

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

16 Victoria – Chapter 99

**An Act to increase the Capital Stock of the Great Western Railroad Company, and to alter the name of the said Company. Assented to 22nd April, 1853.**

Whereas the Great Western Railroad Company have applied for an increase of the Capital Stock of that Company, and it is expedient and necessary the same should be granted: 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 the Great Western Railroad Company are hereby authorized to increase their Capital Stock to an amount not exceeding Five Hundred Thousand Pounds of lawful money of this Province, by creating an additional number of shares not exceeding twenty thousand, of Twenty-five Pounds each, and that the said Company shall cause a Stock Book for the subscriptions of parties desirous of becoming Stockholders or subscribers for such additional shares, to be opened at the office of the Agency of the Bank of Upper Canada, in the City of Hamilton, within fifteen days after the passing of this Act, and such Book shall remain open for the space of one week, and that public notice thereof shall be given in two Newspapers published in the said City, containing the place and the day and hour of the opening and closing of the same; and that the persons so subscribing for such additional shares shall pay five per cent. on the amount subscribed, and immediately after the payment of such per centage, they shall thereupon be entitled to vote on all occasions in proportion to the number of shares held by them, any thing in any Act relating to the said Company to the contrary notwithstanding, and shall have all the other privileges of the Shareholders in the said Company, and that all future calls shall be made in the usual manner.

II. And be it enacted, That all or so many of the said additional shares as shall remain unsubscribed for after the closing of the said Stock Book, shall be disposed of in such manner as the Board of Directors of the said Great Western Railroad Company shall deem expedient.

III. And for the avoidance of doubt — Be it declared and enacted, That the said Company have had and shall have power and authority to borrow money from time to time for making, completing, maintaining and working the said Railroad as they might or may think advisable, and to pledge the lands, tolls, revenues and other property of the Company for the due payment thereof, and might and may make the Bonds or Debentures issued by them for securing the repayment of any sums so borrowed or to be borrowed convertible into Stock of the said Company, on the terms and conditions expressed or to be expressed in such Bonds or Debentures, or in the By-laws of the Company, and might and may insert in any Bonds or Debentures issued or to be issued by them such terms and conditions of any kind whatsoever as they might or may think most for the advantage of the said Company: Provided the same be not

inconsistent with the laws of this Province, or with the express provisions of the Act incorporating the Company or of the Acts amending the same.

IV. And be it enacted, That it shall and may be lawful for the said Company in the construction of their said Railway or of any branches therefrom or thereto, to take, hold, use and occupy all such land or ground with the privileges which appertain thereto and which may be found necessary for the same, in, along, upon and across any navigable stream, lake, river, or waters whatsoever, and for the uses of such Railway, to use, occupy and take possession of the shores or banks thereof and any easement thereto being of a public or private nature or character: Provided always, that the free and uninterrupted navigation of the said streams, lakes, rivers or other waters so used, for all boats, ships and vessels passing and repassing the same shall not be interfered with by the said Railway, and also that the owner or owners, occupier or occupiers of any lands, grounds or private privileges so taken, shall be compensated therefor as is provided by this Act and the several Acts incorporating said Company and amendments thereto.

V. And be it enacted, That for and notwithstanding any thing in any Act 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, in case any dispute or disagreement shall arise between the said Company and the owner or occupier of any land or ground or privileges appertaining thereto, which may have been taken by the said Company or which shall hereafter be taken or required by the said Company for the uses or conveniences of their Road, 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 for the said Company and they are hereby empowered to tender to such owner or occupier of such land or ground and privileges as 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 a Jury empanelled to try the same, than the amount, of compensation so tendered, then the said owner or occupier of such land, ground or privileges 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 and charges 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.

VI. 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 for Upper Canada, for the use of the owner or occupier of such land or ground or such party as may be entitled by law to receive the same; and immediately upon the sum so tendered being 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 said land or ground, 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 of Her Majesty's County Courts in Upper Canada, on proof

to his satisfaction of such tender being made and the 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 in question is situate, or to a Bailiff as he may deem most suitable, to put the said Company in possession, and to put down such resistance.

VII. And be it enacted, That whenever any sum or sums of money shall be agreed upon or awarded 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 Railroad, the sum so agreed upon or awarded 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 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 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 to 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.

VIII. And be it enacted, That from and after the passing of this Act, in case the Arbitrators who may or shall have been chosen and appointed by the said Company, and the owner or occupier of land or ground taken by them for the uses of their Road, to assess the value of such land and

damages thereto, cannot agree at their first meeting upon a third or fifth Arbitrator as the case may require, to act with them the said arbitrators for the purposes for which they shall have been appointed, it shall and may be lawful for the Judge of the County Court of the County in which such lands so taken or required are situate, to nominate and appoint a third or fifth Arbitrator, as the case may require, which Arbitrator so named by such Judge shall have, possess and be vested with all the powers, authority and privileges of an Arbitrator, and to the same extent as if he had been elected and chosen by such Arbitrators appointed by such Company and the proprietor, owner or occupier of such land.

IX. And be it declared and enacted, That the said Company have and shall have power from time to time and at all times, to take, transport, carry and convey persons and goods on their Railway, and also to fix, establish and regulate by By-law or otherwise (which By-laws the Board of Directors of said Company for the time being shall have power to make, alter and repeal) the tolls which shall and may be demanded and received for all passengers and goods transported upon the said Railway, or in any Steam Vessels belonging to the said Railway, and which shall be paid to such person and at such places near the Railway, in such manner and under such regulations as the By-law or Bylaws shall direct; and in case of denial or neglect of payment of any such tolls or any part thereof on demand to such person, the same may be sued for and recovered in any competent Court, or the Agent or Servants of the Company may and they are hereby empowered to seize the goods for or in respect whereof such tolls ought to be paid, and detain the same until payment thereof; and in the meantime the said goods shall be at the risk of the owners thereof, and if the said tolls shall not be paid within six weeks from the time of seizure, the Company, shall thereafter have power to sell the whole or any part of such goods, and out of the money arising from such, sales, to retain the tolls payable as aforesaid, and all charges, and expenses of such detention and sale, rendering the surplus if any, of the money realised from such sale or such of the goods as may remain unsold, to the person entitled thereto; and if any goods shall remain in possession of the Company unclaimed for the space of twelve months, the Company shall thereafter, and on giving public notice thereof by advertisement for six weeks in the *Canada Gazette*, and in such other, papers as they may deem necessary, have power to sell such goods by Public Auction at a time and place to be mentioned in such advertisement, and out of the proceeds thereof to pay such tolls and all reasonable charges for storing, advertising and selling such goods, and any balance of such proceeds shall be kept by the Company for a further period of three months to be paid over to any party entitled thereto, and in default of such balance being claimed before the expiration of the period next aforesaid, the same shall be paid over to the Receiver General, to be applied to the general purposes of the Province, until such time as the same shall be claimed by the party entitled thereto; and all or any of the said tolls may by any By-law be lowered and reduced and again raised as often, as it shall be deemed necessary, for the interest of the undertaking; Provided that the same tolls shall be payable at the same time and under the same circumstances, upon all goods and persons, so that no undue advantage, privilege or monopoly may be afforded to any person or class of persons by any By-laws, relating to the tolls.

X. And be it enacted, That all suits for indemnity for any damage or injury sustained by any person or persons whomsoever, by reason of the said Railway, shall be instituted within six calendar months next after the time of such supposed damage sustained, or if there shall be

continuation of damage, then within six calendar months next after the doing, or committing such damage shall cease, and not afterwards; and the Defendants may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by authority of this Act, and the several Acts relating to the said Company.

XI. And be it enacted, That all fines and forfeitures imposed by this Act or which shall be lawfully imposed by any By-law of the said Great Western Railroad Company, the levying and receiving of which are not particularly herein or in any other Act relating to the said Company directed, shall, upon proof of the offence before any one or more Justice or Justices of the Peace for the County or place where the act occurred, either by confession of the parties or by the oath or affirmation of any one credible witness, which oath or affirmation such Justice or Justices is or are hereby empowered and required to administer without fee or reward, be levied by distress and sale of the offender's goods and chattels by Warrant under the hand and seal or hands and seals of such Justice or Justices; and all fines, forfeitures and penalties the application whereof is not by this or any other Act particularly directed, shall be paid into the hands of the Treasurer of the said Company, to be applied to the use thereof, and the overplus of the money so raised, after deducting the penalty and the expenses of the levying and receiving thereof, shall be returned to the owner of the goods so distrained and sold; and for want of sufficient goods and chattels whereof to levy the said penalties and expenses, the offender shall be sent to the Common Gaol of the County in which he shall have been convicted, there to remain without bail or main-prize for such time, not exceeding one month, as the Justice or Justices shall think proper, unless the penalty or forfeiture and all expenses attending the same shall be sooner paid and satisfied, but every such person or persons may, within four calendar months after the conviction, appeal against the same to the Court of General Quarter Sessions, to be holden in and for the County; and all contraventions of this Act or of the Act incorporating the said Great Western Railroad Company, or any Act amending the same, by any party, for which no punishment or penalty is herein provided, shall be a misdemeanor, and shall be punishable accordingly; but such punishment shall not exempt the Company, if they be the offending party, from the forfeiture by this Act, or other Acts applicable to them, of the privileges conferred on them by the said Acts, if by the provisions thereof or by law, the same be forfeited by such contravention.

XII. And be it enacted, That the said Company shall have power and are hereby authorized, to remove and put out of the cars, by the Conductor of the train, and also the servants of the Company, using no unnecessary force, at any usual stopping place, or near any dwelling house, as the Conductor shall elect for stopping the train, all or any passenger or passengers refusing to pay his or their fare; and any person in charge of a locomotive engine, or acting as the Conductor of a car or train of cars, who shall be intoxicated on the Railway, shall be deemed guilty of a misdemeanor.

XIII. And be it enacted, That the style, title and name of "The Great Western Railroad Company," shall from the passing of this Act, be "The Great Western 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 any thing else herein contained, shall be construed to make the said Company

a new Company or new Corporation, 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 upon suggestion of the passing of this Act, be continued by or against the said Company by the name hereby assigned to it.

XIV. And be it enacted, That the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth Sections of this Act shall apply to the Hamilton and Toronto Railway Company, and shall be and the same are hereby incorporated with the Act passed in the present Session, and intituled, An Act to incorporate the Hamilton and Toronto Railway Company, and that the third, fourth, ninth, tenth, eleventh and twelfth sections of this Act shall apply to the London and Port Sarnia Railway Company, and shall be and the same are hereby incorporated with the Act passed in the present Session and intituled, An Act to incorporate the London and Port Sarnia Railway Company, and the said Sections shall form part of the Acts with which they are respectively so incorporated.

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