

No. 289.

2nd Session, 7th Parliament, 26th Vic., 1863.

BILL.

An Act to amend the Act 20 Vic., cap. 151,
relating to the Fort Erie Railway Com-
pany.

(PRIVATE BILL.)

Received and Read 1st time, Friday, 24th
April, 1863.
Second Reading, Monday, 27th April, 1863.

MR. HARCOURT.

QUEBEC:

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An Act to amend the Act incorporating the Fort Erie Railway Company; and to change the name of the said Company to "The Erie & Ontario Grain Portage Company."

WHEREAS an Act was passed in the twentieth year of Her Majesty's Reign intituled, "An Act to incorporate the Fort Erie Railway Company." It is prayed that the said Act should be amended, and whereas it is expedient that the name of the Company should be changed, its powers amended and extended, and that further provisions should be made for the appointment of Directors, and for the regulation and management of the re-organization and affairs of the Company: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. That the name of this Company shall be changed, and from and after the passing of this Act it shall be called The Erie and Ontario Grain Portage Railway Company, and that in citing this Act it shall be sufficient to use the expression, "The Erie and Ontario Grain Portage Company Railway Act of 1863." And the expression "the Company," hereafter and herein used, shall denote the Erie and Ontario Grain Portage Railway Company. Provided always, and it is hereby declared and enacted: That neither the change made by this Act in the name of the said Company, nor anything else herein contained, shall be construed to make the said Company a new Company so as to cause any action, suit, contract or proceeding to which the said Company may be a party to abate or cease, but the same may be continued by or against the said Company by the name hereby assigned to it, and the Company, under the new name, shall be subject to all the liabilities existing against the Company under the old name.

2. The capital of the Company shall be two millions of dollars, and shall be divided into twenty thousand shares of one hundred dollars each, and such shares shall be deemed personal property, and may, after the first instalment thereon shall have been paid, be transferred by the respective persons, bodies corporate or politic, holding the same, to any person or persons, and such transfer or transfers shall be entered and registered in a book or books to be kept for that purpose by the said Company. And such stock as has heretofore been subscribed to The Fort Erie Railway Company, and ten per cent. been actually and *bona fide* paid thereupon, shall be held valid in this Company; but all such subscriptions of stock, when ten per cent. has not been actually and *bona fide* paid, shall be and is hereby declared to be illegal and void, and to form no part of the stock hereby authorized.

3. Whereas death and absence have reduced the number of the present directors of the said Company, therefore, be it enacted, that William A. Bird, Frederick P. Stevens, William A. Thompson, James

Cummings, Isaac Buchanan, Horace H. Day, Adam Crooks, A. F. B. Clench, and John Simpson, shall be the Directors of the said Company, and they and their successors shall and may have continued succession, and, by the name of The Erie and Ontario Grain Portage Railway Company, shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, answering and being answered unto in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever; and they and their successors may and shall have a common seal, and may change and alter the same at their will and pleasure, and by the same name of "The Erie and Ontario Grain Portage Railway Company" they and their successors shall also be by law capable of receiving, purchasing, having and holding to them and to their successors any estate, real, personal or mixed, to and for the use of the said Company, and of letting, conveying and otherwise departing therewith, for the benefit and on account of the said Company, from time to time, as they shall deem necessary and expedient.

Corporate powers:

Powers of Directors:

First Election of Directors.

4. The persons above named shall, until the next election of Directors of the Company as hereinafter provided for, be the Directors of the Company incorporated under this Act, and until such election takes place, shall have, exercise and enjoy all the powers and rights they could or would enjoy if elected under this Act, and shall have all the powers by this Act conferred on the Directors so to be elected; and the Directors herein named shall elect persons to fill such offices as may be required to carry on the business of the Company, such officers to hold their respective offices until the first election of Directors hereinafter mentioned; provided always and it is hereby enacted, that the first election of Directors to be held after the passing of this Act shall take place so soon as one thousand shares of the capital stock of the said Company shall have been subscribed and the first instalment of ten per cent actually paid thereon, and that from and after such first election, the above named Directors of the said Company shall be immediately superseded, and their powers and authority cease and determine, and the same shall thenceforth be exercised only by the Directors elected under and after the passing of this Act.

Line of Railway.

5. The said Company are hereby authorized to construct, work and operate a Railway with a single or double track, commencing at or near the village of Fort Erie, thence to the village of Chippawa, and thence, upon the acquisition by this Company of the Erie and Ontario Railway, either by purchase or lease, as hereinafter authorized, to the Town of Niagara; provided always that during the construction of said Railway the line thereof may be deviated from, but in no instance to a degree of more than four miles; and provided also that should this Company acquire by purchase or lease the Erie and Ontario Railway, pursuant to the provisions hereinafter contained, that the line thereof may be altered wherever it may appear to the engineer of the Company to be an improvement to the general line of Railway.

Annual Elections of Directors.

6. From and after the first election of Directors which shall take place next after the passing of this Act, the property, affairs and concerns of the Company shall be managed by seven Directors to be chosen by the shareholders on the first Tuesday of June in each year, in the manner hereinafter provided, and notice of such annual election and of the time and place of holding the same shall be published two weeks before the day of election, in one newspaper published in the County of Welland, and one newspaper published in the County of Lincoln; and all elections for Directors shall be by ballot, and the persons

holding one thousand dollars of stock in this Company and who shall have the greatest number of votes at any election shall be Directors; and if it shall happen that two or more shall have an equal number of votes, the shareholders shall determine the election by another or other ballots until a choice is made; and if a vacancy shall at any time take place among the Directors by death, resignation or otherwise, either of those named in this Act, or of those hereafter elected, such vacancy shall be filled for the remainder of the term by a vote of the majority of the Directors; provided always 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 Company shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any day thereafter to hold and make an election of Directors, in such manner as shall have been regulated by the By-laws and regulations of the said Company.

7. Aliens as well as British subjects, and whether resident in this Province or elsewhere, may be shareholders in the said Company, and all such shareholders shall be entitled to vote on their shares equally with British subjects, and shall be also eligible to office as Directors in the said Company; but no shareholder shall be entitled, in person or by proxy, to vote at any election of Directors, or at any general or special meeting of the shareholders of the said Company, who shall not have paid the aforesaid deposit of ten per centum, and all calls due upon his stock, at the time of such election or meetings.

Aliens may be shareholders and Directors
All calls must be paid before voting.

8. The Directors shall make annual or semi-annual dividends of such of the profits of the said Company as to them or a majority of them shall seem advisable, and once or oftener, as the Directors shall by By-law from time to time determine, 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 in the books and to be open to the perusal of any shareholder at his or her reasonable request; which said statement shall be annually submitted to the three branches of the Legislature, within fifteen days after the opening of each Session of the Provincial Parliament; and also a statement of the tonnage of goods, freight and number of passengers that have been conveyed over the said road.

Dividends.
Annual statement.

9. The number of Directors necessary to form a quorum for the transaction of business may be regulated by the By-laws of the Company, and until such By-laws shall be passed, a majority of the whole number of Directors shall form a quorum.

Quorum of Directors.

10. No shareholder shall be eligible to be elected a Director under this Act unless he shall be a *bona fide* stockholder in the said Company to the amount of at least one thousand dollars and shall have paid up all calls on such stock.

Qualification of Directors.

11. Each shareholder in his own right shall be entitled to a number of votes equal to the number of shares which he shall have in his own name, two weeks prior to the time of voting.

One vote for each share.

12. Any Director resident beyond the limits of the Province may appoint another Director to be his proxy and to vote for him at the Board, but no Director shall act as proxy for more than two other Directors. The appointment may be as follows, or to the like effect:

Proxies of Directors.

"I appoint _____ of _____ Esquire, one of the Directors of 'The Erie and Ontario Grain Port-
age Railway Company,' to be my proxy as a Director of this Com-

"pany, and as such proxy to vote for me at all the meetings of the Directors of this Company, and generally to do all that I could myself do as such Director, if personally present at such meeting.

"Dated this _____ day of _____ A. D. 18 _____

(Signature)

"A. B." 5

"Witness,

"C. D."

Conveyances to the Company.

13. All deeds and conveyances for lands to be conveyed to the said Company for the purposes of this Act, shall and may, as far as the title to the said lands or the circumstances of the party making such conveyance will admit, be made in the form given in the schedule, marked "A," to this Act annexed, and all Registrars are hereby authorized to enter in their register books such deeds on the production and proof of execution thereof, without any memorial, and to minute such entry in the said deed, and the said Company are to pay the said Registrar for so doing the sum of two shillings and six pence for each deed registered, and no more. 10 15

Number of Directors may be changed.

14. The number of Directors of the Company may be increased or reduced, from time to time, by resolutions of the Shareholders at any general or special general meeting of the Company after due notice for that purpose, and at such meeting the order of rotation in which such increased or reduced number shall go out of office, and what number shall go out of office, and what number shall be a quorum, shall be also determined. 20

Agents in London and New York.

15. The Directors of the Company may, subject to the rules and regulations from time to time of the Board, appoint an Agent in the City of London, England, and also an Agent in the City of New York, in the State of New York, with power to pay dividends, to open and keep books of transfer for the shares of the Company, and for the issue of scrip and stock certificates, and thereupon shares may be transferred from the Canada office to the London or New York offices in the names of the transferees in the same manner as shares may be transferred in the former office, and *vice versa*; and shares originally taken and subscribed for in Great Britain, and shares originally taken and subscribed for in the United States, may be respectively entered upon the books at the London or at the New York office, and scrip certificates be issued for them, and the Agent or Agents or other officer or officers shall transmit an accurate list of all such transfers and scrip certificates so issued to the Secretary or other officer of the Company in this Province, who shall thereupon make the requisite entries respecting such transfer and scrip certificates in the register kept in this Province; and thereupon the same shall be binding on the Company as to all the rights and privileges of Shareholders, as though the scrip certificates had been issued by the Secretary of the Company in this Province. 25 30 35 40 45

And transfer of stock there.

Transfer and registration of stock.

16. Whenever any transfer shall be made in England or the United States, of any share of stock of the Company, the delivery of the transfer duly executed to the Agent or Agents of the Company for the time being in London and New York aforesaid, shall be sufficient to constitute the transferee a Shareholder or Stockholder in the Company in respect of the share or stock so transferred, and such Agent or Agents shall transmit an accurate list of all such transfers to the Secretary of the Company in this Province, who shall thereupon make the requisite entries in the register; and the Directors may, from time to time, make such regulations as they shall think fit for facilitating the transfer and registration of shares of stock, as well in this Province as elsewhere, and as to the closing of the register of transfers for the pur- 50 55

pose of dividends, as they may find expedient; and all such regulations not being inconsistent with the provisions of this Act, and of the Railway Clauses Consolidation Act as altered or modified by this Act, shall be valid and binding.

5 17. Whenever it shall be deemed expedient by the Board of Directors that a special general meeting of the shareholders shall be convened, either for the purpose of increasing the capital or increasing or reducing the number of Directors, or for any other purpose, the Directors may convene such meeting by advertisement and circular, in **10** manner hereinafter mentioned, in which advertisement and circular the business to be transacted at such meeting shall be expressly stated, and such meeting may be held at the Company's chief office in Canada, or such other place in this Province as the Directors shall appoint.

Special general meetings.

18. The notice of special general meetings of the Company for any **15** of the purposes aforesaid shall be inserted in the same papers as are in this Act prescribed as necessary for convening ordinary general meetings of the Company, and also, if so ordered by the Directors calling the same, in one or more of the daily morning newspapers published in London and New York, and a copy of such notice shall also be addressed by post to each shareholder at his last known or usual address, **20** not less than forty days before the holding of such meeting.

Notice to be given thereof.

19. The several clauses of the Railway Clauses Consolidation Act with respect to the first, second, third and fourth clauses thereof, and also the several clauses of the said Act with respect to "interpretation," "incorporation," "powers," "plans and surveys," "lands and their **25** valuation," "highways and bridges," "fences," "tolls," "general meetings," "Directors, their election and duties," "shares and their transfer," "municipalities," "shareholders," "actions for indemnity, and fines and penalties and their prosecution," "working of the Railway," and "general provisions," and also the several Acts amending **30** the said Act as varied and modified respectively by the provisions of this Act, shall be incorporated with and form part of this Act, except such provisions of said Railway Clauses Consolidation Act or of the Acts amending the same, as apply to matters and things for which express provision is made in this Act.

Railway clauses Con. Act to apply.

35 20. Where stone, gravel or any other material is or are required for the construction or maintenance of said Railway or any part thereof, the Company may, in case they cannot agree with the owner of the lands on which the same are situate for the purchase thereof, cause a Provincial Surveyor to make a map and description of the property so **40** required, and they shall serve a copy thereof with their notice of arbitration as in cases of acquiring the roadway, and the notice of arbitration, the award and the tender of the compensation shall have the same effect as in the case of arbitration for the roadway; and all the provisions of the Railway Causes Consolidation Act, as varied and modified **45** by this Act, as to the service of the said notice, arbitration, compensation deeds, payment of money in court, the right to sell, the right to convey, and the parties from whom lands may be taken, or who may sell, shall apply to the subject matter of this section and to the obtaining materials as aforesaid, and such proceedings may be had by the said Company **50** either for the right to the fee simple in the land from which said material shall be taken, or for the right to take material for any time they shall think necessary; the notice of arbitration, in case arbitration is resorted to, to state the interest required.

Compensation for gravel &c., used, to be settled by arbitration,

Tracks may be laid over intervening lands.

21. When said gravel, stone or other materials shall be taken, under the preceding section of this Act, at a distance from the line of the Railway, the Company may lay down the necessary siding and tracks, over any lands which may intervene between the Railway and the lands on which said material shall be found, whatever the distance may be, and all the provisions of the Railway Clauses Consolidation Act, and of this Act, except such as relate to filing plans and publication of notice, shall apply and may be used and exercised to obtain the right of way from the Railway to the land on which such materials are situated; and such right may be so acquired for a term of years or permanently as the Company may think proper; and the powers in this and the preceding section may at all times be exercised and used in all respects after the Railway is constructed, for the purpose of repairing and maintaining the said Railway. 5 10

Union with other Companies.

22. The Company may unite or make traffic arrangements with any other Railway Company or Companies in this Province, or with the International and any other Bridge Company, or may lease the Railway of any other Company with the necessary conveniences for the purposes of such union, occupation, or traffic arrangements; and the Board of Directors of such Railways and the International and other Bridge Company, may agree upon such union, lease or traffic arrangements, and grant facilities for the same. 15 20

Eric and Ontario Railway may be acquired.

23. It shall and may be lawful for the said Company to acquire, by purchase or lease, the Eric and Ontario Railway with all its track, stations, plant, lands, and all the rights, properties, interests, franchises, privileges and appurtenances thereto belonging, and if so acquired by purchase or lease, the same shall be incorporated with and form part of the said Eric and Ontario Grain Portage Railway Company. 25

And river frontage.

24. The Company shall have full power under this Act to purchase and hold a river frontage and sufficient depth of land therefrom in the Town of Niagara, for the erection of grain warehouses, docks, station buildings, work shops and offices; also land at the Welland River for a station and grain elevator; also lands and river front on the Niagara River, at or near Fort Eric, for docks, elevators, station grounds and station buildings; also, at Point Abino, the sand hills there situated, for the purpose of procuring ballast for the grain vessels and for the railway track. 30 35

Also, propellers and sail vessels.

25. The Company shall have full power under this Act to purchase and hold as part of the property of the said Company, as many propellers and sail vessels as may be required from time to time to carry the grain and other property arriving at Niagara and brought over the whole or part of the said Railway to its Canadian or American destination; also one or two steamboats for passengers and freight between Niagara and Toronto; also a ferry boat on the Niagara River, at or near Fort Erie, and a steam tug for the towing of vessels to and from the docks of the Company at or near Fort Erie, and at Niagara on Lake Ontario; and all such property shall be united with the Railway as the general property of the Company; and it shall be lawful for the said Company to construct and maintain, as part of the Eric and Ontario Grain Portage Railway Company's property, and out of the capital stock of said Company, elevators and dockage at Kingston and Oswego on Lake Ontario, for the receiving and delivery of the grain shipped at Niagara by said Company. 40 45 50

- 26.** The company shall have full power under this Act, when possessed of authority under the laws of the State of New York, to construct and maintain out of the capital stock of the said company, a continuation of said Railway within the said State of New York, said continuation to commence opposite the termination of the Railway on this side of the Niagara River, at or near Fort Eric, passing thence along the outskirts of the City of Buffalo, until it reaches the general depot of the American Railways on Exchange Street in the said City of Buffalo, said extension of Railway being under six miles in length. Branch to Buffalo Railway depot:
- 27.** So much of the original Act of incorporation of the Fort Erie Railway Company as conflicts with this Act is hereby repealed. Original Act repealed.
- 28.** The said Railway shall be completed within two years from and after the passing of this Act. Completion of works.
- 29.** The said Erie and Ontario Grain Portage Railway Company shall be and is hereby empowered to lay down a six foot gauge track besides the usual five feet six inches track of this Province, and the "Erie" and the "Atlantic and Great Western" Railways of the United States are hereby authorized to run their trains over said Erie and Ontario Grain Portage Railway, with coal, general freight and passengers, to and from the Town of Niagara and intermediate stations. Extra track (6 feet gauge)
- 30.** This shall be deemed a Public Act.

SCHEDULE A

Know all men by these presents that I, A. B. of _____, do hereby, in consideration of _____ being _____ the purchase money paid to me by the Erie and Ontario Grain Portage Railway Company, the receipt whereof I do hereby acknowledge, grant, bargain, sell, convey and confirm unto the said Erie and Ontario Grain Portage Railway Company, their successors and assigns, for ever, all that certain tract or parcel of land, situate, &c., [here describe the land] the same having been selected by the said Company for the purpose of their Road, Harbor, Wharf or Pier [as the case may be], to have and to hold the said land and premises, together with the hereditaments and appurtenances thereto belonging, to the said Erie and Ontario Grain Portage Railway Company, their successors and assigns for ever. Form of conveyance.

Witness my hand and seal this _____ day of _____, A. D., 18 _____
A. B. [L. S.]

Signed, sealed and delivered
in presence of C. D.