

Laws of Her Majesty's Province of United Canada, passed in the year 1851. York: Stewart Derbishire and George Desbarts, 1851.

14 & 15 Victoria – Chapter 149

An Act to incorporate the Wolfe Island Rail-way and Canal Company. 30th August, 1851.

Whereas an Act passed in the tenth year of Her Majesty's Reign, intituled, *An Act to incorporate The Wolfe Island, Kingston and Toronto Rail-road Company*, has expired; And whereas another Company has applied to the Legislature for a Charter to construct a Rail-road from Kingston to Toronto; And whereas it is expedient to incorporate a Company to construct a Railway and Canal, or one of them, across Wolfe Island, in the County of Frontenac: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That Francis M. Hill, John Macpherson, Thomas Kirkpatrick, William Ford the younger, John K. Forsyth, Henry Smith the younger, John Watkins, Ellery W. Palmer, Noble Palmer, George Baxter, Henry Gildersleeve, John A. Macdonald, Colin Miller, Maxwell W. Strange, John Counter and Alexander Campbell, or any of them, together with all such persons as shall become Shareholders of any Share or Shares in the undertaking hereinafter mentioned and authorized to be carried on, shall be, and are hereby ordained, constituted and declared to be a Body Corporate and Politic in fact, and by the name of "The Wolfe Island Rail-way and Canal Company," and by that name they and their successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, and in all manner of actions, suits, 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 name aforesaid, 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 and on account of the said Company, from time to time as they shall deem necessary and expedient.

II. And be it enacted, That the said Company, and their agents, servants and workmen, are hereby authorized and empowered to enter into and upon the lands and grounds of and belonging to Her Majesty the Queen, Her Heirs or Successors, or to any other person or persons, bodies politic or corporate, on the consent of Her said Majesty, Her Heirs or Successors, and of such other person or persons, bodies politic or corporate, first being obtained, and to survey and take levels of the same or any part thereof, and to set out and ascertain such parts thereof as they shall deem necessary and proper for making the said Rail-way and Canal, or either of them, and to take and appropriate, have and hold, to and for the use of the said Company and their successors, lands sufficient for the construction of the said Rail-way and Canal, or either of them, with all necessary locks, towpaths, basins, stations, warehouses and other erections, as may be required

by the said Company for the purposes aforesaid; and to purchase the same to and for the use of the said Company; and with full power under this Act to lay out and construct, make and finish, a double or single iron or wooden Rail-way; and also to make and construct a Canal, of such dimensions as they may think proper; and with full power to intersect or cross any road or highway lying in the route of the said Rail-way Or Canal, and to construct their Rail-way or Canal, across, upon or along the same: Provided that the Company shall restore the said road or highway so as not to impair its usefulness; and also with full power and authority to carry for hire and reward, in steam or other vessels, goods, wares, merchandize and passengers, from the City of Kingston, through the said Canal, to Cape Vincent, in the State of New York: Provided always, that nothing hereinbefore contained shall extend or be construed to extend to compel the owner or owners of any lands, to sell, convey, or otherwise depart with the same to the said Company without his or their consent.

III. And be it enacted, That the Directors of said Company shall be and the same 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 Rail-way and Canal, or either of them, either for the absolute purchase of so much of the land as they shall require for the purposes of the said Company, or for the damages which he, she, or they may be entitled to recover in consequence of the said intended Rail-way and Canal or either of them, and other constructions or buildings upon his, her or their respective lands; and in case of any disagreement between the Company and the owner or owners, occupier or occupiers of such land as aforesaid, either upon the value of the lands and tenements proposed to be purchased, or upon the amount of damages to be paid, as aforesaid, it shall and may be lawful for the Directors of the said Company to nominate and appoint an indifferent person, who, together with one other person, nominated and appointed by the party or parties so disagreeing, shall elect a third, which three shall be the Arbitrators between the Company and party or parties so disagreeing, the award of the majority of whom shall be final.

IV. And be it enacted, That if any person or persons shall wilfully, maliciously, or to the prejudice of the said Company, break down, damage, or destroy any bank, lock, gate, sluice or any works, machine or device to be erected or made by virtue of this Act, or do any other wilful act, hurt or mischief, to disturb or prevent the carrying into execution, or completing, supporting, or maintaining the said Rail-way and Canal, or either of them, or works hereinbefore referred to, every such person or persons offending, shall forfeit and pay to the said Company the value of the damages proved by the oath of one or more credible witness or witnesses, such damages, together with the costs of suit in that behalf incurred, to be recovered by action in any Court of law in this Province, having jurisdiction competent to the same, and in case of default of payment, such offender or offenders may be committed to the Common Gaol for any time not exceeding three months, at the discretion of the Court before which such offender shall be convicted.

V. And be it enacted, That if any person or persons shall in any manner obstruct the passage of any boat, vessel or raft passing on or through the said Canal, and shall not immediately, upon due notice given to such person or persons so obstructing the passage aforesaid, remove the same, shall forfeit and pay for every such offence the sum of Five Pounds, which forfeiture shall be paid

to the said Company; and it shall and may be lawful for the agents or servants of the Company to cause any boat, vessel or raft to be unloaded or removed in such manner as shall be proper for preventing such obstruction in the navigation, and to detain and seize such boat, vessel or raft, and the loading thereof, until the charges occasioned by such obstruction, unloading or removal are paid.

VI. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company to regulate, from time to time, and establish the Rates of Toll payable by persons navigating upon the said Canal, and also the Rates of Toll payable for the transportation of goods, wares, merchandize and passengers in the said Rail-way, and the said Company shall, annually if required, exhibit an account to either branch of the Legislature, of the Tolls collected upon the said Rail-way and Canal, and of the sums expended in keeping the same in repair, and also of the goods, wares, and merchandize, transported in and along the same.

VII. And be it enacted, That the said Directors of said Company shall, at their first General Meeting held after the Rail-way or Canal shall be finished, ascertain and fix the Rates and Dues to be taken by virtue of this Act; and it shall and may be lawful for the Directors of the said Company to alter the said Rates at any subsequent meeting, after giving three months' public notice of the same; and that a Schedule of Rates shall be affixed upon the most public place at such Rail-way and Canal.

VIII. And be it enacted, That the several Dues, Tolls and Rates, so appointed to be taken as aforesaid, shall be paid to such person or persons at the said Rail-way or Canal, or at such place or places near the said Rail-way or Canal, in such manner and under such regulations as the said Directors shall direct or appoint, and in case of denial or neglect of payment of any such Rates, Dues, or any part thereof, on demand, to the person or persons appointed to receive the same as aforesaid, the said Company may sue for and recover the same in any Court having jurisdiction thereof; or the person or persons to whom the said Rates or Dues ought to be paid may, and he is, and they are hereby empowered to seize and detain such boat, vessel, barge, or raft for, or in respect whereof such Rates or Dues ought to be paid, and detain the same until payment thereof.

IX. And be it enacted, That the whole amount of the Stock, Estate and Property which the said Company shall be authorized to hold, including the Capital or Shares hereinafter mentioned, shall not exceed in value Fifty Thousand Pounds.

X. And be it enacted, That each Share shall be Twenty-five Pounds Provincial currency, and the number of Shares shall not exceed two thousand, and that Books of Subscription shall be opened by such person or persons, and under such Regulations as the majority of Directors hereinafter named, for the time being, assembled at a meeting to be called by any one of them, shall direct.

XI. And be it enacted, That Francis M. Kill, William Ford the younger, John Counter, Henry Smith the younger, John A. Macdonald, Henry Gildersleeve, and Alexander Campbell, shall be, and they are hereby constituted and appointed the first Directors of the said Company, appointed under this Act, which Body of Directors shall, after the passing of this Act, elect one of their Body to be

the President, and appoint the Officers, Agents, and Servants necessary to such direction; and should any one or more of the said Directors resign, or be removed by death, then the majority of the survivors may elect some other person or persons to supply such vacancy so made as aforesaid.

XII. And be it enacted, That so soon as Ten Thousand Pounds shall have been subscribed, and a Deposit made thereon, as may be required by the Rules, Regulations, and By-laws made and adopted by the Directors as aforesaid, a General Meeting of the Subscribers shall take place, of which due notice of not less than thirty days shall be given in some newspaper of the City of Kingston, of the time and place of such meeting, and it shall and may be lawful for the Subscribers, at such meeting, to proceed to the election of new Directors for the said Company; and such election shall then and there be made by a majority of Shares voted for in manner hereinafter prescribed, and the Directors then and there elected shall be capable of serving until the first Monday in June succeeding.

XIII. And be it enacted, That the affairs and concerns of the said Company shall be managed and conducted by seven Directors, who shall be Shareholders, each to the amount of five Shares, one of whom shall be chosen President, who shall hold their office for one year; and such Directors shall be elected on the first Monday in June in each and every year, at such time of the day and at such place as a majority of the Directors for the time being shall appoint, and public notice shall be given in the usual manner, of such time and place of meeting; and the said election shall be held and made by such of the Shareholders of the said Company as shall attend for that purpose, in their own proper person or by proxy; and all elections for Directors shall be by ballot, and the seven persons who shall have the greatest number of votes at any election, shall be Directors, and the majority of Directors shall elect the President. Each Shareholder shall be entitled to a number of Votes proportionable to the number of Shares he or she shall have held in his or her own name at least one month prior to the time of voting.

XIV. And be it enacted, That in case it should 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 that it shall and may be lawful on any other day to hold and make an election of Directors in such manner as shall have been regulated by the Laws and Ordinances of the said Corporation.

XV. And be it enacted, That the Directors for the time being, or the majority of them, shall have power to make such By-laws and Regulations as to them shall appear proper, touching the management of the Stock, Estate and Effects of the said Corporation, and touching the duty and conduct of the Officers, Clerks and Servants employed by the said Company, 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, and with such salaries and allowances as to them shall seem meet.

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XVI. And be it enacted, That this Act shall be taken and deemed 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.