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No. 143.

4h Session, 3rd Parliament, 14 Vict., 1851.

BILL.

An Act to incorporate the Lake Superior and Pacific Railroad Company

Received and read a first time, Tuesday, 17th
June, 1851.

Second reading, Wednesday, 25th June, 1851.

Hon. Mr. SHERWOOD.

TORONTO: PRINTED BY LOVELL AND GIBSON.

BILL.

An Act to incorporate *The Lake Superior and Pacific Railroad Company.*

WHEREAS Allan Macdonel, Angus Duncan Macdonell, James McGill Strachan and Joseph D. Ridout, Esquires, of the City of Toronto, have presented a petition to the Legislature of this Province, praying that an Act might be passed to authorise the construction of a Railroad to connect the waters of Lake Superior with the Pacific: And whereas, the construction of such road would not only open out for immigration and population, an extensive and fertile country, at present a wilderness, making available and bringing into market lands at present too remote from civilization, but it would also open out a new channel for the commerce of Europe and Asia, thereby creating new influences and interests throughout the British possessions: Be it therefore enacted, &c.

And it is hereby enacted by the authority of the same, that Allan Macdonell, Angus Duncan Macdonell, James McGill Strachan and Joseph D. Ridout, Esquires, together with such person or persons as shall under the provisions of the said Act become subscribers to or proprietors of any share or shares in the Railroad hereby authorised to be made, and other works and property hereinafter mentioned, being proprietors of any share or shares, are and shall be, and be united into a Company for carrying on, making, completing and maintaining the said intended Railroad and other works, according to the rules and directions hereinafter expressed, and for that purpose shall be and are hereby ordained, constituted and declared to be a body politic and corporate by the name and style of "*The Lake Superior and Pacific Railroad Company,*" and by that name shall have perpetual succession, and shall have a common seal and other the usual powers and rights of bodies corporate, and by that name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto in all Courts whatever, in all manner of actions, suits, complaints, matters and concerns whatsoever; and also shall and may have the power of purchasing and holding to them and their successors any estate, real, personal or mixed, to and for the use of the said Company, and of letting, conveying and otherwise departing therewith, for the benefit and on account of the said Company, from

time to time as they shall deem necessary or expedient, without incurring any penalties or forfeiture whatsoever. And the said Company shall be and are hereby authorised and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Railroad to be called "*The Lake Superior and Pacific Railroad,*" with one or more rails or tracks, and to be worked by locomotive engines, or in such other mode as the Company may deem expedient, from some point upon Lake Superior to some other point upon the Coast of the Pacific, and to erect wharves, warehouses, stores and other buildings, bridges, viaducts, or any other works within the precincts and along the line of the said Railroad, and at the termini, as they may deem expedient.

Directors for time being to sell Stock, 40,000 shares, &c.

II. And be it enacted, &c., That it shall and may be lawful to and for the Directors of the said Company for the time being, to nominate and appoint one of their number to be President and Manager, who shall be subject, in all matters appertaining to the duties imposed upon him by this Act, to the direction and control of the said Directors, who are hereby authorised to sell and dispose of the Capital Stock of the said Company, consisting of *One Million of Pounds* currency, in shares of *twenty-five pounds* each, by subscriptions on the books of the Company, for such number of shares as each party may desire to take, the whole number of shares being *forty thousand*.

Directors appointed.

III. And be it enacted, That the said Allan Macdonell Angus Duncan Macdonell, and James Macdonell, Esquires, who, together with three or more others, to be nominated and appointed by them, shall be and are hereby appointed the first Directors for the purposes hereinafter mentioned and set forth, and in case of the death, absence, resignation or removal of any one of them, it shall and may be lawful for the surviving Directors to appoint another or others in the room or stead of those of the Directors who may die, or be absent or resign, as aforesaid, any thing in this Act to the contrary notwithstanding; and if such appointment be not made, such death, absence, resignation or removal shall not invalidate the Acts of the remaining Directors, who shall continue Directors until the next annual election of Directors.

Authorised to enter upon lands, &c.

IV. And be it enacted, That for the purposes aforesaid, the said Company of proprietors, their deputies, servants, agents and workmen are hereby authorised and empowered to enter into and upon the lands and grounds of the Queen's Most Excellent Majesty, or of any person or persons, bodies politic, corporate or collegiate, or communities whatsoever, and to survey and take levels

of the same or any part thereof, and to set out and ascertain such parts thereof as they shall think necessary and proper for the making the said intended Railroad, and all such other works, matters and conveniences as
 5 they shall think proper and necessary for making, effecting, preserving, improving, completing, maintaining and using the said intended Railroad and other works, and do all acts and things which may be deemed proper, requisite or necessary for making or repairing the said intended
 10 Railroad, or works incidental or relative thereto, and to construct, erect and make, and do all other matters and things which they shall think convenient and necessary for the making, effecting, extending, preserving, improving, completing and using the said intended Railroad
 15 and other works in pursuance of and according to the true intent and meaning of this Statute.

V. And be it enacted, That books of subscription shall be opened as soon after the passing of this Act as convenient, in such place or places in England, and in
 20 this Province, or elsewhere, by such person or persons, and under such regulations, ordinance and by-laws as a majority of the Directors aforesaid shall direct and order; said Directors shall regulate and fix for the time being the salaries and wages of officers and servants of said
 25 Company.

Books of Subscription to be opened.

VI. And be it enacted, That if any person or persons shall by any means or in any manner whatsoever obstruct or interrupt the free use or the advancement of the said
 30 Railroad, or the carriages, engines or other works incidental to or relative thereto, or connected therewith, such person or persons shall for every such offence incur a forfeiture or penalty of not less than *five pounds*, nor exceeding *ten pounds* currency.

Penalty for obstructing.

VII. And be it enacted, That if any person or persons shall wilfully and maliciously and to the prejudice of the
 35 said Railroad break down, throw down, damage or destroy the same, or any part thereof, or any of the houses, warehouses, toll-houses, watch-houses, weigh-houses, cranes, carriages, engines, inclined planes, bridges, machines, or other works or devices incidental
 40 thereto, or connected therewith, or do any wilful hurt, or maliciously obstruct or interrupt the free use of the said Railroad, or obstruct, hinder or prevent the carrying on, completing, supporting and maintaining the said intended
 54 Railroad, such person or persons shall be adjudged guilty of felony, and the Court by and before whom such person or persons shall be tried and convicted, shall have power and authority to cause such person or persons to be punished in like manner as felons are directed to be
 50 punished by the laws in force in this Province, or, in mitigation thereof, to award such sentence as the law directs

For damaging and destroying. &c.

in cases of simple larceny, as to such Court shall seem fitting.

Authority to
increase
Capital Stock.

VIII. And to the end that the said Company of Proprietors be enabled to carry on so useful an undertaking, be it enacted, That in case the said sum of *One Million of Pounds* hereinbefore authorised to be raised be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the said Company of Proprietors to raise and contribute among themselves in manner and form aforesaid, and in such shares and proportions as to them shall seem meet, or by the admission of new subscribers, a further and other sum of money for advancing and perfecting the said intended Railway and other works or convenience incidental or relative thereto, not exceeding the sum of *One Million of Pounds* currency, and every subscriber towards raising such further sum or sums of money, shall be a proprietor in the said undertaking, and have a like vote by himself or herself, or his or her proxy, in respect of every share in the said additional sum so to be raised, and shall also be liable to such obligations, and stand interested in all the profits and powers of the said undertaking, in proportion to the sum he, she or they shall or may subscribe thereto, as generally and extensively as if such other or further sum had been originally raised.

Votes in
proportion to
Shares.

IX. And be it enacted, That the number of votes to which each proprietor of shares in the said undertaking shall be entitled on every occasion when, in conformity of the provision of this Act, the votes of the members of the said Company of Proprietors are to be given, shall be in the proportion equal to the number of shares held by him, her or them; Provided that no one proprietor shall have more than two hundred votes, and all proprietors of shares resident within the Province or elsewhere, may vote by proxy, if he, she or they shall see fit; Provided that such proxy do produce from his constituent or constituents an appointment in writing, in words or to the effect following:

May vote by
Proxy.

"I, _____ of _____ one of the Proprietors of the Lake Superior and Pacific Railway, do hereby nominate _____ of _____ to be my proxy in my name, and in my absence to vote or give my assent or dissent to any business, matter or thing relating to the said undertaking, that shall be mentioned or proposed at any meeting of the Proprietors of the said undertaking, or any of them in such manner as he, the said _____ shall think proper.

In witness whereof, I have hereunto set my hand and seal this _____ day of _____ in the year of Our Lord one thousand eight hundred and _____."

And such vote or votes by proxy shall be as valid as if such principal or principals had voted in person, and whatever question, election of officers, or matters or things shall be proposed, discussed or considered in any public meeting of Proprietors, to be held by virtue of this Act, shall be determined by the majority of votes and proxies then present, and so given as aforesaid.

X. And be it enacted, That no shareholder in the said Company of Proprietors shall in any manner whatsoever be liable for or charged with the payment of any debt or demand due by the said Company, beyond the extent of his or her, or their share in the capital of the said Company.

Limitation of liability.

XI. And be it enacted, That the first general meeting of the Proprietors for putting this Act in execution, may be held in the City of Toronto whenever two thousand shares in the said undertaking shall have been subscribed, and that public notice thereof be given during one week, in some newspapers of said City. The Proprietors assembled together with such proxies as shall be present, may pass such by-laws, rules and regulations for the government of said Company, as may by them, or a majority of them, be deemed expedient; Provided always, that such rules, laws or regulations, so to be passed, be not contrary to the intent, premises or meaning of this Act; at which first general meeting of the Proprietors, assembled with such proxies as shall be present, a Board of Directors shall be chosen, being each a Proprietor of not less than four shares. Said Board of Directors shall consist of such number of persons as the by-laws, rules and regulations adopted at such general meeting as aforesaid shall prescribe, and which at any future general annual meeting may be changed, amended, increased or decreased in number as such meeting may deem expedient. Said Board of Directors shall elect from among themselves one who shall be the President, and may also elect another who shall be a Vice President. Said Board shall have power to nominate and appoint all the other officers, agents and servants of said Company, and fix and regulate the salaries and wages of such servants, officers or agents, and manage and control all the affairs and transactions of said Company.

First general meeting of Proprietors.

Board of Directors.

XII. And be it enacted, That it shall and may be lawful to and for the said several Proprietors of the said Railroad or undertaking, to sell or dispose of his, her or their share or shares therein, subject to the rules and conditions prescribed, and the Board of Directors shall in a proper book or books cause to be entered and kept a true and perfect account of the names and places of abode of the several Proprietors of the said Railroad or undertaking, and of the several persons who shall from

May sell Shares.

time to time become owners or proprietors of, or entitled to any share or shares therein, and of all other acts, proceedings and transactions of said Company of Proprietors.

Place of meeting of Directors.

XIII. And be it enacted, That it shall and may be lawful at the first general annual meeting, as aforesaid, or at any future general annual meeting that thereafter may be held of the said Company of Proprietors, to declare the place of general meeting, or place of residence of said Board of Directors, shall thereafter be changed from Toronto to London, in England, or to any other place situate upon the proposed line of Railroad, or to any other place that may be deemed expedient; Provided always, that such place of removal shall be within British Territories; and such place shall be the residence of said Board, of which due notice shall be given. 5 10 15

Fines and forfeitures, how recovered

XIV. And be it enacted, That all fines and forfeitures inflicted by this Act, or which shall be inflicted by virtue of any rule, order or by-law, to be made in pursuance thereof, (of which rule, order or by-law, when produced, all Justices are hereby required to take notice) the levying and recovery of which fines and forfeitures are not particularly hereinbefore directed, it shall upon proof of the offence before any one or more Justices of the Peace for the District or County, either by the confession of the party or parties, or by the oath or affirmation of any one credible witness, be levied by distress and sale of the offenders' goods and chattels by warrant, under the hand and seal, or hands and seals of such Justice or Justices; and for want of sufficient goods and chattels whereof to levy the said penalty and expenses, the offender shall be committed to the nearest common gaol, for a time not exceeding one month, unless such penalty or forfeiture, and expenses attending the same are sooner paid and satisfied; which said respective forfeitures shall be paid to the Company, to be by them applied for the purposes of said Railroad or works appertaining to the same. 20 25 30 35

Place of departure and termination of the Railroad.

XV. And be it enacted, That the said Company are hereby authorised to construct such intended Railroad from any point upon Lake Superior at their option, through any of the public lands which have been ceded to the Crown, and through any of the lands as yet unceded to the Crown, as hereinafter provided for, to some point on the shores of the Pacific Ocean, where a suitable harbor may be found. 40 45

Lands set apart for Road.

XVI. And be it enacted, That all lands belonging to or claimed by the Crown for thirty miles in width on each side of the line of Road, or where the line of Road shall be found necessary to be carried along the boundary line, between the British possessions and the United States of 50

America, then in such case sixty miles in depth from said boundary line shall be set apart, and disposed of to the said Company upon the conditions hereinafter declared, and for the purposes of enabling the said Company from 5 the sale and settlement of said lands, to construct the Railroad as aforesaid, from Lake Superior to the Pacific.

XVII. And be it enacted, That no part of the lands embraced by the provisions of this Act shall be applied under its authority, and for the objects specified in the 10 same, except under the following terms and conditions, to wit: The said Company shall first fix upon and locate the route for said Road, for not less a distance than ten miles; they shall also commence the work by making preparations for settlers and workmen, and machinery, 15 and arrangements for carrying on the work, and for its continuance, and complete ten miles of Road according to the best and most approved plan of constructing Railroads with a single track, on a guage of width not less than five feet six inches, with an iron rail of the most 20 approved description, and to the satisfaction of a Commissioner or person appointed by Government, upon whose report and certificate that the said Road has been substantially made and constructed, and is in conformity with the requirements of this Act; thereupon the said 25 Company shall be entitled to receive patents, for the first five miles, by thirty on each side of the line of Road, or of five miles by sixty, so set apart for the construction of said Road. Said patent to be delivered to said Company, whereby it may be enabled to grant and confer title to purchasers 30 or purchaser under contract with said Company, and the title shall be the same as if such purchasers or purchaser had purchased directly from and paid to the Government the amount agreed upon for such lands; the other half or five miles by sixty, or by thirty upon each side of the 35 line of Road, and the Road, with all its machinery, shall also be held by the Government, as a security that the work be continued, and when five more miles shall have been completed, as aforesaid, then the said five miles of Road by sixty or by thirty upon each side of the 40 line of Road, as aforesaid, shall be conveyed by patent to the Company in manner aforesaid, and in like manner throughout the whole route, always keeping in advance of the lands patented to the Company, five miles of Railroad, in manner aforesaid, and where such five miles or 45 more of Railroad, as aforesaid, shall pass over unavailable lands, or unsaleable, or inadequate to the purpose, or shall be found of not sufficient value to pay for the construction of said Road through such lands so set apart as aforesaid, and the outlay for any five miles of Road shall 50 be found to exceed the sum for which the whole land of thirty miles upon each side of the Road, or of the sixty from the boundary line as aforesaid, can be sold for, and this fact being certified to the Government, then the said

Terms upon which the Road shall be built, &c.

Company shall be and are hereby authorised to have and receive a patent for lands equivalent to the quantity to which the completed line of Railroad would have entitled them, said patent to be granted to said Company, of such good and saleable lands that may be found in the nearest vicinity of said line of Railway, or of such part thereof as may be necessary to supply the deficiency and reimburse the actual outlay. 5

Lands pledged for repairs, &c., of Road.

XVIII. And be it enacted, That after the completion of said Road from its eastern terminus to the Pacific Ocean, the lands set apart by this Act for that purpose, which then remain unsold, shall belong to said Company, secured by patent, as hereinbefore provided, and they are hereby pledged to be held for working and keeping in repair said Road for a period of ten years, unless it shall be found, previous to such period, that the tolls are sufficient to work said Road, and keep it in repair. 10 15

Regulation of Tolls.

XIX. And be it enacted, That after the said Road shall have been completed, the Legislature of the Province shall have power to regulate the tolls and charges for freight and passengers, so that the said Company shall not receive over *twelve and one half* per centum of nett profits upon said Road. Said Company shall keep an account of their receipts or proceeds, and also of their expenditures incurred in the construction of said Road, including repairs, and while such Road is in progress and being completed. 20 25

May build one or more additional Tracks.

XX. And should the business of the Road require more than one track, then the said Company are hereby authorised to construct one or more additional tracks, and are hereby authorised to charge tolls both for freight and passengers, as aforesaid; Provided that if after the completion of said Road, the said Company shall neglect and fail to take reasonable and proper care and supervision of said Road, its repairs, operations and business, to the detriment of the public convenience and interest, such neglect and failure to be judged of and decided by the Government, it shall be lawful for the Government to impose a penalty for such neglect, or adopt such other measures as may be necessary to ensure proper care and attention to the said Road and the use thereof; and if such measures as may be adopted to correct the evil shall not be effectual, the Legislature may then provide for the appointment of some person or persons for the general oversight and superintendence of said Road, its repairs and operations, the expenses of which shall be defrayed by the Company. 30 35 40 45

Authority to procure material for Road, &c.

XXI. And be it enacted, That the Company may, if it be found necessary for the construction of said Road, and purposes connected with it, cut timber, procure 50

stone, fuel and other materials from any unsold lands lying beyond the limits of the said tract of land set apart as aforesaid for said Road.

XXII. And be it enacted, That if the said Company shall not within five years from the passage of this Act, locate and survey at least fifty miles of said Road, and have commenced the work and completed at least ten miles of the Road, it shall and may be lawful for the Legislature and such right hereby reserved to repeal this Act, and all rights and privileges conferred upon the Company shall be forfeited and cease; and if, after having commenced and constructed a part of said Road, said Company shall, without good and sufficient reasons, neglect to prosecute said Road, and progress with the construction of said Road for the period of twelve months, the Legislature shall reserve the right to revoke all the rights and privileges conferred upon the said Company by this Act; but in such case, said Company shall possess and hold such part of the lands set apart for the construction of this Road, or the avails thereof, if sold, as the length of the Road constructed may entitle them to, according to the provisions of this Act; and the route for this Road shall be located and surveyed from its eastern terminus to the Pacific Ocean, and the Road constructed and completed one third of the whole extent within nine years from the passage of this Act; and one third shall be made and completed within six years thereof; and the entire Road shall be finished and in a condition for use within twenty-five years from the passage of this Act.

Time limited for construction of Road.

XXIII. And be it enacted, That the President and Directors of said Company of Proprietors shall have power and authority to bargain for or purchase from, or otherwise treat with any or all of the Indian tribes occupying or claiming possession of such or any of the lands so set apart for the Road aforesaid, and obtain from the band or bands of tribes aforesaid, a surrender to the Crown for such tract or tracts of land which may be required, as aforesaid; and that the same shall be patented to said Company by the Government, at and for the same terms or price agreed to be paid to said Indian band or bands for the cession thereof; and any consideration or payment to such band or bands, with the approval of the Government, for such cession, shall be taken and deemed as a payment to the Government, whereupon patent shall issue for such lands as under the provisions of this Act said Company may be entitled to.

Right of purchase.

XXIV. And be it enacted, That the said Company shall, after the commencement of said work, annually submit to the three branches of the Legislature, after the

Annual financial statement to the Legislature.

opening of each Session of the Provincial Parliament, a detailed statement, attested upon the oath of some officer of the Company, of the moneys by the Company expended, of the lands disposed of under and by virtue of this Act, with a statement of the progress of said Road. 5

Public Act.

XXV. And be it enacted, That this Act shall be deemed a public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and other persons whatsoever, without being specially pleaded. 10