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No. 101.

3rd Session, 8th Parliament, 61 Victoria, 1898

BILL.

An Act respecting the Harbour of the
City of Saint John in the Province
of New Brunswick.

First reading, March 24th, 1898.

(PRIVATE BILL.)

Mr. ELLIS.

OTTAWA

Printed by S. J. Dawson

Printer to the Queen's most Excellent Majesty
1898

An Act respecting the Harbour of the City of Saint John, in the Province of New Brunswick.

WHEREAS the common council of the city of Saint John Preamble.
 in the province of New Brunswick has, by its petition, represented that by an Act of the legislature of the province of New Brunswick, being chapter 27 of the statutes of 1889, N.B., 1889. c. 27.
 5 the city of Portland and the city of Saint John were united under the name of the city of Saint John, and that there was in a part of the said city of Portland known as "Indian Town," a harbour called Indian Town Harbour; and whereas the said council has prayed that it be enacted as hereinafter set forth,
 10 and it is expedient to grant the prayer of the said petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The harbour mentioned in the preamble, and heretofore Indian Town Harbour changed to Saint John Harbour North.
 15 called Indian Town Harbour, shall, from and after the passing of this Act, be known as and called "The Saint John Harbour North," and shall form part of the Saint John Harbour.

2. The outer and western, and southern and northern harbour line of Saint John Harbour North shall be as marked and Limits of Saint John Harbour North defined.
 20 set forth on duplicate maps or plans thereof, one of which maps or plans is filed in the office of the Minister of Public Works at Ottawa, and the other in the office of the common clerk of the city of Saint John, and which harbour line is described as follows: Beginning at a point numbered one on said plans distant
 25 westwardly one thousand two hundred and fifty feet at right angles from a point on a northerly prolongation of the easterly line of Bridge Street, the said point being nine hundred feet from the northerly side of Main Street; thence due north to the shore, and then from said point numbered one, southerly
 30 to a point numbered two on said plans, distant westwardly at right angles eight hundred feet from a point on the easterly line of Bridge Street aforesaid, the said point being distant five hundred feet northerly from the said northerly line of Main Street; thence southerly to a point numbered three on the
 35 said plans, distant westwardly at right angles four hundred and twenty feet from a point on the southerly prolongation of the easterly line of Bridge Street aforesaid, the said point being distant four hundred and fifty feet southerly from the northerly line of said Main Street; thence southerly to a point numbered
 40 four on said plans, distant at right angles three hundred feet from a point on the said southerly prolongation of the said easterly line of Bridge Street, the said point being distant southerly

one thousand three hundred and ninety feet from the northerly line of said Main Street; thence eastwardly at right angles to said prolongation seven hundred and seventy feet to a point numbered five; thence northerly to a point numbered six, which is distant eastwardly at right angles seven hundred and twenty feet from a point on the said southerly prolongation of said line of Bridge Street, which said point is distant eight hundred feet southerly from the northerly line of Main Street; thence eastwardly along said line at right angles two hundred and twenty feet to the point on said plans numbered seven; thence southerly six hundred and ten feet to the point numbered eight upon said plans, which is distant eastwardly eight hundred and fifty feet from the said point one thousand three hundred and ninety feet southerly from the said northerly line of Main Street as before mentioned; thence continuing southerly parallel to said prolongation of Bridge Street, eight hundred and fifty feet to the point on said plans numbered nine; thence westwardly to a point on said southerly prolongation of Bridge Street, distant southerly two thousand four hundred and sixty-five feet from the northerly line of said Main Street, and continued in the same direction until it reaches one thousand three hundred feet to a point on said plans numbered ten; thence southerly to the most easterly point of the island shown on said plans as "Middle Island" to said last mentioned point, being numbered eleven on said plans; and thence southerly to the extreme westerly point of the main land on the easterly side of the falls, as shown on the said plans, and numbered twelve thereon, which last mentioned point is immediately south of the railway bridge crossing the falls. And the said The Saint John Harbour North shall consist of the waters and the land under the same within and to the eastward and southward and northward of said harbour line, and to the westward and southward and northward of the shore of the River Saint John at high water mark where said shore is immediately to the westward, southward and northward of such harbour line.

Harbour to be property of city of Saint John.

3. Saint John Harbour North, as hereinbefore described and bounded, is hereby vested in the city of Saint John, for the use and benefit of the inhabitants thereof, subject however to the provisions of this Act.

Laws relating to Saint John Harbour to apply to Saint John Harbour North.

4. All statutes of the province of New Brunswick, and all by-laws and ordinances passed by the common council of Saint John, affecting Saint John Harbour, shall, so far as they are reasonably applicable, apply to and govern Saint John Harbour North to the same extent as if Saint John Harbour North had always formed a part of Saint John Harbour.

Power to appoint deputy harbour master.

5. The common council of the city of Saint John may appoint a deputy harbour master for Saint John Harbour North, and may at any time dismiss such deputy harbour master, and appoint another in his stead.

Piers may be constructed.

6. The city of Saint John and the owner or lessee of any land fronting upon the waters of Saint John Harbour North, and lying to the eastward, southward and northward of the harbour line hereinbefore described, may construct and main-

tain piers and wharfs into the said harbour for the better securing the said harbour, and for the lading and unloading of goods. Such piers and wharfs may be constructed and maintained in the said harbour as far as the said harbour 5 line, but not beyond; provided that such owner or lessee, before building or extending any wharf or pier in the said harbour, shall file a plan of such proposed wharf, pier or extension in the office of the said common clerk, and such plan, and such proposed building or extension, shall be approved by the 10 common council before such building or extension is proceeded with.

7. The city of Saint John and the owners of wharfs 15 fronting on or in Saint John Harbour North may charge anchorage fees on vessels using the said harbour, and may charge wharfage and dockage fees on vessels lying at any wharf, and on goods and chattels received from or delivered on board of any such vessel at any such wharf, and the rate and amount of any such wharfage shall be fixed by by-law, as hereinafter mentioned.

20 8. The common council of the city of Saint John may make such by-laws and ordinances as it deems necessary for the government and management of Saint John Harbour North, and for the anchoring, mooring, placing, docking and changing the place of any vessel in the said harbour, and the loading 25 and unloading of any vessel therein, and may, in such by-laws or ordinances, fix the wharfage, dockage or other fee to be paid to the city of Saint John, or the owner or lessee above mentioned, by the owner of any vessel moored, or lying at any wharf or pier in the said harbour, or put in any dock, or anchored in the said harbour, and such by-laws shall control any officer appointed by the said city to manage and govern the said harbour and the business carried on therein, and any other matter concerning the said harbour, or the condition and interest of the same, and may impose such penalties and forfeitures for 35 the breach of such by-laws and ordinances as the said council deems advisable. Provided always that such by-laws and ordinances shall not be contrary or repugnant to the laws of Canada or the province of New Brunswick, or any law in force therein. The said by-laws and ordinances, if not confirmed by 40 the Lieutenant Governor of the province of New Brunswick in Council, shall only remain in force for twelve months from the date thereof.

9. If at any time the common council of the city of Saint John determines, by resolution, that additional wharfs, piers 45 or docks are required in Saint John Harbour North, and the city of Saint John has not property of its own on or in front of which to build the same, and the owner of the land on or in front of which the said additional wharfs, piers or docks would require to be built does not consider it necessary that such 50 should be built, the said council may thereupon give to such owner a notice to proceed with the building thereof within three months, and if such owner fails to proceed with such building within the said period, then the city of Saint John, by its officers, servants and agents, may enter upon any such lands and

Wharfage fees.

Council may make by-laws for management of harbour.

By-laws to lapse if not confirmed.

Construction of additional piers, etc., opposite private lands.

premises, and make surveys and measurements, and ascertain the boundaries of the land required for such wharfs, piers or docks; and the common council may thereupon, by resolution, set forth the metes and bounds of any such land proposed to be taken, and may, by resolution, take and appropriate for the public uses of the said city, in connection with Saint John Harbour North, the said land and premises so laid off by metes and bounds. 5

Plan to be filed, and copy served on owners of land.

2. The plan of the land and premises proposed to be so taken, shall be filed in the office of the registrar of deeds of the city and county of Saint John, and a copy of the said plan shall be served upon the owners of such lands and premises. 10

When land to vest in city.

16. A copy of such resolutions certified under the common seal of the said city, and a copy of any award certified by affidavit made as hereinafter provided, may be registered in the office of the registrar of deeds for the city and county of Saint John; and upon the same being registered, and the amount of such award being paid or tendered to the respective parties entitled thereto, the lands and premises described in such certificates shall vest absolutely in the said city free from every incumbrance, dower, lien or claim, and thereupon the said city may take possession of the same without any suit or proceeding, and may, at any time thereafter, remove all buildings, erections and improvements of every description on the lands and premises taken under the authority of this Act. 15 20 25

Contracts for purchase of land.

21. The city of Saint John may contract for the purchase of any land required for the purposes aforesaid; and any guardian, curator, committee, trustee, executor, or person, not only for and on behalf of himself, but also for and on behalf of those whom he represents, whether infants, lunatics, or persons otherwise incapable of contracting, or other persons seized, possessed of or interested in any such land may, with the approval of a judge of Supreme Court of the province of New Brunswick, upon petition, set forth the facts of the case, and the said judge shall thereupon make an order for the disposition of the proceeds of the said land, and such guardian, curator or other person above named may contract for the sale of, and may convey to the said city any of such lands and premises, and give receipts for the compensation paid therefor. 30 35

Proceedings where parties cannot agree.

22. If the owner of any such lands and premises cannot agree with the said city as to the amount of compensation to be paid therefor, the common council may offer to such owner a named sum of money for the lands and premises described in any resolution as aforesaid, and shown on the plan filed, and in case such owner shall not, within ten days from the date of such offer, accept the same, the said city may apply to the judge of the Supreme Court of the province of New Brunswick, by petition, setting forth all the facts, so far as the judge may deem it necessary that the same should be set forth, praying that the said judge may hear all the parties interested in the matter of the said petition, and by his order settle and determine the amount of compensation that is to be paid to the person entitled to receive such compensation for the said lands and premises so taken and appropriated by the said city 40 45 50

for the purposes aforesaid, and thereupon the said judge shall issue an order calling upon all such persons to attend before him at the time and place within the said city to be named in such order, for the purpose of ascertaining the amount of such compensation, and upon the return of such summons, or any adjournment of the time for the hearing thereof, the said judge shall receive evidence from and on the part of the said city, and from and on the part of any person so interested as aforesaid in the said lands and premises so appropriated, with reference to such value, and the said judge shall, after such hearing, make an order in duplicate determining such value, and the said order shall, when registered as hereinafter mentioned, convey to the said city a valid title to the lands and premises so appropriated.

2. One copy of the said order shall be filed in the said court with the clerk of the pleas at Fredericton, in the province of New Brunswick, and the other copy shall be registered in the office of the registrar of deeds in and for the city and county of Saint John.

Order of judge.

13. If for any cause an order should not be made by the said judge as to the value of the said lands and premises so taken and appropriated as aforesaid, proceedings may be taken *de novo* for the obtaining of such order.

If no order made, proceedings may be begun *de novo*.

14. The amount so ordered to be paid to the owner or person entitled to contract in respect of any such property shall be paid to him, and if the said property shall be subject to any mortgage lien, execution, attachment or other charge or claim in respect of any interest of what nature or kind soever, the said sum so awarded shall be paid in to such bank as a judge of the Supreme Court shall order, and shall be paid out to the party entitled thereto upon the order of any such judge, to be made upon petition setting forth the nature of the claim, and such other facts, and upon such notice to other parties as he shall require or direct; provided always that any cost occasioned by the determination of such claims shall be borne by such of the parties, including the said city, as the judge may order.

Payment of compensation.

15. If any person entitled to compensation shall refuse to receive the amount so ordered to be paid as aforesaid, or to give a proper receipt therefor, or if the person entitled to receive such amount has not been found, such amount shall be deposited in a bank under the direction of any judge of the Supreme Court of the said province, upon affidavit of the fact, and thereupon the said city shall be released from all liabilities in respect thereof.

Payment into court in certain cases.