

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 73

An Act to make provision for the construction of a Main Trunk Line of Rail-way throughout the whole length of this Province. 30th August, 1851.

Whereas it is of the highest importance to the progress and welfare of this Province, that a Main Trunk Line of Rail-way should be made throughout the length thereof, and from the Eastern frontier thereof, through the Provinces of New Brunswick and Nova Scotia, to the City and Port of Halifax, and it is therefore expedient that every effort should be made to ensure the construction of such Rail-way, whilst as an act of justice to those who have advanced their money upon Provincial Securities, and as the best means of sustaining the credit of the Province, and of readily commanding such further pecuniary assistance as may from time to time become necessary for great Provincial Works of Internal Communication, it is expedient that the Provincial Parliament should pledge itself not to allow the Public Debt and Liabilities of the Province to be increased, except in the cases and under the conditions hereinafter mentioned: Be it therefore declared and 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 declared and enacted by the authority of the same, That excepting only as regards such sum as may be raised for the purposes of this Act, under the authority and guarantee of the Parliament of the United Kingdom, and as regards the guarantee of the Province to be given under the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to provide for affording the guarantee of the Province to the Bonds of Rail-way Companies on certain conditions, and for rendering assistance in the construction of the Halifax and Quebec Rail-way*, for the interest only of debentures issued or to be issued by the St. Lawrence and Atlantic Rail-road Company, the Great Western Rail-way Company, or the Ontario, Simcoe and Huron Rail-road Union Company, on the conditions in the said Act, and hereinafter mentioned, the Public Debt and Liabilities of this Province shall not be increased under this Act, nor will the Provincial Parliament hereafter authorize the increase thereof without the consent of the Agents through whom loans may have been negotiated in England, or the previous offer to pay off all debentures then outstanding, and the actual payment of all such as shall be presented for payment pursuant to such offer, at the place therein appointed, within one month from the first publication thereof in the London Official Gazette, in which it shall be published during the period aforesaid, at least; and the expenditure hereinafter authorized shall not be made, nor the liabilities hereinafter mentioned incurred on behalf of the Province, except only in so far as it may be found practicable to make or incur the same, or any part thereof, without increasing the debt or liabilities of the Province, otherwise than in the cases and under the conditions aforesaid.

II. And be it enacted, That provided the funds necessary for the purpose shall be raised by loan under the authority and guarantee of the Parliament of the United Kingdom, or advanced as a loan to this Province under the said authority, it shall be lawful for the Governor of this Province in Council, to enter into such arrangements as he may deem conducive to the interests of this Province, with the Government of the United Kingdom, and with the Governments of the Provinces of New Brunswick and Nova Scotia, with respect to the construction of a Rail-way from some point opposite the City of Quebec to the City of Halifax, in Nova Scotia, either by constructing the same on the joint account of this Province and the said Provinces of Nova Scotia and New Brunswick in equal proportions, or by engaging to construct at the expense of this Province that part of the said Rail-way lying within Lower Canada, or by making such other arrangements for the construction of the said Rail-way as may be agreed upon with the said Government of the United Kingdom and the said Provincial Governments; and for facilitating such arrangements, all the ungranted lands within this Province, lying within ten miles on either side of the line of the said Rail-way, are hereby placed at the disposal of the Governor of this Province in Council to be appropriated, pledged or otherwise dealt with in such way as he may think best for the interests of the Province with regard to such arrangements as aforesaid, it being understood and hereby declared that the Parliament of this Province will confirm and carry out by such Legislative enactments (if any) as may be necessary to give full effect to the same, any arrangement and agreement which may be made by the Governor in Council, in the spirit and for the purposes of this Act.

III. And be it enacted, That it shall be lawful for the Governor, out of the Funds to be raised or advanced for the purpose, as aforesaid, to pay all such sums as may be required to defray all the expenses of making such part of the said Rail-way as shall be to be made at the expense of this Province under any such arrangement as aforesaid, or any other expenses which under any such arrangement shall be to be borne by this Province.

IV. And be it enacted, That provided the Funds necessary for the purpose shall be raised by loan under the authority and guarantee of the Parliament of the United Kingdom, or advanced as a loan to this Province under the said authority, the whole of the Main Trunk Line of Rail-way from the City of Quebec, or a point opposite thereto, to the City of Hamilton, or some convenient point on the Line of the Great Western Rail-road, or so much of the said Main Trunk Line of Rail-way, as the Funds so raised or advanced as aforesaid, shall be sufficient to make, shall be made as a Provincial Work, and it shall be lawful for the Governor, out of any such Funds as aforesaid, to pay all such sums as shall be required to defray all the expenses of making such Main Trunk Line of Rail-way, or such part thereof as aforesaid.

V. And be it enacted, That if the Funds necessary for making the Main Trunk Line of Rail-way mentioned in the next preceding section, shall not be raised by loan under the authority and guarantee of the Parliament of the United Kingdom, or advanced as a loan to this Province, under the said authority, then the said Main Trunk Line of Rail-road, or so much thereof as shall not be made by funds so raised or advanced as aforesaid, may be made with funds of which one half shall be raised on the credit of the Consolidated Revenue Fund of this Province, provided the other half shall have been subscribed for by Municipal Corporations in this Province.

VI. And be it enacted, That if the Governor in Council shall determine that it is expedient that the whole or any part of the said Main Trunk Line of Rail-way shall be made with funds to be raised in the manner mentioned in the next preceding section, the Governor shall, by proclamation, declare the total amount required for such purpose, and the sum to be raised by subscriptions of Municipal Corporations under this Act; and it shall then be lawful for any Municipal Corporation in this Province to subscribe for such amount of the sum last mentioned as it may think proper, by a By-law declaring such subscription and the amount thereof, which declaration shall suffice, and it shall not be necessary by such By-law to impose any rate, or to make any provision or enactment other than such declaration as aforesaid, which shall be sufficient to enable the proper officers to assess and levy, from time to time, such rate as may be necessary to produce a clear sum equal to that payable to the Receiver General under the said By-law and this Act, and Ten per cent. over, to make up any deficiency, which Ten per cent., or so much thereof as may not be required to make up any deficiency, shall remain in the hands of the proper officer of the Corporation, and go in deduction of the next sum to be assessed and levied under such By-law, or, if not required for that purpose, then for the general uses of the Corporation; and any sum payable to the Receiver General under any such By-law and this Act, shall be a debt due from the Municipal Corporation so in default to the Crown, and the Warrant of the Receiver General, countersigned by the Inspector General, directed to the Sheriff of the proper District, County, or United Counties, certifying that any such sum is so payable and remains unpaid, and commanding him to levy the same, shall be sufficient authority to the said Sheriff to levy such sum, with interest and costs, and to pay over such sum when levied to the Receiver General, in like manner as he might do under a Writ of Execution for such sum issuing out of any Court in which judgment might have been obtained for the same in favor of the Crown; and no such By-law shall be repealable except with the express consent of the Governor in Council; and if more money be subscribed for than is required to be raised by subscription of Municipal Corporations as aforesaid, then the sum subscribed for by each shall be *ipso facto* proportionately reduced, and such reduction shall be notified to the Municipal Corporations concerned, in such way as the Governor may direct: Provided always, that no Municipal Corporation shall subscribe for stock, or incur any debt or liability under this Act, unless and until a Bylaw to that effect shall have been duly made and adopted, with the consent first had of a majority of the qualified electors of the Municipality, to be ascertained in such manner as shall be determined by the said By-law, after public advertisement thereof containing a copy of such proposed By-law inserted at least four times in each Newspaper printed within the limits of the Municipality, or, if none be printed therein, then in some one or more Newspaper printed in the nearest City or Town thereto and circulated therein.

VII. And be it enacted, That the sums subscribed for as aforesaid shall form a Fund to be called The Rail-way Municipal Subscription Fund; and so soon as the sum required shall have been subscribed for as aforesaid, it shall be lawful for the Governor in Council from time to time to authorize the issuing of Debentures to an amount not exceeding in the whole that so subscribed for, in such form, for such separate sums, and at such rate of interest not exceeding six per centum per annum, and to make the principal and interest payable at such periods and at such places as to him shall seem most expedient, the said principal and interest being hereby made chargeable upon the Consolidated Revenue Fund of this Province, but after the principal and interest of any

sum to be raised under this Act, or any Act of the present Session, by advance from the Government of the United Kingdom or with the guarantee of the said Government: And it shall also be lawful for the Governor in Council from time to time to authorize the issuing of Debentures to an amount not exceeding in the whole that so subscribed for as aforesaid, (and not exceeding at any time that for which Debentures shall then be issued under this Section on the credit of the Consolidated Revenue Fund) in such form, for such separate sums, and at the lowest rate of interest not exceeding seven per centum per annum, at which they can be negotiated at par, and to make the principal payable at any period, not being less than twenty years from the date of such Debentures respectively, and the interest, at such periods as he may think proper, and to make the principal and interest payable at such places as he may deem most expedient, such principal being chargeable not upon the said Consolidated Revenue Fund, but solely upon the Rail-way Municipal Subscription Fund aforesaid and the Sinking Fund hereinafter mentioned.

VIII. Provided always, and be it enacted, That the total sum to be raised for the purposes of this Act, upon the credit of the Consolidated Revenue Fund of this Province, with or without any guarantee under the authority of the Parliament of the United Kingdom, and including any sum which may be advanced under the authority of the said Parliament, on the credit of the said Consolidated Revenue Fund, added to any sum which may be raised on the credit of the Municipal Subscription Fund, shall never exceed, in the whole, the sum of Four Millions of Pounds currency.

IX. And be it enacted, That the funds to be raised under the seventh section of this Act on the credit of the Consolidated Revenue Fund, and those to be raised under the said section the credit of the Rail-way Municipal Subscription Fund, shall be expended as nearly as may be, in equal proportions, as the work advances in the several sections into which the Rail-way to be made may be divided by the Governor in Council.

X. And be it enacted, That as well the cost of that part of the said Main Trunk Line of Rail-way which is to be constructed with funds to be raised partly on the credit of the Province and partly on that of the Rail-way Municipal Subscription Fund, as all the expenses and outlay of any kind to be incurred while the work is in progress, shall be defrayed out of the funds so to be raised as aforesaid; and that the Municipal Corporations so subscribing as aforesaid, shall be called upon to pay the interest on the sums for which they have subscribed, whenever at any time the said Fund, and their share of the profits from any part of the work which shall have been completed, shall be insufficient to pay the interest on the sums borrowed on the credit of the Municipal Subscription Fund; in which case, they shall from time to time pay such sums to the Receiver General as may be sufficient, with any sums he may have in his hands applicable to the purpose, to enable him to pay such interest as it becomes due, the sum to be paid in such case by each Municipal Corporation being in proportion to the sum for which it may have subscribed.

XI. And be it enacted, That the share of the profits of that part of the said Rail-way last aforesaid which may belong to the said Municipal Corporations, and shall not be required to pay the interest on the sums raised on the credit of the Rail-way Municipal Subscription Fund, shall be invested by the Receiver General, and shall, with the interest thereon, form a Sinking Fund for the redemption of the Debentures to be issued on the credit of the said Rail-way Municipal Subscription Fund; and

that the share of the said profits which shall belong to the Province, after deducting three and a half per cent. per annum on the sums raised on the credit of the Consolidated Revenue Fund, shall be also invested by the Receiver General, and shall, with the interest thereon, form a Sinking Fund for the redemption of the Debentures to be issued on the credit of the Consolidated Revenue Fund under the seventh section of this Act; and the share which the Province and the said Municipal Corporations shall respectively have in the profits of the said Rail-road, shall be in proportion to the sums which shall have been raised on the credit of the Consolidated Revenue Fund, and of the said Rail-way Municipal Subscription Fund, respectively.

XII. And be it enacted, That if at any time after the expiration of two years from the completion of that part of the said Rail-way last aforesaid, it shall appear to the Receiver General that the Sinking Fund first aforesaid will not produce enough to pay off the principal of the Debentures issued on the credit of the said Rail-way Municipal Subscription Fund, at the time when the same will become payable, it shall be lawful for him to add not exceeding three per cent, per annum on the amount of such Debentures to the sum which would otherwise be payable to him in any year by each Municipal Corporation, and such per centage shall form part of the said Sinking Fund, and shall be paid by such Municipal Corporations respectively, in like manner as any other moneys payable by them to the Receiver General, under this Act.

XIII. And be it enacted, That the said Main Trunk Line of Rail-way, including that part thereof lying between the City of Quebec and the City of Halifax, or such part thereof as shall be made under the provisions of the preceding sections of this Act, shall be a Public Provincial Work, to be constructed and managed by the Commissioners of Public Works, under the control of the Governor in Council, and subject to such supervision by the Board of Rail-way Commissioners hereinafter mentioned, as the Governor in Council shall direct; and all the powers vested in the Commissioners of Public Works, with regard to the taking of lands required for Public Works, and all other powers vested in them, and the provisions of the several Acts now in force relative to Public Works, and not inconsistent with this Act, shall apply to that part of the said Rail-way to be made as aforesaid, as fully as to any other Public Provincial Work; and the said Rail-way, and every part thereof, shall be made on such Line, and in such places, as the Governor in Council shall determine and appoint as best adapted to promote the general interests of this Province.

XIV. And be it enacted, That the said Commissioners of Public Works, with the consent of the Governor in Council, shall have full power to treat and agree with the Montreal and Lachine Rail-road Company, or the St. Lawrence and Atlantic Rail-road Company, for the purchase or use of the whole or any part of their respective Rail-roads, rights and property, which it may be found expedient to adopt as part of the said Main Trunk Line or Rail-way, and to pay such sum as may be agreed upon, to either of the said Companies, as compensation for any such Rail-road or portion thereof, rights or property, out of any moneys which might be applied to making part of the said Main Trunk Line of Rail-way at the same place; and the Directors of the said Companies respectively shall, have full power and authority to treat and agree with the said Commissioners of Public Works for any of the purposes aforesaid, and to receive the compensation that may be agreed upon, and to give a valid discharge for the same, and to surrender and convey to Her Majesty for the public uses of the Province such Rail-road, or part thereof, rights or property as

aforesaid, which shall hereafter be vested in Her Majesty for the uses aforesaid: Provided always, that nothing herein contained shall be construed to affect or impair any right now vested in Her Majesty to take the said Rail-roads, or either of them, or any of the rights or property of the said Companies, or either of them, under any Act incorporating such Company, or amending the Act incorporating it.

XV. And be it enacted, That if it be found to be impracticable to raise the funds for constructing the said Main Trunk Line of Rail-way, in any of the modes hereinbefore mentioned, then the Governor of this Province may by Proclamation declare that the same may be undertaken by any Private Companies thereunto authorized by the Legislature, and any Company in whose Act of Incorporation a clause may have been inserted suspending its operation until the Governor should issue a Proclamation declaring it in force, shall, by the issuing of such Proclamation, receive authority to commence its operations.

XVI. And whereas, although it is highly desirable to afford every possible encouragement to the construction of Rail-ways in all parts of the Country, yet for the purpose of confining the liabilities of the Province within proper limits, and at the same time ensuring effectual aid to those undertakings which are most necessary to its progress and development, it is expedient to restrict the provisions of the Rail-way Guarantee Act hereinbefore cited, in the manner hereinafter provided: Be it therefore enacted, That the guarantee offered by the said Act, and all the provisions of the said Act relative to such guarantee, shall be and are hereby restricted and confined to those Rail-roads which may form part of the said Main Trunk Line (in case of any part thereof being constructed by private Companies,) and to the St. Lawrence and Atlantic Rail-road which has already received the said guarantee, and forms part of the said Main Trunk Line,—the Great Western Rail-road which has been commenced and partly constructed on the faith of the said guarantee, and forms part of the said Main Trunk Line,—and the Ontario, Simcoe and Huron Union Rail-road, for the construction of which certain arrangements have been made in expectation and upon the faith of the said guarantee; Provided always, that the expression “the Great Western Rail-road” in this Act, shall mean only the Main Line of Rail-way which the Great Western Rail-road Company are authorized to make from Burlington Bay to the Detroit River, and shall not include any Branches which the said Company is or may be authorized to make, nor shall the said guarantee be extended to any such Branch.

XVII. And for better ensuring the attainment of the objects proposed in the said Act and in this Act, Be it enacted, That the Receiver General, the Inspector General, the Commissioner and Assistant Commissioner of Public Works, and the Provincial Postmaster General, shall constitute a Board of Rail-way Commissioners; and each of the said Officers shall be a Member of the said Board by virtue of his office, and so long, and so long only as he shall hold the same; such one of the said Officers as the Member of the Board shall agree upon, shall be the Chairman and Official Organ of the Board, the Secretary of the Commissioners of Public Works shall be the Secretary of the said Board; and any report concurred in by a majority of the Board, shall be deemed the report of the Board.

XVIII. And be it enacted, That no Rail-way Company shall be entitled to the benefit of the said Guarantee, until the said Board shall have examined and approved the line selected for such Rail-road, the intended gauge, the form and weight of Rail, and general mode of construction of the Road, and of the larger Bridges, Viaducts, and principal works upon such line, and shall have reported such approval to the Governor in Council, with their opinion that the Road is one which may advantageously form part of such Main Trunk line as aforesaid,—that the Act incorporating the Company contains all such provisions as they think essential to the protection of the public interest,—or that the Company have consented to the amendment of their Charter by the insertion of such provisions,—and that the Road when completed will afford ample security to the Province against loss under the Guarantee to be given with regard to it; and the line and mode of construction so approved shall not be altered or deviated from without an express Report of the said Board in favor of such alteration or deviation, nor unless such Report shall be approved by the Governor in Council, on pain of forfeiting the right of the Company to the said guarantee; Provided always, that the Ontario, Simcoe and Huron Rail-road Union Company shall be entitled to the said Guarantee on complying with the other conditions aforesaid, although their Road does not form part of the said Main Trunk Line.

XIX. And be it enacted, That any Company, having received such approval as aforesaid, shall be empowered, if the length of their Rail-way exceeds one hundred miles, to divide the same into sections of not less than fifty miles each, and being, as nearly as the total length of the Rail-way and other circumstances will admit, of seventy-five miles each, and each of such sections may, after such division shall have been approved by the Governor, be considered for all the purposes of the said Act and of this Act, as a distinct Rail-way, and when the requirements of the said Act and of this Act are complied with, as regards any such section, the Guarantee of the Province may be given for the sum required to complete such section, which sum shall not be applied to any other purpose; and the Company shall keep and render separate accounts of receipt and expenditure for each such section, and if any receipt or expenditure be common to two or more sections, the same shall be fairly apportioned among them in such accounts, to the satisfaction of the said Board.

XX. And be it enacted, That the said Guarantee shall not be given with regard to any Rail-way or Section until the said Board shall have reported to the Governor in Council, that the land for the whole Rail-way or Section has been acquired and paid for, that a part of the work thereon has been completed to their satisfaction, and that the fair cost of the part so completed, including the fair cost of the land and of all materials then procured by and the property of the Company, (and not merely the sum the Company may have actually expended upon the same,) would not be less than the cost of the part remaining to be done, according to an estimate made upon tenders received and approved by the Company and by the said Board as fair and reasonable, in which case the Guarantee of the Province may be granted for the sum necessary to complete such remaining part of the work according to such estimate; and generally, it shall be the duty of the said Board to obtain and report to the Governor all such information, and to do all such things as may be necessary to ensure the faithful execution of the said Act and of this Act, and any duty assigned to the Commissioners of Public Works by the said Act shall hereafter be performed by the said Board.

XXI. And be it enacted, That no contract shall be entered into by any Company, for the performance of work or the furnishing of materials for that part of their Rail-way for the making whereof the said Guarantee is to be granted, except with the approval of the said Board; that the said Board may suggest and the Governor in Council may impose upon the Company such further conditions as they may think requisite for guarding the Province against loss; and that the Guarantee may be granted to the Company from time to time, and as may be necessary, to enable them to meet their engagements under such contracts as aforesaid, when the work has been performed to the satisfaction of the said Board.

XXII. And be it enacted, That the said Guarantee may, as regards those Companies whose Rail-ways will form part of the said Main Trunk Line, and upon such conditions as the Governor in Council shall think fit, be extended to the payment of the principal of the sum guaranteed, as well as to the payment of the interest thereon, provided the Bonds guaranteed are made payable at periods previously approved by the Governor in Council, or in his discretion Provincial Debentures for the amount to be guaranteed, or any part thereof, may be delivered to the Company in exchange for their Bonds, for like sums, and the principal and interest whereof shall be made payable at like periods, or at such others as may be agreed upon; and for the principal and interest of such Bonds, the Province shall have the same priority of hypothec, mortgage and lien upon the Rail-way, tolls and property of the Company, as by the said Act is given for sums paid or guaranteed by the Province, and subject to the same provisions, and the said guarantee may be given either at once for the whole sum to be raised by the Company, or from time to time, and by portions as the same shall be required for carrying on the works, according to the terms and conditions which shall have been made in that behalf; Provided always, that it shall be lawful for the Governor in Council, if he shall deem it expedient and consistent with the interests of the Province, and the due maintenance of the Public credit, to grant the same advantages, or any of them, to the "Ontario, Simcoe and Huron Rail-road Union Company," as he may under this section grant to Companies whose Rail-ways form part of the said Main Trunk Line of Rail-way; And provided also, that one of the conditions on which the benefit of this section shall be granted to any Company, shall be, that no By-law of such Company imposing Tolls, or affecting others than the Company, shall have force or effect until approved by the Governor in Council, and that no such By-law shall remain in force for more than three years from the passing thereof, so that such By-laws may be subject to periodical revisions by the said Governor in Council, and that the Company shall consent to such amendments (if any) of the Act incorporating it, as may be requisite to give full effect to this Proviso.

XXIII. And be it enacted, That so much of the Act first above cited, or of any other Act or Law as may be inconsistent with the provisions of this Act, shall be and is hereby repealed.

XXIV. And be it enacted, That the word "Rail-way" in this Act, shall include all Viaducts, Bridges, Station-Houses, Depots, and other works, Machinery, Engines, Vessels, Carriages and things of every kind, which may be necessary or convenient to the making or using of any Rail-way.

XXV. And be it enacted, That the due application of all moneys expended under the authority of this Act, shall be accounted for to Her Majesty, Her Heirs or Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct; and that an account of all moneys so expended shall be laid before the Provincial Parliament within fifteen days after the opening of the Session thereof next after such expenditure.