

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1852. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1852.

15 Victoria – Chapter 11

An Act to provide for the erecting and making certain Wharves and improvements in the Harbour of Saint John. Passed 18th February 1852.

Whereas the want of Piers, Slips and Wharves, for the accommodation of Sea-going Steamers resorting to the Harbour of Saint John, is severely felt, and is highly injurious to the Trade of the City of Saint John;

Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

1. It shall and may be lawful for the Mayor, Aldermen and Commonalty of the City of Saint John, notwithstanding anything contained in an Act made and passed in the ninth year of Her present Majesty's Reign, intituled An Act relating to the Public Debt of the City of Saint John, and notwithstanding anything contained in an Act passed in the third year of Her present Majesty's Reign, intituled An Act to limit the extent and regulate the building of Wharves on the eastern side of the Harbour of Saint John, to contract and agree with able and sufficient workmen for the laying out, erecting and finishing, on the lots and parcels of land, beach and flats hereinafter described, at or near Reed's Point in the City and Harbour of Saint John, such Slips, Piers, Wharves and Jetties as may seem to them most suitable and proper for the accommodation and safety of Steamers and other Vessels resorting to the Harbour of Saint John, for such sums of money not exceeding seven thousand five hundred pounds, and upon such a plan and of such construction as may be best adapted to the said object.

2. All that certain lot, piece or parcel of land, beach and flats situate and being at Reed's Point in the City of Saint John, and bounded and described as follows, that is to say: commencing at a point on the prolongation westwardly of the southern line of Main Street, at the distance of eighty feet eastward of where the same is intersected by the prolongation of the eastern line of Prince William Street, thence southwardly at right angles to Main Street one hundred feet, thence westwardly parallel with the line of Main Street four hundred and eighty feet, thence northwardly one hundred feet to the prolongation of the said south line of Main Street, thence eastwardly to the place of beginning; and also all that other piece or parcel of land, beach and flats situate as aforesaid, and bounded and described as follows, viz: commencing at a point on the prolongation on the northern line of Main Street at the distance of eighty feet eastward of where the same is intersected by the prolongation of the eastern line of Prince William Street, thence running northwardly parallel with the line of Prince William Street two hundred feet or until it intersects the prolongation of the south line of Britain Street, thence crossing Britain Street keeping the same course to the distance of twenty five feet to the northward of the northern line thereof, thence westwardly one hundred and fifty feet or until it intersects the prolongation of the western line of Prince William Street, thence northwardly along the prolongation of the west line of Prince

William Street to the intersection of the prolongation of the northern line of Saint James Street, thence westwardly along the northern prolongation of Saint James Street two hundred and ninety feet from the west line of Prince William Street, thence southeastward in a direct line towards the westernmost end of the first described piece of ground two hundred and twenty feet, thence in a southeastwardly direction three hundred and thirty feet or thereabouts to a point one hundred feet westward of the prolongation of the northern line of Main Street where the same is intersected by the prolongation of the western line of Prince William Street, thence eastwardly along the prolongation of the northern line of Main Street two hundred and forty feet or thereabouts to the place of beginning, shall be and they are hereby declared to be vested in the Mayor, Aldermen and Commonalty of the City of Saint John, for the uses and purposes of this Act and none other.

3. The said Mayor, Aldermen and Commonalty of the City of Saint John are hereby authorized and empowered, notwithstanding anything in the said recited Acts contained, to borrow such sums of money as may be required for the erecting, constructing and completing the said works and improvements, not exceeding in the whole the sum of seven thousand five hundred pounds, to be paid off and discharged in manner hereinafter provided.

4. The said sum of seven thousand five hundred pounds shall be taken in loans of not less than one hundred pounds, and that Debentures in the following form, or to that effect, shall be prepared and delivered to the persons from whom such loans shall be obtained, viz:—

Number____ City of Saint John.

This certifies that [money lender] hath lent to the Mayor, Aldermen and Commonalty of the City of Saint John, the sum of one hundred pounds currency, which sum is payable to him or his order, together with interest at and after the rate of ____ per cent, per annum, pursuant to an Act of Assembly passed in the fifteenth year of the Reign of Her present Majesty, intituled *An Act to provide for the erecting and making certain Wharves and improvements in the Harbour of Saint John*.

Dated the _____ day of _____ A. D. 185_____.

By Order of the Common Council. (L. S.)

C. D., Common Clerk.

A. B., Mayor.

Which same Debentures shall be sealed with the Common Seal of the said Corporation, and signed by the Mayor and Common Clerk, shall be consecutively numbered according to the times at which the same shall be issued; and a record of the same shall be entered by the Clerk in the Minutes of the said Corporation.

5. The said Debentures so to be issued under the provisions of this Act shall be negotiable in the same manner as promissory notes; and the holders thereof shall be entitled to receive interest upon the same semi-annually, at a rate not exceeding six per cent, to be paid by the Chamberlain of the said City out of the funds hereinafter provided.

6. All rents, wharfage, slippage, top-wharfage, dockage, crantage and issues and profits whatever arising from the said wharves, piers, jetties, slips and docks, and other erections and improvements made, laid out or constructed under the provisions of this Act, or issuing out of or derived from the said beach and flats hereinbefore described, or the appurtenances thereof, shall be receivable by and paid to the Chamberlain of the said City by the lessors thereof, or by any persons owing such rents, issues or profits of the said premises described in this section, or by any wharfinger or collector of wharfage, slippage or dockage who may be appointed to receive the same; and the said Chamberlain shall keep a separate account of all sums of money so by him received, distinct from all other moneys in his hands as such Chamberlain, which account shall be by him exhibited and shewn to the holder of any Debenture issued under the provisions of this Act on reasonable demand for that purpose made.

7. The moneys so received by the said Chamberlain shall be from time to time applied, after discharging the yearly interest due upon the said sums mentioned in the said Debentures, in paying off the said Debentures in due order according to their number, beginning with number one; and that the said Chamberlain so often as he shall be desired by the Common Council, shall give one month's notice by advertisement in one of the public newspapers of the said City, for calling in such and so many of the said Debentures as the said Common Council may be prepared to pay off, specifying the number thereof, and the same shall pay off accordingly, and that from and after the expiration of the time appointed by the said notice the interest on such Debentures shall cease.

8. After the amount due upon the Debentures issued under this Act, and all interest due thereon, shall be fully paid and satisfied, all the net rents, issues and profits arising from the said lands hereinbefore described, and all erections thereon, shall be applied in payment of the public debt of the said City of Saint John.

9. The said land, beach and flats hereinbefore described, with all wharves and erections to be built and placed thereon, and their appurtenances, shall be exempt from all taxes, rates and assessments whatever, and shall not in law or equity be liable to or be levied upon or taken in execution and sold for the debts of the Mayor, Aldermen and Commonalty of the City of Saint John, or any person whatever; provided always, that nothing herein contained shall be held or taken to exempt the said lands and improvements thereon from any claims or lien in equity or at law which the holders of the said Debentures issued under this Act may have thereupon, until the payment of all moneys raised by virtue of this Act.

10. All moneys loaned to the Corporation under this Act shall be paid by the lenders thereof to the Chamberlain, and shall be paid out by him to the contractors or workmen who shall build the wharves and other erections to be made under this Act, on orders to be made by the Common Council.

11. And whenever it may become necessary, in order to the full completion of the improvements in the said Harbour contemplated by this Act, to extend Britain Street westwardly to a junction with the said wharves or any of them, the Mayor, Aldermen and Commonalty of the City of Saint

John are therefore hereby authorized and empowered to extend Britain Street westwardly, preserving the same breadth, to the said wharves or piers, or any of them; provided always, that the said street shall not be extended through any property without the consent of the owner or owners thereof, or without agreeing with such owner or owners, and paying to him or them the value of the property so required for such extension.

12. In case the said Common Council cannot agree with any owner or owners of such property so required, the Mayor of the said City shall issue his Warrant to the Sheriff of the City and County of Saint John, requiring him to summon a jury of twelve disinterested freeholders of the said City, who shall set and appraise the damages sustained by the owner of property so required for the said street on oath, which oath the said Sheriff is hereby authorized to administer; and the said jury shall also inquire and return in their verdict who are the owner or owners to whom such value and damages shall be paid.

13. The said Sheriff in holding such inquiry shall be entitled to the same fees and shall have all the powers, jurisdiction and authority vested in him in the executing any writ of inquiry issuing out of the Supreme Court; and the said jury in assessing such damages are authorized to take into consideration the advantages which may accrue to the owner of such land so taken, by the extension of such street, in diminution of such damages, and the amount so assessed shall be returned with the name of the owner or owners of such land so taken.

14. The amount so assessed shall be paid to the owner or owners returned in such verdict, and upon payment thereof by the said Corporation, or upon tender and refusal thereof, the said Corporation shall be fully authorized to extend the said street through such land in the same manner as if the owner had consented thereto.

15. All moneys which may be required for the extension of the said street shall be paid by the Chamberlain of the said City, together with all costs and expenses which may be therein incurred, out of the moneys to be raised by virtue of this Act, by orders of the Common Council upon the Chamberlain.

16. In case any deficiency shall exist between the net annual income arising from the said wharves and improvements erected and made under this Act, and the annual interest due upon the said Debentures, in any such case it shall and may be lawful for the said Mayor, Aldermen and Commonalty of the City of Saint John, in Common Council convened, and they are hereby required to order an assessment of such sum of money on the eastern side of the Harbour of the said City, as shall amount to and make up such deficiency, and every such assessment shall be assessed, levied and raised agreeably to the several Acts now in force or hereafter to be in force for assessing, levying and raising County, Town or Parish Rates, and when collected shall be paid into the hands of the Chamberlain of the said City, to be applied to the sole purpose of paying off such deficiency of interest; provided that no greater sum than four hundred and sixty pounds, with the costs and charges for levying and collecting the same, shall be levied in any one year under the authority hereby given.