

C A P . X L V I I I .

An Act to incorporate the International Mining and Manufacturing Company.

[Assented to 18th December, 1854.]

Preamble.

WHEREAS the several persons hereinafter named, have, by their Petition, represented that they have associated themselves together with divers others, for the purpose of exploring for and working the Asphalt Oils and other minerals on and under the property now owned by them in the Townships of Enniskillen, Dawn and Brook, in the County of Lambton, and the Townships of Mosa and Orford, in the County of Middlesex, and have raised the Capital necessary to commence their operations, but that they experience great difficulties in carrying out the objects for which they are associated without an Act incorporating them with the powers hereinafter mentioned, and have prayed that such an Act may be passed : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows :

Certain persons incorporated.

I. Charles N. Tripp and Hiram Cook, of the City of Hamilton, John B. Van Voorhice and Henry Tripp, of the Town of Woodstock, James L. Folger, of Cape Vincent, State of New York, James Conner, and William Ogilvie, of the City of New York, and their successors, and such and so many other persons or parties as have become or shall become Shareholders in the Capital Stock hereinafter mentioned, shall be and are hereby constituted

constituted a body politic and corporate in fact and in name, by the name of *The International Mining and Manufacturing Company*, and by that name shall or may sue and be sued, implead and be impleaded, answer and be answered in all Courts of Law and Equity whatsoever, and shall have uninterrupted succession with a Common Seal, which may be by them changed or varied at their pleasure.

Corporat
name and
general pow-
ers

II. No Shareholder in the said Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by the said Corporation, beyond the amount of his, her or their share or shares in the Capital Stock of the said Company not paid up.

Non liabil ty
of Share-
holders.

III. The Capital Stock of the said Company shall be and the same is hereby declared to be sixty thousand pounds currency, divided into twelve thousand shares: Provided always, that the said Capital may be increased to one hundred and twenty thousand pounds, as hereinafter provided.

Capital.
Shares.
Proviso for
increase.

IV. The calls to be hereafter made on the holders of the said Stock shall be paid by instalments, when and in such manner as shall be prescribed by the Directors hereinafter named: Provided always, that nothing herein contained shall exonerate, diminish or relieve any party from existing liability to the said Company, whether the said liability relates to contributions due or to fall due upon the Stock already issued or otherwise, on the contrary, all such liability and contributions shall and may be enforced in the same way, and the said Company shall have the same remedy to enforce the payment of calls already made, and all other calls and sums now due and called for, as hereinafter prescribed with regard to future calls and liabilities.

Calls.

Proviso.

Liability of
present sub-
scribers to the
Company.

V. It shall be lawful for the said Company to have and hold such lands, immoveable or real property, as may be necessary for carrying on the business of the said Company, provided the sum invested in real property, purchased from private individuals or from the Crown, do not at any time exceed fifty thousand pounds currency, and it shall be lawful for the Directors of the said Company to sell, lease or otherwise dispose of the said property and estate as they may see fit.

Holding real
property.

Limitation.

VI. It shall be lawful for the said Company to engage in and follow on such lands and property as they now hold or may hereafter acquire as their property, or on which they shall obtain permission from any proprietor so to do, but in the counties of Lambton and Middlesex only, the occupation and business of carrying on exploration for, and of finding and getting Asphalt Beds, Oil and Salt Springs, and also for working and manufacturing the same for the various uses to which they can be converted and made available, for the benefit of the said Company, also for the getting of copper and other ores, metals and minerals,

Business of
the Company.

minerals, and for the manufacturing and disposing of the same for the benefit of the said Company, and to do all things necessary for the purposes aforesaid, not inconsistent with the right of any other party or parties, or with the condition of any grant or other title under which the said Company may hold the lands in which such things are to be done ; Provided always, that nothing in this Act shall be construed to give the said Company the right to enter upon, or to take or use in any way the lands of any person, except with the consent of such person.

Proviso : no lands to be taken without consent of owner.

Further business of the Company.

VII. The said Company may establish and erect works, and manufactories, for the purpose of making Oils, Napthas, Paints, Burning Fluids, Varnishes, and other things of like nature, on their property in Enniskillen, and may also erect works at Dresden, London, Hamilton, Toronto, Kingston, Ottawa, Montreal and Quebec, for the above purposes, and may also transport the raw materials from the Beds to the places herein named, also to England, the United States, or any other place they may see fit.

Debts, &c., of the Association transferred to the Corporation.

VIII. All and every the Estate and Property, real or personal, belonging to the said Company as formed under their Articles of Association, at the time of the passing of this Act, and all debts or claims then due to or possessed by the said Association, shall be transferred to and vested in the Company hereby established which shall in like manner be liable to and for all debts due by or claims upon the said Association, and the Trustees of the said Association hereinafter named shall be Directors of the said Company as if elected under this Act, until their successors shall be elected as hereinafter provided.

Increase of Capital how to be effected.

IX. If the said sum of sixty thousand pounds be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the members of the said Corporation, by a vote of not less than two thirds in number of the Shareholders, representing not less than one half of the shares, at any general meeting to be expressly called for that purpose, to increase the capital stock of the said Corporation, either by the admission of new members as subscribers to the said undertaking, or otherwise, to a sum not exceeding in all the sum of one hundred and twenty thousand pounds currency, including the said sum of sixty thousand pounds currency, hereinbefore authorized to be raised, in such manner and upon such terms and conditions, and under such regulations as shall be approved and agreed on ; and the Capital so to be raised by the creation of new shares or otherwise, shall be in all respects part of the Capital Stock of the said Corporation, and every Shareholder of such new stock shall be a member of the said Corporation, and be entitled to all and every the same powers, privileges and rights as the persons who

who are now Shareholders, in proportion to the interest or number of shares which he may acquire, and to the amount of calls paid thereon, and shall also be liable and subject to the same obligations, and stand interested in all the profits and losses of the said undertaking, in proportion to the sum that he shall subscribe and pay thereto, as fully and effectually to all intents and purposes whatsoever, as if such other or future sum had been originally raised as a part of the said first sum of sixty thousand pounds; any thing herein contained to the contrary notwithstanding.

X. It shall be lawful for the said Corporation, from time to time, to borrow, either in this Province or elsewhere, all such sum or sums of money, not exceeding in all at any one time, fifty thousand pounds currency, as they may find expedient, and to make the bonds, debentures or other securities they shall grant for the sums so borrowed, payable either in currency or in sterling, with interest, and at such place or places within or without this Province, as they may deem advisable, and such bonds, debentures or other securities may be made payable to bearer, or transferable by simple endorsement or otherwise, and may be in such form as the Directors for the time being may see fit; and the said Directors may hypothecate, mortgage or pledge the lands, revenues and other property of the said Corporation for the due payment of the said sums and the interest thereon: Provided always, that such Corporation shall not be allowed to borrow any part of the said sum of fifty thousand pounds, until at least one half of the said Capital Stock of the said Corporation hereinbefore authorized be paid up and available for the use of the Corporation; And provided also, that no such bonds or debentures shall be issued by such Corporation for any amount less than one hundred pounds currency.

Power to borrow money.

Proviso.

XI. At all meetings of the Shareholders held in pursuance of this Act, whether the same be general or special, every Shareholder shall be entitled to as many votes as he shall have shares in the said Stock, on which all calls due thereon shall have been previously paid, and such vote or votes may be given in person or by proxy, and all questions proposed or submitted for the consideration of the said meetings, shall be finally determined by the majority of the votes, except in the case or cases otherwise provided for; And provided also, that no person shall be entitled to vote as proxy at any meeting unless he shall be a Shareholder in the said Corporation, and produce a written authority as such proxy in the form prescribed by the Schedule A.

Votes at Meetings of Shareholders.

Proviso as to Proxies.

XII. The Office of the said Company shall be in the City of Hamilton, and all books of records and transfers shall be kept therein, and at all times open to the inspection of the Stockholders; it shall also be the duty of the Directors of the

Chief place of business of the Company to be at Hamilton.

Register of Shareholders.

said Company to cause a book to be kept by the Clerk or Treasurer thereof, containing the names of all persons, alphabetically arranged, who are or shall within three years have been Stockholders of the Company, and showing their places of residence, and the number of shares held by them respectively, the owners of such shares and the amount of stock actually paid in, which book shall, during the usual hours of business of each secular day, be open for the inspection of Stockholders and all creditors of the said Company, and their personal representatives; and the Secretary of the Company shall reside at Hamilton, and a majority of the Directors shall reside in this Province.

Directors, their election and powers, qualification, &c.

XIII. For managing the affairs of the said Company, there shall be from time to time elected out of the Members of the said Company, six persons, being each a proprietor of not less than two hundred and fifty shares of the said Capital Stock, to be Directors of the said Company, for ordering, managing and directing the affairs of the said Company; and any three Directors shall form a quorum of the Board, and may exercise all the powers of the Directors; Provided always, that unless at a meeting of a majority of the Directors, no By-law, Rule, Resolution or Regulation for raising money or disposing of the real estate of the Company, shall be finally passed, unless confirmed at the next meeting of the Directors to take place upon due notice given; Provided also, that no Director shall have more than one vote at any meeting of Directors except the President, who shall, in case of any equal division, have the casting vote, although he may have given one vote before; and when any vacancy shall happen among the Directors by death, resignation or removal out of the Province, such vacancy shall be filled up until the next general meeting of the Shareholders, in such manner as may be prescribed by any By-law of the Company, and the Directors shall have full power to dispose of such part of the Stock of the said Company as may remain to be disposed of, or as may from time to time be added to or fall into the general mass either by forfeiture or otherwise, and they shall also have full power to make such calls of money from the several Shareholders for the time being, as is hereinbefore provided for, and to sue for, recover and get in such calls, and to cause and declare the said shares to be forfeited to the said Company in case of non-payment on such terms and in such way as they shall see fit to prescribe by any By-law, and in any action to be brought to recover any money due on any call, it shall not be necessary to set forth the special matter in the declaration, but it shall be sufficient to allege that the defendant is a holder of one share or more in the said Stock, (stating the number of shares) and is indebted to the Company in the sum to which the calls in arrear shall amount (stating the number and amount of such calls) whereby an action hath accrued to the Company by virtue of this Act, and it shall be sufficient to maintain such action,

Quorum.**Proviso.****Votes.****Vacancies.****Calls.****Actions for calls.**

action, to prove by one witness, that the defendant at the time of making such call was a Shareholder, in the number of shares alleged, and that the calls sued for were made and notice thereof given, in conformity with the By-laws of the said Company, and it shall not be necessary to prove the appointment of the Directors nor any other matter whatever; The said Directors shall and may use and affix, or cause to be used and affixed, the common seal of the said Company to any documents which in their judgment may require the same, and any Act or Deed bearing such seal, and signed by the President (or by any two Directors) and countersigned by the Secretary, shall be held to be the Act or Deed of the Company; They may appoint such and so many Agents, Officers and Servants of the said Company under them as to the said Directors may seem meet, and may fix the salaries and remuneration of such Officers, Agents and Servants; may make any payments and enter into any contracts for the execution of the purposes of the said Company, and for all other matters necessary for the transaction of its affairs, may generally deal with, treat, purchase, lease, sell, mortgage, let, release and dispose of, and exercise all Acts of ownership over the lands, tenements, property and effects of the said Company, may institute and defend in the name of the said Company all suits at law, may from time to time displace the Officers, Agents and Servants of the said Company, except as hereinafter provided; And they shall and may have power to do all things whatsoever, which may be necessary or requisite to carry out the objects of the Company, and to vest the present property and funds of the said Association in the Company hereby created; They shall declare dividends of the profits of the said Company, when and as often as the state of the funds thereof may permit; may appoint when Special Meetings of the Shareholders shall be held, and determine on the mode of giving notice thereof, and on the manner in which the Shareholders may call or require such Special Meetings to be called; And they shall have power to make By-laws for the government and control of the Officers and Servants of the said Company, and shall also have power to make and frame all other By-laws, Rules and Regulations for the management of the business of the said Company in all its particulars and details, whether hereinbefore specially enumerated or not, and the same, also at any time to alter, change, modify and repeal; which said By-laws, Rules and Regulations shall be submitted for approval, or rejection or alteration by the Stockholders at the next General Meeting, or at a Special Meeting to be called by the said Directors, and when and as so ratified and confirmed, shall be put into writing and duly recorded in the minutes of the said Company and be binding upon and observed and taken notice of by all Members of the said Company; and any copy of the said By-laws or any of them, purporting to be under the hands of the Clerk, Secretary or other Officer of the said Company, and having the seal of the Company affixed to it, shall be received as *prima facie* evidence

Further powers of Directors.

Officers.

General powers.

Dividends.

By-laws

evidence of such By-laws, in all Courts of this Province :
Proviso. Provided always, that the Stockholders may, at any General or Special Meeting, appoint such salary or compensation to the President and Directors respectively as to them shall seem most reasonable and proper :
Proviso. Provided also, that at the first Meeting of the Directors to be holden after the passing of this Act, the said Directors shall choose and elect from among themselves some one to be President, and also some one to be Vice-President, of the said Company.

General Meetings of Shareholders. XIV. The first General Meeting of the Stockholders of the said Company, shall be held at the office of the said Company, in the City of Hamilton, (at which place the said Company shall have its principal place of business,) on the first Monday of May, one thousand eight hundred and fifty-five, and at such time and place, and on the like day in every year thereafter, the said Shareholders shall elect three fit and qualified persons to be Directors of the said Company in the place and stead of the three who shall retire as prescribed in the next following section, and until such first election, and until they shall respectively retire as aforesaid, the Trustees of the Association aforesaid, to wit : Charles N. Tripp, Hiram Cook, John B. Van-Voorhice, Henry Tripp, James L. Folger, James Connor and William Ogilvie, and the survivors or survivor of them, shall be and are hereby declared to be and constituted Directors of the said Company, and the said Hiram Cook shall, until such day, be the President of the said Company, and they shall have and exercise all and every the powers, and shall be subject to all and every the clauses, conditions, liability and restrictions imposed on the Directors to be chosen under this Act ;
Proviso. Provided always, that in all actions or suits, or other legal proceedings to be brought against the said Company, it shall be lawful and sufficient for the Plaintiff or Complainant, or any other party, to cause Process to be served at the said Office of the said Company in the City of Hamilton, or personally on the President, or on any one of the Directors, or on the Secretary of the said Company, at any other place.

Retirement of Directors. XV. At the first General Meeting of the Shareholders, one of the said Directors shall retire, and at the Annual General Meeting in each year thereafter, three of the said Directors shall retire in rotation (the order of retirement to be decided by lot, on or before the first Monday in May, one thousand eight hundred and fifty-five) : Provided always, that all Directors retiring at any time shall be eligible for re-election. And the Directors, immediately after the election at such Annual Meeting, shall choose one of their own number to be President.

Failure of elections, &c., provided against. XVI. The failure to hold the first General Meeting, or any other meeting, or to elect such Directors or President, shall not dissolve the said Association, but such failure or omission shall or may be supplied by and at any special meeting, to be called

called as the Directors, in conformity with the By-laws of the said Company, may see fit to appoint ; and until such election of new Directors, those who may be in office for the time being shall be and continue in office, and exercise all the rights and powers thereof until such new election be made, as hereinbefore provided.

XVII. The Stock of the said Corporation shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the By-laws of the Corporation ; but no share shall be transferable until all previous calls thereon have been fully paid and satisfied, or the said share shall have been declared forfeited for non-payment of the calls thereon ; and the consent in writing of the majority of the Directors shall be in all cases necessary to render valid the transfer of any share or shares made before such shares shall have been paid up in full : **Shares to be personally.**
Transfers to require approval in certain cases.
 And it shall not be lawful for the Corporation to use any of its funds in the purchase of any stock of any other Corporation.

XVIII. The Corporation shall not lend any of its money to any of its Stockholders, and if any such loan of money shall be made to a Stockholder, the Directors who shall make or assent to such loan shall be jointly and severally liable to the extent of the said loan, and interest thereon, to any creditor of the said Corporation, for any debt contracted before the repayment of the money so loaned. **Company not to lend money to Shareholders.**

XIX. The Directors of the Corporation shall be jointly and severally liable for all debts contracted by them during the term of office as such Directors and due and owing to their laborers, servants and apprentices, for services performed by them for such Corporation ; Provided that no Director shall be liable for any such debt not payable within one year from the date of contracting it, or for the recovery whereof no action shall have been brought within one year from such date. **Liability of Directors for wages.**

XX. Each Stockholder of the said Corporation shall be severally and individually liable to the creditors thereof to an amount equal to the amount of the stock held by him, for all debts and contracts made by such Corporation, until the whole amount of the stock held by such Stockholder shall have been paid up. **Liability of Shareholders limited.**

XXI. The privileges conferred by this Act shall not be acquired by the said Corporation until at least twenty per cent of the Capital Stock has been actually paid into the hands of the Treasurer of the Company. **Privileges suspended until one fifth of Capital is paid up.**

XXII. A majority of the President and Directors shall, on or before the twentieth day of January in each year, prepare and attest, before a Judge of any Court in this Province, a certificate stating the amount of the capital actually paid in, the **Certificate of affairs to be made and published yearly.**

the amount of the existing debts, and the amount of the assets of the Corporation ; which certificate shall be inserted in the Newspaper published nearest to the chief place of the business of the Company.

Penalty for declaring dividends when Company is insolvent, &c.

XXIII. If the President and Directors shall declare or pay any dividend when the Corporation is insolvent or which would, if paid, render it insolvent, or which would diminish the amount of its Capital Stock, they shall be jointly and severally individually liable for all debts of the Company then existing, or which may be contracted while they remain in office ; Provided that any Director shall be exempt from such liability by filing with the Secretary of the Company a written statement protesting against declaring or paying such dividend, and if present at any meeting when such dividend shall be declared, by voting against the same, provided such dissent shall be forthwith published in some newspaper at each place of business of the Company.

Indebtedness not to exceed Capital.

Penalty.

XXIV. If the indebtedness of the Corporation shall at any time exceed the amount of its Capital Stock, the Directors shall be jointly and severally individually liable to any creditor of the Corporation for any debts thereof to the amount of such excess of indebtedness.

Penalty for making false certificate.

XXV. If any certificate or affidavit made by the President and any Directors of the Corporation under the provisions of this Act, be false in any material representation, the said President and Directors making the same, knowing it to be false, shall be jointly and severally individually liable for all the debts of the Corporation contracted while they are Directors thereof.

Company may have foreign agencies.

XXVI. The Company may establish Agencies in Great Britain or Ireland, France, or the United States of America, provided the majority of its Directors are British subjects.

Interpretation Clause.

XXVII. The word "Lands," in this Act, shall include all lands, tenements and hereditaments, and real and immoveable property whatsoever ; and all words importing the singular number or the masculine gender only, shall extend to more than one person, party or thing, and to females as well as males ; and the word "Shareholders" shall include the heirs, executors, administrators, curators, legatees or assigns of such Shareholders, or any other party having the legal possession of any share, whether in his own name or that of any other, unless the context shall be inconsistent with such construction ; and whenever power is by this Act given to do any thing, power shall be intended also to do all things which may be necessary to the doing of such things ; and generally all words and clauses herein shall receive such liberal and fair construction as will best ensure the carrying into effect of this Act, according to its true intent and spirit.

XXVIII.

1854. *International Mining Company.* Cap. 48, 49. 185

XXVIII. This Act shall continue and be in force for and during the term of fifteen years from the passing hereof, and shall be deemed a Public Act. Duration of Act.
Public Act.

SCHEDULE A.

FORM OF PROXY.

I, A. B., of _____, hereby appoint C. D., of _____ to be my Proxy, and to vote and act for me as such at all meetings of the Shareholders of the International Mining and Manufacturing Company, and in my name to do all things with regard to the business of the said Company, which I may by law do by Proxy.

Witness my hand, this _____ day of _____, one thousand eight hundred and _____