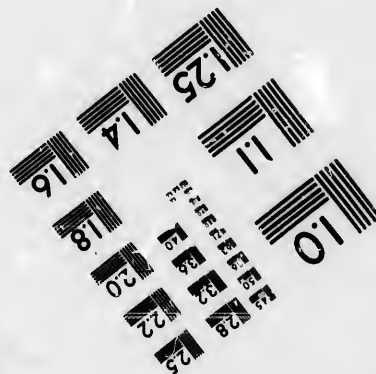
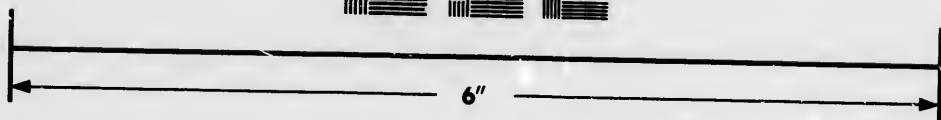
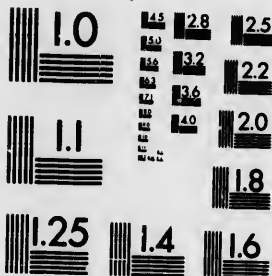


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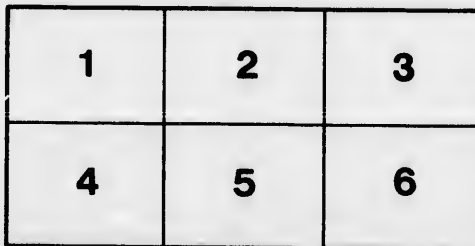
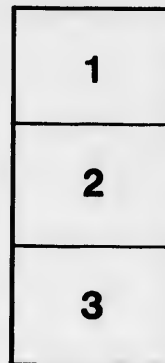
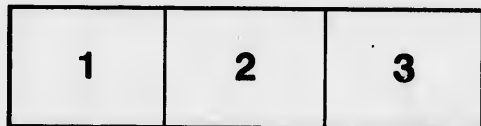
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No. 971 of '53

**State of New-York.**

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**No. 363.**

**IN ASSEMBLY,**

**March 25, 1853.**

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Introduced on notice by Mr. WEST—read twice and referred to the committee on canals—reported favorably from said committee, and committed to the committee of the whole.

**AN ACT**

**To incorporate the Niagara Ship Canal Company.**

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. James S. Wadsworth, Franklin Townsend, William A.  
2 Bird, Alfred Munson, Horatio J. Stowe, Sanford E. Church, Sherburne  
3 B. Piper, Calvin Hotchkiss, Orsamus Turner, John Townsend, Dean  
4 Richmond, Russell Sage, Heman J. Redfield, Benjamin B. Pringle,  
5 Alexis Ward, John Porter, Alexander Mann, Jonathan Child, Thomas  
6 Kempshall, Nicholas E. Paine, James L. Barton, Parkhurst Whitney,  
7 James Van Cleve, William Vanderwort, William P. Daniels, Thomas  
8 H. Hyatt, Henry Van Rensselaer, George Law, George Reynall, Oliver  
9 Phelps, Joseph Fellows, George H. McWhorter, Le Grand P. Carmon,

[Assembly, No. 363.]

1

(G. O. 513.)

See  
Pres. Ser.

10 John Fisk, James B. Plumb, E. G. Merriek, Gideon Hard and Nathan  
11 Dayton, and such other persons as shall hereafter become subscribers  
12 to the capital stock of the corporation hereby created, shall be and are  
13 hereby constituted a body politic and corporate, by the name of the  
14 "Niagara Ship Canal Company."

1 § 2. The capital stock of the said corporation shall be five millions  
2 of dollars, and shall be divided into shares of one hundred dollars each.

1 § 3. The said Nicholas E. Paine, James Van Cleve, James L. Bar-  
2 ton, Calvin Hotchkiss and John Fisk shall be commissioners to open  
3 books for subscription to the stock of the said corporation, and shall  
4 open such books on or before the first day of June next, having first  
5 given public notice of the time and place of meeting, by publishing the  
6 same once at least in each week in a public newspaper printed and  
7 published in each of the counties of Niagara, Erie and Monroe, in the  
8 city of Albany, and in the city of New-York. The commissioners may  
9 adjourn from time to time, and to such place as they may think fit,  
10 until the requisite number of shares shall be subscribed for; and in  
11 case a surplus of shares shall be subscribed for, they may apportion  
12 them among the subscribers in such manner as they shall think for the  
13 interest of the said corporation.

1 § 4. As soon as the requisite number of shares of stock shall have  
2 been subscribed for and the requisite amount of money paid in accord-  
3 ing to the provisions of this act, it shall be the duty of the said com-  
4 missioners to call a meeting of the stock-holders for the purpose of  
5 choosing directors at such time and place as, in their judgment, will  
6 be most convenient for the purpose. Meetings of the stockholders shall

7 be held before the first Tuesday of June in each succeeding year, at  
8 such time and place as shall be, from time to time, fixed by the stock-  
9 holders for the purpose, and in all cases, at least four weeks' notice of  
10 the time and place of meeting shall be published in the manner in  
11 which the notice of opening the books for subscription is required to be  
12 published by the third section of this act.

1 § 5. The affairs of the said corporation shall be managed by a board  
2 of fifteen directors, who, with the exception herein after mentioned,  
3 shall hold their offices for three years, and until others shall be elected  
4 in their places.

1 § 6. William A. Bird, James L. Barton and De:n Richmond, of the  
2 city of Buffalo, county of Erie and state of New-York; Benjamin Prin-  
3 gle and Heiman J. Redfield, of the village of Batavia, county of Gene-  
4 see and state aforesaid; Calvin Hotchkiss and James Van Clene, of the  
5 town of Lewiston, county of Niagara and state aforesaid; E. G. Merriek,  
6 of the village of Clayton, county of St. Lawrence and state aforesaid;  
7 Nathan Dayton and George Reynold, of Lockport, Niagara county and  
8 state aforesaid; George Law, of the city of New-York, Gideon Hard, of  
9 the village of Albion, county of Orleans and state aforesaid; Nieholas  
10 E. Paine and John Fisk, of the city of Roehester and state aforesaid;  
11 Martin B. Scott, of the city of Cleveland and State of Ohio, shall be  
12 the first directors of the said corporation. They shall be divided by lot  
13 into three classes of equal number and the term of office of those of  
14 the first class shall end on the first Tuesday of June next succeeding  
15 the due organization of the said corporation according to the provisions  
16 of this act; of those of the second class on the first Tuesday of June



17 in the year next succeeding, and of those of the third class on the first  
 18 Tuesday of June thereafter. At each succeeding annual meeting of the  
 19 stockholders directors shall be elected to fill the places of those  
 20 whose term of office will expire on the first Tuesday of June of that year,  
 21 and on all questions submitted to the stockholders for determination;  
 22 each shall be entitled to one vote for every share of stock held by him.

1 § 7. None but a stockholder shall be eligible to the office of director  
 2 of the said corporation, and when a director shall cease to be a stock-  
 3 holder, his office shall be deemed to be vacant.

1 § 8. The directors shall have the power to regulate the manner in  
 2 which the stock of the company may be transferred; the manner in  
 3 which elections by the stockholders shall be conducted, and generally to  
 4 adopt such ordinances and by-laws as they may deem needful for the  
 5 orderly transaction of the business of the said corporation, the govern-  
 6 ment of its officers and agents, and the safety of its property.

1 § 9. Every stockholder who shall refuse or neglect for twenty days  
 2 to pay for his stock as required by the by-laws of the said corporation  
 3 may be compelled by action to make such payment, or may be notified  
 4 to make such payment within ninety days thereafter on pain of forfeit-  
 5 ing his stock and all previous payments thereon, and in default of such  
 6 payment the same shall be forfeited.

1 § 10. The said corporation shall have the power, and it shall be its  
 2 duty, to construct a ship canal of sufficient dimensions to allow vessels  
 3 of at least five hundred tons burthen to pass from Lake Erie to Lake  
 4 Ontario, and from Lake Ontario to Lake Erie, commencing at some con-

5 venient point on the Niagara river above the falls, and terminating at  
 6 some convenient point below upon the same stream, and for that pur-  
 7 pose shall have power and authority by their engineers and agents to  
 8 enter upon any lands or streams of water for the purpose of making  
 9 the necessary preliminary examinations and surveys, and to enter upon  
 10 and appropriate to its own use, for the purpose aforesaid, any lands or  
 11 streams of water for the construction of the said canal with such dams,  
 12 guard-gates, waste-weirs, locks, lock-houses, basins, bridges, toll houses  
 13 and other erections and fixtures as may be necessary for the safe and  
 14 convenient navigation of the said canal and its preservation, and the  
 15 preservation of the works connected therewith.

1     § 11. Before taking possession of any lands or streams of water for the  
 2 purpose of constructing the said canal and the works connected therewith,  
 3 it shall be the duty of the said corporation to acquire the title to such  
 4 by purchase or voluntary cession from the owners if it can be done on  
 5 reasonable terms, but if that shall be found impracticable the said cor-  
 6 poration may apply to the supreme court, at any general or special term  
 7 to be held in the county of Erie or the county of Niagara, for the appoint-  
 8 ment of commissioners to fix the compensation to be paid by the said  
 9 corporation for any such lands to the owners thereof.

1     § 12. Such application shall be made on due notice to the parties  
 2 interested by petition, describing with reasonable certainty the lands  
 3 designed to be taken; and before proceeding to the hearing the court  
 4 shall appoint guardians for such of the parties interested as are minors,  
 5 and some suitable person or persons to represent the interests of such  
 [Assembly, No 363.]                    2

6 as are insane or otherwise incapable of managing their own affairs, and  
7 of such as are unknown or absent from the state.

1     § 13. Upon the hearing the court shall appoint five disinterested free-  
2 holders as commissioners of appraisal, whose duty it shall be to meet  
3 at a time and place assigned by them for the purpose, after giving due  
4 notice to all the parties in interest, and to proceed to hear the proofs and  
5 allegations of the parties, and if they shall deem it necessary to view  
6 the said lands so proposed to be taken, and thus to ascertain and fix  
7 the compensation which the said corporation should pay therefor, and  
8 to report their doings to the said court.

1     § 14. The said commissioners shall have power to administer oaths  
2 to the witnesses, and to adjourn from time to time as convenience may  
3 require.

1     § 15. The court may confirm the report of the commissioners or  
2 recommit it to the same or other commissioners, as justice shall require,  
3 who shall proceed in like manner and report their doings to the court.

1     § 16. Whenever the commissioners shall have made a satisfactory  
2 report, the court shall make an order confirming the same, and shall  
3 direct a summary of the petition and the report, with the order of con-  
4 firmation, to be filed and entered of record in the clerk's office of the  
5 county of Niagara, in the book of miscellaneous records.

1     § 17. Upon the payment of the compensation specified in the report,  
2 or upon depositing the same in such bank, or other institution, as the  
3 court shall designate for the purpose, the title to such lands shall be  
4 vested in the said corporation.

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1     § 18. Whenever one-half of the capital stock of the said corporation  
2 shall have been subscribed for, and the subscribers shall have paid ten  
3 per cent upon the stock subscribed for by them respectively, the said  
4 corporation shall be deemed to be duly organized and may, at any time  
5 within five years from the first day of June next, commence the con-  
6 struction of the said canal; and in case the said corporation shall fail  
7 so far to complete said canal as to admit the passage of boats and vessels  
8 through its whole length within ten years from the passage of this act,  
9 then the franchise hereby created shall cease and be of no further  
10 effect.

1     § 19. The said corporation shall have the right to demand toll on  
2 all vessels, floats, rafts and other craft, and the property transported  
3 thereby, and on all timber and logs passing through the said canal at  
4 and after the following, that is to say, for rates:

5     Steamers and other vessels, per ton measurement, two and one-half  
6 cents;

7     For passengers, each ten cents;

8     For brick, lime, clay and stone, per ton, twenty cents;

9     For marble, slate, gypsum, cement, water-lime, salt, coal, bark,  
10 hemp, tobacco (unmanufactured), ores, potatoes, apples and onions, per  
11 ton, twenty cents;

12     For bran, shipstuffs, barley, rye, oats, beans, Indian corn, corn and  
13 oat meal, clover, grass and flax seed, hay, straw and broom corn, oil  
14 and oil cake, cattle, sheep and hogs, horns, hoofs and bones, pig iron  
15 and broken castings, thirty cents;

16     For beef and pork, bacon, hams, lard, fish, domestic spirits, glass,

- 17 stone and earthen ware, horses, furniture and baggage, vehicles, agri-
- 18 cultural implements and railroad iron, forty-five cents;
- 19 For ashes, flour, butter, cheese, biscuit, tallow, beer, cider, vinegar,
- 20 wheat, fruit (dried), other agricultural products, sugar, molasses and
- 21 coffee, iron, nails, spikes and castings, window glass, copperas, raw
- 22 hides and skins, rugs, trunks and manilla, sixty cents;
- 23 All other goods and merchandise, not specially enumerated, one
- 24 dollar.

TIMBER.

- 25 Square, in vessels or boats, per thousand cubic feet, four dollars;
- 26 In rafts, per thousand cubic feet, six dollars;
- 27 Round or flatted, in vessels, per thousand cubic feet, three dollars;
- 28 In rafts, per thousand cubic feet, four dollars;
- 29 Boards, plank and other sawed lumber, per thousand feet, inch
- 30 measure, and passing in boats, fifteen cents;
- 31 Boards, plank and other sawed lumber, per thousand feet, inch
- 32 measure and passing in rafts, fifteen cents;
- 33 Pipe, staves and heading, per thousand, two dollars;
- 34 West India staves and heading, per thousand, sixty-eight cents;
- 35 Barrel staves and heading, per thousand, forty cents;
- 36 Shingles, per thousand, twenty-four cents;
- 37 Fire wood, per cord, twenty cents;
- 38 Sawed logs of twelve feet each, number, twenty-three cents;
- 39 Mahogany, except veneering, per thousand feet, seventy-two cents;
- 40 Empty barrels, each two cents;
- 41 Other woods per ton, measurement of forty cubic feet, forty cents;
- 42 and may refuse to permit such vessels, floats, rafts and other craft, tim-

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ber and logs to pass into or through any portion of the said canal until  
such tolls be paid.

§ 20. In times of war or of any civil commotion, vessels of the United States, or those bearing munitions of war, or troops of the United States, or of this state, shall be entitled to the preference over all other vessels in passing through the said canal and may pass free of toll.

§ 21. Whoever shall willfully injure or destroy any of the embankments, dams, guard gates, waste weirs, locks, lock houses, basins, bridges, toll houses, or other works, or fixtures appertaining to the said canal, shall be liable to indictment and punishment by confinement in a state prison for a term not exceeding five years, or by fine, or imprisonment in a county jail for a term not exceeding one year in the discretion of the court, and shall also be liable to pay double the amount of damages sustained by the corporation, to be recovered with costs of suit in any court of competent jurisdiction.

§ 22. The said corporation may accept from the government of the United States, or of any state, any grants of land or money which may be made to it for the purpose of constructing the canal and the works connected therewith, and may hold and dispose of such lands for that purpose. The state of New-York reserve the right to purchase said canal and make it a state work by paying ten per cent over cost.

§ 23. This act shall take effect immediately.

[Assembly, No. 363.]

A section was added authorizing the State to ... the work ... paying its cost & ... making stockholders liable for the claims against the corporation to the extent of the stock they own.

