

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1855. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1855.

18 Victoria – Chapter 73

An Act to incorporate the Peticodiac Wet Dock Company. Passed 12th April 1855.

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Whereas the construction of a Wet Dock in, over, and across Hall's Creek, in the Parish of Moncton, County of Westmorland, would greatly advance the commercial interests of that place, as well as afford a secure and safe harbour for ships and vessels; and it is deemed advisable to incorporate sundry persons for the purpose of effecting such object;—

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

1. That Thomas Ferguson, Michael S. Harris, John Steadman, John A. Humphrey, E. B. Chandler, Junior, Malcolm Cochran, William Harris, Abner Jones, Lewis Mills, Abraham Stults, and Peter M'Sweeney, their associates, successors, and assigns, shall be and they are hereby erected into a body politic and corporate, by the name of "The Peticodiac Wet Dock Company," and by that name shall have all the general powers and privileges made incident to a Corporation by any Act or Acts of Assembly in this Province, and shall have full power and authority to use the waters of said Hall's Creek, so far as may be necessary for the purposes of this Act, and for constructing, erecting, and maintaining a Wet Dock in, over, and across the same, and for any other necessary purpose for the efficient carrying on and managing the said Wet Dock.

2. The capital stock of the said Company shall be ten thousand pounds, and shall be divided into one thousand shares of ten pounds each, to be paid in at such times and in such instalments as the business of the Company shall require, and the said Company shall also when necessary have leave to extend the capital stock to twenty thousand pounds, and to increase the number of shares accordingly, or to assess such increase upon the original number of shares.
3. Whenever one hundred shares of said capital stock shall have been subscribed, a meeting of the Corporation shall be held at the Bend, Parish of Moncton, and shall be called by Thomas Ferguson, or in case of his death, neglect, or refusal, by any two of the persons named in the first Section, by giving notice in the public Newspaper printed in the said County, at least twenty days previous to such meeting, for the purpose of establishing bye laws and choosing five Directors for the management of the affairs of the said Company; which Directors shall serve until the first annual meeting, or until others are chosen in their stead, and shall have full power and authority to manage the concerns of the said Company, subject to the provisions hereinafter contained.
4. The Directors when chosen shall as soon as convenient choose out of their number a President, and shall have power from time to time to appoint all such officers, servants, agents, and other persons, as they shall think fit, for executing and carrying on the business of the said Company, and to remove them or any of them at pleasure, and appoint others in their stead.
5. A general meeting of the stockholders shall be held at the Bend on the first Tuesday in December in every year for the purpose of choosing five Directors, who shall remain in office for one year, or until others are chosen in their place; provided that not less than three Directors do form a quorum for the transaction of business, and in case of the absence of the President the Directors shall appoint one of their number Chairman for the occasion.
6. No person shall be eligible as a Director unless such person is a stockholder, and holds not less than five shares of the stock, and is of the full age of twenty one years.
7. The stockholders in the said Company shall vote according to the following scale:— For one share and not more than two, one vote; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten and not exceeding thirty, one vote, making ten votes for thirty shares; for every five shares above thirty and not exceeding sixty, one vote, making sixteen votes for sixty shares; and for every ten shares over sixty and not exceeding one hundred, one vote, making twenty votes for one hundred shares; which said number of twenty votes shall be the greatest that any shareholder shall be entitled to give; and absent stockholders may vote by proxy, provided such proxy be a stockholder, and produce sufficient authority in writing.
8. The shares of the Company shall be assignable and transferable according to such rules and regulations as may be established by the Directors in that behalf, but no assignment or transfer shall be valid unless it shall be entered in a book to be kept by the Directors for such purpose, and in no case shall a fractional part of a share, or other than a complete share or shares, be assignable

or transferable, and whenever any shareholder shall transfer in manner aforesaid all his stock or shares in the said Company, he shall cease to be a member thereof.

9. If it should happen that the Directors should not be chosen on the said first Tuesday in December in any year as aforesaid, it shall be lawful to choose them on any other day, on giving fourteen days notice of the time and place of a meeting to be held for such purpose in the public Newspaper printed in the County; and in case of any vacancy among the Directors, then the Directors may fill up the same by choosing one of the stockholders, who shall serve until another is chosen in his room.

10. The joint stock and property of the said Corporation shall alone be responsible for the debts and engagements of the said Company.

11. The Company shall have full power to levy and collect assessments upon the shares from time to time, of such sums of money as may be deemed necessary for carrying on the business of the said Company, and whenever any assessment shall be made by the stockholders, it shall be the duty of the President to give notice thereof in the public Newspaper printed in the said County, requiring payment of the same within thirty days at the office or place of business of the said Company, and in case of nonpayment the delinquent shares may be sold at public auction to the highest bidder, and after retaining the amount of assessment and interest on each share, and all expenses, the residue (if any) shall be paid over to the former owner.

12. All meetings of the stockholders shall be called by fourteen days at least public notice being given of the time and place in the public Newspaper printed in the said County, and special meetings may be called by the President under the authority of the Directors, or by the shareholders, representing not less than fifty shares, upon giving the like notice.

13. It shall be lawful for the said Company and their successors, engineers, deputies, agents, servants, workmen, and assistants, and they are hereby authorized and empowered to design, construct, order, and build, or cause to be built and constructed, and to complete, maintain, and keep in repair, a Wet Dock of such design, form, materials, dimensions, and construction, as they shall think fit, in, over, and across Hall's Creek, in the Parish of Moncton; and to dig and make proper foundations and works on the banks of the said Creek, for the towers, piers, gates, abutments, and other purposes of the said Wet Dock, and to cut, remove, and take away any impediment or obstruction which may in any wise tend to hinder the erection and construction of the said Wet Dock, and to use, occupy, and enjoy the water in the said Creek, for the efficient operation of the said Wet Dock, so long as they do not injure, or prejudice, or damage the marsh lands of the respective owners adjoining and adjacent to the said Hall's Creek, without first making due compensation to the said owner or owners thereof for any depreciation in value of said marsh land, and to enter upon, use, occupy, enjoy, and appropriate the marsh land or banks on either side of the said Hall's Creek up to the present dykes, for the purpose of erecting, building, maintaining, and keeping in repair any jetties, wharves, tollhouses, warehouses, or any other buildings of any description whatsoever, for the beneficial operation of the said Wet Dock;

provided that in all cases the said Company shall make and allow and pay reasonable and proper compensation, as well for any depreciation or injury to the marsh land as aforesaid, as for all lands, tenements, and hereditaments taken, used, occupied, or appropriated for the purposes of this Act; and in case no agreement can be made by the Company and the respective owners of such lands, tenements, and hereditaments, then it shall be lawful for the said Company, or for the said owner or owners, to apply to two of Her Majesty's Justices of the Peace for the County of Westmorland for a warrant, which warrant shall be in the form set forth in the Schedule A hereto annexed, and shall be directed to the High Sheriff of the County, or his deputy, or in case of his being a party interested, then to a Coroner of the said County, requiring him to summon a Jury of five disinterested freeholders of the said County, who shall set and appraise the damages sustained by such owner or owners on oath of the said jurors, and any witness or witnesses, to be administered by such Sheriff or Coroner, and the Jury shall also inquire and return in their verdict who are the owner or owners to whom such damages and value shall be paid.

14. The Sheriff, Coroner, and Jurors, in attending and holding such inquiry, shall be entitled to the same fees and invested with the same powers and authorities as in executing any writ of inquiry in the Supreme Court; and the Jury shall be authorized, in assessing the damages for the land so taken as aforesaid, to take into consideration the advantages which may accrue to such owner by the erection and establishment of the Wet Dock in diminution of such damages, and the amount assessed shall be returned with the name or names of the owner or owners as aforesaid, and the inquisition, award, or verdict of the Jury shall be filed in the office of the Clerk of the Peace for said County, and shall be final and conclusive between the said parties, and the amount so assessed shall be borne by the Company and shall be paid by them within one month after the said inquisition, award, or verdict shall be filed as aforesaid.

15. The said Company, or such person or persons as they shall from time to time appoint as Dock Masters, or their deputies, are hereby authorized to demand and receive Dock fees, wharfage, or dues for any ship, steamer, vessel, or boat, and all timber, masts, spars, logs, deal, boards, staves, lathwood, and shingles, and all scantling, with all other sawed lumber, and all other lumber of any kind or description, and all goods, wares, merchandise, produce, or commodities of every description laying, being, or passing in or through the said Dock, and for warehousing and keeping the same, the rates of which Dock fees, wharfage, or dues, shall be regulated and established by the bye laws of the said Company, being first submitted to His Excellency the Lieutenant Governor and Council for approval; and in case the owner, shipper, supercargo, or captain of any such ship, steamer, vessel, or boat, or the owner or owners of all such commodities and property mentioned as aforesaid, shall refuse or neglect to pay the Dock fees, wharfage, or dues as aforesaid, the said Company shall have a lien upon the same, and may detain all or any portion thereof, and may sell and dispose of so much of said property or commodities as will pay the amount of Dock fees, wharfage, or dues due on the same, together with all necessary charges and costs, first giving at least ten days notice in writing to the owner or agent of the owner of such property or commodities, and in case the said Dock fees, wharfage, or dues be not then paid, to advertise the time and place of sale at least six days previous thereto.

16. If any shareholder shall fail to pay the amount of any assessment made by the said Company, or any part thereof, it shall be lawful for the said Company to sue such shareholder for the amount in any Court of law or equity having jurisdiction, and to recover the same with interest and costs.

17. In any such action it shall be sufficient for the Company to declare that the defendant is the holder of one share or more in the said Company, (state the number of shares), and is indebted to the Company in the sum to which the assessment or assessments in arrears shall amount, in respect of one assessment or more upon one share or more, (state the number and amount of such assessment), by means of which an action hath accrued to the Company by virtue of this Act.

18. On the trial or hearing it shall be sufficient to prove that the defendant at the time of making such assessment was a holder of one share or more in the said undertaking, and that such assessment was in fact made, and it shall not be necessary to prove any other matter whatsoever, and thereupon the Company shall be entitled to recover what shall be due upon such call, with interest and costs.

19. Unless at least five hundred pounds of the capital stock of the said Company be paid within five years from the passing of this Act, then this Act shall be null and void.

Schedule A.

To the Sheriff or Deputy Sheriff (or Coroner, in case Sheriff interested) of the County of Westmorland.

You are hereby commanded to summon a Jury of five disinterested freeholders of your County on, the _____ day of _____ at of the clock in the _____ noon, and then and there to assess the damages (if any) which has been occasioned to the lands and premises of A. B., situate at Moncton, by reason of the works and operations of the Petitcodiac Wet Dock Company.

[L.S.]

C.D. Justices of the Peace for the
E.F. County of Westmorland.