

the undersigned notary, at his office in the St. Lawrence Chambers, in St. Peter street, in the lower town of Quebec, at which places, &c.

Thus done and executed at the said city of Quebec, in the said office of the said John Greaves Clapham, on the day and year first above written, under the number four thousand three hundred and ninety-five, the said parties having to these presents, first duly read according to law, set their hands, the same being countersigned by the secretary of the said company, the said St. Lawrence Warehouse, Dock and Wharfage company have hereunto affixed their common seal, and the said notary hath signed in faith and testimony of the premises.

(Signed,)

Charles Alleyn,
James Patton, Jr.
Frederick Fearon,
J. Greaves Clapham,
Notary.

True copy of the original remaining of record in the office of the undersigned.

(Signed,)

J. Greaves Clapham,
Notary.

Signed by Mr. H. M. Jackson.

(Signed, U. Del Lungo,
Witness,

13 Gresham street.

(Signed) H. M. Jackson.

Signed by the said George
Barnard Townsend, in the
presence of

(Signed) Samuel Price,
3 Princes street, Westminster,
Solicitor.

(Signed) Geo. B. Townsend,

C A P . L X I I I .

An Act to incorporate the St. Francis and Yamaska Rivers improvement and deepening Company.

[Assented to 5th April, 1869.]

WHEREAS Louis-Adélarde Sénécal, Henri Vassal, Preamble.
Louis Tourville, Félix Geoffrion, John Pratt, J. Bte. Lamère, and Adolphe Roy, have, by their petition to the legislature, represented that they have formed a company for deepening the St. Francis and Yamaska rivers, for draining and removing shoals and improving the navigation of such rivers, and that an act incorporating them as a company is necessary to enable them ad-

vantageously to conduct and manage the said undertaking, and whereas the said undertaking will tend to develop the capabilities and advance the interests of the province; Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

Certain persons incorporated.

1. The said Louis-Adélarde Sénécal, Henri Vassal, Louis Tourville, Félix Geoffrion, John Pratt, J. Bte. Lamère and Adolphe Roy, or such of them or all such other persons as shall become shareholders in the said company, shall be and are hereby ordained, constituted and appointed to be a body corporate and politic by the style and title of the "St. Francis and Yamaska Rivers improvement company," and shall be authorized and shall continue to be such corporation and shall have perpetual succession and a corporation seal and may change and alter the same at their will and pleasure, and may sue or be sued, implead or be impleaded in all courts of justice in the same manner as may all other corporations.

Corporate powers.

What works the company may undertake.

2. The said corporation hereinafter called the company may acquire or construct and maintain any dam or dams, pier or piers, for the purpose of blasting rocks, or dredging or removing shoals or other impediments or otherwise improving the navigation of the said St. Francis and Yamaska rivers; provided always that the said company shall construct no such works over or upon, or otherwise interfere with or injure any private property, or the property of the crown, without first having obtained the consent of the owner or owners, occupier or occupiers thereof, or of the crown, except as hereinafter provided.

Proviso.

Capital of the company.

3. The capital stock of the said company shall amount to one hundred thousand dollars, and shall be divided into shares of one hundred dollars each; and such shares shall be vested in the several persons who shall subscribe therefor, their legal representatives and assigns.

Provisional directors.

4. The said Louis-Adélarde Sénécal, Henri Vassal, Louis Tourville, Félix Geoffrion, John Pratt, J. B. Lamère and Adolphe Roy, shall be provisional directors of the said company, and shall have power to open stock-books for the subscription of shares in the said company, to receive such subscriptions and to do all and every thing and things connected with the management of the business of the said company and the organization thereof, as they shall deem expedient.

Arbitration as to damages caused to owners of land.

5. If the owner or owners, occupier or occupiers of any land over, through, or upon which the said company may be desirous of constructing any such work or which may be damaged by the same, or upon which any power given by this act to the company is intended to be exercised,

shall, upon demand made by the directors of the said company, neglect or refuse to agree upon the price or amount of damages to be paid by the said company for the said land, or for passing through or using such land, or for flooding or otherwise interfering with the same, and for appropriating the same to and for the uses of the said company, or for the exercise of any such powers as aforesaid, it shall and may be lawful for the said company to name one arbitrator, and for the owner or occupier of such land so required, or with regard to which such powers are intended to be exercised as aforesaid, to name another arbitrator, and for the said two arbitrators, to name a third, to arbitrate upon, adjudge and determine the amount which the company shall pay, before taking possession of such land or exercising such powers as aforesaid; and the decision of any two of the said arbitrators shall be final, and upon such sum being ascertained, due attention being had by the arbitrators in ascertaining the same, to the benefits to accrue to the party demanding compensation, by the construction of the intended works, it shall be lawful for the said company to tender such sum to the said party claiming compensation, who shall thereupon be bound to execute a conveyance of such land to the company, or such other document as may be requisite, and the said company shall after such tender, whether such conveyance or other document be executed or not, be fully authorized to enter upon and take possession of such land, to and for the uses of the said company, and to hold the same, or to exercise such powers as aforesaid in such and the like manner as if such conveyance thereof or other document had been executed as aforesaid; provided always that if any such owner or occupier shall neglect to name an arbitrator for the space of twenty days after having been notified so to do by the company, or if the said two arbitrators do not, within the space of twenty days after the appointment of such second arbitrator, agree upon such third arbitrator, or if any one of the said arbitrators shall refuse or neglect, within the space of ten days after their appointment, to take upon him the duties thereby imposed, then, upon the application of the said company or of the other party, it shall be lawful for a judge of the superior court sitting in the district within which the said land lies, to nominate any disinterested competent person or persons from any adjoining parish in which such land shall be situate, to act in the place of such arbitrator or arbitrators so refusing or neglecting as aforesaid, and that every arbitrator so appointed by the judge of the superior court, sitting in the district as aforesaid, shall and he is hereby required to hear and determine the matter to be submitted to him, with all convenient

Decision of
two arbitrators
to be final.

After tender of
sum awarded
company may
take possession.

In default of
arbitrators
being chosen
or acting court
may be applied to.

Arbitrators
named by
court to act
without delay.

speed, after he shall have been so nominated as aforesaid; and any award made by a majority of the said arbitrators shall be as binding as if the three arbitrators had concurred in and made the same.

When owners of lands are absent, unknown or incapable, court may be applied to, for arbitrators.

6. Whenever any lands required by the said company for the purpose of any such work, or with regard to which any such powers are to be exercised as aforesaid, shall be held or owned by any person or persons, body politic or corporate whose members do not reside within this province or may be unknown to the said company, or where the title to any such lands may be in dispute, or where such lands may be mortgaged or where the owner or owners of such lands are unknown or unable to treat with the said company for the sale thereof, or the exercise of any such powers as aforesaid by the said company, or to appoint arbitrators as aforesaid, it shall be lawful for the said company to appoint one disinterested person, and for the judge of the Superior Court in the district where such lands are situate, on the application of the said company, to nominate and appoint one other disinterested person from any parish adjoining the parish in which such lands are situate, who, together with one other person to be chosen by the persons so named, before proceeding to business, or in the event of their disagreeing as to the choice of such other person, one shall be appointed by any such judge as aforesaid before the others proceed to business, who shall be arbitrators to award, determine, adjudge and order the respective sums of money which the said company shall pay to the respective parties entitled to receive the same, for the said lands or damages, as aforesaid, and the decision of a majority of such arbitrators shall be binding; which said amount so awarded, the said company shall pay or cause to be paid to the several parties entitled to the same, when demanded or in case of the absence of such parties shall deposit the same with the prothonotary of the Superior Court for the district in which such lands are situated and a record of such award or arbitration shall be made up and signed by the said arbitrators, or a majority of them, specifying the amount so awarded and the costs of such arbitration which may be settled by the said arbitrators, or a majority of them; which record shall be deposited in the registry office of the registration division in which such lands are situate, and the said company shall thereupon be fully authorized to enter upon and take possession of such lands to and for the use of the said company and to proceed with the construction of the works affecting the same, and the expenses of any such arbitration under this act shall be paid by the said company, and by them deducted from the amount of

Award to be recorded &c.

Company may thereupon take possession.

such award on payment thereof to the parties entitled to receive the same, if the company, shall, before the appointment of their arbitrator, have tendered an equal or greater sum than that awarded by the arbitrators, and otherwise such expenses shall be borne by the company; the arbitrators shall specify in their award by which of the parties the said costs are to be paid; and provided also that all lands which shall be taken by the said company, for the purpose of any such road or works, and which shall have been purchased and paid for by the said company, in the manner hereinbefore provided, shall become and thenceforward shall continue to be the property of the said company, free from all mortgages, incumbrances and other charges; provided nevertheless that in the case of absent proprietors the expense of such arbitrament and award shall be borne by the said company.

Lands thus acquired to be free from incumbrances.

Expense borne by company.

7. Nothing herein contained shall extend to authorize the said company to obstruct any waters already navigable, or to collect any tolls other than those imposed under this act; and if by reason of any dam erected by the company formed under this act, any fall or water-power shall be created, the company shall in no wise have any title or claim to the use of such water-power; nevertheless if the owner or occupier of the land adjoining, shall have made any claim for compensation for damages arising from such dam, the arbitrators may lawfully take into account the increased value of that property by reason of the water-power so created.

Water powers created by dams not to benefit company.

Proviso.

8. As soon as the works of the said company shall be sufficiently advanced to render the said rivers navigable, to wit, in the St. Francis river from its mouth to the village of Pierreville, opposite the church, and in the Yamaska river, from its mouth to some point, one mile below the village of St. Aimé, during all seasons, a channel of six feet deep and sixty feet in width, the said company may levy such tolls as by the Dominion of Canada the said company may be authorized to levy on all vessels, navigating in said rivers; but such tolls shall only be exacted when the said vessels shall pass through that part of the said rivers made navigable by the said company. But the said company shall levy no such tolls until notice shall have been given to the chief commissioner of public works who shall immediately cause to be ascertained whether such works have been executed according to the provisions of this act; and if it is shown that the said company has caused a channel to be made in one or both the rivers hereinbefore mentioned, to be improved by the said company, of the width and depth determined by this act, it shall be his duty to cause a report to be made to that effect to his excellency the governor in council of the Dominion

After portion of said rivers is made navigable tolls may be collected.

Proviso: notice to com. pub. works.

Proclamation

of gov. gen. to
authorize tolls.

Power to col-
lect and re-
cover tolls.

Proviso.

Proviso.

Power to levy
tolls for using
works.

Proviso.

Proviso.

Penalty for
injuring
works.

of Canada, and immediately after proclamation the said company shall have authority to demand from the owner of any such vessel intended to be passed through any portion of the said works of the said company, or from any other person in charge of the same, a written statement of each kind of goods forming the cargo of the same, as well as of the tonnage of such vessel, and if no such written statement is given when required or a false statement is given, the said vessel and such part of its cargo as was omitted by the false statement shall be liable to double toll; and the said company shall have authority to demand and receive the lawful toll upon all vessels as aforesaid and it shall be lawful for the said company, by its servants, to have free access to all such vessels, for the purpose of measuring and counting the same, and if the lawful tolls shall not be paid on demand, the said company shall have power to sue for the same in any court of competent jurisdiction, and shall recover from the owner or owners of the vessels the amount of the tolls and the costs of suit; provided always that if the owner or owners of the said vessels, shall object to the amount of tolls demanded and shall tender a sum which he or they claim to be the true and just amount of the toll, the said company shall pay the costs of the suit, unless the judgment obtained shall be for a greater amount than the sum so tendered; Provided always that no tolls shall be exigible and payable unless there shall be at all times when said rivers are opened for navigation six feet of water in said channel.

9. It shall be lawful for the said company to levy tolls upon persons using the said works, and to impose a tariff upon the carriage of timber, saw-logs and any kind of lumber passing through the said works; provided the rate of such tolls and tariff be equal for all persons, and shall be first approved and shall from time to time be subject to revision by the lieutenant-governor in council; and provided further that all persons paying the authorized toll and tariff, shall have the right to use the said works at all seasonable times.

10. If any person shall wilfully and maliciously burn, break down, injure, cut, remove or destroy in whole or in part any dam, pier or other work of the said company, or any chain or other fastening attached thereto, or wilfully and maliciously obstruct any channel or passage intended to facilitate navigation in the said rivers, every such offender shall be liable on conviction to a fine not exceeding ten dollars and costs of prosecution, and in default of immediate payment thereof to imprisonment in the common gaol of the district wherein such offence has been committed for the space of thirty days unless such fine and costs of prosecution shall be sooner paid.

11. If any person shall impede any of the servants of the said company in carrying out any of the regulations of such company for the safety and dispatch of the said company's business, or shall in any way, molest the said company or its servants in the exercise of any right secured to them by this act, every such person shall, upon conviction thereof in a summary way before any justice of the peace having jurisdiction in the locality in or adjoining which the offence shall have been committed, be sentenced to pay a fine of not more than fifty shillings nor less than five shillings, together with all costs, to be paid within a time to be limited by the said justice, and in default, to be levied as herein-after provided.

Penalty for molesting the company.

12. The fines and forfeitures authorized to be summarily imposed by this act shall and may be recovered upon information and complaint before any justice of the peace of the district within which the same shall have been incurred, and shall and may be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any warrant or warrants of distress for that purpose, to be issued by the justice of the peace before whom the conviction shall have been had; and in case there shall be no goods or chattels to satisfy such warrant or warrants, such offender or offenders shall and may be committed to the common gaol of the district, for any period not exceeding one month; provided that neither this section nor anything therein shall be held or construed to interfere with the provisions made in the tenth section of this act (upon conviction for any offence therein mentioned), for issuing a warrant of commitment in the first instance.

Recovery of penalties.

13. In any action or suit brought by or against the said company, upon any contract or for any matter or thing whatsoever, any stockholder, officer or servant of the company shall be competent as a witness, and his testimony shall not be deemed inadmissible on the ground of interest, or of his being such officer or servant of the said company.

Stockholders &c., may be witnesses.

14. If any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this act, such action or suit shall be brought within six calendar months next after the commission of the act complained of, and not afterwards, and the defendant or defendants in such action or suit may plead the general issue only, and give this act and the special matter in evidence on the trial; And be it enacted, that the said company shall be bound and is hereby required to commence the said works within two years from and after the passing of this act, and to complete the same within five years thereafter, and in default thereof they shall forfeit all the corporate and other powers and authority which they shall have acquired, and all their corporate powers shall thenceforth cease and determine from that moment.

Limitation of actions.

Limitation of time for completion of works.

Company to
keep works in
good repair.

15. After any works constructed by the said company under this act shall have been completed and tolls established, as hereinbefore provided, it shall be the duty of the company to keep the same in good and sufficient repair; and if any such works shall not have been constructed according to the provisions of this act, or shall have become insufficient or out of repair, it shall be lawful for any person interested in such navigation, to serve upon any servant of the company a notice of such insufficiency, and if, within a reasonable time after the service of such notice, the necessary repairs have not been made, the said company shall be liable for the damage which any person may sustain from the continuance of such insufficiency.

Reservation as
to future legis-
lation.

16. Notwithstanding the privileges which may be conferred by this act, the legislature may at any time hereafter, in their discretion, make such additions to this act, or such alterations of any of its provisions, as they may think proper, for affording just protection to the public, or to any person or persons, body politic or corporate, in respect to their estate, property, right or interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right of way that may be affected by any of the powers given to the said corporation; and whenever it shall be found expedient for the public service, it shall and may be lawful for the lieutenant-governor in council to declare the company formed under this act dissolved, and all the works of the said company, provincial works, upon payment to the said company, of the then actual value of the works, to be decided by arbitrators to be named in such manner as by the laws of the Province then in force shall be provided.

Government
may assume
the works.

Company in
certain case
may renounce
this act, &c.

17. If the channel should be obstructed by accident or otherwise, and if the company should deem it too costly to keep up their works so as to maintain the said channel according to the provisions of this act, after the said company shall have power to levy tolls on vessels navigating in the said rivers, it shall be lawful for the said company to free itself from all damages resulting from their default of maintaining the said channels, by abandoning and renouncing the powers granted thereto by this act, and the same may be done by giving a notice in writing to the chief commissioner of public works to that effect; and from and after the date of such notice, the said company shall no more have the right of demanding the said tolls.