

Laws of Her Majesty's Province of Upper Canada, passed in the year 1838. York: Robert Stanton, 1838.

1 Victoria – Chapter 31

An Act to Incorporate certain persons, under the style and title of the Bond Head Harbour Company. Passed 6th March, 1838.

Whereas the prosperity of the Newcastle District would be materially advanced, and be highly advantageous to the public, should a Harbour be erected in the Township of Clark, in the said District, on Lake Ontario: And whereas from a survey made by N. H. Baird, Civil Engineer, of Lots number twenty-seven and twenty-eight, of said Township, the front of said lots is considered a most desirable situation for the erection of a Harbour: And whereas George Manners, and others, have by petition prayed to be Incorporated for said purpose: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, consituted 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 George Manners, Benjamin Clark, Hervey P. Andrews, Donald McTavish, Alexander Jack, Henry Munro, Edward Clark, A. Wilmot, John Middleton, George G. Boswell, Daniel Perry, R. II. Catherwood, Asa E. Walbridge, William McIntosh, William Brock, Jael Beman, Richard Lovekin, and Samuel Street Wilmot, 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 of "The President, Directors and Company, of the Bond Head Harbour Company."

II. And be it further enacted by the authority aforesaid, That the said Company are hereby authorised and empowered, at their own cost and charge, to construct a Harbour in front of lots numbers twenty-seven and twenty-eight, on Lake Ontario, in the Township of Clark aforesaid, which shall be accessible to and fit, safe, and commodious, for the reception of such description of vessels as commonly navigate the said Lake; and also to erect and build all such needful moles, piers, wharves, buildings and erections whatsoever, as shall be useful and proper for the protection of the said Harbour, and for the accommodation and convenience of vessels entering, lying, loading and unloading, within the same, and to alter and amend, repair and enlarge the same, as may be found expedient and necessary.

III. And be it further enacted by the authority aforesaid, That the Directors of the said Company shall be, and they are hereby empowered, to contract, compound, compromise and agree, with the owners and occupiers, of any land through or upon which they may determine to cut and construct the said Harbour with all necessary and convenient roads, streets and approaches thereto, to be constructed and made, either for the absolute purchase of so much of the said land as they shall require for the purposes of the said Company, or for the damages which they, shall

and may be entitled to recover from the said Company, in consequence of the said intended Harbour, roads, streets and approaches thereto, being cut, made and constructed, in and upon their respective lands; and in case of any disagreement between the said Directors and the owners or occupiers aforesaid, it shall and may be lawful, from time to time, as often as the Directors shall think fit, for each owner or occupier so disagreeing with the said Directors, either upon the lands and tenements 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 persons, and for the said Directors to nominate an equal number of in different 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 a 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 Her 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 arbitrators, as hereinbefore provided; and that the said Company shall in no case take possession of any land, the value of which shall be so awarded, unless payment be made according to the said award, or a tender thereof made to the party therein interested.

IV. And be it further enacted by the authority aforesaid, That as soon as the said Harbour shall be so far completed as to be capable of receiving and sheltering vessels, the said Company shall have full power and authority to ask for, demand, receive and take, as tolls to and for their own proper use and benefit and behoof, on all goods, wares and merchandize, shipped or landed on board or out of any vessel or boat, from or upon any part of the Lake shore, in front of lots number twenty-seven and twenty-eight, first concession or broken front of the said Township of Clark, in the said District of Newcastle, and upon all vessels and boats entering the said Harbour, according to the rate following, that is to say— Pot and pearl ashes, per barrel, six-pence; pork, whiskey, salt beef and lard, per barrel, four-pence; flour, per barrel, three-pence; merchandize, per barrel bulk, four-pence; lard and butter, per keg, one penny; merchandize, per ton, five shillings; West India staves, per thousand, two shillings; shingles, per thousand, sixpence; shingle bolts, per cord, three shillings; pipe staves, per thousand, ten shillings; deals, per hundred pieces, three shillings; wheat and other grain, per sixty pounds, one penny; lumber, per thousand feet, board measure, one shilling; boats under five tons, free; boats and vessels under twelve tons, one shilling and three-pence; boats and vessels above twelve tons, and not over fifty tons, two shillings and six-pence; vessels over fifty tons, five shillings; and all articles not enumerated, to pay in proportion to the above rates, subject to the direction of the Directors appointed by virtue of this Act: Provided, nevertheless, that the said Directors shall have power to reduce the said rates of tolls should they see fit.

V. And be it further enacted by the authority aforesaid, That the said harbour, moles, piers, wharves, buildings, erections, and all materials which shall be from time to time got or provided for constructing, building maining, or repairing the same; and the said tolls on goods, wares and 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 if any person 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 and detain the goods, vessels, or boats or other craft, on which the same were due and payable, until such tolls are paid, and if the same shall be unpaid for the space of thirty days next after such seizure, the said Company, or their officers, clerk or servant, as aforesaid, may sell and dispose of the said goods, vessels or boats, or other craft, or such part thereof as may be necessary to pay the said tolls, by public auction, having given ten days notice thereof, and return the overplus, if any, to the owner thereof.

VII. And be it further enacted by the authority aforesaid, That the stock, property, affairs and concerns, of the said Company shall be managed and conducted by five Directors, one of whom shall be chosen President, and three of whom shall be a quorum, who shall hold their office for one year; which said Directors shall be Stock-holders to the amount of at least four shares, as well as inhabitants of this Province, and be elected on the third Monday in June in every year, at such place, and 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 the Upper Canada Gazette, and in any Newspaper that may be published in the said District of Newcastle, at least thirty days previous to the time of holding said election; and the said election shall be held and made by such of the Stock-holders 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 ballot, and the five persons who shall have the greatest number of votes at any election shall be Directors; and if it shall happen at any such elections that two or more have an equal number of votes, in such manner that a greater number of persons than five shall, by plurality of votes, apper to be chosen Directors, then the said Stock-holders hereinbefore authorised to hold such election, shall proceed to elect by ballot until it is ascertained which of the said persons so having an equal number of votes shall be Directors so as to complete the whole number of five; and the said Directors so chosen, as soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be President; and if any vacancy shall at any time happen among the Directors by death, resignation, or removal from the Province, such vacancy shall be filled up for the remainder of the year in which it may happen by a person to be nominated by a majority of the Directors.

VIII. And be it further enacted by the authority aforesaid, That each Stockholder shall be entitled to a number of votes proportioned to the number of shares which he shall have held in his 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 above ten.

IX. And be it further enacted by the authority aforesaid, That on the third Monday in June, after the passing of this Act, a meeting of the Stockholders shall be held in the Township of Clark, who, in the same manner as hereinbefore provided, shall proceed to elect five persons to be Directors, who shall continue in such office until the third 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 an annual election: Provided always, that if shares to the amount off one thousand pounds of the capital stock of the said Company shall not be taken up, then the said meeting shall not be held until that amount of stock shall have been taken up, and at least thirty days notice thereof given in the Upper Canada Gazette, and any newspaper that may be published in the said District.

X. And be it further enacted by the authority aforesaid, That the whole capital stock of the said Company, inclusive of any real estate which the said Company may have or hold by virtue of this Act, shall not exceed in value five thousand pounds, to be held in eight hundred shares, of six pounds five shillings each; and that the shares of the said capital stock may, after the first instalment thereon has been paid, be transferred by the respective persons subscribing or holding the same to other persons, and such transfer shall be entered or registered in a book to be kept for that purpose by the said Company.

XI. And be it further enacted by the authority aforesaid, That as soon as Directors shall 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 manner before-mentioned, for an instalment of ten per centum upon each share, which they or any of them respectively may subscribe; and that the residue of the share or shares of the Stockholders shall be payable by instalments, in such time and in such proportion as a majority of the Stockholders, at a meeting to be expressly convened for that purpose shall agree upon, so as no such instalment shall exceed ten per centum, nor become payable in less than thirty days after public notice given in the manner before-mentioned: Provided always, that the said Directors shall not commence the construction of the said Harbour, until the first instalment shall have been paid in.

XII. And be it further enacted by the authority aforesaid, That if any Stockholder as aforesaid shall refuse or neglect to pay at the time required any such instalment as shall be lawfully required by the Directors, as due upon any shares, such Stockholder so refusing or neglecting shall forfeit such shares aforesaid, with any amount which shall have been previously paid thereon, and that the said shares may be sold by the Directors, and the sum arising therefrom, together with the amount previously paid in, shall be accounted for and applied in like manner as the monies of the said Company: Provided always, that the purchaser shall pay the said Company the amount of the instalment required over and above the purchase money of the shares, so purchased by him 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, nevertheless, that thirty days public notice of the sale of such forfeited shares shall be given in the manner hereinbefore directed, and that the instalment due may be received in redemption of any such forfeited shares, at any time before the day appointed for the sale thereof.

XIII. 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 a 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 statement to appear on the books, and to be open to the perusal of any Stockholder, at his reasonable request.

XIV. And be it further enacted by the authority aforesaid, That at any time after fifty years after the making and completing the said Harbour, Her Majesty, Her Heirs and Successors, may assume the possession and property of the same, and all and every the works and dependencies thereto belonging, upon paying to the said Company, for the use of the Stockholders thereof, the full amount of their respective shares, or of the sums furnished and advanced by each Subscriber towards making and completing the said Harbour, together with such further sum as will amount to twenty-five per centum upon the monies so advanced and paid, as a full indemnification to such Company, and the said Harbour shall, from the time of such assumption in manner aforesaid, appertain and belong to Her Majesty, Her 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 Her Majesty, Her Heirs and Successors, at any time after the expiration of the said fifty years, to, assume the possession and property of the said Harbour, with its 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.

XV. 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 shall have been assumed by Her Majesty, Her Heirs and Successors, as hereinbefore authorised, all tolls and profits arising therefrom shall be paid into the hands of Her Majesty's Receiver General of this Province, at the disposition of the Legislature thereof: Provided always, that the said Harbour shall be commenced within two years, and completed within seven years after the passing of this Act, otherwise this Act, and every matter and; thing therein contained, shall cease and be utterly null and void.

XVI. And be it further enacted by the authority aforesaid, That nothing herein contained shall give the said Company the exclusive right of fishing within the said Harbour and Lake-shore, within the limits before-mentioned; and that it shall not be lawful for any person to catch or kill, or attempt to take, catch or kill, any fish by torch or fire-light within one hundred yards of any works erected by the said Company.

XVII. And be it further enacted by the authority aforesaid., That if any person shall be duly convicted, by the oath of a credible witness, before any two of Her Majesty's Justices of the Peace for the said District, of having so caught or killed, or so attempted to catch or kill any fish in manner aforesaid, such person, upon conviction as aforesaid, shall forfeit and pay a sum not exceeding five pounds, nor less than five shillings, for every offence so committed, with all reasonable costs both

before and after conviction, or in default of payment to be committed to the common Gaol of such District as aforesaid, for a term of not more than thirty days, nor less than two days, unless the fine and costs are sooner paid.

XVIII. And be it further enacted by the authority aforesaid, That it shall remain in the power of the Legislature to make any alteration in the provisions of this Act, or any addition thereto, which may seem to them expedient.