

*Laws of Her Majesty's Province of United Canada*, passed in the year 1851. Quebec: Stewart Derbyshire and George Desbarts, 1852.

16 Victoria – Chapter 141

**An Act to incorporate *The Pickering Harbour and Road Joint Stock Company*. Assented to 23rd May, 1853.**

Whereas David Clark, William Dunbar, Trueman P. White, and Samuel Reesor have, by their Petition to the Legislature, represented that in accordance with the provisions of an Act of the Parliament of this Province, passed in the twelfth year of the reign of Her Most Gracious Majesty Queen Victoria, intituled, *An Act to authorize the formation of Joint Stock Companies for the construction of Roads and other Works in Upper Canada*, certain persons did, in the year of our Lord one thousand eight hundred and fifty, form themselves into a Company under the name and style of *The Pickering Harbour and Road Joint Stock Company*, for the purpose of constructing a Harbour with the necessary piers, wharves, store-houses, and planked and other road therewith to be connected at Frenchman's Bay, situate on parts of lots numbers twenty-three, twenty-four and twenty-five, in the Broken front and in the First Concession of the Township of Pickering, which Company was duly registered on the eleventh day of December, in the year aforesaid; And that the said Company have since increased their Capital Stock which now amounts to upwards of Six Thousand Pounds, and have caused the instrument creating the additional stock to be duly registered, and with the consent of the owners and occupiers of the soil and freehold of the land adjacent to the said Bay have expended divers large sums of money in and about the making a safe and commodious Harbour at Frenchman's Bay aforesaid, and in and about the dredging and deepening the basin of the said Bay, and in the erection of piers, wharves and store-houses thereat, and in and about the making a road from the highway known as the Kingston road to the said Bay, in and near to the allowance for road between lots numbers twenty-four and twenty-five in the said Broken front Concession, and have entered into contracts for the completion of the said works; And that they have been advised that the general Act heretofore referred to, does not confer powers and privileges sufficiently extensive to enable them satisfactorily to carry out the objects originally in view, and have therefore prayed that they may be specially incorporated: Be it therefore declared and 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 declared and enacted by the authority of the same, That the said David Clark, William Dunbar, Samuel Reesor and Trueman P. White, together with all such other persons as were subscribers to either of the said recorded instruments on the days when the said instruments were respectively registered, and all such persons as have not, and also the assignees of those persons who have heretofore assigned their stock, have been ever since such registration or assignment, as the ease may be, and still are, and all such persons as shall hereafter be or become stockholders in such Company 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 Pickering Harbour and Road Joint Stock Company*,

and that by this name, they and their successors, shall and may have continued succession and by such name have heretofore been and shall hereafter 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 may continue to use as their common seal, the seal heretofore used by the said Company, and may change and alter the same at their will and pleasure, and also that they and their successors by the name of *The Pickering Harbour and Road Joint Stock Company*, 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; 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 or to purchase more real estate than is absolutely necessary for the purposes for which they are hereby incorporated.

II. And he it enacted, That after the passing of this Act, the said Company shall have full power and authority to ask for, demand, receive, recover and take as toll, 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 or between the Eastern limit of lot number twenty-one and the Western limit of lot number twenty-eight in the broken front Concession of the said Township of Pickering, and upon all vessels and boats entering the Harbour, according to the rates following, that is to say:

	s.	d.
Boats and Vessels, under 50 tons, each . . . . .	1	3
Boats and Vessels, 50 tons and over, each . . . . .	2	6
Flour, per barrel . . . . .	0	2
Pork and Beef, per barrel . . . . .	0	3
Liquors, &c., per barrel . . . . .	0	4
Wines, per barrel, 6d. per pipe . . . . .	1	2
Butter and Lard, per barrel . . . . .	0	3
Do. do. per firkin or keg . . . . .	0	1½
Bees Wax and Tallow, per cwt . . . . .	0	1½
Cheese, per cwt . . . . .	0	1½
Beer and Cider, per barrel . . . . .	0	3
Apples, fresh or dried, per barrel . . . . .	0	3
Oil, per barrel . . . . .	0	3
Fish, salt or fresh, per cwt . . . . .	0	3
Hams, Bacon and Sugar, per cwt . . . . .	0	2
Manufactured Tobacco, per cwt . . . . .	0	3
Biscuits and Crackers, per barrel . . . . .	0	3
Bran and Ship Stuff, per ton . . . . .	1	0
Wheat, Indian Corn, Barley, Rye, Potatoes, &c., per bushel . . . . .	0	1

Cotton and Wool, per ton . . . . .	1	6
Horses and Horned Cattle, each . . . . .	0	4
Sheep, Hogs and Calves, each . . . . .	0	1½
Flax Seed, and all other Seeds, per barrel . . . . .	0	3
Sea Coal and Salt, per ton, and Gypsum, underground, per ton . . . . .	1	3
Gypsum, ground, per barrel . . . . .	0	1
Pot and Pearl Ashes, per barrel . . . . .	0	3
Pitch, Tar, Varnish and Turpentine, per barrel . . . . .	0	3
Brick, Sand, Lime, Clay, Manure, per ton . . . . .	0	10
Grindstones, Cut Stones, Iron Ore, Millstones, per ton . . . . .	0	10
Pig and Scrap Iron, Broken Castings and Wrought Iron, per ton . . . . .	1	3
Charcoal, Manganese, Copperas, per ton . . . . .	2	6
Fire Wood, per cord . . . . .	0	3
Stones, unwrought, per cord . . . . .	0	10
Stone and Earthenware, per ton . . . . .	2	6
Raw Hides, per cwt . . . . .	0	1
Furs, per do . . . . .	0	1½
Dressed Hides and Skins . . . . .	0	1½
Furniture and Luggage, per ton . . . . .	1	6
Carts, Waggons, Ploughs, Sleighs and Mechanics' Tools, per ton . . . . .	1	6
Lumber, Squared Timber, 12 in. square and upwards, per thousand cubic feet . . . . .	5	0
Do. under 12 x 12 per do . . . . .	3	9
Small Round Timber, per T. lineal . . . . .	2	6
Boards, Planks, Scantling and Sawed Lumber, per thousand . . . . .	1	3
Pipe Staves, Headings, per mille, or thousand . . . . .	2	6
West India Staves, per mille . . . . .	2	6
Shingles, per mille . . . . .	0	3
Saw Logs, each . . . . .	0	1½
Cedar Posts, per cord . . . . .	1	3
Posts and Railings, for fencing, per cord . . . . .	1	0
Empty Barrels, each . . . . .	0	1
All Articles of Merchandize, not enumerated above, per ton . . . . .	3	0
Firkins, Small Casks, Packages, each . . . . .	0	1
All other unenumerated articles, five shillings per ton.		

III. And be it enacted, That the harbour, road, moles, piers, wharves, buildings and erections heretofore built, made and erected, or which shall hereafter be built, made or erected, and all real estate acquired, or to be acquired by the said Company, and all materials which shall have been heretofore, and shall hereafter be from time to time got or provided for constructing, building, maintaining or repairing the same, and the said tolls, wharfage and storage on boats, vessels, goods, wares or merchandize, as hereinbefore mentioned, shall be and the same are hereby vested in the same Company, and their successors for ever.

IV. 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, or any storage or wharfage to be collected under the provisions of any By-law or resolution as hereinafter mentioned, 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 were due and payable until such tolls, wharfage or storage are paid; and if the same shall be unpaid for the space or 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, wharfage and storage, by public auction, giving ten days' notice thereof, and returning the overplus (if any) to the owner or owners thereof.

V. And be it enacted, That the affairs, stock, property and concerns of the said Company shall, until the next election of Directors as hereinafter mentioned, be managed and conducted by the present Directors of the said Company, and upon, from and after such next election which shall be held on the first day of January, one thousand eight hundred and fifty-four, by five Directors to be annually elected by the Stockholders; such subsequent Directors to serve after the expiration of the term of office of the previous Directors, for one year, commencing from the first day of January in each year, and that upon every such election of Directors each Stockholder shall be entitled to one vote, either in person or by proxy, for every share he may hold or be possessed of in the said Company, and a majority of any such Directors shall be a quorum for the transaction of business.

VI. And be it enacted, That in case it shall at any time happen that an election of Directors shall 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 Resolutions, By-laws and Ordinances of the said Corporation, and the previous Directors shall in every case hold office until the election of their successors.

VII. And be it enacted, That the Directors, for the time being, or the major part of them, shall have power to make and subscribe such Rules and Regulations and By-laws 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.

VIII. And be it enacted, That it shall be lawful for the Directors of the said Company, to elect one of their number to be President, and to nominate and appoint such and so many Officers, Clerks and Servants, as they shall deem necessary for performing the duties required of them by the said Company, with such salaries and allowances as to them shall seem fit, and in their discretion to take security from them or any of them in the name of the said Company, for the due performance of his or their duty, and that he or they shall duly account for all moneys coming into his or their hands, to the use of the said Company.

IX. 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 by them 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 or her reasonable request.

X. And be it enacted, That the Directors shall have power to make calls for instalments on shares, and notice thereof shall be given by advertisement in one newspaper, if any published in the County of Ontario, and in one newspaper published in the City of Toronto; Provided always, that no instalment of more than twenty-five per cent, on each share shall be made payable at any one time, and that one calendar month at least shall elapse between the days of payment of such instalments.

XI. 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, or call or calls, as shall be or may have heretofore been lawfully required by the Directors, as due upon any share or shares, such Stockholder or Stock-holders, so refusing or neglecting, shall forfeit such share or shares as aforesaid, with any amount that 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 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 shares shall be given in one newspaper (if any) published in the said County of Ontario, and one newspaper published in the City of Toronto, and that the instalment due may be received in redemption of any such forfeited share at anytime before live day appointed for the sale thereof.

XII. And be it enacted, That notwithstanding any provision in this Act for the forfeiture of shares on non-payment of instalments or calls, the said Company may, in any Court having jurisdiction in matters of simple contract to the amount demanded, sue for, recover and receive, of or from any Stockholder in the said Company, the amount of any call or calls of stock which such Stockholder may neglect to pay after public notice as aforesaid, with interest thereon from the day when such calls shall in such notice be declared payable.

XIII. And be it enacted, That in any action or suit to be brought by the said Company against any Stockholder, to recover any money due, or for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to aver that the defendant is or was the holder of one share, or more, (stating the number of shares,) in the stock of the Company, and that he is indebted to the Company in the sum of money to which the calls in arrear shall amount in respect of one call or more, upon one share or more, (stating the number and amount of each of such calls.) whereby an action hath accrued to the Company.

XIV. And be it enacted, That on the trial or hearing of any such action, it shall be sufficient for the Company to prove that the Defendant, at the time of making such call, was a holder of one share or more in the said Company, (and when there has been no transfer of the shares, then the proof of subscription to the original or other agreement to take stock, shall be sufficient evidence of holding stock to the amount subscribed,) and that such notice of the call or calls was given as is required; and it shall not be necessary for the Company to prove the appointment of the Directors who made such call, or any other matter whatever, and thereupon the Company shall be entitled to recover what shall be due upon such call, with interest thereon, unless it shall appear that due notice of such call was not given.

XV. And be it enacted, That in any action or suit brought by or against the said Company, upon any contract, or for any matter or thing whatsoever, any Stockholder, or any Officer or Servant of the Company, shall be competent as a witness, and his testimony shall not be deemed inadmissible on the ground of interest, or of his being such Servant or Officer.

XVI. And be it enacted, That if any person or persons shall in any way injure, cut, break down or destroy any part of the said road, piers, wharves, storehouses, or other buildings, erections or improvements, made or to be made by the said Company, in, upon, or near the said road or Harbour, and belonging to or used for the convenience of the said Company under the provisions of this Act, every such person so offending, and being lawfully convicted thereof, shall be deemed guilty of a misdemeanor, and shall be punished by fine and imprisonment; and if any person or persons shall remove any earth, stone, plank, timber, or other materials, used, or intended to be used, in or upon the said Harbour or Road, for the construction, maintenance, or repair thereof; or if any person shall wilfully pull down, break, injure or damage any table of tolls put up or fixed at the said Harbour, or shall wilfully or designedly deface or obliterate any of the letters, figures or marks thereon, or on any finger-post; or if any person shall throw any earth, rubbish or other matter or thing, into any drain, ditch, culvert, or other watercourse made for draining; or if any person shall, without permission, carry away any stones, gravel, sand, or other materials, dirt or soil, from any part of such road, or dig any holes or ditches on the allowance for the same, or use the work constructed by the Company, without first having paid the toll allowed to be taken by this Act, such person shall, upon conviction thereof in a summary way before any Justice of the Peace at or near the place where the injury shall have been done, be sentenced to pay all damages sustained by the said Company, to be ascertained by the said Justice upon the hearing of the said complaint, and also to pay a fine of not more than Fifty Shillings, nor less than Five Shillings, such damages and fine to be paid within a time to be limited by the said Justice, and in default thereof, the same shall be levied as fines are now levied by law.

XVII. And be it enacted, That if at any time hereafter the Directors for the time being shall be of opinion that it would be desirable further to deepen the Basin of the said Bay, or that the original capital subscribed will not be sufficient to complete the work contemplated by the said Company to be executed or to be extended, or altered, it shall and may be lawful for the Directors for the time being, under a resolution to be passed by them for that purpose, either to borrow upon the security of the said Company, by bond or mortgage of the Harbour, Road, and Tolls to be collected thereon, a sufficient sum of money to complete the same, or to authorize the subscription of such number of additional shares as shall be named in their resolution, a copy whereof under the hand of the President and seal of the Company shall be engrossed at the head of the subscription list, to be opened for subscribers to the additional number of shares thereby authorized to be subscribed, and that when such a number of new shares shall have been subscribed as the Directors shall deem it desirable to have registered, the President shall deliver such new list of subscribers to the register having the custody of the original instrument, heretofore referred to, who shall attach such new list of subscribers thereto, which shall thenceforth be held and taken to be part and parcel of the said instrument, and all the subscribers thereto, and those who may thereafter enter their names as subscribers therein, with the consent of the Directors to be signified by producing a receipt from the Treasurer of the Company, that the person desiring to subscribe to the said new stock list has paid an instalment of six per cent, on his shares, shall be subject to all the liabilities and entitled to all the rights, privileges and advantages to which the original Stockholders shall have been entitled, and as well to the said Harbour and Road in its original state as to any extension or improvement thereof as aforesaid, and such additional shares or stock shall and may be called in, demanded and recovered in the same manner and under the same penalties as is or are or may be provided or authorized in respect of the original shares or stock of the said Company: Provided always that the whole amount so borrowed or added to the stock of the said Company shall not exceed Four Thousand Pounds.

XVIII. And be it enacted, That the Directors for the time being shall be and they are hereby empowered to contract, compound, compromise and agree with the owners and occupiers of land required or held for the purpose of the said Company, for the purchase of the said lands and privileges and of any further portion of land or marsh around the said harbour which they may at any future time require for the purposes of this Act, and in case any difference shall arise between the said Company and the said owners or occupiers, as to the value of the said lands and privileges so required or taken, or to be hereafter required or taken by the said Company, or as to the amount of damage to be paid by the said Company, all questions respecting the same shall be settled as follows: The Company shall serve a notice upon the opposite party, containing a description of the land required or taken, or of the powers intended to be exercised with regard to any lands (describing them), — a declaration that the Company are ready to pay some certain sum or rent, as the case may be, as compensation for such lands, or for the damages arising from the exercise of such powers, and the name of a person whom they appoint as their Arbitrator, if their offer be not accepted; and such notice shall be accompanied by the certificate of some sworn Surveyor for Upper Canada, disinterested in the matter, and not being the Arbitrator named in the notice, that he knows such land or the amount of damages likely, to arise from the exercise of such powers or privileges, and that the sum so offered is in his opinion a fair compensation for such

land or damages, as aforesaid. If within ten days after the service of such notice the opposite party shall not notify to the Company that he accepts the sum offered by the said Company, or notify to them the name of a person whom he appoints as Arbitrator, then any Judge of the County Court in which the lands lie, may, on application of the said Company, appoint some sworn Surveyor for Upper Canada to be sole Arbitrator for determining the compensation to be paid by the Company; if the opposite party shall within the time aforesaid notify to the said Company the name of the person such party shall appoint as Arbitrator, then, the said two Arbitrators shall jointly appoint a third; or if they cannot agree upon the third, then the said Judge of the County Court shall, on the application of the said Company or party, previous notice of at least one clear day having been given to the other party, appoint a third Arbitrator. The said Arbitrators, or any two of them, or the sole Arbitrator being sworn before some Commissioner for receiving Affidavits to be used in the Court of Queen's Bench for Upper Canada, faithfully and impartially to perform the duties of the office, shall proceed to ascertain the compensation to be paid by the said Company, in such way as they or lie, or a majority of them shall deem best, and the award of such Arbitrators or any two of them, or of the sole Arbitrators shall be final and conclusive; provided that no such award shall be made, except at a meeting held at a time and place, of which the other Arbitrator shall have had at least one clear day's notice, or to which, some meeting, at which the third Arbitrator was present, shall have been adjourned; but no notice to the Company or opposite party shall be necessary, but they shall be held sufficiently notified through the Arbitrator they shall have appointed, or whose appointment they shall have required; Provided always, that the award made by any sole arbitrator shall never be for a less sum than that, offered by the Company as aforesaid; and if in any case where three Arbitrators shall have been appointed, the sum awarded be not greater than that offered by the Company, the costs of the arbitration shall be borne by the opposite party and deducted from the compensation, otherwise they shall be borne by the Company, and in either case they may, if not agreed upon, be taxed by the said Judge of the County Court. The Arbitrators, or a majority of them, or the sole Arbitrator, may examine on oath or solemn affirmation, the parties, or such persons as shall appear before him or them, and may administer such oath or affirmation; and any wilfully false statement made by any witness under such oath or affirmation, shall be deemed wilful and corrupt perjury, and punishable accordingly; the said Judge of the County Court, by whom any third or sole Arbitrator shall be appointed, shall at the same time, fix a day, on or before which the award shall be made, and if the same be not made on or before such day or some other day to which the time for making it shall have been prolonged either by the consent, of the parties, or by the order of the said Judge (as it may be, for reasonable cause shewn,) on the application of such sole Arbitrator, or one of the Arbitrators after one clear day's notice to the others, then the sum offered by the Company as aforesaid shall be the compensation to be paid by them; if the party appointed by any Judge as third Arbitrator or sole Arbitrator shall die before the award be made, or shall refuse to act, or fail to act within a reasonable time, then upon the application of either party, the said Judge, being satisfied by affidavit or otherwise, of such disqualification, refusal or failure, may in his discretion appoint another Arbitrator in his stead; and if the Arbitrator appointed by the said Company, or by the opposite party, shall die before the award shall be made, or shall leave the Province, or become unable to act within a reasonable time, such fact being ascertained to the satisfaction of the said Judge as attested by his certificate to that effect, the said Company or the opposite party, as the case may be, may appoint another in his stead, notifying the other Arbitrators of such



appointment; it shall be no disqualification to the Surveyor or other person offered or appointed as Valuator or as Arbitrator, that he be professionally employed by the Company, or by the opposite party, or that he hath previously expressed an opinion as to the amount of compensation, or that he be related or of kin to any member of the Company, provided that he be not personally interested in the amount of such compensation; and no cause of disqualification shall be urged against any Arbitrator appointed by the said Judge, after his appointment, but shall be made before the same, and its validity or invalidity summarily determined by such Judge; and no cause of disqualification shall be urged against any Arbitrator appointed by the Company, or by the opposite party, after the appointment of a third Arbitrator; and the validity or invalidity of any cause of disqualification urged against any such Arbitrator before the appointment of a third Arbitrator, shall be summarily determined by the said Judge, on the application of either party, after one clear day's notice to the other; and if such cause be determined to be valid, the appointment shall be null, and the party offering the person so adjudged to be disqualified, shall be held to have appointed no Arbitrator. No award made as aforesaid shall be invalidated by any want of form, or other technical objection, if the requirements of this Act shall have been complied with, and if the award shall state clearly the sum awarded, and the lands or other property, right, privilege or thing for which such sum is to be the compensation; nor shall it be necessary that the party or parties to whom the sum is to be paid, be named in the award.

XIX. And be it enacted, That upon payment or legal tender of the compensation so awarded, agreed upon, or determined as aforesaid, to the party entitled to receive the same, the award or agreement shall vest in the Company the power forthwith to take or hold possession of the lands, or to exercise the right, or to do the things for which such compensation shall have been awarded or agreed upon; and if any resistance or forcible opposition shall be made by any person or party to their so doing, the said Judge of the County Court may, on proof to his satisfaction, that the requirements of this Act have been complied with, issue his warrant to the Sheriff of the County, or to any Bailiff of the Court, to put the said Company in possession, and to put down such resistance or opposition, which such Sheriff or Bailiff, taking with him sufficient assistance, shall accordingly do.

XX. And be it enacted, That all debts heretofore due to the said Company, and all judgments, recognizances, bonds, covenants and other instruments or contracts, suffered, acknowledged or given to, or made with them, before the passing of this Act, and all rights by them obtained, and acts by them lawfully done, shall be valid and available to the said Company, and stand and continue in full force and effect; Provided always, that the said Company shall be liable for all the present existing debts, contracts and agreements by them heretofore incurred or made.

XXI. And be it enacted, That the said Company shall annually transmit to each Branch of the Legislature, within ten days after the opening of each Session thereof, a true, full and detailed account of their property and liabilities, revenues and affairs, attested on oath by one of the Directors.

From: British North America Legislative Database; University of New Brunswick  
bnald.lib.unb.ca

XXII. 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.