



ANNO DECIMO ET UNDECIMO
VICTORIÆ REGINÆ.

CAP. LXXXIV.

An Act to incorporate certain persons under the name of *The Burlington Bay Dock and Ship-Building Company*.

[28th July, 1847.]

WHEREAS it is desirable for the benefit of the country, and especially of the Shipping interest of Lake Ontario, that suitable facilities be afforded at Burlington Bay (at the head of Lake Ontario) for the building, repairs, and shelter of vessels: And whereas the persons hereinafter mentioned, have, by petition, prayed to be incorporated for the purposes hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Sir Allan Napier Macnab, John Young, Archibald Kerr, Richard Juson, Daniel Macnab, Colin C. Ferrie, William P. Maclaren, Daniel C. Gunn, George S. Tiffany, and Jasper T. Gilkison, and all and every person or persons, body and bodies politic and corporate shall, under the authority of this Act, be associated with them, and their several and respective successors, executors, administrators and assigns, shall be a body politic and corporate, by the name of *The Burlington Bay Dock and Ship-Building Company*, and by that name shall and may have perpetual succession and a common seal, with power to break and alter the same, and by that name shall and may sue and be sued, implead and be impleaded, in all Courts of Law or Equity in this Province.

Preamble.

Certain persons incorporated.

Corporate name and powers.

II. And be it enacted, That the said Company be, and they are hereby authorized and empowered, at their own costs and charges, to construct a harbor, wharf or wharves, with a wet-dock, dry-dock and railway, regulated for the refitting and repairing all shipping, at Burlington Bay aforesaid; which said wharf or wharves, harbor, wet-dock, dry-dock and railway, shall be accessible to, and 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, breakwaters, wharves, storehouses, or other erections or constructions whatever as shall be useful or proper for the purposes aforesaid; and the protection of the harbor, wharf or wharves, docks or railways, and for the accommodation and convenience of vessels entering, lying, loading and unloading, repairing, refitting or lying up in the same,

Company may construct a harbor, wharf, &c.

Other works.
May build
vessels, con-
struct ma-
chinery, &c.

same, and to alter, amend, repair and enlarge the said harbor, wharf or wharves, docks or railways as aforesaid, as may from time to time be found necessary and expedient; and also to make, construct, erect and build all and all manner of vessels, steamboats, barges and other craft, and the rigging and appurtenances thereto belonging, and to make, build and manufacture all manner of steam engines, machinery and castings, and to carry on the business of ship builders and engineers, and of an iron-foundry respectively, and all their several branches, and to enter into contracts and agreements with any person or persons for, or in respect of, any matter or things relating to the same.

Company may
acquire real
property for
purposes of
the harbor,
and works.

III. And be it enacted, That the said Company shall be, and they are hereby authorized and empowered to acquire and purchase, or to take and enter into, after paying or tendering the value thereof, to be ascertained in manner hereinafter mentioned, and to have and hold to them and their successors, any estate real or mixed, at, or adjacent to, Burlington Bay aforesaid, to and for the use of the said Company, and to let, convey or otherwise depart with, for the benefit and account of the said Company, the said real or mixed estate, or such part thereof as may not be required for the purposes of the said Company, from time to time, as they shall deem necessary and expedient; Provided always, that all such real estate or property to be at any time held by the said Company, shall not exceed, in its yearly value, the sum of five thousand pounds.

Proviso:
amount limit-
ed.

Directors may
compound, &c.
with owners of
lands neces-
sary for pur-
poses aforesaid
or for damage
sustained.

IV. And be it enacted, That the Directors of the said Company be and they are hereby authorized and 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 harbor, wharf or wharves, wet-dock, dry-dock or railway, and to build and construct all such houses, shops and other erections and constructions as they shall deem requisite for carrying on the said business of ship-builders and engineers, and of an iron-foundry, 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 they shall and may be entitled to receive of the said Company in consequence of the said intended harbor, roads, streets and approaches thereto, and other the erections or constructions aforesaid, being cut, made, constructed and erected on their respective lands; and in case of any disagreement between the said Directors and owners or occupiers aforesaid, it shall and may be lawful from time to time, so often as the Directors shall think fit, for each owner or occupier so disagreeing with the said Directors, either upon the value of the lands, 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 to be elected by ballot by the persons so named, shall be arbitrators to award, determine, adjudge, and order the respective sums 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 railway, 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 for their determination by the

Case of disa-
greement pro-
vided for dif-
ferences, to be
settled by ar-
bitration.

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 District of Gore, any of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties 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 Queen's Bench in the same manner and on the same grounds as in ordinary cases of submission by parties, in which case a reference may be again made to arbitration as hereinbefore provided.

Arbitrators to be sworn.

Proviso.

V. And be it enacted, 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 and 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 harbor, wharves, wet-dock, dry-dock or railway, 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 of the said lands, private easements and privileges to be acquired by the said Company in manner hereinbefore mentioned ; and to alter the said tolls, dues, duties and demands as they may deem proper and expedient, and also for regulating the discharging of ballast, as well in the said harbor as in the Bay 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 harbor and docks and railways, respectively.

Rates of Wharfage, Tolls, &c. may be established by the Company.

How to be notified to the Public.

VI. And be it enacted, That the said harbor, moles, piers, wharves, wet-dock dry-dock and railway, and all houses, shops and other the erections and constructions which the said Company shall from time to time deem proper and expedient to build and erect for the purpose of conducting and carrying on the said business of ship-builders and engineers, and of an iron-foundry, in their said several branches, together with all materials which shall be, from time to time, got or provided for constructing, building, maintaining or repairing the same, and for carrying on, managing and conducting the said business and concerns of the said Company in any of the respects hereinbefore mentioned, and the said tolls on goods, wares and merchandize, shall be and the same are hereby vested in the said Company and their successors.

Harbor, &c., vested in Company.

VII. And be it enacted, 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, may sell or dispose of the said goods, vessels or boats on which the same shall be due and payable, or of 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 thereof.

Mode of enforcing payment of Tolls.

VIII. And be it enacted, That the stock, 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

Business of Company to be managed by seven Directors : their qualification

Monday

and mode of
electing them,
&c.

Monday in May, in each year, at the City of Hamilton, at such time of the day as the majority of the Directors for the time being shall appoint; and public notice thereof shall be given in any newspaper that may be published in the City of Hamilton, at least thirty days previous to the time of holding such 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 ballot, 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 persons have an equal number of votes, in such a manner that a greater number of persons than seven shall, by a majority of votes, appear to be chosen Directors, then the said Stockholders hereinbefore authorized to hold such election, shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be 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 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, for the remainder of the year in which it may happen, by a person to be nominated by a majority of the Directors.

Number of
votes propor-
tioned to num-
ber of Shares.

IX. And be it enacted, That each Stockholder shall be entitled to the 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 over ten.

Meeting for
election of Di-
rectors.

Proviso.

X. And be it enacted, That on the fourth Monday after the passing of this Act, a meeting of the Stockholders shall be held at Hamilton, 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 May 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 said amount of stock shall have been taken up, and at least thirty days' notice thereof be given in any newspaper published in the Gore District.

Corporation
not to be dis-
solved by fail-
ure to elect on
the day ap-
pointed,

XI. And be it enacted, 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.

Directors to
have power to
make By-laws,
and to appoint
officers, &c.

XII. And be it enacted, 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,

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 enacted, That the whole capital or stock of the Company, inclusive of any real estate which the Company may have or hold by virtue of this Act, shall not exceed in value fifty thousand pounds, to be held in four 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 persons, and such transfer shall be entered or registered in a book to be kept for that purpose by the Company.

Amount of
Capital Stock
limited.

XIV. And be it enacted, 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 published in the city of Hamilton, for an instalment of five 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 five per cent., nor become payable in less than thirty days after public notice in the paper as aforesaid; Provided always, that the said Directors shall not commence the construction of the said harbor, wharves, docks or railway until ten per cent. upon the Capital Stock of the said Company shall be paid in.

Notice for
payment of
first instalment
to be given.

Remainder of
sums sub-
scribed for,
how to be pay-
able.

Proviso: ten
per cent. to be
paid up before
commencing
business.

XV. And be it enacted, That if any Stockholders as aforesaid, shall neglect or refuse to pay at any time required, any such instalment as shall be lawfully required by the Directors as due upon any shares, such Stockholders so refusing or neglecting, shall forfeit such shares as aforesaid, with any amount which shall have previously been paid thereon; and that the said 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 instalment required, over and above the purchase money of the shares so purchased by him, immediately after the sale, and before he 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 published in the City of Hamilton, 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.

Shareholder to
forfeit Shares
on neglecting
to pay instal-
ments.

Proviso:
Notice of for-
feiture.

XVI. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company, from time to time, and for any term not exceeding three years, to borrow such sum or sums of money, in addition to the said capital or stock, as they shall deem expedient for the purposes of the said Company, from any person or persons or Company willing to lend the same; provided that such loan or loans shall not at any one time exceed one half the amount of the paid up capital or stock of the said Company; Provided always, that nothing in this Act contained shall be held to authorize or warrant the said Company to act as bankers, or to issue or keep

Company may
borrow money.

Proviso.

keep in circulation, notes in the nature of bank notes, or to make such notes valid in law, if issued by or in the name of the said Company.

Rights of the
Crown and
others saved.

XVII. And be it enacted, 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 statements to appear on the books and to be open to the perusal of any Stockholder at his reasonable request.

Public Act.

XVIII. And be it enacted, That nothing herein contained shall affect, or be construed to affect, in any manner or way whatsoever the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Directors to
make annual
dividends of
profits.

XIX. And be it enacted, 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.

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