

Laws of His Majesty's Province of Upper Canada, passed in the year 1857. Toronto: Stewart Derbishire & George Desbarats, 1857.

20 Victoria – Chapter 145

An Act to revive and amend a certain Act passed in the sixteenth year of Her Majesty's Reign, and intituled, An Act to incorporate the Port Whitby and Lake Huron Railway Company. Assented to 10th June, 1857.

Whereas it is deemed expedient and necessary to revive and amend a certain Act passed in the sixteenth year of Her Majesty's Reign, and intituled, *An Act to incorporate the Port Whitby and Lake Huron Railway Company*: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

I. From and after the passing of this Act, the said above in, part recited Act, and every matter or thing in any wise relating thereto, shall be and the same is hereby revived and in full force and effect, save and except the following clauses or sections in the said above recited Act, and numbered respectively one, five, six, seven, eight, eleven and twelve, which is and are hereby repealed; Provided always, that the said Company shall not be at liberty to construct their Railway through the Townships of Brock and Thorah over any portion of the said Townships lying to the east of a direct or air line drawn between the Port of Whitby and the Port of Beaverton.

II. Nelson Gilbert Reynolds, Ezra Annes, Robert Hervey Lawder, James Howe, Carleton Lynde, John Ham Perry, James Dryden, George Currie, John Hall Thompson, Neil McDougall, Daniel Greek Hewett, John B. Warren, Jonathan Foot and Chester Draper, together with such person or persons, corporations, municipalities and companies, as shall under the provisions of this Act, and of the unrepealed parts of the Act to which this is an amendment, become shareholders in the Company hereinafter mentioned, shall be and hereby are ordained, constituted and declared to be the body corporate and politic, intended and referred to in the said amended Act, by and under the name and style of the "Port Whitby and Lake Huron Railway Company."

III. The said Nelson Gilbert Reynolds, Ezra Annes, Robert Hervey Lawder, James Rowe, Carleton Lynde, John Ham Perry, James Dryden, George Currie, John Hall Thompson, Neil McDougall, Daniel Greek Hewett, John B. Warren, Jonathan Foot and Chester Draper, shall be and are hereby constituted and appointed the first Directors of the said Company, and shall hold their office until others shall under the provisions of this Act, and of the Act to which this is an amendment, (except where the Act to which this Act is an amendment shall conflict with or shall have been repealed by this Act,) be elected by the shareholders, and until that time shall constitute the Board of Directors of the said Company, for carrying out the object and purposes of this Act and of the Act to which this is an amendment, with all the powers, privileges and immunities conferred on the Board of Directors of the said Company in this Act and in the Act to which this is an amendment.

IV. The said Company shall be and hereby are authorized and empowered to borrow money on the security of their property, by mortgage bonds of the Company, having not more than thirty years to

run, and bearing interest at a rate of not more than six per cent, per annum, under the following conditions and restrictions, to wit:

First — The bonded debt of the Company shall never exceed the amount of stock actually paid up and invested in the Company's property;

Second — A sufficient annual or semi-annual deposit from the next, earnings of the Company, shall be made in a well secured sinking fund, for the liquidation of the bonded debt at maturity; and no dividend on the Company's stock shall be declared or paid out until such deposit shall have been duly made;

Third — The "Construction Account" of the Company, and all other charges to "Capital Stock," shall be closed for ever on each division of the road opened for public traffic, within twelve months from the date on which such division shall have been so opened, except with the sanction of a majority of the Stockholders, and of a majority of the Bondholders, and then to the extent only and for the express purpose for which such sanction shall have been given;

Fourth — All or any bonds of the Company shall be convertible at par into capital stock of the Company, at the option of the holders of the said bonds;

Fifth — These conditions and restrictions shall be printed on the face of the Company's bonds, and shall be part and parcel of the Company's contract with the bondholders, and no other bonds or securities shall be issued by the Company bearing any mortgage on their property, nor shall any money be raised on mortgage of such property otherwise than on such bonds as aforesaid.

V. The Capital Stock of the said Company shall not exceed in the whole the sum of four hundred thousand pounds currency, to be divided into sixteen thousand shares of twenty-five pounds each, which amount shall be raised by the persons above named or some of them, together with such other persons or Corporations as may become subscribers towards such Stock; and the said money so raised shall be applied in the first place towards the payment and discharge of all fees and disbursements for procuring the passing of this Act, and for making the surveys, plans and estimates of the said Railway and connected therewith, and all the rest and remainder of such money shall be applied towards completing and maintaining the said Railway and other purposes of this Act, and to no other purpose whatsoever; Provided always, that until the said preliminary expenses connected with the said Railway shall be paid out of the Common Stock thereof, it shall be lawful for the Municipality of any County, Town or Township on or near the line thereof, to pay out of the general funds of such Municipality any proportion of such Railway preliminary expenses, which sum shall be refunded to such Municipality from the Stock of the said Company, or be allowed to them in payment of Stock.

VI. When and so soon as One Hundred Thousand Pounds of the said Capital Stock shall have been subscribed, and ten per cent paid thereon into one of the chartered Banks of this Province, it shall be lawful for the said Directors or a majority of them to call a meeting of the holders of such shares at such place and time as they shall think proper, giving at least fifteen days' public notice of the same in one or more newspapers published in the County of Ontario, at which said General meeting the private

shareholders having paid ten per cent on their stock subscribed for, shall either in person or by proxy choose six Directors, and the municipality or municipalities having also paid ten per cent on their stock subscribed for, shall choose seven Directors who shall together with the other Directors hold office until the first Monday in February following; and the private shareholders who shall have paid up all calls on their stock shall in like manner elect six Directors at each annual general meeting of the stockholders; and such Municipality or Municipalities as shall have taken stock in the said Company and paid ten per cent thereon as aforesaid previous to the first meeting of the shareholders according to the next preceding section of this Act, shall be entitled to elect at the said meeting and at every annual Meeting thereafter, provided all calls on their stock then made are paid up, seven persons to represent at the Board of Directors such Municipal Stock; and for the purpose of electing such seven persons, the Stock subscribed by each Municipality shall be equally divided among the Members of the Council of each Municipality, who shall vote upon the same respectively in the same manner as the private shareholders; and so much of Section nine of the Act hereby, amended or of other part thereof, as fixes the number of Directors at nine, is hereby repealed; and notwithstanding anything to the contrary in the Railway Clauses Consolidation Act, the Head of any Municipality holding Stock in the said Company, shall not be *ex officio* a Director of the Company, but such Head may, as may also any other member of the Council of such Municipality, be elected a Director, and shall be qualified as such whether he be or be not a private shareholder; and all Directors of the Company whether elected by private shareholders or by Councillors voting on the Stock held by their Municipalities, shall have equal powers, rights and liabilities.

VII. Any member of a Municipal Council elected a Director shall remain a Director until the next annual election and the election of his successor, although he may have ceased to be a member of such Municipal Council.

VIII. So much of the ninth Section or of any part of the Act hereby amended as appoints the first Monday in June as the day for the annual general meeting of the said Company, and the election of Directors, is hereby repealed; and the said annual general meeting and election of Directors shall be held on the first Monday in February in each and every year after the first election of Directors.

IX. The persons qualified to be elected Directors to represent the private Stock of the said Company under this Act, shall be any shareholders holding Stock to the amount of two hundred and fifty pounds, who shall have paid up all calls on the same.

X. If it shall happen at any time or times hereafter 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 Company shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make an election of Directors in such manner and upon such notice as shall be provided by the By-laws of the Company; and until such election of new Directors, those who may be in office for the time being, shall be and continue to exercise all the rights and powers of Directors until such new election be made.

XI. The Directors of the said Company may appoint such and so many agents in this Province or in any other part of Her Majesty's dominions, as to them shall seem expedient, and may, by any By-law to be made for such purpose, empower and authorize any such agent or agents to do and perform any act

or thing, or to exercise any powers which the Directors themselves, or any of them, may lawfully do, perform and exercise, except the power of making By-laws; and all things done by such agent or agents, by virtue of the powers in him or them vested by any such By-laws, shall be as valid and effectual to all intents and purposes as if done by such Directors themselves; any thing in any part of this Act to the contrary notwithstanding.

XII. It shall and may be lawful for the Directors of the said Company for the time being to make, execute and deliver, all such scrip and share certificates, and all such bonds, debentures, mortgages, or other securities, as to the said Directors for the time being shall from time to time seem most expedient for raising the necessary capital for the time being authorized to be raised by the said Company, or for raising any part thereof.

XIII. In case the said sum of four hundred thousand pounds currency, hereinbefore authorized to be raised, shall be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the said Company to raise and contribute among themselves by subscription in books to be opened by the Directors for that purpose, and in such shares and proportions as to them shall seem meet, or by the admission of new subscribers, a further or other sum of money for completing the said intended railway and its branches and other works or conveniences incidental or relative thereto, not exceeding the sum of two hundred and fifty thousand pounds aforesaid; and every subscriber towards raising such further or other sum of money, shall be a shareholder in the said undertaking, and have a like vote by himself, or herself, or his or her proxy, in respect of every share in the said additional sum so to be raised, and shall also be liable to such obligations and stand interested in all the profits and powers of the said undertaking, in proportion to the sum he, she or they shall or may subscribe thereto, as generally and extensively as if such other or further sum had been originally raised as part of the first sum of four hundred thousand pounds; any thing herein contained to the contrary notwithstanding.

XIV. It shall be lawful for the Directors (if authorized by any general meeting of the shareholders to be called for that purpose) to enter into and make any arrangement with the Directors of any Railway Company now or hereafter to be chartered in any part of this Province, for the union, junction and amalgamation of the said Company with such other Railway Company, or for the purchase of the Railway of such other Company by mutual agreement with such Company; and the capital stock of any Companies so united shall become the capital stock of the Company formed by their union, and be controlled and managed as such, independently of all other increase of stock authorized by this Act.

XV. It shall and may be lawful for the said Company to enter into any agreement with any person or persons or with any other Railway Company, either in this Province or in any Foreign State, for leasing the said Railway or any part thereof, or the use thereof, at any time or times, to such person or persons, or other Company, or for leasing or hiring out to such person or persons or other Company the said Railway and any locomotives, cars, carriages, tenders or other property, moveable and immoveable of the said Company, either altogether or for any time or times, occasion or occasions, or for leasing or hiring from any other Railway Company, any Railroad or part thereof or the use thereof, at any time or times, or for leasing or hiring from such other Railway Company, any Railroad, locomotives, cars, carriages, tenders or other property, moveable and immoveable, or for using either the whole or any part of the said Railway, or of the moveable and immoveable property of the said

Company, or of the Railway or moveable and immoveable property or either of such other Company, in common by the two Companies, or, generally, to make any agreement or agreements with any person or persons, or with any such other Company, touching the use by any such person or persons, or by one or other or by both Companies, of the Railway or moveable and immoveable property of either or of both, or at any part thereof, or touching any service to be rendered by the one Company to the other, and the compensation therefor; and any such agreement or lease shall be valid and binding and shall be enforced by all Courts of Justice in this Province, according to the terms and tenor thereof; Provided always, that the act or acts of the Directors of the said Company sanctioned and approved by a majority of the votes of the Shareholders attending any Special General Meeting of the Shareholders of the said Company, called for that purpose, either in person or by proxy, shall be considered to be, and be to all intents and purposes, the act and acts of the Company under this section; and at such Special General Meeting, the said Shareholders may, by a majority of the votes of the Shareholders attending such Special General Meeting, either in person or by proxy, delegate to the Directors of the said Company, or a quorum thereof, or a majority of such quorum, all and singular the powers by this section conferred, given and granted to the said Company, to be exercised in such manner as to the said Directors or quorum of them, or a majority of such quorum, shall seem meet, and as they shall direct and appoint; and the powers hereby conferred upon the said Company shall extend to any agreement for lease of the said Railway and undertaking, locomotives, cars, carriages and other property of the said Company, moveable and immoveable, heretofore entered into by the Directors of the said Railway Company, and which has been sanctioned and approved of by the Shareholders of the said Company, at a Special General Meeting of the Shareholders thereof called for that purpose, and any such agreement shall be binding on the said Company and the party with whom the same was entered into, and any lease granted or to be granted in pursuance of such agreement shall be valid and binding upon all the parties thereto; any thing to the contrary in this or any other Act of the Parliament of this Province notwithstanding.

XVI. The said Company shall have full power and authority to unite with the Grand Trunk Railway Company of Canada or to sell and convey to the Company last mentioned, all the property and rights acquired under this Act, according to and under the provisions of an Act passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to empower any Railway Company whose Railway forms part of the Main Trunk Line of Railway throughout this Province, to unite with any other such Company, or to purchase the property and rights of any such Company, and to repeal certain Acts therein mentioned, incorporating Railway Companies*; and of another Act passed in the same year of Her Majesty's Reign, intituled, *An Act to extend the provisions of the Railway Companies Union Act, to Companies whose Railways intersect the Main Trunk Line, or touch places which the said Line also touches*.

XVII. It shall be lawful for the said Company to construct a Line of Telegraph, Electric or otherwise, along their said Railway and its continuations and branches, or any of them, or any part or section thereof, from and to any point or points thereon, as to the said Company shall seem advisable; And the said Company shall have power to purchase, receive and hold, and convey such Real Estate as may be necessary for the business and operations of the said Telegraph Line, and may appoint such Officers and Agents and make such Rules and Regulations and By-laws as may be necessary or advisable in the transaction of the business thereof, not inconsistent with the laws of this Province; And the said Company shall have and are hereby invested with all the powers, rights and privileges, respecting such

Telegraph Line, and the management thereof, as are now vested in Electric Telegraph Companies, under and by virtue of the fifth, sixth and eleventh sections of the Act passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to provide by one general law for the incorporation of Electric Telegraph Companies*; And the tenth and twelfth sections of the said Act shall apply to the said Line in like manner as if the said company had been an Association incorporated under the said last mentioned Act.

XVIII. And whereas it is expedient to construct at or near the terminus of the said Railway on Lake Huron a Harbour for the convenience of the public, and facilitating the traffic of the Rail-way; Therefore the said Company are hereby authorized and empowered to construct a Harbour at or near the Northern terminus of the said Railway on Lake Huron, which shall be accessible to, and fit, safe, and commodious for the reception of such description and burthen of Vessels as commonly navigate Lake Huron; And also to erect and build up such needful moles, piers, breakwaters, wharves, buildings, erections and constructions whatsoever as shall be necessary, useful and proper for the protection of such Harbour, and for the accommodation and convenience of Vessels entering, lying, loading and unloading within the same, and to alter, amend, repair, enlarge, deepen, and dredge the said Harbour from time to time as may be found expedient and necessary, and also to construct a Dry Dock or Railway calculated for refitting and repairing all shipping at such Harbour.

XIX. It shall and may be lawful for the Directors at any time to call upon the Shareholders for instalments upon each share which they or any of them may hold in the capital Stock of the said Company, in such proportions as the Directors may see fit, so as no such instalment shall exceed twelve and a half per cent, for every six months, giving at least one month's notice for each call, in such manner as they shall appoint.

XX. And whereas the Port Whitby and Lake Scugog, Simcoe and Huron Road Company are willing and desirous to assist in the construction, making, and completing of the said Railway, and for such purpose to be allowed to take and subscribe for Stock in the said Railway Company, and to issue their Bonds for payment of said Stock; therefore the said Port Whitby and Lake Scugog, Simeoe and Huron Road Company shall have power and authority to take Stock in said Railway Company, and to issue their Bonds, payable within twenty years, provided the amount to be so issued do not exceed the sum of ten thousand pounds, and to advance to the said Port Whitby and Lake Huron Railway Company such sum or sums of money, and to become a party to, and sign, endorse, and guarantee such Bonds as may by the said Port Whitby Road Company be issued for the payment of their Stock, subject, however, to the same calls, rights and privileges as other Stockholders or Corporations who may have subscribed or taken Stock in the said Railway, and generally to do and perform all matters and things whatsoever, necessary or incidental in the promotion of the construction of the said Railway, or the carrying out of the provisions of this Act.

XXI. The charter of the said Port Whitby and Lake Huron Railway Company, granted by this Act and in the Act to which this is an amendment, shall bear date from the passing of this Act, and the period allowed for the commencing and completing their Railway shall be reckoned accordingly; Provided always that any claim or claims against the Company, or the intended Company referred to in the said Act, shall be and the same are hereby protected, such claim or claims to be ascertained by arbitration

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in the usual manner: this provision shall not be construed to render any of the Directors or Shareholders personally liable for any claim above referred to.

XXII. This Act shall be deemed a Public Act.