

Laws of His Majesty's Province of Upper Canada, passed in the year 1831. York: Robert Stanton, 1831.

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An Act to Incorporate the Niagara Harbour and Dock Company. Passed 16th March, 1831.

Whereas James Muirhead, Robert Dickson, Thomas Butler, Daniel M'Dougal, Ralph Morden Crysler, William Duff Miller, Lewis Clement, John Crooks, Thomas M'Cormick, James Lockhart and Robert Kay, and others of the Town and Neighbourhood of Niagara, have by Petition prayed to be Incorporated as a Joint Stock Company, for the purpose of Constructing, Erecting and Managing a Harbour Wharf, Dry and Wet Docks, in conjunction with an Iron Marine Rail Way, for the constructing, repairing and refitting any Shipping, Vessels or Crafts Navigating Lake Ontario, at the mouth of the Niagara River; And whereas it is expedient to Incorporate the said Petitioners for the purposes hereinafter mentioned. — Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled "*An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'*" and by the authority of the same, That the said James Muirhead, Robert Dickson, Thomas Butler, Daniel M'Dougal, Ralph Morden Crysler, William Duff Miller, Lewis Clement, John Crooks, Thomas M'Cormick, James Lockhart and Robert Kay, together with all such other persons as shall become Stockholders in such Joint Stock or Capital, as is hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a Body Corporate and Politic in fact, by and under the name and style of "The Niagara Harbour and Dock Company," and by that name they and their Successors shall and may have continued Succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters, and concerns whatsoever, and that they and their Successors may and shall have a common Seal, and may change and alter the same at their will and pleasure; and also that they and their Successors by the same name of "The Niagara Harbour and Dock Company," shall be by Law capable of purchasing, having and holding, to them and and their Successors, any Estate, Real, Personal or Mixed, to and for the use of the said Company, and of letting, conveying, and otherwise departing therewith, for the benefit and on account of the said Company, from time to time as they shall deem necessary and expedient.

II. And be it further enacted by the authority aforesaid, That the said Company may be authorised and empowered at their own costs and charges to construct a Harbour and Wharf and Wharves, with a Dry Dock or Rail Way regulated for refitting and repairing all Shipping at Niagara aforesaid, which said Wharf or Wharves, Harbour and Dry Dock, or Rail Way, shall be accessible to, and fit, safe, and commodious for the reception of such description and burthen of Sail or Steam Vessels as now navigate Lake Ontario; and also to erect and build all such necessary and needful Moles, Piers, Wharves, Break-waters, or other erection or constructions whatsoever, as shall be

useful and proper for the purposes aforesaid, and the protection of the Harbour, Wharf or Wharves, Docks or Rail Ways, and for the accommodation and convenience of Vessels entering, lying, loading and unloading, repairing, refitting, or laying up in the same, and to alter, amend, repair, and enlarge the said Harbour, Wharf or Wharves, and Docks or Rail Way as aforesaid, as may from time to time be found necessary and expedient.

III. And be it further enacted by the authority aforesaid, That the Directors of the said Company may be empowered to contract, compound, compromise and agree, with the owners or occupiers of any Lands or private Easements, rights or privileges, upon which they may determine to dredge, cut, and construct the said Harbour, with all necessary and convenient Roads, Streets, and approaches thereto, to be made and constructed, either by purchase of so much of the said Land, or private Easements and privileges, as they shall require for the purposes of the said Company, or for the damages which he, she or they, shall and may be entitled to receive of the said Company in consequence of the said intended Harbour, Roads, Streets, and approaches thereto, being cut, made and constructed in and upon his, her, or their respective Lands, and in case of any disagreement between the said Directors, and the Owner or Owners, Occupier or Occupiers aforesaid, it shall and may be lawful from time to time as often as the said Directors shall think fit, for each owner or occupier so disagreeing with the said Directors, either upon the value of the Lands and Tenements, or private privileges proposed to be purchased, or upon the amount of damages to be paid to them, as aforesaid, to nominate and appoint one or more indifferent person or persons, and for the said Directors to nominate an equal number of indifferent persons, who, together with one other person to be elected by ballot by the persons so named, shall be Arbitrators to award, determine, adjudge and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of the majority of whom shall be final, and the said Arbitrators, shall and they are hereby required to attend at some convenient place in the vicinity of the said intended Harbour, to be appointed by the said Directors, after eight days notice given them for that purpose by the said Directors, then and there to arbitrate, award, adjudge and determine such matters and things as shall be submitted to their consideration by the Parties interested, and that each Arbitrator shall be sworn before some one of His Majesty's Justices of the Peace in and for the said District, any of whom may be required to attend the said meeting for that purpose, well, and truly to assess the damages between the parties according to the best of his judgment; Provided always, that any award made under this Act, shall be subject to be set aside on application to the Court of King's Bench, in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case a reference may be again made to arbitration as herein before provided.

IV. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the President and Directors of the said Company, from time to time to regulate, fix, and establish the Rates of Wharfage, Tolls, Dues or Duties payable by persons Navigating, or owning Rafts, Vessels, Boats or other Crafts on Lake Ontario, and which may from time to time partake of the benefits and advantages of the said Harbour, Wharves, Docks, or Rail Way, or of the Store houses or other protections and erections for the safe-keeping, repairing and refitting of all Vessels, Boats, Crafts and Rafts of any description, and of Goods, Wares and Merchandize Shipped or unloaded within the limits established by this Act, and to alter the said Tolls, Dues, Duties and demands aforesaid, as they may deem proper and expedient, and also for regulating the discharging of

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Ballast, as well in the said Harbour as in the River immediately adjacent thereto, a copy of which Tolls, Rates and Dues, shall be affixed up in not less than three public places adjacent to the said Harbour and Docks, and Rail Way respectively.

V. And be it further enacted by the authority aforesaid, That the said Harbour, Moles, Piers, Wharves, and Wet Dock and Dry Dock, or Rail Way, and all materials which shall be from time to time got or provided for constructing, building, maintaining or repairing the same, and the said Tolls on Goods, Wares or Merchandize as hereinbefore mentioned, shall be and the same are hereby vested in the said Company and their Successors for ever.

VI. And be it further enacted by the authority aforesaid, That so soon as the said Harbour, Wharves, Wet Dock and Rail Way, shall be so far completed, as to be capable of receiving, sheltering and repairing Vessels, the said Company shall have full power and authority to ask for, demand, receive, recover and take the Tolls and Dues to be established by virtue of this Act, to and for their own proper use and benefit on all Goods, Merchandizes and articles whatsoever, Shipped on Board or landed out of any Vessel or Boat entering, using or occupying the said Harbour, Wharves, Wet Dock and Rail Way, or any other convenience, erection or improvement built, occupied or owned by the said Company.

VII. And be it further enacted by the authority aforesaid, That the said Company, or their Servants, or Agents at any time after the passing of this Act, under and by virtue of its provisions, shall and may excavate, dig, dredge, construct, erect and finish the said Harbour, Wharves, Wet Dock and Rail Way respectively, or any of them, on any part or portion of the Land or Beach lying immediately adjacent to the Niagara River, and between the Ferry Lot in the occupation of Andrew Heron, junior, in the rear of the present Government Wharf, and Ware House, and the Lot in the possession of Andrew Heron, senior, situate at the termination of King Street, in the Town of Niagara; Provided always, that the said area or space between the said limits so defined do not recede or extend in the rear from the River further than the summit of the Hill or Bank adjacent: and also that the said Erections or Constructions contemplated by this Act shall not in any degree interfere with, or encroach on any Fee Simple right or private Easment or Privilege of any individual now holding and enjoying the same, or entitled thereto, without the permission first had and obtained either by the consent of such owner or owners thereof, or by virtue of reference authorised by this Act.

VIII. And be it further enacted by the authority aforesaid, That if any person or persons shall neglect or refuse to pay the Tolls or Dues to be collected under this Act, it shall and may be lawful for the said Company, or their Officer, Clerk or Servant duly appointed, to seize or detain the Goods, Vessels, or Boats on which the same shall be due and payable, until such Tolls shall be paid; and if the same shall remain unpaid for the space of Thirty Days next after such Seizure, the said Company, or their Officer, Clerk or Servant as aforesaid, may sell or dispose of the said Goods, Vessels, or Boats, or such part thereof as may be necessary to pay the said Tolls or Dues, by Public Auction, giving ten days notice thereof, and return the overplus, if any, to the owner or owners thereof.

IX. And be it further enacted by the authority aforesaid, That the Property, Affairs and Concerns, of the said Company, shall be managed and conducted by seven Directors, one of whom shall be chosen President, who shall hold their Offices for one year, which said Directors shall be Stockholders to the amount of at least Four Shares, and be Elected on the first Monday in June in every year, at Niagara, at such time of the day as a majority of the Directors for the time being shall appoint, and public notice thereof shall be given in any Newspaper or Newspapers that may be published in the said District of Niagara, at least thirty days previous to the time of holding the said Election; and the said Election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper persons or by proxy, and all Elections for such Directors shall be by Ballott, and the seven persons who shall have the greatest number of votes at any Election shall be Directors; and if it shall happen at any such Election that two or more have an equal number of votes, in such manner that a greater number of persons than seven shall by a plurality of votes appear to be chosen Directors, then the said Stockholders hereinbefore authorised to hold such Election shall proceed to Elect by Ballott until it is determined which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of seven; and the said Directors so chosen, so soon as may be after the said Election, shall proceed in like manner to Elect by Ballott one of their number to be President; and if any vacancy or vacancies shall at any time happen among the Directors by death, resignation, or removal from the Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen by a person or persons to be nominated by a majority of the Directors.

X. And be it further enacted by the authority aforesaid, That each Stockholder shall be entitled to the number of votes proportioned to the number of Shares which he or she shall have held in his or her own name at least one month prior to the time of voting, according to the following rates, that is to say:—One vote for each Share, not exceeding Four; Five votes for Six Shares; Six votes for Eight Shares; Seven votes for Ten Shares; and One vote for every Five Shares over Ten.

XI. And be it further enacted by the authority aforesaid, That in case it should at any time happen that an Election of Directors should not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any day to make and hold an Election of Directors in such manner as shall have been regulated by the By-Laws and Ordinances of the said Corporation.

XII. And be it further enacted by the authority aforesaid, That the Directors for the time being, or a major part of them, shall have power to make and subscribe such Rules and Regulations as to them shall appear needful and proper, touching the management and disposition of the Stock, Property, Estate and Effects of the said Corporation, and touching the duty of the Officers, Clerks and Servants, and all such other matters as appertain to the business of the said Corporation; and shall also have power to appoint as many Officers, Clerks and Servants, for carrying on the said business, with such Salaries and Allowances as to them shall seem fit.

XIII. And be it further enacted by the authority aforesaid, That on the fourth Monday after the passing of this Act a Meeting of the Stockholders shall be held at Niagara, who in the same manner as hereinbefore provided shall proceed to Elect seven persons to be Directors, who shall continue in such Office until the first Monday in June next after their Election, and who during such continuance shall discharge the duties of Directors in the same manner as if they had been Elected at the Annual Election: Provided always, that if Shares to the amount of One Thousand Pounds of the Capital Stock of the said Company shall not be taken, then the said Meeting shall not be held until the amount of Stock shall have been taken up, and at least thirty days notice thereof be given in any Paper or Papers published in the District of Niagara.

XIV. And be it further enacted by the authority aforesaid, That the whole Capital or Stock of the said Company, inclusive of any Real Estate which the Company may have or hold by virtue of this Act, shall not exceed in value Twenty-five Thousand Pounds, to be held in Two Thousand Shares of Twelve Pounds Ten Shillings each, and that the Shares of the said Capital Stock may, after the first Instalment thereon shall have been paid, be transferred by the respective persons subscribing or holding the same, to other person or persons, and such transfer shall be entered or registered in a Book or Books to be kept for that purpose by the said Company.

XV. And be it further enacted by the authority aforesaid, That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company, by giving thirty days notice thereof in any Paper or Papers published in the said District of Niagara, for an Instalment of Ten per Cent upon each Share which they or any of them respectively may subscribe, and that the residue of the sum or Shares of the Stockholders shall be payable by Instalments, in such time and in such proportions as a majority of the Stockholders at a Meeting to be expressly convened for that purpose shall agree upon, so as no such Instalments shall exceed Ten per Cent, nor become payable in less than thirty days after public notice in the Paper or Papers as aforesaid: Provided always, that the said Directors shall not commence the construction of the said Harbour, Wharves and Docks, or Railway, until the first Instalment shall be paid in.

XVI. And be it further enacted by the authority aforesaid, That if any Stockholder or Stockholders as aforesaid shall refuse or neglect to pay at the time required any such Instalment or Instalments as shall be lawfully required by the Directors as due upon any Share or Shares, such Stockholder or Stockholders so refusing or neglecting, shall forfeit such Share or Shares as aforesaid, with any amount which shall have previously been paid thereon, and that the said Share or Shares may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid in, shall be accounted for and applied in like manner as other monies of the said Company: Provided always, that the purchaser or purchasers shall pay the said Company the amount of the Instalment required over and above the purchase money of the Share or Shares so purchased by him, her, or them as aforesaid, immediately after the sale, and before they shall be entitled to the Certificate of the transfer of such Shares so purchased as aforesaid: Provided always, that thirty days notice of the sale of such forfeited Shares shall be given in any Newspaper or Newspapers published in the District of Niagara, and that the instalments due may be received in redemption of any such forfeited Share, at any time before the day appointed for the sale thereof.

XVII. And be it further enacted by the authority aforesaid, That it shall be the duty of the Directors to make Annual Dividends of so much of the Profits of the said Company as to them or the majority of them shall seem advisable, and that once in each year an exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses, such statements to appear on the Books, and to be open to the perusal of any Stockholder at his or her reasonable request.

XVIII. And be it further enacted by the authority aforesaid, That this Act shall be deemed and taken to be a Public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and other persons, without being specially pleaded.

XIX. And be it further enacted by the authority aforesaid, That at any time after fifty years after the making and completing the said Harbour, His Majesty, His Heirs and Successors, may assume the possession and property of the same, and of all and every the Work and Dependencies thereto belonging, upon paying to the said Company, for the use of the Stockholders thereof, the full amount of the then respective Shares, or of the sums furnished and advanced by each Subscriber towards the making and completing the said Harbour, Wharves, Wet Dock, and Dry Dock, or Rail Way, together with such further sum as will amount to Twenty-five per Cent upon the monies so advanced and paid, as a full indemnification to such Company, and the said Harbour, Wharves, Wet Dock and Dry Dock, or Rail Way, shall from the time of such assumption in manner aforesaid, appertain and belong to His Majesty, His Heirs and Successors, who shall from thenceforth be substituted in the place and stead of the said Company, upon the conditions and subject to the Provisions of any Act of the Legislature of this Province, that may be passed respecting the same: Provided always, that it shall not be lawful for His Majesty, His Heirs or Successors, at any time after the expiration of the said fifty years, to assume the possession and property of the said Harbour, Wharves, Wet Dock, Dry Dock or Rail Way, with their appurtenances as aforesaid, unless it shall appear from the accounts of the said Company, to be for that intent laid before the Legislature, that the Stockholders of the said Company have received every year upon an average the sum of Twelve Pounds Ten Shillings for every Hundred Pounds they shall be possessed of in the said concern.

XX. And be it further enacted by the authority aforesaid, That from and after the period when the possession of the right, interest and property, in and to the said Harbour, Wharves, Wet Dock and Dry Dock, or Railway, shall have been assumed by His Majesty, His Heirs and Successors, as hereinbefore authorised, all Tolls and profits arising therefrom shall be paid into the hands of His Majesty's Receiver General, to and for the Public uses of this Province at the disposition of the Legislature thereof, and shall be accounted for to His Majesty, His Heirs and Successors, through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct: Provided always, that the said Harbour, Wharves, Wet Dock, Dry Dock or Railway, shall be commenced within one year, and completed within five years after the passing of this Act, otherwise this Act and every matter and thing herein contained, shall cease and be utterly null and void.

XXI. And be it further enacted by the authority aforesaid, That all Ships, Vessels, Rafts, or other Crafts owned by, belonging to, or in the use and occupation of the Parent or Provincial Government, shall from time to time have free access and privilege of occupancy and sheltering under, and using the privileges, safeties and advantages of the said Harbour and Wharves, Wet Dock, Dry Dock or Railway, without being subject to any charge for Toll or Dues whatsoever.