

Provincial Statutes of Canada, passed in the year 1845. Montreal: Stewart Derbishire & George Desbarats, 1845.

8 Victoria – Chapter 95

An Act to incorporate certain persons under the name and style of The President, Directors and Company of the Humber Harbour and Road. (29th March, 1845.)

Whereas the construction of a safe and commodious harbour at the mouth of the River Humber, and the improvement of the Roads on the east and west side leading from the deep waters of the same to the four corners at Conat's Tavern, in the Township of Etobicoke, on the west side, or to cross, or to intersect the western Road Company's road in the Township of York, on the east side, or such other termination or extension as the interests of the said Company and the wants of the public may warrant, would manifestly tend to the advancement of that part of this Province; And whereas Wm. Gamble, J. Scarlett, Charles Wadsworth, W. R. Wadsworth, Wm. A. Gibson, E. C. Scarlett, J. A. Scarlett, John Wolfe, Wm. P. Howland, James Haines, Samuel Snelgrove, Robert Craig, Edward Mussen, George Baker and Robert Porritt, have petitioned to be by law incorporated for the purpose of effecting the construction of such harbour and roads by means of a Joint Stock Company: 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, 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 the said William Gamble, J. Scarlett, Charles Wadsworth, W. R. Wadsworth, William A- Gibson, E. C. Scarlett, J. A. Scarlett, John Wolf, P. Howland, James Haines, Samuel Snelgrove, Robert Craig, Edward Mussen, George Baker and Robert Porritt, 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 appointed to be a body corporate and politic in fact and in law, by and under the name and style of the President, Directors and Company of the Humber Harbour and Road, 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 and places whatsoever, in all manner of suits, actions, complaints, matters and causes 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 said name of the President, Directors and Company of the Humber Harbour and Road, shall be in law capable of purchasing, having and holding to them and their successors any estate, real, personal and 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.

II. And be it enacted, That the said Company are hereby authorized and empowered, at their own costs and charges, to construct a Harbour at the mouth of the River Humber aforesaid, which shall be accessible to, and fit, safe and commodious for the reception of such description and

burthen of Vessels as commonly navigate Lake Ontario, and to improve the Roads leading thereto; and also to erect and build all such needful moles, piers, wharves, buildings and erections whatsoever as shall be safe 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 enacted, 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 ten thousand pounds, to be held in eight hundred shares of twelve pounds ten shillings each, and that the shares of the said Capital Stock may, after the first instalment shall have been paid in, be transferred by the respective persons subscribing or holding the same to any 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.

IV. And be it enacted, That J. Rankin, Esquire, Surveyor, Toronto, Robert Lynn, District Surveyor, and Wm. Cambers, of Etobicoke, Engineer, shall be and they are hereby appointed Commissioners to ascertain, determine and point out what portion or portions of land it shall and may be necessary for the said Company to have possession of and occupy in order to construct the said Harbour and Roads, with all necessary and convenient Roads, Streets and approaches thereto, which portion or portions of land so ascertained and pointed out, the said Company are hereby authorized to enter into and upon, and to take possession, of and hold and enjoy the same for the purposes aforesaid upon payment, or tender within one month, to the owner or owners thereof or party entitled to receive the same, of the value of such property so required, and the said value shall be ascertained by the award of the said Commissioners, and by three persons to be chosen by the party whose property is to be taken, and in case they cannot agree they shall choose an umpire and the decision of the majority shall be final, and that reasonable notice shall be given to the person or persons whose property is intended to be taken, and if such person or persons fail to appoint three persons to act as arbitrators, or the said arbitrators should neglect to act, then it shall be the duty of the Chairman of the Quarter Sessions of the District, together with the said three Commissioners, to make the said valuation, and the same shall be binding and final; and the said Commissioners shall and they are hereby required to attend from time to time at some convenient place in the vicinity of the said intended Harbour or Roads to be appointed by the Directors of the said Company for the time being, after eight days notice given them for that purpose by the said Directors, then and there to do and perform all things necessary to be by them done under and by virtue of this Act: Provided always, that any award or awards 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 the parties, in which case reference may be again had in the manner aforesaid: Provided always, that the Commissioners aforesaid shall not be authorized to select, nor the said Company to take possession of a greater portion of land than one acre, with a front not more than one hundred feet on the water in any one locality for the purpose of the erection of wharves and storehouses, or one chain in width for the said Roads.

V. And be it enacted, That as soon as the said Harbour and Roads shall be so tar completed as to be capable of receiving and sheltering Vessels and being travelled upon, the said Company shall have full power and authority to ask for and demand, receive, recover and take as Toll to and for their own proper use, benefit and behoof, on all goods, wares and merchandize shipped or landed in or out of any Vessel or Boat from or upon any part of the Lake shore lying within Humber Bay, eastward and westward of the said Humber River, or from or upon the Banks of the said River within the distance of one quarter of a mile on each side from the mouth thereof, and upon all Vessels and Boats entering the said Harbour, not exceeding the rates following, that is to say: Pot and Pearl Ash per barrel, six pence; Pork, Whiskey, Salt Beef and Lard, per barrel, four pence half-penny; Flour per barrel, two pence, and not to exceed four pence; Merchandise per barrel bulk, six pence; Butter and Lard per keg, one penny; Merchandize per hundred weight, two pence; West Indian Staves per thousand, two shillings and six pence; Pipe Staves per thousand, one shilling and six pence; Wheat and other Grain per sixty pounds, one half penny; Lumber per thousand feet, Board measure, one shilling and three pence; Pine Timber per thousand feet, running measure, two shillings and six pence; Oak Timber per thousand feet, running measure, five shillings; Boats and Vessels above five and under twelve tons, one shilling and three pence; Boats and Vessels above twelve tons and not over fifty, five shillings; Vessels over fifty tons, seven shillings and six pence; Boats and Vessels under five tons, free; On every cord of Firewood, seven pence half-penny; 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 Tolls should they see fit, and for any improvements on the said line of Roads by railway, planking or macadamizing, the said Company shall have full power and authority to ask for, sue, demand, recover and take toll, for each Waggon or Carriage of one load conveying not exceeding three thousand pounds, exclusive of team or vehicle, for every mile, not exceeding two pence; and for every evasion of the said Toll, parties to be proceeded against according to an Act passed in the third year of the Reign of Her present Majesty Queen Victoria, chapter fifty-three, intituled, "An Act to repeal, alter and amend the Laws now in force for the regulation of the several Macadamized Roads within this Province."

VI. And be it enacted, That in case any individual or individuals are desirous of improving or shall have improved any portion of the said line of Roads, the same to be paid for in shares of the Capital Stock of the said Company by his or their consent, then it shall be the duty of the said before named Commissioners to estimate the value of such work; and upon their reporting to the Directors of the said Company the amount of such valuation, the individual or individuals who have improved the same, shall be entitled to have transferred to them in the Books of the said Company as many Shares of the Capital Stock as will cover the amount reported of such estimated improvements, as they may have performed on either of the said lines of Roads.

VII. And be it enacted, That the said harbour, moles, piers, wharves, buildings, erections, road, and all materials which shall from time to time be got or provided for constructing, building, maintaining or repairing the same, and the Lands so to be occupied as hereinbefore is provided, together with 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.

VIII. 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, boats, carriages, or animals, on which the same were due and payable, until such Tolls are paid; and if the same shall be unpaid for the space of six 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, boats, carriages or animals, or such part thereof as may be necessary to pay the said Tolls, by public auction, giving six days notice thereof, and returning the overplus if any, to the owner or owners thereof.

IX. And be it enacted, 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 one year, which said Directors shall be Stockholders to the amount of at least four shares as well as Inhabitants of this Province, and to be elected on the first Monday in May, in each and every year, at such place in the Township of Etobicoke, and at such time of the day as a majority of the Directors for the time being shall direct and appoint, and public notice thereof shall be given in the Upper Canada Gazette, or in any newspaper or newspapers that may be published in the Home District, 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 person 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 shall 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 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 Director or Directors so as to complete the whole number of seven, and the 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 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 named by a majority of the Directors.

X. And be it enacted, 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 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,—but no person to have more than ten votes.

XI. And be it enacted, That in ease 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, and in such manner as shall have been regulated by the By-Laws and Ordinances of the said Corporation.

XII. And be it enacted, That the Directors for the time being or the major part of them, shall have power to make and prescribe 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 Company, 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 on the first Monday in May after the passing of this Act, a meeting of the Stockholders shall be held at the mouth of the Humber River, in the Township of York or Etobicoke, 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 such Election, and who during such continuance in office shall discharge the duty of Directors in the same manner as if they had been elected at the annual election.

XIV. And be it enacted, 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 or newspapers that may be published in the said District, 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 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 cent, nor become payable in less than thirty days after public notice in the Upper Canada Gazette or other newspaper or newspapers as aforesaid: Provided always, that the said Directors shall not commence the construction of the said Harbour until the first instalment shall be paid

XV. And be it enacted, 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 been previously paid thereon not exceeding one instalment, 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 moneys 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 nevertheless, that thirty days notice of the sale of such forfeited share shall be given in the Upper Canada Gazette, or in any newspaper or newspapers published in the said District, and that the instalment due may be received in redemption of any such forfeited share, at any time before the day appointed for the sale thereof.

XVI. 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 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.

XVII. And be it enacted, That the said Company shall forfeit and lose all benefit of this Charter and the privileges and powers hereby conferred, unless the said Harbour shall be begun within two years and completed within four years from the passing of this Act, and the roads shall be in a progressive state of extension and improvement.

XVIII. And be it enacted, That at any time before or after the making and completing the said Harbour and Roads, it shall and may be lawful for Her Majesty, Her Heirs and Successors, to assume the possession and property of the same, and of all and every the works and dependencies thereunto belonging or in any wise appertaining, upon paying to the said Company of proprietors, their successors and assigns, the full amount of their respective shares as paid up, or of the sums furnished or advanced by each subscriber towards making and completing the said Harbour and Roads and the work connected therewith, together with such further sum as will amount to twenty per centum upon the moneys so advanced and paid as a full indemnification to the Stockholders, and the said Harbour and Roads and all the works and dependencies thereunto belonging shall from the time of Such assumption in manner aforesaid, appertain and belong to Her Majesty, Her Heirs and Successors, who shall from thenceforward be substituted in the place or stead of the said Company of proprietors, their successors and assigns, for all and every the purposes of this Act, in so far as regards the said Harbour and Roads or undertaking.

XIX. And be it enacted, That it shall be 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.

XX. And be it further enacted, That the said Company, and their Agents and Servants, shall have full power under this Act, to lay out, construct, make and finish a double or single Iron or Wooden Rail-road or way, or Macadamized or Planked Road, or both at their own costs and charges, on and over any part of the Country lying between the deep waters of the river Humber and the four corners, or Conat's Tavern, or other termination in the Township of Etobicoke, on the west side, and from Dennis's corner on the Weston-Road Company's Road, in the Township of York on the east side, or from Weston Village to the same, or 'both, or all, as may be most advantageous, and to take, carry and transport thereon, passengers, goods and property, in carriages used and propelled either by the force of steam or by the power of animals, or by any Mechanical or other power, which the said Company may choose to employ.

XXI. And be it enacted, That the said Company be, and they are hereby empowered to contract, compound, compromise and agree, with the owners or occupiers of any lands upon which they may determine to construct the said Railway, or Macadamized or planked Road or track, or both, either by 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 and maybe entitled to receive of the said Company, in consequence of the said intended Rail-way or Macadamized or planked Road or track being made and constructed, in and upon his, her or their respective lands, and in case of any

disagreement between the said Company and the owner or owners, occupier or occupiers as aforesaid, it shall and may be lawful, from time to time, for each owner or occupier so disagreeing with the said Company, 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 have the same valued by award in the manner hereinbefore provided in the fourth section of this Act, which award shall determine the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, and the arbitrators named shall, and they are hereby required to attend at some place convenient to the said intended Rail-ways or Roads to be appointed by the said Company, then and there to arbitrate, award and adjudge, and determine such matters and things as shall be submitted to their consideration by the parties interested.

XXII. And be it enacted, That whatever sum of money may be finally awarded to any persons for compensation for property required to be occupied, or for damages occasioned by the interference of the said Company with his, her or their property, rights or privileges, shall be paid or tendered within one month from the time of the same being awarded; and in case the Company shall fail to pay the same within that period, then their right to assume any such property, or commit any act in respect of which such sum of money was awarded, shall wholly cease, and it shall be lawful for the proprietor to resume his occupation of such property, and to possess fully his rights and privileges in respect thereof, free from any claim or interference of the said Company, and to have redress from the said Company for any damages done by them.

XXIII. And be it enacted, That the said Humber Harbour and Road Company, shall have full power and authority to explore the Country lying between the deep waters of the river Humber and the four corners, or Conat's Tavern in the Town-ship of Etobicoke on the west side, and the Weston Road Company's Road, in the Township of York, on the east side, or to Weston Village, or both or all, as may be most advantageous, and to designate and establish and to lake, appropriate, have and hold, to and for the uses of them and their successors, the line and boundaries of a double or single Rail-way, or a Macadamized or Plank road or both as aforesaid, with the necessary Rail-ways or Roads to connect the said Harbour with the aforesaid points; and for the purposes aforesaid, the said Company and their Agents, Servants and Workmen are hereby authorized and empowered to enter into and upon the lands and grounds of and belonging to the Queen's Majesty, Her Heirs and Successors, or to any person, bodies politic or corporate, and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof, as may be actually necessary and proper for making the said double or single Rail-way or Roads, and all such matters and conveniences as they may think proper and necessary for making, effecting, preserving, improving, completing and using the said Rail-ways or Roads or both, to the best advantage, and also to make, erect, build and setup Toll Gates in and upon the route of the Rail-ways or Roads, or upon the lands adjoining or near the same, and all such ways, roads and conveniences as the said Company shall think requisite and convenient for the purpose of the said Rail-ways or Roads, and also from time to time to alter or repair, amend, widen or enlarge the same, or any other of the conveniences aforesaid, as well for carrying or conveying goods,

commodities, timber and other things, to and from the said Rail-ways or Roads as for the carrying or conveying all manner of materials necessary for making, erecting, furnishing, altering, repairing, amending, widening or enlarging of and belonging to the said Rail-ways or Roads, and also to place, lay, work and manufacture the said materials, on the ground near to the places where the said Works are or shall be intended to be made, erected, repaired or done, and to build and construct the several works and erections belonging thereto, and also to make, maintain, repair, and alter any fences or passages under or through the said ways or roads or which shall communicate therewith; and to construct, erect and keep in repair any piers, arches or other work, in, upon and across any rivers and brooks, for making, using, maintaining and repairing the said Rail-ways or Roads and their side paths, and also to construct, make and do all other matters and things which they shall think necessary and convenient for the making, effecting, preserving, improving, completing and using the said Rail-way or Macadamized or Flank Road or tracks in pursuance and within the true meaning of this Act,—they, the said Company, doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in the manner herein mentioned, for all damages to be sustained by the owners or occupiers of such lands, tenements and hereditaments.