

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1847. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1847.

10 Victoria – Chapter 72

An Act to incorporate the South Bay Boom Company. Passed 14th April, 1847.

Whereas in consequence of the great losses and damage that have at different times happened from the want of proper places near the mouth of the River Saint John, in which to secure Timber, Logs, Masts, Spars, and other Lumber, brought to the Saint John Market, it is deemed expedient to erect and maintain Piers and Booms in the said River Saint John, in that part thereof which is between the Point at the head of South Bay, formerly owned by Shubel Stevens, and known as the Elm Tree Point, and Musquito Head, so called, for the purpose of preventing a recurrence of such losses and damage: And whereas it is deemed expedient to incorporate a Company for that purpose;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That James Kirk, Stephen' Wiggins, John Wishart, James Travis, Frederick A. Wiggins, John Robertson, John Duncan, John R. Parte- low, Alexander Seely, Moses Tuck, Isaac Woodward, Robert Stevens, John Mackay, Michael Fisher, John Pollok, Honorable R. L. Hazen, William Johnston Ritchie, Charles Brown, and their associates, successors, and assigns, be and they are hereby declared to be a Body Corporate by the name of The South Bay Boom Company, and shall have all the general powers and privileges made incident to a Corporation by Act of Assembly in this Province, for the purpose of placing, erecting and maintaining Piers and Booms, and any other works on the shore connected therewith, in that part of the River Saint John which is between the Point formerly owned by Shubel Stevens, and known as the Elm Tree Point, at the head of the South Bay, and Musquito Head, so called, for the more safe and convenient depositing and securing of Timber, Logs, Masts, Spars, and other Lumber, and for carrying on and managing the same.

II. And be it enacted, That the Capital Stock of the said Corporation shall be six thousand pounds of current money of New Brunswick, and shall be divided into one thousand shares of six pounds each; and that a subscription list shall be opened in some public place in the City of Saint John, of which thirty days' notice shall be given in one or more of the City papers, and that no individual shall be allowed to subscribe for more than twenty five shares until after said subscription list shall have remained open to the public for fifteen days, at the end of which time, should the list not be filled up, any person may subscribe for what number of shares he may think proper.

III. And be it enacted, That the subscribers for Stock in the said Corporation, shall, previous to the first meeting of the said Corporation, pay into the Commercial Bank of New Brunswick, to the credit of the said Corporation, an instalment or deposit of ten per centum on the Capital Stock of the said Corporation they subscribe for, twenty days notice being given at the time of the notice calling the first meeting of the members and stockholders of the said Corporation, of the time when said instalment or deposit shall be paid, and the said instalment or deposit shall be taken and allowed to every subscriber who shall pay it as part of the Capital Stock required to be paid in

under and by virtue of this Act, and every subscriber who shall neglect or refuse to-pay in the said deposit or instalment shall be deemed a defaulter, and no subscriber shall upon any pretence whatsoever, vote at the first meeting for the choice of Directors upon any share or shares unless he has paid the said deposit or instalment.

IV. And be it enacted, That when the whole number of shares shall have been subscribed, a general meeting of the subscribers shall be held at the City of Saint John, and shall and may be called by James Kirk, Esquire, or in case of his death, absence, or refusal to act, by any two of the said Corporation, by giving notice thereof for thirty days in one or more of the public Newspapers published in the City of Saint John, for the purpose of making, ordaining and establishing such bye laws and regulations for the good management of the affairs of the said Corporation, as they shall deem necessary, and also for the purpose of choosing seven Directors, being stockholders, which Directors so chosen, shall at their first meeting after their election, choose one of their number President of the said Company, and shall serve until the first annual meeting of the Company, or until others are chosen in their stead, which Directors shall have full power and authority to manage the concerns of the said Company, and shall commence the operations thereof, subject nevertheless to the laws and regulations which may from time to time be made by the said Corporation.

V. And be it enacted, That every person owning a share in the Capital Stock of the said Corporation, shall be a member thereof, and be entitled to vote at all meetings of the same, and members may give as many votes as they own shares, and that absent members may vote by proxy, such proxy being a shareholder and authorized in writing.

VI. And be it enacted, That the Directors, or the major part of them, shall have the power, and they are hereby authorized to appoint a Superintendent and such other officers as they may from time to time require, and likewise to allow them such salaries as they may think proper, such Superintendent and officers being subject to dismissal by the said Directors, or the major part of them, when the said Directors shall deem it expedient so to do, and others to be appointed in their stead; and that it shall not be lawful for any stockholder to be an officer or servant of the Company, nor shall it be lawful for the said Superintendent, during the period of his holding such situation, to be engaged in dealing in Timber or other Lumber, either directly or indirectly, on his own account, or as agent for any other person or persons; and further, that it shall not be lawful for such Superintendent to hold the office of Surveyor of Lumber for any other than the purposes of the Company.

VII. And be it enacted, That no person shall be eligible for a Director unless such person is a stockholder, holding not less than twenty five shares of the Capital or Stock of the said Corporation.

VIII. And be it enacted, That there shall be a general meeting of the stockholders of the said Corporation, to be annually holden on the second Monday in May in each and every year, at the City of Saint John, at which annual meeting there shall be chosen by a majority thereof, seven Directors, who shall continue in office for one year; and the Directors so chosen shall, at the first

meeting after their election, choose out of their number a President; provided that three of the Directors in office shall be re-elected, of whom the President shall always be one.

IX. And be it enacted, That the said Corporation shall have a lien on all Timber, Logs, Masts, Spars, and other Lumber, which shall be carried, received, or which shall enter into or within the said Piers and Booms; and the said Corporation, or their agent or agents, may retain the said Timber, Logs, Masts, Spars, and other Lumber, or sufficient part of them, to pay the boomage, until such boomage is paid or secured: Provided always, that nothing herein contained shall be construed to prevent the said Corporation from recovering the amount and amounts of such boomage by suit and suits at Law, of and from all party or parties chargeable with and entitled to pay the same.

X. And be it enacted, That for all Timber, Logs, Masts, Spars, or other Lumber, that shall be fastened to or secured by the said Piers or Booms, or any of them, on the outside thereof, the said Corporation shall be entitled to receive the same amount and amounts, as if the said Timber, Logs, Masts, Spars, and other Lumber, had been carried, received, or had entered into or within the said Piers and Booms, or any of them; and that the said Corporation shall have the like lien, and the same remedies for the recovery thereof, as in the last section specified, and such rafts as may be made fast outside of the Piers or Booms shall be under the control and direction of the Superintendent and officers, the same as if placed inside the said Boom.

XI. And be it enacted, That the said Corporation shall have power to levy and collect assessments upon the shares from time to time, of such sums of money as may be deemed necessary for the carrying on the business of the said Corporation, and whenever any such assessment shall be made by the Directors of the Corporation, it shall be the duty of the Treasurer to give notice thereof in a Newspaper printed in the City of Saint John, requiring payment of the same within thirty days; and if any stockholder shall neglect or refuse to pay to the Treasurer the amount of such assessment upon his share or shares at the time prescribed, it shall be the duty of such Treasurer to advertise all such delinquent shares for sale at public auction, giving at least thirty days' notice of the time and place of such sale, and all shares upon Which the assessment is not then paid, with interest from the time such assessment became due, shall be sold at public auction to the highest bidder, and after retaining the amount of assessment and interest due on each share, and the expense of advertising and selling, the residue (if any) shall be paid over to the former owner, and a new certificate or certificates of the shares so sold shall be made out and delivered to the purchasers.

XII. And be it enacted, That the members and stockholders of the said Corporation shall be chargeable in their private and individual capacity, and shall be holden for the payment of all debts at any time due from the said Corporation, or damage sustained by the default or neglect of the said Corporation, or their agents or servants, in proportion to the stock respectively held by such shareholders; provided however, that in no case shall any stockholder be liable to pay a sum exceeding the amount of stock actually then held by such member or stockholder, in addition to the stock then held by such stockholder; provided nevertheless, that nothing herein contained shall be construed to exempt the Joint Stock of the said Corporation from being also liable for and chargeable with the debts and engagements of the same.

XIII. And be it enacted, That the said Corporation shall not be liable for the loss of any Timber, Logs, Masts, Spars, or other Lumber, which may pass out of or by the said Piers and Booms, or escape therefrom, unless such loss is occasioned by their wilful neglect or default, or the wilful neglect or default of their agents or servants.

XIV. And be it enacted, That the said Corporation shall have power and authority, by themselves or their superintendents, agents and workmen, to enter in and upon, and occupy for the purpose aforesaid, all and any of the waters of the said River Saint John within the limits hereinbefore specified, leaving free access for boats or scows to the shores within the said limits, unless in such cases when they may enter into a special agreement with the owners or occupiers of said shores, for compensation for damages sustained by them in the occupation thereof by the said Corporation.

XV. And be it enacted, That the said Corporation shall be entitled to receive on all Timber, Logs, Masts, Spars, or other Lumber, which shall be carried or received, or which shall enter into or within said Piers and Booms, or any of them, and which shall be fastened to or secured by the said Piers or Booms, or any of them, on the outside thereof, a sum not exceeding one penny halfpenny for each and every ton of square Timber, two pence for each and every ton of round Timber, measured as square, three pence for each and every thousand superficial feet of Logs, Masts, Spars, and round Timber, the above rates to be chargeable by the said Corporation up to the first day of June next ensiling the time the Timber, Logs, Masts, Spars, or other Lumber, shall be received or deposited, and one half of the said rates in addition for each succeeding year, or any part thereof, that the said Timber, Logs, Masts, Spars, and other Lumber, shall be continued within said Boom.

XVI. And be it enacted, That all persons having or taking charge of Timber or other Lumber, when the same shall be put within, or enter within the Piers and Booms, or be fastened thereto, shall, in addition to the owner or owners thereof, be liable to pay the boomage thereon.

XVII. And be it enacted, That every Surveyor of Lumber measuring or surveying Timber or other Lumber, which Timber or Lumber shall enter within the said Piers or Booms, or be fastened thereto, shall render an exact account of the same, with the marks and owner's name, to the Superintendent or Agent appointed by said Corporation to receive the same; said account to be given within ten days of the time of such survey or measurement, at the office of the said Corporation, under a penalty of five pounds for every neglect or refusal so to account to the said Corporation for the quantity surveyed or measured; and in default of such account being rendered, it shall be lawful for the said Corporation to take an account of such Timber, at the expense of the owner or owners thereof, and that the said Corporation shall have the like lien on the Timber, of which an account shall be so taken, and the like remedies for the recovery of such expenses and penalties, that are given by this Act for the security and recovery of the boomage payable under this Act.

XVIII. And be it enacted, That it shall and may be lawful for the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice of the Executive Council, to appoint two Commissioners residing in the City or County of Saint John, which Commissioners so appointed, shall be empowered, and they are hereby required and directed, on the completion of said Piers and Booms, and before any Timber is received by the Corporation, of which due notice shall be given them by the Directors, to repair to the said Boom, and carefully inspect the same, and should they consider that any additional improvement or alterations are necessary for the preservation of the Timber or other Lumber to be deposited within said Boom, the same shall be immediately made by the Corporation under the direction of said Commissioners, and to their entire satisfaction, and further that the said Commissioners shall afterwards from time to time inspect the said Piers and Booms, and see that the same are kept in efficient repair, and give notice to the Corporation of any additional improvements or alterations the said Commissioners may think necessary, which improvements or alterations shall be forthwith made by the said Corporation within a reasonable time, to the satisfaction of said Commissioners.

XIX. And be it enacted, That the said Corporation shall make a reasonable compensation to the said Commissioners for the time occupied by them in the discharge of the above duties.

XX. And be it enacted, That the Directors shall at the general meeting to be holden in every year, lay before the stockholders, for their information, an exact statement of the then state and affairs of the Company; which statement shall be signed by the Directors and attested by the Secretary, and a duplicate thereof in like manner signed and attested, shall be transmitted to the Secretary of the Province for the information, of His Excellency the Lieutenant Governor or Administrator of the Government for the time being, and the Legislature of the Province.

XXI. And be it enacted, That no higher rate of boomage shall be charged by the said Corporation than will afford a dividend of-ten per centum on the monies invested, after allowing for the wear and tear and the necessary expenses connected with the proper management of the affairs of the Corporation.