

Laws of Her Majesty's Province of United Canada, passed in the year 1851. Quebec: Stewart Derbyshire and George Desbarts, 1852.

16 Victoria – Chapter 101

An Act to incorporate the London and Port Sarnia Railway Company. Assented to 22nd April, 1853.

Whereas it is highly desirable that a Railway should be made from Port Sarnia to intersect the Great Western Railroad at or near the Town of London, and the persons hereinafter mentioned have petitioned to be incorporated for that purpose: 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 Robert William Harris, of the City of Liverpool, Merchant, John Masterman the younger, of the City of London, Banker, Samuel Laing, of the City of London, Member of the House of Commons, Peter Buchanan, of the City of Glasgow, Merchant, W. M. McLaren, of the City of Hamilton, Merchant, Isaac Buchanan, of the same place, Merchant, Richard Juson, of the same place, Merchant, John Young, of the same place, Merchant, George S. Tiftany, of the same place, Barrister, Henry McKinstry, of the same place, Banker, Edmund Ritchie, of the same place, Esquire, Joseph Curran Morrison, of the City of Toronto, Esquire, James Hamilton, of West Flamborough, Esquire, Andrew Stewart, of the City of Hamilton, Esquire, Hector Munro, of the City of Hamilton, Esquire, John Brown, of the City of Hamilton, Esquire, Walter H. Dickson, of the town of Niagara, Esquire, and Sir Allan Napier MacNab, of Dundurn, Barrister, together with such other person or persons as shall under the provisions of this Act become subscribers to or proprietors of any share or shares in the Railway hereby authorized to be made, and their several and respective heirs, executors; administrators, curators or assigns, being proprietors of any share or shares in the said Railway, shall be and are hereby united into a Company for constructing maintaining and working the said Railway, according to the rules, orders and directions of this Act, and shall for that purpose be one body corporate and politic by the name and style of "The London and Port Sarnia Railway Company;" and the said Company shall be, and are hereby authorized empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Railway to be called "The London and Port Sarnia Railway," from the foot of Lake Huron at or near Port Sarnia, to intersect the Great Western Railroad at or near the Town of London, at such point, as shall be found most convenient and advantageous for the intersection thereof, the said line being first approved by the Governor in Council.

II. And be it enacted, That the Gauge of the said Railway shall be five feet six inches.

III. And be it enacted, That it shall be lawful for the said Company to raise and contribute among themselves, in such proportions as to them shall seem meet and convenient, a competent sum of money for making and completing the said Railway and all such other works, matters and

conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Railway and other works; Provided always, that the parties herein before named, or a majority of them, shall cause books of subscription to be opened in the City of Hamilton and Town of London, and Village of Port Sarnia and elsewhere as they may from time to time appoint, until the first meeting of Shareholders hereinafter provided for, for receiving the signatures of persons willing to become subscribers to the said undertaking, and for this purpose they shall give public notice in such newspapers as they or a majority of them think proper, of the time and place at which such books will be opened and ready for receiving signatures as aforesaid, and of the persons by them authorized to receive such subscriptions; and every person who shall write his or her signature in such book as a subscriber to the said undertaking shall thereby become a member of the said Company and shall have the same rights and privileges as such, as are hereby conferred on the several persons who are herein mentioned by name as members of the said Company. Provided always, that the said parties or the majority of them may reserve one half of the whole capital Stock of the said Company for subscription in Great Britain, if they deem it expedient.

IV. And be it enacted, That the sum to be raised or subscribed shall constitute the Capital Stock of the said Company, and shall not exceed in the whole the sum of Five Hundred Thousand Pounds; and the money to be raised and subscribed is hereby directed and appointed to be laid out and applied, in the first place for paying and discharging all fees and disbursements for obtaining and passing this Act, and for making the plans, surveys and estimates incident thereto, and all the rest, residue and remainder of such money, for and towards making, completing and maintaining the said Railway and other the purposes of this Act, and to no other use, intent or purpose, whatever.

V. And be it enacted, That the said Capital Stock of the said Company shall be divided into shares of Twenty-five Pounds currency each, and each holder of or subscriber for any share or shares shall have a part of all the profits of the said undertaking, proportionate to the number of shares he shall hold or have subscribed for, and shall pay a part of the expenses incurred in carrying, this Act into effect, proportionate to the number of shares he shall hold or have subscribed for.

VI. And be it enacted, That the first general meeting of the subscribers to the said undertaking shall be held at the City of Hamilton, whenever five thousand shares 'in the Capital Stock of the said Company shall have been *bonâ fide* subscribed for, and five per centum paid thereon as hereinafter provided, and at such meeting nine persons, being each a subscriber for at least forty shares, who shall have paid five per centum thereon, shall be chosen Directors of the said Company, to hold their office until the first annual meeting of the shareholders; and due notice shall be given of the time and place of such first meeting, by the persons hereinbefore appointed, in the manner provided for with regard to the notice to be given by them touching the books of subscription.

VII. And be it enacted, That the annual meetings of the Shareholders of the Company shall be held at the place and on the day in each year to be fixed by the By-laws of the said Company, by which also the mode of calling special meetings of the Shareholders shall be fixed and all other matters and things relative to the manner of conducting and managing the business and affairs of

the said Company, for which no special provision is made by this Act; but no such By-law shall be inconsistent with the provisions of this Act, or with those of the Acts relative to the Great Western Railroad Company which are hereinafter extended to the Company hereby incorporated, or with the laws of this Province.

VIII. And be it enacted, That all the provisions of the Act of the Parliament of Upper Canada, passed in the fourth year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to incorporate the London and Gore Railroad Company*, and the Acts of the Parliament of this Province reviving, extending, or amending the same, or relating to the Company thereby incorporated and now called "The Great Western Railroad Company," which shall be in force at the time of the passing of this Act, and shall not be inconsistent with this Act, or provide for matters provided for by this Act, shall be and are hereby incorporated with this Act, and shall extend and apply to the Company hereby constituted, and the Railway which they are empowered to make, as fully and effectually as if the said provisions were herein repeated and re-enacted with respect to the said Company and to the said Railway; and all the provisions of the said Acts which are so incorporated with this Act, shall be intended and included by the expression "this Act" whenever it is used herein.

IX. And be it enacted, That the said Company shall have the power and authority to borrow money, from time to time, for making, completing, maintaining and working the said Railway as they may think advisable, and to pledge the lands, tolls, revenues and other property of the Company for the due payment thereof.

X. And be it enacted, That for and notwithstanding any Acts of the Parliament of this Province, or of the late Province of Upper Canada, incorporating the said Great Western Railroad Company, or amending the same, and hereinbefore mentioned and referred to, in ease any dispute or disagreement shall arise between the said Company and the owner or occupier of any lands or grounds, or privileges appertaining thereto, which may be required or shall be taken for the uses or conveniences of the said Railway, as to the value of the land or ground so taken and the privileges appertaining and damages done thereto, it shall and may be lawful, and the said Company and hereby empowered to tender to such owner or occupier of such lands or grounds and privileges aforesaid, such sum or sums of money as compensation therefor, as the said Company may consider reasonable and just; and in case an arbitration or suit be had thereon by reason of such owner or occupier not accepting such sum or compensation so tendered, and no greater sum be awarded or allowed to such owner or occupier by the Arbitrators appointed to settle, or the Jury empanelled to try the same, than the amount of compensation so tendered, then the said owners or occupiers of such lands, grounds or privilege's shall pay and discharge all costs and charges attending such arbitration or suit, and if any greater sum be awarded or allowed by such Arbitrators or Jury, than the amount so tendered, then the Company shall pay all costs attending such arbitration or suit, and also such additional sum as may be so awarded or allowed by such Arbitrators or Jury for the land, or ground, damages, or privileges so taken by the said Company.

XI. And be it enacted, That the said Company shall, as soon as may be after making such tender, (if the same be not accepted,) pay the amount or sum so tendered into the office of either of the Superior Courts of Common Law in Upper Canada for the use of the owner or occupier of such land or such party as may be entitled by law to receive the same, and immediately on such payment being made, on the sum so tendered deposited with the officer of such Court, it shall and may be lawful for the said Company, and they are hereby authorized and empowered, forthwith to take possession of the land or ground in question, and to hold the same for the uses for which they may require the same; and if any resistance or forcible opposition shall be made by any person to their so doing, it shall and may be lawful for the Judge of any County Court in Upper Canada, on proof to his satisfaction of such tender being made and compensation money deposited as aforesaid, and that immediate possession of the land is required by the said Company, to issue his Warrant to the Sheriff of the County or United Counties in which the land may lie, or to a Bailiff as he may deem most suitable, to put the said Company in possession and to put down such resistance or opposition.

XII. And be it enacted, That whenever any sum or sums of money shall be awarded or agreed to be paid by the said Company for any land taken by them which might be taken without the consent of the proprietor for the uses of their Railway, the sum so awarded or agreed upon shall be the compensation to be paid by them for the said land, and shall stand in the stead of such land, and any claim to, or incumbrance upon the said land, or any portion thereof, shall as against the Company be converted into a claim to the compensation, or to a like proportion thereof, and they shall be responsible accordingly whenever they shall have paid such compensation, or any part thereof, to a party not entitled to receive the same, saving always their recourse against such party; Provided that if the Company shall have reason to fear any claims or incumbrances, or if any party to whom the compensation or annual rent or any part thereof shall be payable, shall refuse to execute the proper conveyance and warranty, or if the party entitled to claim the same cannot be found or be unknown to the Company, or if for any other reason the Company shall deem it advisable, it shall be lawful for them to pay such compensation into the office of either of the Superior Courts of Common Law for Upper Canada, with the interest thereon for six months, and to deliver to the Clerk of the Court an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the Company to the land therein mentioned; and a notice in such form and for such time as the said Court shall appoint shall be inserted in some newspaper, (if there be any) published in the County in which the land is situate, which shall state that the title of the Company, that is the conveyance, agreement or award, is made under this Act, and shall call upon all persons entitled to the land, or any part thereof, or representing or being the husbands of any parties so entitled, to file their claims to the compensation, or any part thereof and all such claims shall be received and adjudged upon by the Court, and the said proceedings shall for ever bar all claims to the lands, or any part thereof, including dower, as well as all mortgages or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation and for the securing of the rights of all parties interested, as to right and justice, and according to the provisions of this Act and to law shall appertain; and the costs of the proceedings or any part thereof shall be paid by the Company or by any other party as the Court shall deem it equitable to order; and if such order of distribution as aforesaid be obtained in less than six

months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the Company; and if from any error, fault or neglect of the Company, it shall not be obtained until after the six months are expired, the Court shall order the Company to pay to the proper claimants the interest for such further period as may be right.

XIII. And be it enacted, That from and after the passing of this Act, if the Arbitrators who shall be named and appointed by the said Company hereby incorporated, and the owner or occupier of any land required and taken by the said Company for the uses and conveniences of their Railway, cannot agree at their first meeting upon a third or fifth Arbitrator as the case may require, to act with them in valuing the said land and the privileges and damages thereto, it shall be lawful for the Judge of the County Court for the County in which such land is situate, to name and appoint such third or fifth Arbitrator as the case may require, which Arbitrator so named by such Judge shall have and possess all the same powers and authority as if he had been elected and chosen by the Arbitrators named by such Company and the owner or occupier of such land.

XIV. And be it enacted, That the Directors of the Great Western Railroad Company shall have and are hereby invested with full power and authority, at any time hereafter with the consent of the Directors of the London and Port Sarnia Railway Company, or at any time after the completion of the said Railway with or without the consent of, the said Directors of the London and Port Sarnia Railway Company, by a By-law or By-laws of the said Great Western Railroad Company to that effect, to incorporate the Capital Stock of the said London and Port Sarnia Railway Company with the Capital Stock of the said Great Western Railroad Company, on equal terms with the Capital Stock of the said Great Western Railroad Company, and from thenceforth the same shall be one and the same Stock, and the said London and Port Sarnia Railway shall become, part and parcel of the Great Western Railroad as if originally, constructed by the said Great Western Railroad Company, and subject to all the regulations of the said Company in the same manner as other portions of the Line of the said Great Western Railroad, and the Capital of the Great Western Railroad Company shall be increased accordingly, and from the date of such amalgamation of the said Capital Stock and Line of road of the said London and Port Sarnia Railway Company with those of the said Great Western Railroad Company, so much of this Act as may be inconsistent with such amalgamation, shall cease and determine, but any provisions thereof not so inconsistent shall remain in force and shall apply to the Line of Railway hereby authorized, and to the Great Western Railroad Company, and the Directors, Officers and Agents thereof.

XV. And be it enacted, That this Act shall be a Public Act.