the mouth of the Niagara River, now in possession of the Government, or copies thereof, shall be open to and placed at the disposal of the said Company, to aid it in the prosecution of its works, and the preparation of the map or plan and book of reference hereinafter mentioned.] 30

Company to have power to take water, &c for the use of the Canal. 4. It shall and may be lawful for the said Company, and they are hereby authorized and empowered, from and after the passing of this Act, to supply the said Canal, whilst making, and when made, with water from all such brooks, springs, streams, water-courses, lakes, hollows or repositories of water, as shall be found in 35 making the said Canal, or within the distance of two thousand yards of the same, or any part thereof, or any reservoir or reservoirs to be made for the supplying of the said canal with water; and the said Company are hereby authorized and empowered to make all such reservoirs, and such and so many feeders, branches, 40 aqueducts, tunnels and channels in connection with and for the use of the said Canal, as to them shall seem necessary and proper; and for the purposes aforesaid, the said Company, their agents, servants, and workmen, are hereby authorized and empowered to enter upon and into the lands and grounds of, or belonging to the 45 Queen's Majesty, Her Heirs or Successors, or any other person or persons, bodies corporate or politic (except as hereinbefore mentioned), and to survey and take lands of the same or any part thereof, and to set out and ascertain such parts as they shall think necessary and proper for the making of the said Canal and 50 its appurtenances, and for the completion of the said water connection and navigation, according to the true intent and meaning of this Act, and all such other matters and conveniences as they shall think proper and necessary for making, preserving, improving, completing, and using the said intended navigation, 55 and also to bore, dig, trench, cut, remove, take, carry away, and lay soil, clay, stone, rubbish, trees, roots, and stumps of trees, beds of gravel or sand, or any other matter or thing which may be dug

or got in the making of the said Canal, or in deepening or improving the navigation of any river or rivers, lake or lakes, in connection with, and forming part of the intended navigation, or out of any land of any person or persons adjoining or
 5 contiguous thereto, and which may be proper or convenient for carrying on the repairing of the said Canal, or other the said works, or which may hinder or obstruct the making, completing, and using the same, and the same to lay in or upon the boundaries of the said Canal or rivers and lakes forming portions of the said
 10 navigation, or in and upon the land of any other person or persons adjoining thereto; and also to make, build, erect and set up in and upon the said Canal, and at the points of entrance to the same, or any part thereof, or of the said intended navigation, or upon the land adjoining or near the same, such and so many wharves,
 15 quays, piers, landing places, bridges, tunnels, aqueducts, sluices, rivers, pens for water, tanks, reservoirs, drains, bridges, and other ways, roads, and works; as the said Company shall think requisite and convenient for the purpose of the said navigation; and also, from time to time, to alter, enlarge, amend, and repair
 20 the said works, or any of them, for conveying all manner of materials necessary for making, erecting, altering, or repairing, widening, or enlarging the said works, or any part thereof, and also, to place, lay, work, and manufacture the said materials, and erect such workshops, forges, and other erections as
 25 they may deem necessary, upon the lands near the said works; and to make, maintain, and alter, any places, or passages, over, under or through the said Canal, or any of its branches, or connections, or other part of the said intended navigation; and also to make, purchase, set up, and appoint,
 30 such tug or tow-boats, barges, vessels, or rafts, for the use of the said navigation, as they shall see fit; also to erect, and keep in repair, any piers, arches, or other works, in, upon, and across, any rivers, brooks, or lakes, for making, using, main-
 35 taining, and repairing the said Canal, and other the rivers and navigable waters, forming part of the said intended navigation, and the towing paths and other conveniences connected therewith; And also to construct, make, and do all other works, matters, and things whatsoever, which they shall think necessary and con-
 40 venient for the making, effecting, preserving, improving, com- pleting, and using the said Canal, and the said intended navigation, in pursuance of, and within the true meaning of this Act, they, the said Company, doing as little damage as may be in the execution of the powers hereby granted, and making satisfaction, in manner hereinafter mentioned, for all
 45 damages to be sustained by the owners or occupiers of such lands, hereditaments, and tenements.

5. The said Company may take, use, occupy, and hold, but not alienate, so much of the public beach or beach road, or of the land covered with the waters of the rivers or lake which
 50 the said Canal may cross, start from, or terminate at as may be required for the wharves and other works of the said Canal, for making easy entrances thereto, and other works which they are hereby authorized to construct, doing no damage to, nor causing any obstruction in the navigation of the said rivers or
 55 lake, and conforming in all respects to the plan and mode 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; And the said Company, with the sanction of the Governor in Council, and upon such
 Power to hold public beach, or beach road.
 Power to connect with the Welland Canal.

terms and conditions as may be agreed upon between the said Company and the Dominion Government, may cause their Canal to enter into the Welland Canal, above Lock 25, in the Village of Thorold, instead of taking it directly to Lake Erie, or to the Waters of the Upper Niagara River, and may widen, deepen, enlarge, alter, and improve so much of the Welland Canal and its Locks, as may be necessary, in order to make it from the point where the Canal, hereby authorised, shall intersect it to Port Colborne, not less in size, depth, and capacity, than the Cornwall Canal aforesaid. 10

Power to hold and use Welland Canal.

6. The said Company may take, hold, and use, any portion of the Welland Canal, and the works therewith connected, and all the tolls, receipts, and revenues thereof, upon terms to be settled and agreed upon between the Company, and the Governor in Council. 15

Owners of land to have power to sell to the Company.

7. After any land or ground shall be set out, and ascertained to be necessary for the purposes of the said navigation, or other purposes herein mentioned, it shall be lawful for all owners, whether individuals, or bodies corporate or politic, or trustees or lessees, or other party or parties, holding any right, title, interest, or claim, to any of such lands or grounds, to contract for, sell, and convey to the said Company, all, or any part of such land or ground, which shall, from time to time, be set out, and ascertained as aforesaid; and all such contracts, agreements, sales, and conveyances shall be valid and effectual in law to all intents or purposes, notwithstanding any law, statute, or usage to the contrary, and the amount of the purchase moneys to be paid for such lands or grounds respectively, shall be ascertained by arbitration, as hereinafter mentioned, unless in such cases as the owner or owners may agree thereupon, without the intervention of any third party. 20 25 30

Requirement of land by the Company.

8. The Directors of the said Company may contract, compound, compromise, settle, and agree, with the owners or occupiers respectively, of any land, through, or upon which they may determine to cut, and construct the said Canal, or other works, hereby authorized, either for the purchase of so much of the land, as they shall require for the purposes, uses, or profits of the Company, or for damages which he, she, or they shall, or may, be entitled to recover from the said Company, in consequence of any of the works hereby authorized being constructed in or upon his or their respective lands; and in case of any disagreement between the said Directors, and the owner or owners, occupier or occupiers aforesaid, the amount of the purchase moneys for the land and tenements proposed to be purchased, or the amount of damages to be paid to them as aforesaid, shall be ascertained by arbitration in manner hereinafter mentioned. 35 40 45

Disputes—how settled.

9. In each and every case where any dispute shall arise between the said Directors, or any other person or persons whomsoever, touching any purchase, sale, or damage, or the money to be paid in respect thereof, and in each and every case where, under the provisions of this Act, any purchase, sale, or damage, or the money to be paid in respect of the same, are directed to be ascertained and determined by arbitration, the same shall be referred to, ascertained and determined by three-indifferent persons, one of whom shall be chosen by the owner or occupier of the land, or other person or persons interested, 50 55

who shall disagree with the said Directors in respect to the compensation or purchase money to be paid him, her, or them respectively, pursuant to the provisions of this Act; one other of the arbitrators shall be chosen by the said Directors, and 5 the third shall be chosen by the two persons to be so named as aforesaid, and such three persons shall be the arbitrators to award, determine, adjudge, and order, the respective sums of money, which the said Company shall pay to the respective persons entitled to receive the same, and the award of such three 10 persons, or any two of them, shall be final; and the said arbitrators so appointed are hereby required to attend, at some convenient place on or near the line of the said Canal, to be appointed by the said Directors, within eight days after notice, in writing, shall be given them by the said Directors for that purpose, then 15 and there to arbitrate, award, and determine such matters as shall be submitted to their consideration by the parties interested; and each of the said arbitrators shall be sworn before one of Her Majesty's Justices of the Peace for the said District, for that purpose, any of whom may be required to attend 20 the said meeting, for that purpose, well and truly to assess the damages between the parties, according to the best of his judgment; Provided also, that if the owner or owners, or other person or persons, interested in any of the land required for carrying out the purposes of this Act, shall neglect, or refuse to appoint an 25 arbitrator, upon being notified to do so by the Directors aforesaid, by writing a letter to that effect, addressed to him, her, or them, at his, or their last, or then present residence, and by publication of such notice for one month, in one or more local newspapers of the District in which the land is situated; then, and in that case, after 30 the expiration of thirty days from the time of such notice being fully completed, the Judge of the County Court, within which the lands are situate, shall act as arbitrator for such party or parties so refusing or neglecting, and the said Judge shall, with the other two arbitrators, as hereinbefore provided, proceed 35 to adjudge or determine the damages, or purchase money, or other matter, or thing, submitted to their judgment, according to the provisions of this Act; And provided further, that either party dissatisfied with the said award may apply to any of the Superior Courts of Law or Equity during the term next after the 40 publication of such award, to set it aside, for any cause for which an award could be set aside as between party and party; and any of the said Courts shall have cognizance thereof, although the submission do not provide for its being made a rule of the Court; and provided, further, that in all arbitrations under this Act, 45 the arbitrators shall take into consideration the benefit conferred on the property on which they are arbitrating, as well as the damage done to any particular portion thereof.

10. For the purpose of this Act, the said Company shall, and may, by some Provincial Land Surveyor in the Province, 50 and by an Engineer by them appointed, cause to be taken and made, surveys and levels of the said lands, through which the said intended Canal is to be carried, together with a map or plan of such intended Canal, and the course and direction thereof, and of the said lands through which the same is to pass, and also 55 a book of reference of the said Canal, in which shall be set forth a description of the said several lands, and the names of the owners, occupiers, and proprietors thereof, so far as the same can be ascertained, and in which shall be contained everything that is necessary for the right understanding of

such map, or plan, copies of which said map, or plan, and book of reference shall, on the completion of such survey, map, and book of reference, be deposited by the said Company in the offices of the respective Registrars for the several counties through which the said Canal, or any part thereof, shall pass, and also 5 in the office of the Secretary of State; and all persons shall have liberty to resort to such copies so to be deposited as aforesaid, and to make extracts from or copies thereof, as occasion shall require, paying to the said Secretary of State, or to the said respective Registrars, at the rate of ten cents current 10 money of the Dominion, for every one hundred words; and the said copies of the said map, or plan, and book of reference so deposited, or a true copy or copies thereof, certified by the Secretary of State, or by one of the said Registrars for the said respective counties, shall severally be, and they are hereby 15 declared to be, good evidence in the Courts of Law, and elsewhere.

Highways not to be obstructed.

11. Whenever any highway or public road shall be cut through by the said Canal, or any of its branches, the said Company shall, within one month thereafter, cause to be constructed a secure and sufficient bridge over the same, with proper approaches not exceeding a grade of one foot in twenty feet, so as to establish the communication between the several parts of such highway, under a penalty of twenty dollars per day for every day after the expiring of the said time, during which the said Company shall neglect to construct the said bridge: Provided always, that in the mean time 25 some temporary means of passing along the said highway shall be constructed or provided,

Persons maliciously injuring works.

12. If any person or persons shall maliciously, or wilfully break, injure, throw down, or destroy, any bank, lock-gate, sluice, or any other work, machine, or other device, belonging, or pertaining to the said Company, or do any other wilful act, hurt, or mischief, to disturb, hinder, or prevent, the carrying into execution, the completing, and supporting the said Canal and navigation, or any of its branches, feeders, or other connections or works belonging to the said Company, every such person or persons so 35 offending shall forfeit, and pay to the said Company, the full value of the damage so done, including loss or inconvenience occasioned by such obstruction, proved by the oath of two or more credible witnesses to have been done; such damages, with costs of suit in that behalf incurred, to be recovered in any Court having 40 competent jurisdiction, and such wilful and malicious act shall be a misdemeanor, and the party or parties committing the same shall, and may be indicted and tried for a misdemeanor, in any Court of competent jurisdiction, and on conviction thereof, may be committed to the common gaol for any time not exceeding twelve 45 months, at the discretion of the Court before whom such offenders shall have been convicted.

Persons obstructing navigation of the canal.

13. If any person shall obstruct, or impede the navigation of the said Canal, or other portion of the said intended navigation, by the introduction of any timber, or boats, or vessels, contrary to 50 the rules and regulations laid down for the government of the same, to be made by the said Directors, and shall not immediately, upon notice given to the owner or person in charge of such timber, raft, boat, or vessel, so obstructing the navigation, remove the same, every such owner or person in charge of such timber, raft, boat or 55 vessel so obstructing or impeding the navigation as aforesaid, shall forfeit and pay a sum not exceeding twenty dollars currency, for

Penalty.

every hour during which the said obstruction shall continue; and it shall be lawful for the Company, or their servants, to cause such obstruction to be removed, and to cause every such boat, vessel, or raft, as shall be so overladen as to cause obstruction, to be detained
 5 and unloaded, so as to prevent or remove such obstruction, and to recover the cost of so doing from the owner or person in charge of the same, and to seize and detain such vessel, boat, or raft, and the cargo thereof, or any part of the cargo or furniture of such vessel, boat or raft, until the charges occasioned by such unloading or
 10 removal, or both, shall be paid or satisfied: And if any vessel, boat, or raft shall be sunk in any part of the said intended navigation, and the owners shall neglect, or refuse to weigh and remove the same forthwith, the said Company may cause the same to be weighed and removed, and retain the same until all
 15 the charges necessarily incurred in so doing shall be paid or satisfied, and all such charges may be recovered, in any Court of competent jurisdiction, from the owners or persons in charge of such vessel, boat, or raft.

Vessels, &c.,
wrecked.

14. In case of any accident requiring immediate repair on the
 20 said Canal, or any part of the said navigation, the said Company, their agents, or workmen, may enter upon the adjoining land (not being an orchard or garden) without any previous treaty with the owners or occupiers thereof, and dig for, work, get, and carry away, and use, all such gravel, stone, earth, clay; or other
 25 materials, as may be necessary for the repair of the accident aforesaid, doing as little damage as may be 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 hereinbefore provided: Provided,
 30 however, that if any action or suit shall be brought against the said Company, for any matter or thing done in pursuance of this Act, such action or suit shall be brought within twelve calendar months after the fact committed, and not afterwards.

Powers in
case of acci-
dents requir-
ing immediate
repair.

Proviso.

15. The said Company may open, cut, and erect such ponds
 35 and basins for the lying up and turning of vessels, boats, or rafts, using the said Canal or navigation, and at such portions of the navigation as they shall deem expedient, and they may also build and erect such dry docks, slips, and machinery connected there-
 40 with, for the hauling out and repairing such vessels, as they shall think proper, and may let the same on such terms as they shall deem expedient, or carry on the business of the same by their servants or agents, as the said Company, or the Directors thereof, shall decide from time to time.

Power to open
and construct
basins, docks,
&c.

16. The said Company, in order to entitle themselves to the
 45 benefit and privileges conferred upon them by this Act, shall commence the said work within two years, and complete the said Canal within four years after the passing of this Act; otherwise, this Act, and anything herein contained, shall be null and void to all intents and purposes.

Time for con-
struction
limited.

17. Every vessel, of whatsoever kind, using the said Canal,
 50 shall have her draught of water legibly marked in figures of not less than six inches long, from one foot to her greatest draught, upon the stem and stern posts, and any wilful misstatement of such figures, so as to mislead the officers of the Canal as to any
 55 vessel's true draught, shall be punishable as a misdemeanor on the part of the owner and master of such vessel, and the said Directors

Vessels to
have draught
of water
marked.

may detain any such vessel upon which incorrect figures of draught shall be found, until the same are corrected at the expenses of her owner.

Measurement of tonnage. 18. And for preventing disputes touching the tonnage of vessels navigating the said Canal, every owner, or master of every boat, barge, raft, or vessel, navigating the said Canal, or other part of the said navigation, shall permit the same to be gauged and measured, and for refusing to permit the same, shall forfeit and pay the sum of twenty dollars, and it shall be lawful for the person appointed for that purpose by the said Directors, to gauge and measure all vessels using the said navigation, and his decision shall be final in respect to the tolls to be paid thereon, and he may mark the tonnage or measurement on every vessel habitually using the said 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 said Company by virtue thereof. 10 15

Power to hold lands granted by the Crown. 19. The said Company may hold all such lands and water, hereditaments and tenements, as may, at any time, be granted to them by Her Majesty the Queen, Her Heirs or Successors, necessary for the works. 20

Capital Stock. 19. The capital stock of the said company shall be eight millions of dollars, to be held in eighty thousand shares of one hundred dollars each; and the shares of the said capital stock shall after the first instalment thereon shall have been paid, be transferable by the respective persons subscribing or holding the same to any other person or persons, but no assignment or transfer shall be valid and effectual, unless it be made with the consent of the directors, and registered in the books to be kept by the said company for that purpose. 25

Whom may subscribe for shares. 20. All persons, subjects of Her Majesty, or others, may subscribe for any number of shares, the amount whereof, shall be payable to the said company, in the manner hereinafter mentioned, that is to say; five per cent. on each share so subscribed, shall be payable to the said company immediately after the stockholders shall have elected the directors as hereinafter mentioned, and the remainder by instalments of not more than twenty per centum, at such periods as the President and directors shall, from time to time, direct for the payment thereof, provided that no instalment shall be called in at a shorter period than sixty days from the next preceding instalment; Provided always, that if any stockholder or stockholders shall neglect or refuse to pay the said Company the instalment due upon any share, or shares, held by him, her, or them, at the time required by law, such share or shares, with the amount previously paid thereon, shall be forfeited, and the said Directors shall sell such share or shares by public auction, after having given thirty days' notice of such intended sale to such stockholder or respective stockholders, and the proceeds thereof, with the amount previously paid thereon, shall be accounted for, and applied in the same manner as the other funds of the Company; **Instalments.** 35 **Provido.** 40 **Provido.** 45 **Provido.** 50 Provided always, that such purchaser, or purchasers, shall pay all instalments which shall be due upon such shares, over and above the purchase-money thereof, immediately after the sale, and before they shall be entitled to a certificate of the transfer of such share or shares, so to be purchased, as aforesaid. 50

Company may appoint Agents. 21. The directors of the said company may appoint such and 60

so many agents in this Province, or in any other part of Her Majesty's Dominion, or elsewhere, as to them shall seem expedient, and may, by any By-law to be made for such purpose, empower, 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, or exercise, except the power of making By-laws; and all things done by such agent, or agents, by virtue of the powers in him vested by any such By-law, shall be as valid and effectual, to all intents and purposes, as if done by such directors themselves, anything in any part of this Act to the contrary notwithstanding.

22. Notwithstanding anything contained in the foregoing section, any of the Municipalities interested in the said works may subscribe for any number of shares in the capital stock of, or lend to, or guarantee the payment of any sum of money borrowed by the company from any corporation or person, or endorse, or guarantee the payment of any debenture to be issued by the company for the money by them borrowed, and shall have power to assess and levy, from time to time, upon the whole rateable property of the Municipality, a sufficient sum for them to discharge the debt, or any engagement so contracted, and for the like purpose to issue debentures, payable either in currency or sterling, and at such places either within or without the Dominion, and at such time, and for such sum respectively, not less than twenty dollars currency, and bearing or not bearing interest, as such Municipality may think fit; and any such debenture issued, endorsed, or guaranteed, shall be valid and binding upon such Municipality, if signed, or endorsed, and countersigned by such officer or person, and in such manner and form as shall be directed by any By-law of such Municipality, and the corporation seal thereto shall not be necessary, nor the observance of any other form with regard to the debentures than such as shall be directed in such By-law, as aforesaid.

23. No Municipality shall subscribe for stock, or incur any debt or liability under this Act, unless, and until a By-law to that effect shall have been duly made and adopted, with the consent first had of a majority of the qualified ratepayers of the Municipality, to be ascertained in such manner as shall be determined by the said By-law, after public advertisement thereof, containing a copy of such proposed By-law, inserted at least four times in each newspaper printed within the limits of the Municipality, or if none be printed therein, then in some one or more newspapers printed in the nearest city or town thereto and circulated therein, and also put up in, at least, four of the most public places in each Municipality.

24. The Mayor, Warden, or Reeve, being the head of such Municipality, subscribing for and holding stock in the company to the amount of twenty thousand dollars, or upwards, shall be, and continue to be, *ex officio* one of the directors of the company, in addition to the number of directors authorized by this Act, and shall have the same rights, powers, and duties as any of the directors of the company.

25. So soon as five hundred thousand dollars of the capital stock shall have been subscribed, and ten per cent. thereon shall have been paid into some one or more of the Chartered Banks of this Province, or into some branch or agency of such Bank or

Banks, it shall and may be lawful for the subscribers, or any of them, to call a meeting, pursuant to directions hereinafter contained, for the purpose of proceeding to elect directors as hereinafter mentioned, and such election shall then and there be made by a majority of the subscribers present, in person or by proxy, and the persons then chosen shall remain in office as directors, and be capable of serving until the first Wednesday in February succeeding their election; and until the aforesaid five hundred thousand dollars of stock shall have been subscribed, the following persons shall be provisional directors of the said company: Hon. Walter H. 10 Dickson, Henry Paffard, S. S. J. Brown, William Kirby, Angus Smith, John Brown, J. M. Richards, F. J. King, J. S. McMurray, S. H. McCrae, Robert F. Sage, Donald Robertson, Cheney Amos, A. G. P. Dodge, D. B. Chambers, Hon. J. B. Robinson, Alexander Kirkland, Duncan Milloy, Edward O'Neill, S. H. Follett, Angus 15 Morrison, Thomas Walton, Daniel C. Gunn, Henry Rolls, James Lawson, and George B. Gregg; Provided always that the parties hereinbefore named, or a majority of them, shall cause books of subscription to be opened in the town of Niagara, and in such other places as they may, from time to time, appoint, 20 until the meeting of shareholders, hereinafter provided for, for receiving the subscriptions of persons willing to become subscribers to the said undertaking; and for that purpose it shall be their duty, and they are hereby required to give public notice in one or more newspapers, published in the said town or place, as they, or 25 a majority of them, may think proper, of the time and places at which such books will be opened, and ready for receiving subscriptions, as aforesaid, the persons authorized by them to receive such subscriptions, and the Chartered Bank or Banks into which the ten per cent. thereon is to be paid, and the time hereinafter 30 limited for such payment; and every person whose name shall be written in such books as a subscriber to the said undertaking, and who shall have paid, within ten days after the closing of the said books, into the Bank or Banks aforesaid, or any branches or agencies thereof, ten per centum on the amount of stock so subscribed 35 for, to the credit of the said company, shall thereby become a member of the said company, and shall have the same rights and privileges as such, as are hereby conferred on the several persons who are herein mentioned by name, as members of the said company; Provided also, and it is hereby enacted, that such ten per cent. shall not be 40 withdrawn from the said bank or banks, or otherwise applied, except for the purposes of the said company.

Provisional
Directors.

Proviso.

Opening of
subscription
books.

Proviso.

Duties of
Directors.

26. The chief duties of the directors, so chosen, shall be, in the first place, to provide for and pay the preliminary expenses of the undertaking, procure and provide means for the payment for 45 accurate and detailed surveys, specifications, plans, and estimates of the work to be done, in order to complete the intended navigation as contemplated by this Act; also, to ask, and receive tenders for the whole or any part of the proposed work, and generally to do all things authorized by the said Company to be 50 done by virtue of this Act; also, to issue to the parties, persons, or bodies, who may have contributed towards the payment of the preliminary expenses, stock certificates of the Company, for the amount of the respective contributions.

Power to
borrow money

27. The said Company may from time to time lawfully 55 borrow, either in Canada, or elsewhere, such sum or sums of money, not exceeding at any time the subscribed and paid up capital of the Company, as they may find expedient, and may

make the bonds, debentures, or other securities, they shall grant for the sums so borrowed, payable either in currency or in sterling, and at such place, or places, within, or without this Dominion, as they may deem advisable, and may mortgage, or pledge the lands, 5 tolls, revenues, or other property of the said Company, for the due payment of the said sums, and the interest thereon; and the said Company may issue debentures, in sums of not less than one hundred dollars currency, at not less than twelve months, provided the whole debt, including such debentures, does not at any time 10 exceed the subscribed capital.

28. Each proprietor of shares in the said undertaking, shall be entitled, on every occasion when, in conformity to the provisions of this Act, the votes of the members of the said Company are to be given, to one vote for each share; Provided always, that all 15 proprietors of shares, whether resident in this Dominion or not, may vote by proxy, if he, she, or they, shall see fit, provided that such proxy do produce from his constituent, or constituents, a notice in writing in the words or to the effect following, that is to say:

20 "I, _____, of _____, one of the proprietors of the " Ontario and Erie Ship Canal Company, do hereby nominate, " constitute, and appoint _____, of _____, to be my " proxy, in my name, and in my absence, to vote, or give my " assent, or dissent, to any business, matter, or thing, relating to 25 " the said undertaking, that shall be mentioned or proposed at any " meeting of the proprietors of the said undertaking, or any of " them, in such manner as he the said _____ shall think fit, " according to his opinion and judgment, for the benefit of the " said undertaking, or any thing appertaining thereto.

30 " In witness whereof, I have hereunto set my hand and seal, the " _____ day of _____, in the year one thousand " eight hundred and _____.

And such vote or votes, by proxy, shall be as valid as if such principals had voted in person; and whatsoever question, election 35 of proper officers, matters, or things, shall be proposed, discussed, or considered in any public meeting of the proprietors to be held by virtue of this Act, shall be determined by the majority of votes and proxies then present, and so given as aforesaid, and all decisions and acts of any such majority, shall bind the said 40 Company, and be deemed the decision and acts of the said Company.

29. No shareholder in the said Company, shall be in any manner whatsoever liable, or charged for any debt, or demand 45 his, her, or their share, in the capital of the said Company not paid up. Liability of Shareholders limited.

30. The affairs of the said Company shall be managed by a Board of eleven Directors, who shall elect from among themselves a President and Vice-President; the said Directors may be subjects 50 of Her Majesty, or otherwise; the said Directors shall be elected on the first Wednesday in February, in every year, at a meeting of stockholders, to be held in the town of Niagara, and the said election shall be made by such Stockholders, as shall be present at such meeting, in person, or by proxy, and all elections for 55 Directors shall be by ballot, and the eleven persons who shall have the greatest number of votes at any election, shall be Directors, (except as hereinbefore or after provided), and if two or

more persons shall have an equal number of votes, in such manner, that more than eleven shall, by a plurality of votes appear to be chosen Directors, a second ballot shall be held, to determine which of the said persons having an equal number of votes, shall be Director or Directors. 5

Annual General Meetings.

Special General Meetings.

Proviso.
Vacancies
now filled.

President
and Vice-
President.

Quorum.

Votes of Directors.

31. The Directors so chosen, or those appointed in their stead, in case of vacancy, shall remain in office until the first Wednesday in the month of February next following their election, and on the said first Wednesday in February, and on the first Wednesday in February, in each year thereafter, or on such other day as shall 10 be appointed by any By-Law, an annual general meeting of the said proprietors shall be held at the office of the Company, for the time being, to choose eleven Directors for the ensuing year: but if at any time it shall appear to any ten or more of such 15 proprietors, holding together two hundred shares at least, that for more effectually putting this Act into execution, a special general meeting of proprietors is necessary to be held, it shall be lawful for such ten or more of them to cause fifteen day's notice at least to be 20 given thereof, in two public newspapers as aforesaid, or in such manner as the Company shall, by any By-Law direct or appoint, specifying in the said notice, the time and place, and the reason and intention of such special meeting respectively; and the 25 proprietors are hereby authorized to meet pursuant to such notice, and proceed to the execution of the powers by this Act given them, with respect to the matters so specified only; and all such acts of the proprietors, or the majority of them, at such 30 special meeting assembled, such majority, not having either as principal or proxies, less than two hundred shares, shall be as valid to all intents and purposes, as if the same were done at annual meetings; Provided always, that it shall, and may be 35 lawful, for the said Directors, in case of the death or absence, resignation or removal of any person elected a Director to manage the affairs of the said Company, in the manner aforesaid, to appoint another or others, in the room or stead of those of the 40 Directors, who may die or be absent, resign or be removed as aforesaid, anything in this Act to the contrary notwithstanding; but if such appointment be not made, such death, absence, or 45 resignation, shall not invalidate the acts of the remaining Directors.

32. The Directors shall, at their first (or at some other) meeting 40 after the day appointed for the Annual General Meeting in each year, elect one of their members by ballot to be the President of the said Company, who shall always (when present) be the chairman of, and preside at all meetings of the Directors, and shall hold 45 his office until he shall cease to be a Director, or until another President shall be elected in his stead, and the said Directors may in like manner elect a Vice-President, who shall act as chairman in the absence of the President.

33. Any meeting of the said directors, at which not less than six directors shall be present, shall be a *quorum*, and shall be 50 competent to use and exercise all and any of the powers hereby vested in the said directors. Provided always, that no one director, though he may be a proprietor of many shares, shall have more 55 than one vote at any meeting of the directors, except the president or vice-president when acting as chairman, or any temporary chairman, who, in case of the absence of the president or vice-president, may be chosen by the directors present, either of whom,

when presiding at a meeting of the directors shall, in case of a division of equal numbers, have the casting vote, although he may have given one vote before; And provided also, that such directors shall, from time to time, be subject to the examination and control of the said annual and special meetings of the said proprietors as aforesaid, and shall pay due obedience to all by-laws of the said Company, and to such orders and directions in and about the premises as they shall, from time to time receive from the said proprietors, at such annual or special meetings; such orders and directions not being contrary to the special directions or provisions in this Act contained. And provided also, that the act of any majority of a *quorum* of the directors present at any meeting regularly held, shall be deemed the act of the directors.

Subject to general meetings of Shareholders.

Act of quorum to be act of directors.

34. Every such annual meeting shall have power to appoint not exceeding three auditors, to audit all accounts of money laid out and disbursed on account of the said undertaking, by the treasurer, receiver or receivers, and other officer or officers to be by the said Directors appointed, or by any other person or persons whatsoever, and employed by or concerned for or under them, in and about the said undertaking, and to that end the said auditors shall have power to adjourn themselves over from time to time, and from place to place, as shall be thought convenient by them; and the said Directors chosen under the authority of this Act, shall have power, from time to time to make such call or calls of money from the stockholders of the said canal and other works, to defray the expenses of, or to carry on the same as they, from time to time, may find wanting and necessary for these purposes, except as before provided; and such Directors shall have full power and authority to direct and manage all and every the affairs of the said Company, as well in contracting for and purchasing lands, rights and materials for the use of the said Company, as in employing, ordering and directing the work and workmen, and in placing and removing under-officers, clerks, servants and agents, and in making all contracts and bargains touching the said undertaking, and to affix, or authorize any person to affix the common seal of the Company to any Act, deed, by-law, notice or other document whatsoever; and any such act, deed, by-law, notice or other document, bearing the common seal of the Company, and signed by the President or Vice-President shall be deemed the act of the Directors of the said Company, nor shall the authority of the signer of any document purporting to be so signed and sealed, to sign and affix the said seal thereto, be liable to be called in question by any party except the Company.

Auditors.

Callr.

Directors to manage affairs of the Company.

35. The owner or owners of one or more shares in the said undertaking, shall pay his, her or their shares and proportion of the moneys to be called for as aforesaid, to such person or persons, and at such time and place, as the said Directors shall, from time to time appoint and direct, of which thirty days' notice at least shall be given in two newspapers as aforesaid, or in such other manner as the said proprietors or their successors shall by any by-law direct or appoint.

Calls, how to be paid.

36. The said Company shall always have power and authority at any general meeting assembled as aforesaid, to remove any person or persons chosen upon such Board of Directors as aforesaid, and to elect others to be directors in the room of those who shall die, resign, or be removed, and to remove any other officer or officers under them, to revoke, alter, amend, or change any of

Powers of general meetings.

By-laws.

the by-laws or orders prescribed with regard to the proceedings amongst themselves (the method of calling general meetings, and their time and place of assembling and manner of voting and appointing directors only excepted,) and shall have the power to make such new rules, by-laws, and orders for the good government of the said Company, and their servants, agents, or workmen, for the good and orderly making and using the said Canal, and all other works connected therewith, or belonging thereto, as hereby authorized, and for the well governing of all persons whatever travelling upon or using the said Canal and other works, or transporting any goods, wares, merchandise, or other commodities thereon, which said by-laws and orders shall be put into writing under the common seal of the said Company, and shall be kept in the office of the Company, and a printed or written copy of so much of them as relates to or affects any party other than the members or servants of the Company, shall be affixed openly in all and every of the places where tolls are to be gathered, and in like manner as often as any change or alteration shall be made to the same; and the said by-laws and orders so made and published as aforesaid shall be binding upon and observed by all parties, and shall be sufficient in any Court of Law or Equity to justify all persons who shall act under the same; and any copy of the said by-laws, or any of them, certified as correct by the President, or some other person authorized by the directors to give such certificate, and bearing the common seal of the Company, shall be deemed authentic, and shall be received as evidence of such by-laws in any court without further proof.

Sales of shares.

37. All sales of the shares in the said undertaking shall be in the form following, varying the names and descriptions of the contracting parties as the case may require.

-I, A. B., in consideration of the sum of _____ paid by C. D., of _____ do hereby bargain, sell and transfer to the said C. D., _____ share or (or shares) of the Stock of the Ontario and Erie Ship Canal Company; to hold to him the said C. D., his executors, administrators and assigns, subject to the same rules and orders and on the same conditions that I held the same immediately before the execution hereof; and I, the said C. D., do hereby agree to accept the said _____ share (or shares) subject to the rules, orders and conditions.

Witness our hands and seals, this _____ day _____ in the year one thousand eight _____; Provided always that no such transfer of any share shall be valid until all calls or instalments then due thereon shall have been paid up.

Appointment of officers.

38. It shall and may be lawful to and for the said Directors, and they are hereby authorized from to time, to nominate and appoint a treasurer or treasurers, and a clerk or clerks to the said Company, taking such security for the due execution of their respective offices as the Directors shall think proper; and such clerk shall, in a proper book or books, enter and keep a true and perfect account of the names and places of abode of the several Stockholders of the said Company, and of the several persons who shall, from time to time, become owners or proprietors of, or entitled to any share or shares therein, and of the other acts, proceedings and transactions of the said Company, and of the Directors for the time being, by virtue of and under the authority of this Act; And the said Directors shall have power by by-law to fix and regulate the tolls to be taken

upon the said Canal, but no such tolls shall be levied or taken until approved of by the Governor in Council, nor until after two weekly publications in the *Canada Gazette* of the by-law establishing such tolls, and of the Order in Council approving thereof.

39. The said company, or the directors of the said company, shall, and they are hereby required to cause a true, exact, and particular account to be kept, and annually made up, and balanced, on the thirty-first day of December in each year, of the money collected and received by the said company, or by the directors or treasurer of the said company, or otherwise, for the use of the said company by virtue of this Act, and of the charges and expenses attending the erecting, making, supporting, maintaining, and carrying on their works, and of all other receipts and expenditures of the said company, or the said directors: And, at the general meetings of the proprietors of the said undertaking, to be, from time to time, holden as aforesaid, a dividend shall be made out of the clear profits of the said undertaking, unless such meetings shall declare otherwise and such dividend shall be at and after the rate of so much per share upon the several shares held by the proprietors in the joint stock of the said company, as such meeting or meetings shall think fit to appoint or determine; Provided always, that no dividend shall be made, whereby the capital of the said company shall be in any degree reduced or impaired, nor shall any dividend be paid in respect of any share after a day appointed for payment of any call for money in respect thereof, until such call shall have been paid.

Accounts of
the Company.

Dividends.

Provido.

40. In all cases where there shall be a fraction in the distance which vessels, rafts, goods, wares, merchandize, or other commodities or passengers shall be conveyed or transported on the said navigation, such fraction shall, in ascertaining the said rates, be deemed and considered as a whole mile; and in all cases where there shall be the fraction of a ton, in the weight of any such goods, wares, merchandize, and other commodities, a proportion of the said rates shall be demanded and taken by the said company of proprietors to the number of quarters of a ton contained therein; and in all cases where there shall be the fraction of a quarter of a ton, such fraction shall be deemed and considered as a whole quarter of a ton.

Fractions of
distances and
weight.

41. Every matter or thing which the said company are authorized to do or suffer, shall be interpreted to mean that the said company shall be empowered to do and suffer all such acts, matters and things by their duly appointed agents, servants and workmen, whether the same be specially mentioned or not; and in all cases wherein the said canal is mentioned in this Act, the same shall apply to all branches, feeders, reservoirs, and rivers or parts of rivers which shall be rade part or parcel of the navigation thereof, or of the supplying of the same with water.

Interpreta-
tion.

42. The said company shall at all times, when thereunto required by the Post Master General of the Dominion, the Commander of the Forces, or any person having the superintendence or command of any Police Force, carry Her Majesty's Mails, Her Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others, travelling on Her Majesty's service, on the said canal, on such terms and conditions, and under such regulations

Company to
carry mails,
troops, &c.,
when required

as the Governor or person administering the Government shall, in Council appoint and declare.

Securities of
officer.

43. The said company shall and are hereby required and directed to take sufficient security by one or more bond or bonds, in a sufficient penalty or penalties from their treasurer, receiver and collector for the time being, of the moneys to be raised by virtue of this Act, for the faithful execution, by such treasurer, receiver and collector of his and their office and offices respectively. 5

Time for
bringing suit
limited.

44. If any action or suit shall be brought or commenced against any person or persons for any thing done or to be done in pursuance of this Act, or in the execution of the powers and authorities or of the orders and directions hereinbefore granted, every such action or suit shall be brought or commenced within six calendar months next after the fact committed, or in case there shall be a continuation of damage, then within six calendar months next after the doing or committing such damage shall cease, and not afterwards; and the defendant or defendants in such action or suit, shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be held thereupon, and that the same was done in pursuance and by the authority of this Act, and if it shall appear to have been so done, or if any action or suit shall be brought after the time so limited for bringing the same, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his, her or their action or suit, after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants, shall have full costs, and shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in other cases by law. 10 15 20 25

Contraven-
tion of this
Act to be
misdemeanor.

45. Any contravention of this Act by the said company or any other party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punished accordingly, but such punishment shall not exempt the said company (if they be the offending party,) from the forfeiture of this Act, and the privileges hereby conferred on them, if, by the provisions thereof, or by law, the same be forfeited by such contravention. 30 35

Rights of Her
Majesty
saved.

46. Nothing herein contained shall affect or be construed to affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or any bodies politic, corporate or collegiate, such only excepted as are herein mentioned. 40

Canal and
works may be
assumed by
the Crown.

47. At any time after commencing the said works or after the making and completing the said canal it shall be lawful for Her Majesty, Her Heirs and Successors to assume the possession and property of the same, and of all and every the works and dependencies thereto belonging, upon paying to the said shareholders, their heirs, executors, administrators and assigns, the full amount of their respective shares, or of the sums furnished and advanced by each subscriber towards making and completing the said canal, together with such other sums as will amount to ten per centum upon the moneys so advanced and paid, as a full indemnification to such company, and the said canal, shall from the time of such assumption in manner aforesaid, appertain and belong to Her Majesty, Her Heirs and Successors, who shall thenceforth be substituted in the place and stead of the said company, their heirs and assigns, for all the purposes of this Act in so far as regards the said canal. 45 50 55

48. Nothing herein contained shall be construed to except the Canal by this Act authorized to be made, from the provisions of any general Act, which may be passed during the present or any future Session of Parliament, and no further provision which Parliament may make for enforcing any of the provisions of this Act, or for protecting the public or the rights of private parties shall be deemed an infringement of the rights of the said company.

49. This Act shall be deemed a Public Act.

Public Act.