

Cobourg Harbour File

HARBOURS.

COBOURG.

10th Geo. IV. Chap. 11.

AN ACT to improve the navigation of Lake Ontario, by authorising the construction of a Harbour at Cobourg, by a Joint Stock Company.

[Passed 20th March, 1829.]

WHEREAS the construction of a safe and commodious Harbour at Cobourg, in the District of Newcastle, 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 Ontario:

Preamble; (See 2 Wm 4, chap. 22; 5 Wm 4, chap. 43; 2 Vic. Chap. 42.)

And whereas Walter Boswell, George Strange Boulton, Benjamin Throop, Charles Perry, Ephraim Powell, James Gray Bethune, John Gilchrist, Ebenezer Perry, Dougald Campbell, Henry Ruttan, Stoddard Bates, Alexander Neil Bethune, Joseph Ash and Archibald M'Donald, have petitioned to be by law incorporated for the purpose of effecting the construction of such Harbour, by means of a Joint Stock Company: Be it therefore enacted by the King'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, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and to make further provision for the Government of the said Province," and by the authority of the same, That the said Walter Boswell, George Strange Boulton, Benjamin Throop, Charles Perry, Ephraim Powell, James Gray Bethune, John Gilchrist, Ebenezer Perry, Dougald Campbell, Henry Ruttan, Stoddard Bates, Alexander Neil Bethune, Joseph Ash and Archibald M'Donald, together with all such other persons as shall become Stockholders in such Joint Stock or Capital as is hereinafter mentioned, shall be, and are hereby ordained, constituted and declared to be a body corporate and politic, in fact, by and under the name and style of "the President, Directors and Company of the Cobourg 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 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 same name of "the President, Directors and Company, of the Cobourg 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

Pétition for an Act of incorporation to make a Harbour at Cobourg;

A Company incorporated, to be called the President, Directors and Company of the Cobourg Harbour;

Powers and privileges of the Company;

Seal;

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Not to carry on the
business of banking.

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.

Company authorised to
construct a Harbour at
Cobourg.

II. *And be it further enacted by the authority aforesaid*, That the said Company are hereby authorised and empowered, at their own cost and charge, to construct a Harbour at Cobourg, 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 and amend, repair and enlarge, the same, as may be found expedient and necessary.

To contract for the pur-
chase of lands required
for making the Harbour;

III. *And be it further enacted by the authority aforesaid*, That the Directors of the said Company shall be, and they are hereby empowered to contract, compound, compromise and agree, with the owners and occupiers of any land through or upon which they may determine to cut and construct the said 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 and may be entitled to recover from the said Company in consequence of the said intended Harbour, roads, streets and approaches thereto, being cut, made and constructed, in and upon his, her or their, respective lands; and in case of any disagreement between the said Directors and the owner or owners, occupier or occupiers, 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 ballot by the persons so named, shall be arbitrators to award, determine, adjudge and order, the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of a majority of whom shall be final; and the said arbitrators shall, and they are hereby required, to attend at some convenient place in the vicinity of the said intended Harbour, to be appointed by the said Directors, after eight days notice given them for that purpose by the said Directors, then and there to arbitrate, award, adjudge and determine, such matters and things as shall be submitted to their consideration by

Or to compromise for
damages done by them;

In case of disagreement,
an arbitration provided
for;

Nomination of
Arbitrators;

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the parties interested, and that each arbitrator shall be sworn before some one of His Majesty's Justices of the Peace in and for the said District, any of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties, according to the best of his judgment. *Provided always*, that any award made under this Act shall be subject to be set aside on application to the Court of King's Bench, in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case reference may be again made to arbitrators, as herein-before provided.

Regulations respecting the award.

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 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, between the East boundary of lot number thirteen, and the West boundary of lot number nineteen, in the Township of Hamilton, in the said District of Newcastle, and upon all vessels and boats entering the said Harbour, according to the rates following; that is to say:

Tolls and rates appointed.

Pot and pearl ash, per barrel, nine pence;
 Pork, whiskey, salt, beef and lard, per barrel, six pence;
 Flour, per barrel, four pence;
 Merchandize, per barrel bulk, six pence;
 Lard and butter, per keg, one penny half-penny;
 Merchandize, per ton, seven shillings and six pence;
 West India staves, per M., two shillings and six pence;
 Pipe staves, per M., twelve shillings and six pence;
 Wheat and other grain, per sixty pounds, one penny;
 Lumber, per M. feet, board measure, one shilling and three pence;
 Boats and vessels, under twelve tons, one shilling and three pence;
 Boats under five tons, free;
 Boats or vessels, above twelve tons, and not over fifty, two shillings and six pence;
 Vessels over fifty tons, five shillings.

note

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 or merchandize, as herein-before mentioned, shall be and the same are hereby vested in the said Company and their successors forever.

Harbour, &c. vested in the Company.

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

Compelling payment of tolls.

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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 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 or 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 return the overplus, if any, to the owner or owners thereof.

Directors how chosen;

To be seven in number.

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 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, as well as inhabitants of this Province, and be elected on the first Monday in February in every year, at Cobourg, 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 any newspaper or newspapers that may be published in the said District of Newcastle, 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; 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 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 herein-before authorised 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 said Directors so chosen, as soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be President; and if any vacancy 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.

President.

Voting regulated.

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 rules, that is to say: one vote for each share not exceeding four; five

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votes for six shares; six votes for eight shares; seven votes for ten shares, and one vote for every five shares above ten.

IX. *And be it further enacted by the authority aforesaid,* That 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. Default of making election on the day appointed.

X. *And be it enacted by the authority aforesaid,* That the Directors, for the time being, or the 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, 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. Directors to make rules; Appoint officers and assign salaries, &c.

XI. *First Directors, how and when to be chosen.*

XII. *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 Company may have or hold by virtue of this Act, shall not exceed in value seven thousand five hundred pounds; to be held in six 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 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. Amount of capital; [See 2 Vic. Chap. 42.] Number of shares; Transfer of shares.

XIII. *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 thereof in the 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, 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 cent, nor become payable in less than thirty days. Calling in instalments.

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after public notice in the Gazette, or in any newspaper or newspapers 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 in.

Shares forfeited if instalments shall not be paid in;

XIV. *And be it further enacted by the authority aforesaid*, 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; 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 the Upper Canada Gazette, or in any newspaper or newspapers that may be published in the District of Newcastle, 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.

Sale of forfeited shares.

Dividends of profits;

XV. *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 statement to appear on the books, and to be open to the perusal of any Stockholder, at his or her reasonable request.

Accounts to be open to Stockholders.

To be deemed a Public Act.

XVI. *And be it further enacted by the authority aforesaid*, 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.

NOTE
After fifty years His Majesty may assume the possession of the Harbour;

XVII. *And be it further enacted by the authority aforesaid*, That at any time after fifty years after the making and completing the said Harbour, His Majesty, His 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

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making and completing the said Harbour, together with such further sum as will amount to twenty-five per cent upon the moneys 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 His Majesty, His 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 His Majesty, His 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.

On what conditions.

XVIII. *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 His Majesty, His Heirs or Successors, as herein-before authorised, all tolls and profits arising therefrom shall be paid into the hands of His 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 His Majesty, His Heirs and Successors, through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct: *Provided always*, that the said Harbour shall be commenced within one year, 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.

Appropriation of tolls after such assumption by His Majesty;

Time for commencing and completing the Harbour

[See 2 Vic. chap. 42.]

2nd Wm. IV. Chap. 22.

AN ACT to authorise a loan to the President, Directors and Company, of the Cobourg Harbour.

[Passed 28th January, 1832.]

Preamble; £3000 to be raised by debenture, to be loaned to the President, Directors and Company, of the Cobourg Harbour, to be applied towards the completion thereof. 2. Debentures to be issued for a sum not exceeding £3000, redeemable at not less than 10 years, at not more than 6 per cent interest. 3. The provisions of 7 Geo. IV. chap. 20, respecting debentures issued under that Act, to be applicable to those issued under this. 4. Security to be given by the said Company before any money advanced.

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5th Wm. IV. Chap. 43.

AN ACT granting a loan to the Cobourg Harbour Company.

[Passed 16th April, 1835.]

MOST GRACIOUS SOVEREIGN:

Preamble;

[See 10 Geo 4, Ch. 11;
2 Vic. chap. 42, Sec. 3]Loan of £1,000 to the
Company for four years,
at six per cent;Security by bond for
£2,000 to be first given.Loan to be paid upon
warrant to the Receiver
General;

And accounted for;

£500 to be advanced in
1835, and remainder
in 1836.

WHEREAS it is expedient that a further loan should be granted to the Cobourg Harbour Company, to enable them to complete the said Harbour; We therefore beseech your Majesty that it may be enacted, *and be it enacted* by the King'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, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, '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 it shall and may be lawful for His Excellency the Lieutenant Governor, or Person Administering the Government of this Province, for the time being, to direct His Majesty's Receiver General to loan to the President and Directors of the Cobourg Harbour Company the sum of one thousand pounds, for four years, at an interest of six per centum per annum: *Provided always*, that before the said sum of one thousand pounds, hereby authorised to be loaned to the said Company, shall be advanced by the Receiver General, the said Company shall lodge in his hands a bond, with a penalty of two thousand pounds, for the payment of the interest accruing on the said sum of one thousand pounds, half-yearly, from the period of making said loan, and for the payment of the principal in four years.

II. *And be it further enacted by the authority aforesaid*, That the loan hereby authorised to the said Company shall be paid in discharge of any warrant issued by His Excellency the Lieutenant Governor, or Person Administering the Government, for the time being, for that purpose; and shall be accounted for to His Majesty, through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct: *Provided always*, that no greater sum than five hundred pounds shall be loaned to the said Company during the year one thousand eight hundred and thirty-five, and the remainder during the year one thousand eight hundred and thirty-six.

III. *And whereas* it is expedient to extend the time allowed in the charter of the said Company for finishing the contemplated Harbour, to

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the period of ten years from the passing of their Act of Incorporation: *Be it therefore enacted by the authority aforesaid,* That the period allowed by law for the completing the said Harbour, according to the Act of Incorporation, be extended to ten years from the passing of said Act, any thing therein contained to the contrary thereof in anywise notwithstanding.

Time for completing Harbour extended to ten years from passing of Act of incorporation.

IV. *And be it further enacted by the authority aforesaid,* That in addition to security to be given by the said Company to the Government, all the tolls annually collected by the said Company, after paying the expense of collecting the same, shall be paid by the said Company into the hands of the Receiver General, in satisfaction of the payment of the interest and principal thus loaned to the said Company.

Tolls after payment of expense of collecting to be paid to Receiver General on account of loan from Government.

2nd Vic. Chap. 42.

AN ACT to increase the Capital Stock of the Cobourg Harbour Company, and to extend the period for completing the same.

[Passed 11th May, 1839.]

WHEREAS the period for the completion of the Harbour at Cobourg has expired: *And whereas* it has been found impracticable to complete the same within the period allowed for that purpose, or for the sum limited by the Act of incorporation, in consequence whereof it is deemed expedient to extend the said period for the completion of the said Harbour, and to increase the capital stock of the Cobourg Harbour Company: *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, intituled, "An Act to repeal certain parts of an Act passed in fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and to make further provision for the Government of the said Province," and by the authority of the same, That the said Act of incorporation shall be and is hereby revived, and the period for the completion of the said Harbour shall be and is hereby extended to four years from and after the passing of this Act.

Preamble.

Time for completion of Cobourg Harbour extended.

II. *And be it further enacted by the authority aforesaid,* That the capital stock of the said Company shall be increased to ten thousand pounds, in shares of twelve pounds ten shillings each, to be subscribed

Stock increased to £10,000.

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for in such manner as the Directors shall appoint, of which due notice shall be given in some newspaper of the District.

Annual payment of interest on loans previous to making any dividends.

III. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Directors of the said Company, and they are hereby required to pay annually out of any surplus profits they may receive, and before any dividend is made upon the stock of the said Company, the interest now due, or which may hereafter become due on the loans made to the said Company by the Province: *Provided always,* that nothing herein-contained shall be taken or construed to interfere with any security given for the re-payment of the said loans to the said Company.

10th Geo. IV. Chap. 12.

AN ACT to incorporate certain persons therein named, under the style and title of the "Port Hope Harbour and Wharf Company."

[Passed 20th March. 1829.]

Preamble.
[See 2 Wm. 4, chap. 23.]

WHEREAS a safe and commodious Harbour and Wharf, at the Village of Port Hope, in the District of Newcastle, in this Province, would be a valuable public improvement: *And whereas,* John David Smith, John Brown, John Tucker Williams, Charles Fothergill, David Smart, Marcus Fayette Whitehead, John Hall, Moore Lee, James Crowley, Colin James Baldwin, William Whitla and John Huston, have petitioned to be incorporated for the purpose of constructing the same by means of a Joint Stock Company: *Be it therefore enacted* by the King'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, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and to make further provision for the Government of the said Province," and by the authority of the same, That the said John David Smith, John Brown, John Tucker Williams, Charles Fothergill, David Smart, Marcus Fayette Whitehead, John Hall, Moore Lee, James Crowley, Colin James Baldwin, William Whitla and John Huston, together with all such persons as shall become Stockholders in such joint stock or capital as is hereinafter mentioned, and their successors, shall be and are hereby ordained, constituted and declared, to be a body corporate and politic, in fact, and by the name of the "President, Directors and Company, of the Port Hope

A Joint Stock Company incorporated for making a Harbour at Port Hope;

Corporate name;