

No. 112.

4th Session, 3rd Parliament, 14 Victoria, 1851.

BILL.

**An Act to incorporate the Sault Sainte
Marie Canal Company.**

Received and read a first time, Wednesday, 11th
June, 1851.

Second Reading, Monday, 16th June, 1851.

Mr. MORRISON.

BILL.

An Act to incorporate *The Sault de Sainte Marie Canal Company.*

WHEREAS Angus Duncan MacDonell, Allan Mac- Preamble.
Donell, John G. Bowes, John Cameron, William
Botsford Jarvis, Lewis Moffat, R. H. Brett, E. Whitte-
more, Charles Jones, John Beverly Robinson, junior, and
5 others,

have petitioned the Legislature to be incorporated for the purposes of this Act; and whereas the improvement and advancement of the Province generally will be greatly benefited by the construction of a Ship Canal around the
10 falls of the Sainte Marie River; Be it therefore enacted,
That Angus Duncan MacDonell, Allan MacDonell, John Cameron, William Botsford Jarvis, John G. Bowes, Lewis Moffat, Charles Jones, R. H. Brett, E. Whitte-
more, John Beverly Robinson—

Certain persons incorporated as the Sault de Ste. Marie Canal Company.

5 or either of them, together with all such persons as shall become Stockholders of any share or shares in the undertaking hereinafter mentioned and authorised to be carried on, 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 Sault de Sainte Marie Canal Company, and by that name they and their 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,
25 answering and being answered unto, in all courts and places whatsoever, and in all manner of actions, suits, complaints, matters and causes whatsoever; and that they and their successors may and shall have a common seal, and may change and alter the same at their will and plea-
30 sure; and also that they and their successors, by the name of the Sault de Sainte Marie Canal Company, shall be in law capable of purchasing, having and holding, to them and their successors, any estate, real, personal or mixed, to and for the use of the said Company; and of
35 letting, conveying, or otherwise departing therewith for

Corporate name and powers.

the benefit and on account of the said Company, from time to time as they shall deem necessary and expedient.

Company may enter into and take lands.

II. And be it enacted, That the said Company, and their agents, servants and workmen, are hereby authorised and empowered to enter into and upon the lands and grounds of and belonging to Her Majesty the Queen, her heirs or successors, or to any other person or persons, bodies politic or corporate, and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as they shall deem necessary and proper for making the said Canal, and to take and appropriate, have and hold, to and for the use of the said Company and their successors, lands sufficient for the construction of the said Canal, with its necessary locks, tow-paths, basins, warehouses and other erections, as may be required by the said Company for the purposes aforesaid, and to purchase the same to and for the use of the said Company: Provided always, that nothing hereinbefore contained shall extend or be construed to extend to compel the owner or owners of any lands, to sell, convey or otherwise depart with the same to the said Company, without a reasonable compensation therefor; and the said Company are hereby empowered and authorised to make one or more reservoirs, feeders, tunnels and aqueducts, and all such other matters and conveniences as they shall think proper and necessary for making, effecting, preserving, improving, completing and using in the constructing and completing the said intended Canal; and also to bore, dig, cut, trench, remove, take, carry away, and lay earth, soil, clay, stones, rubbish, trees, beds of gravel or sand, or any other matter or thing which may be required in making such Canal, or in making any reservoir or reservoirs, feeders or aqueducts, out of any lands or grounds of any person or persons, communities, or bodies corporate, or otherwise adjoining or lying contiguous thereto, and which may be proper, requisite or convenient for carrying on, continuing or repairing the said Canal or other of the said works, or which may hinder, prevent or obstruct the making, using, completing or maintaining the same; and also to make, build, erect, and set up aqueducts, sluices, locks, sewers, tanks, drains, wharves, quays, landing places, and other works, ways, roads, and conveniences, as the said Company shall think requisite, and convenient; also from time to time, to widen and enlarge the same, as well for the carrying or conveying goods, commodities, timber and other things to and from the said Canal, as for the carrying, or conveying of all manner of materials necessary for the making, erecting, furnishing, altering, repairing, extending, levelling or enlarging the works of or belonging to the said Canal.

Proviso.

Power to do certain things and construct certain works.

And may agree with

III. And be it enacted, That the Directors of said Company shall be and the same are hereby empowered

to contract, compound, compromise, and agree with the owners and occupiers of any land through or upon which they may determine to cut and construct the said intended Canal, with all necessary and convenient locks, towing paths, railways, and other erections and constructions contemplated by this Act, to be cut, erected, constructed and built, either for the absolute purchase of so much of the land as they shall require for the purposes of the said Company, or for the damages which he, she, or they may be entitled to recover in consequence of the said intended Canal, and other constructions, or buildings upon his, her or their respective lands; and in case of any disagreement between the Company and the owner or owners, occupier or occupiers of such land as aforesaid, either upon the value of the lands and tenements proposed to be purchased, or upon the amount of damages to be paid, as aforesaid, it shall and may be lawful for the Directors of the said Company to nominate and appoint an indifferent person, who, together with one other person, nominated and appointed by the party or parties so disagreeing, shall elect a third, which three shall be the Arbitrators between the Company and party or parties so disagreeing, the award of the majority of whom shall be final.

owners of lands, &c.

Arbitration in case of disagreement.

IV. And be it enacted, That if any part of the said Canal should pass through any tract of land in the possession of any band of Indians, or if any act occasioning damage to their property or possessions shall be done under the authority of this Act, compensation shall be made to them therefor, in the same manner as is provided with respect to the property, possessions or rights of other individuals; and that in any arbitration required for settling the amount of such compensation, the Chief Officer of the Indian Department within this Province, is hereby authorised and required to name an Arbitrator on the behalf of the said Indians; and the amount which shall be awarded in any such case shall be paid to the said Indians as the said Chief officer shall declare.

Provision when Canal passes through Indian lands.

V. And be it enacted, That if any person or persons shall wilfully, maliciously or to the prejudice of the said Company break down, damage, or destroy any bank, lock, gate, sluice or any works, machine or device to be erected or made by virtue of this Act, or do any other wilful act, hurt or mischief, to disturb or prevent the carrying into execution, or completing, supporting, or maintaining the said Canal or works hereinbefore referred to, every such person or persons offending, shall forfeit and pay to the said Company the value of the damages proved by the oath of one or more credible witness or witnesses, such damages, together with the costs of suit in that behalf incurred, to be recovered by action in any Court of law in this Province having jurisdiction competent to the

Penalty on persons damaging Canal, &c.

same, and in case of default of payment, such offender or offenders may be committed to the Common Gaol for any time not exceeding three months, at the discretion of the Court before which such offender shall be convicted.

And obstruct-
ing passage of
boats, &c.,
thereon.

VI. And be it enacted, That if any person or persons shall in any manner obstruct the passage of any other boat, vessel or raft passing on or through the said Canal, and shall not immediately, upon due notice given to such person or persons so obstructing the passage aforesaid, remove the same, shall forfeit and pay for every such offence the sum of five pounds, which forfeiture shall be paid to the said Company; and it shall and may be lawful for the agents or servants of the Company to cause any boat, vessel or raft to be unloaded or removed in such manner as shall be proper for preventing such obstruction in the navigation, and to detain and seize such boat, vessel or raft, and the loading thereof, until the charges occasioned by such obstruction, unloading or removal are paid.

Tolls how to
be regulated.

VII. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company to regulate, from time to time, and establish the rates of toll payable by persons navigating upon the said Canal, and the said Company shall, annually if required, exhibit an account to either branch of the Legislature of the tolls collected upon the said Canal, and of the sums expended in keeping the same in repair, and also of the goods, wares and merchandise transported in and along the same.

Time limited
for completion
of Canal.

VIII. And be it enacted, That the said Company, to entitle themselves to the benefit and advantages to them granted by this Act, shall and they are hereby required to make and complete the said Canal and other erections required for the navigation thereof within five years from the date of the passing of this Act; said Canal to be of sufficient dimensions to enable large class steamers to pass through from Lake Huron to Lake Superior. The dimension of Lock or Locks shall not be less than as follows: Fifty feet in width, and two hundred and fifty in length chambers between the gates; and nine feet depth on the sills.

Dimensions
of Locks, &c.

Meeting of
Directors to
fix rates.

IX. And be it enacted, That the said Directors of said Company shall, at their first general meeting held after the Canal shall be finished, ascertain and fix the rates and dues to be taken by virtue of this Act; and it shall and may be lawful for the Directors of the said Company to alter the said rates at any subsequent meeting, after giving three months public notice of the same; and that a schedule of rates shall be affixed upon the most public place at such Canal.

X. And be it enacted, That the several dues, tolls, rates, &c., so appointed to be taken as aforesaid, shall be paid to such person or persons at the said Canal, or at such place or places near the said Canal, in such manner ^{Tolls, &c., to whom paid, &c.} and under such regulations as the said Directors shall direct or appoint, and in case of denial or neglect of payment of any such rates, dues or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and ¹⁵ recover the same in any Court having jurisdiction thereof; or the person or persons to whom the said rates or dues ought to be paid may, and he is, and they are hereby empowered to serve and detain such boat, vessel, barge, or raft for or in respect whereof such rates or dues ought ¹⁵ to be paid, and detain the same until payment thereof.

XI. And be it enacted, That the whole amount of the stock, estate and property which the said Company shall be authorized to hold, including the Capital or shares hereinafter mentioned, shall not exceed in value one ^{Capital Stock.} ²⁰ hundred thousand pounds.

XII. And be it enacted, That each share shall be ^{Amount of shares.} twenty-five pounds Provincial currency, and the number of shares shall not exceed four thousand, and that books of subscription shall be opened by such person or persons, and under such regulations as the majority of directors hereinafter named, for the time being, assembled at a meeting to be called by any one of them shall direct. ²⁵

XIII. And be it enacted, That Angus Duncan Mac-Donell, Allen McDonell, William Botsford Jarvis, John ^{Who shall be the first Directors.} Cameron, John G. Bowes, Lewis Moffat and Charles Jones, Esquires, ³⁰

shall be and they are hereby constituted and appointed the first Directors of the said Company, appointed under this ³⁵ Act, which body of Directors shall, after the passing of this Act, elect one of their body to be the President, and appoint the officers, agents and servants necessary to such direction; and should any one or more of the said Directors resign, or be removed by death, then the majority of ⁴⁰ the survivors may elect some other person or persons to supply such vacancy so made as aforesaid.

XIV. And be it enacted, That so soon as Ten Thousand Pounds shall have been subscribed, and a deposit made thereon, as may be required by the rules, regulations and by-laws made and adopted by the Directors as aforesaid, ^{A general meeting to take place after a certain amount subscribed.} a general meeting of the Subscribers shall take place, of ⁴⁵ which due notice of not less than thirty days shall be given, in some newspaper of the City of Toronto, of the time and place of such meeting, and it shall and may

be lawful for the subscribers, at such meeting, to proceed to the election of new Directors for the said Company : and such election shall then and there be made by a majority of shares voted for in manner hereinafter prescribed, and shall then and there be capable of serving until the first Monday in June succeeding. 5

Seven Directors to manage affairs, &c.

XV. And be it enacted, That the affairs and concerns of the said Company shall be managed and conducted by seven Directors, who shall be Stockholders, each to the sum of four shares, one of whom shall be chosen President, who shall hold their office for one year ; and such Directors shall be elected on the first Monday in June in each and every year, at such time of the day and at such place as a majority of the Directors, for the time being, shall appoint, and public notice shall be given in the usual manner, of such time and place of meeting ; and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper person, or by proxy ; and all elections for Directors shall be by ballot ; and the seven persons who shall have the greatest number of votes at any election shall be Directors, and the majority of Directors shall elect the President. Each Stockholder shall be entitled to a number of votes proportionable to the number of shares he or she shall have held in his or her own name at least three months prior to the time of voting. 10
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Corporation not dissolved by failure to elect Directors.

XVI. And be it enacted, That in case it should happen that an election of Directors shall not be made on any day when, pursuant to this Act, it ought to have been made, the said Corporation shall not, for that cause, be deemed to be dissolved, but that it shall and may be lawful on any other day to hold and make an election of Directors in such manner as shall have been regulated by the laws and ordinances of the said Corporation. 30

Directors to make rules for management of stock, &c.

XVII. And be it enacted ; That the Directors for the time being, or the majority of them, shall have power to make such rules and regulations as to them shall appear proper touching the management of the stock, estate, and effects, of the said Corporation, and touching the duty and conduct of the officers, clerks and servants employed by the said Company, and all such other matters as appertain to the business of the said Company, and shall also have power to appoint as many officers, clerks, and servants for carrying on the said business, and with such salaries and allowances as to them shall seem meet. 35
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Public Act.

XVIII. And be it enacted, That this Act shall be taken and deemed to be a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace, and other persons, without being specially pleaded.