

Laws of Her Majesty's Province of Upper Canada, passed in the year 1839. Toronto: Robert Stanton, 1839.

2 Victoria – Chapter 39

An Act to Incorporate certain persons under the style and title of “The President, Directors and Company, of the Bayfield Harbour.” Passed 11th May, 1839.

Whereas the construction of a safe and commodious Harbour at Bayfield, in the County of Huron and District of London, would manifestly tend to the improvement of that part of this Province, as well as be of great advantage to all persons in any way concerned in the navigation of Lake Huron: And whereas it would be advisable that a Joint Stock Company should be by law Incorporated, for the purpose of effecting the construction of such Harbour: 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, 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 Edward C. Taylor, William Dunlop, William Bennet Rich, Henry Ransford, Charles Prior, and David Hood Ritchie, Esquires, together with all such other persons as shall become Stockholders in such Joint Stock Company 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 President, Directors and Company, of the Bayfield Harbour,” and that by this 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 or places whatsoever in all manner of suits, actions, complaints, matters and causes whatsoever, and that they and their Successors shall and may have a common Seal, and change and alter the same at their will and pleasure; and also that they and their Successors, by the name of “The President, Directors and Company, of the Bayfield Harbour,” shall be in law capable of purchasing, having and holding, to them and their Successors any Estate, real, personal or mixed, to and for the use of the said Company; and of letting, conveying, or otherwise departing therewith for the benefit and on the account of the said Company, from time to time, as they shall deem necessary and expedient: Provided always, that nothing herein contained shall extend or be construed to extend to allow the said Company to carry on the business of Banking.

II. And be it further enacted by the authority aforesaid, That the said Company are hereby authorised and empowered, at their own costs and charges, to construct a Harbour at Bayfield aforesaid, which shall be accessible to, and fit, safe and commodious, for the reception of such description and burthen 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, 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 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 intended 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 he, she, or they, shall or may be entitled to recover from the said Company, in consequence of the said intended Harbour, roads, streets and approaches thereto, being cut and 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, as 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 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 the persons so named, before they proceed to arbitration, 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 to be 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, (not interested in the premises,) any of whom may be required to attend such meeting for that purpose, well and truly to assess the damages between the parties, according to the best of his judgment: Provided, that every 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 reference may be again made to Arbitrators, as hereinbefore provided; and that the said Company shall in no case take possession of any lands, 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 or parties 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, recover and take, as Tolls, to and for their own proper use and benefit, on all goods, wares and merchandize,

shipped on board or landed out of any vessel or boat, from or upon any part of the Lake Shore between one-half mile north and one-half mile south of the Creek, in the Townships of Goderich and Stanley, in the said District of London, and upon all vessels and boats entering the said Harbour. according to the rates following, that is to say — Pot and Pearl Ashes, per barrel, six-pence; Pork, Whiskey, Salt, Beer 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 and sixpence; Shingles, per thousand, three-pence; Shingle Bolts, per cord, two shillings and six-pence; Pipe Staves, per thousand, seven shillings and six-pence; Deals, per hundred pieces, two shillings and six-pence; 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, above five, and under twelve tons, one shilling and three-pence; Boats and Vessels, above twelve tons, and not over fifty, two shillings and six-pence; Vessels, over fifty tons, five shillings; and that all articles not enumerated to pay in proportion to the above rates: Provided nevertheless, that the said Directors shall have power to reduce the said rates or 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, maintaining 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 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 and detain the goods, vessels or boats, 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 officer, clerk or servant, as aforesaid, may sell and dispose of the said goods, vessels or boats, or such part thereof as may be necessary to pay the said tolls, by public auction, giving ten days notice thereof, and to return the overplus, if any, to the owner or owners thereof.

VII. 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 five Directors, one of whom shall be chosen President, who shall hold their office for one year; which said Directors shall be Stockholders to the amount of at least six shares, being inhabitants of this Province, and to be elected on the second Monday in May in every year, at Port Bayfield, 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, or in one Newspaper at the least, that shall be published in the said District of London, 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, given by written authority; 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 election, that two or more shall have an equal number of votes, in such a manner that a greater number of persons than five shall, by a plurality of votes, appear to be chosen Directors, then the said Stockholders hereinbefore authorized to hold such election, shall, in like manner, proceed to another election, until it is ascertained 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 five; and the said Directors so chosen, so 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 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.

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 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 ratio, that is to say:— one vote for each share not exceeding four; five votes for six shares; six votes for eight; 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 second Monday in July after the passing of this Act, a meeting of the Stockholders shall be held at Port Bayfield, who, in the manner hereinbefore provided, shall proceed to elect five persons to be Directors, who shall continue in office until the second Monday in May next after their election, and who during such continuance shall discharge the duty of Directors in the same manner as if they had been elected at the annual election: Provided, that if shares to the amount of one thousand two hundred and fifty pounds, of the capital stock of the said Company, shall not be taken, then the said meeting shall not be held till that amount of stock shall have been taken up, and at least thirty days notice given in the Upper Canada Gazette, or in any one Newspaper to be published as aforesaid.

X. 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 said Company may have or hold by virtue of this Act, shall not exceed in value the sum of two thousand five hundred pounds, to be held in two hundred 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 any other person or persons; and such transfer shall be entered and registered in a book or books kept for that purpose by the said Company.

XI. And be it further enacted by the authority aforesaid, That as 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 in the Upper Canada Gazette, or in any Newspaper that may be published in the said District, 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 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 in the Upper Canada Gazette, or in any Newspaper that may be published in the said District: Provided always, that the said Directors shall not commence the construction of the said Harbour until the first instalment shall be paid.

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 such instalment or instalments as shall be lawfully required by the Directors as due upon any Share or shares, such Stockholder so refusing or neglecting shall Forfeit such share or shares as aforesaid, with any amount which shall have been previously 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 shall pay the said Company the amount of the instalments required over and above the purchase money of the share or 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 share or shares so purchased as aforesaid: Provided always, nevertheless, that thirty days notice of the sale of such forfeited stock shall be given in the Upper Canada Gazette, or in any Newspaper that may be published in the District of London, and that the instalments 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 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 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 of 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 the making and completing the said Harbour, together with such further sums 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 of or respecting the same: Provided always, that it shall not be lawful for Her Majesty, Her Heirs or 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 or Successors, as hereinbefore authorized, all tolls and profits arising therefrom shall be paid into the hands of Her 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 Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury, in such manner and form as Her Majesty, Her Heirs and Successors, shall be graciously pleased to direct: 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 herein-contained shall cease, and be utterly null and void.

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