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No. 45.

4th Session, 8th Parliament, 62 Victoria, 1899

BILL

An Act to incorporate the St. Clair and
Erie Ship Canal Company.

First reading, April 10, 1899.

(PRIVATE BILL.)

Mr. TISDALE.

OTTAWA
Printed by S. E. DAWSON
Printer to the Queen's most Excellent Majesty
1899

An Act to incorporate the St. Clair and Erie Ship Canal Company.

WHEREAS a petition has been presented praying that it be enacted as hereinafter set forth, and it is expedient to grant the prayer of the said petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

Preamble.

1. In this Act, unless the context otherwise requires,—
 (a.) The word “canal” means “canal or navigation, and any branch canal,” and includes every kind of work necessary or done in respect of the canals for the purpose of carrying out the objects of this Act :

Interpretation.

“Canal.”

(b.) The word “land,” wherever used in *The Railway Act* or in this Act, includes land covered by water :

“Land.”

(c.) The word “vessel” includes any ship, barge, boat or raft passing through any of the canals hereby authorized, or plying upon any lake or river connecting therewith :

“Vessel.”

(d.) The word “goods” includes any goods, merchandise and commodities of whatsoever description, passing through any of the canals hereby authorized.

“Goods.”

2. D. Farand Henry, of the city of Detroit, in the state of Michigan ; Hervey A. Olney, of Saltash, Cornwall, England ; Horatio C. Boulton, of the city of Toronto ; Hon. David Tisdale, of the town of Simcoe, in the province of Ontario, and C. A. Youmans, of the town of Neillsville, in the state of Wisconsin, together with such persons as become shareholders in the company, are hereby incorporated, under the name of “The St. Clair and Erie Ship Canal Company,” hereinafter called “the Company.”

Incorporation.

Corporate name.

3. The undertaking of the Company is hereby declared to be a work for the general advantage of Canada.

Declaratory.

4. The persons named in section 2 of this Act are hereby constituted provisional director of the Company.

Provisional directors.

5. The capital stock of the Company shall be two million dollars, divided into shares of one hundred dollars each, and may be called up by the directors from time to time as they deem necessary.

Capital stock.

6. The head office of the Company shall be at the city of Toronto, in the province of Ontario, or at such other place in Canada as the Company from time to time determines by by-law.

Head office.

- 7.** So soon as five hundred thousand dollars of the capital stock have been subscribed, and fifty thousand dollars thereof have been paid into some chartered bank in Canada, the provisional directors, or a majority of them, shall call a general meeting of the shareholders to be held at the city of Toronto or at such other place in Canada as the provisional directors calling such meeting determine, for the purpose of electing the first directors of the Company and of transacting any other business that may be done at a shareholders' meeting. 5
- 2.** Notice in writing, signed by or on behalf of the provisional directors or a majority of them calling such meeting, of the date and place of holding the same, mailed, postage prepaid, to the post office address of each shareholder not less than ten days previous to the calling of such meeting, shall be deemed sufficient notice of such meeting. 10
- 8.** At the first meeting of shareholders, and at each annual meeting, the subscribers for capital stock assembled who have paid all calls due on their shares shall choose five persons to be directors of the Company, each of whom shall hold at least twenty shares of the capital stock of the Company, the majority of whom shall form a quorum, and one or more of whom may be paid directors. 20
- 2.** The directors elected at the first meeting of shareholders shall hold office only until the first annual meeting of the Company. 25
- 9.** The annual meeting of the shareholders shall be held on the first Thursday in September in each year.
- 10.** The Company may—
- (a.) construct and operate a canal from some point on Lake St. Clair, in the township of North Tilbury, in the county of Essex, or in the township of East Tilbury or of West Dover in the county of Kent, to some point on Lake Erie between Point Pelee and Rondeau Harbour, of such dimensions as to make a navigable channel of any depth not less than eighteen feet, and of any width not less than seventy-two feet at the bottom of the said channel; 30
- (b.) construct and operate by any kind of motive power all such locks, dams, tow-paths, branches, basins, feeders to supply water from the said lake, or from any rivers, creeks, reservoirs, cuttings, apparatus, appliances and machinery as may be desirable or necessary for the construction and operation of the canal; 40
- (c.) enter upon and take such lands as are necessary and proper for the making, preserving, maintaining, operating and using the canal and other works of the Company hereby authorized; dig, cut, trench, get, remove, take, carry away, and lay earth, clay, stone, soil, rubbish, trees, roots of trees, beds of gravel or sand or any other matters or things which may be dug or got in making the canal and other works, on or out of the lands of any person adjoining or lying convenient thereto, and which may be proper, requisite, or necessary, for making or repairing the canal or the works incidental thereto or connected therewith, or which may hinder, prevent or obstruct the making, using or completing, extending or main- 50

taining the same, respectively, according to the intent and purposes of this Act ;

- (d.) make, maintain and alter any places or passages over, under or through the canal or its connections ; Passages.
- 5 (e.) obtain, take and use, during the construction and operation of the canal, from the rivers, lake, brooks, streams, water-courses, reservoirs, and other sources of water supply adjacent or near to the canal, water sufficient for the purposes of constructing, maintaining, operating and using the canal and Water supply.
- 10 works hereby authorized, and sufficient to establish and maintain a current at the rate on the average of three miles per hour through the navigable channel of the canal; and the Company shall, in the exercise of the powers granted by this paragraph, do as little damage as possible, and shall make full
- 15 compensation to all persons interested for all damage by them sustained by reason of the exercise of such powers, and such damage in case of disagreement shall be settled in the same manner as is provided for fixing compensation under the provisions of *The Railway Act*; Compensation for damages.
- 20 (f.) construct and operate by any motive power a double or single line of iron or steel railway, of any gauge of not less than three feet, along or near the sides of the canal, and construct and operate branch lines thereof, connecting any towns and villages within fifteen miles of the canal in the said counties
- 25 of Essex and Kent with the canal ; Line of railway described.
- (g.) construct, acquire, operate, lease or otherwise dispose of, terminals, harbours, wharfs, docks, piers, elevators, warehouses, dry docks and other structures, and building and repairing yards, and all works incidental thereto, upon the canal
- 30 or upon lands adjoining or near the same ; Harbours, warehouses, etc.
- (h.) acquire and utilize water and steam power for the purpose of compressing air or generating electricity for lighting, heating and motor purposes in connection with the canal, vessels and works of the Company ; and may sell or otherwise
- 35 dispose of surplus electricity or other power generated by the Company's works, and not required for operating its canal or other works, and propel vessels in and through the canal by any kind of force, and sell, lease or otherwise dispose of the said works ; Water and steam power.
Surplus power.
- 40 (i.) acquire, construct, navigate and dispose of vessels to ply on the canal, and the lakes, rivers and canals connecting therewith, and may also make agreements for vessels to ply upon the said canal, lake and rivers ; Vessels.
- (j.) acquire, by license, purchase or otherwise, any rights
- 45 in letters patent, franchises, or patent rights, for the purposes of the works hereby authorized, and again dispose of such rights. Patent rights.

- III. The Company may construct and operate telegraph and telephone lines, and lines for the conveyance of light, heat and
- 50 electric and other power, by wires or pipes, along the whole length of the canal and its approaches, and between the canal and any town or village in the said counties, and may establish offices for the transmission of messages for the public, and collect tolls therefor ; and, for the purposes of erecting and
- 55 working such telegraph and telephone lines and electric plant, the Company may enter into contracts with any other company, or may lease the Company's lines. Telegraphs and telephones.
Electric power.

Arrangements with telegraph and telephone companies.

2. The Company may enter into arrangements with any other telegraph or telephone company for the exchange and transmission of messages, or for the working in whole or in part of the lines of the Company.

Rates to be approved by Governor in Council.

3. No rates or charges shall be demanded or taken from any person for the transmission of any message by telegraph or for leasing or using the telegraphs or telephones of the Company, until such rates or charges have been approved of by the Governor in Council.

R.S.C., c. 132.

4. *The Electric Telegraph Companies Act* shall apply to the telegraphic business of the Company.

Interference with drainage systems.

12. The Company shall make due provision for, take care and dispose of, all water and drainage, to the extent to which it disturbs or interferes with artificial drains, natural streams or watercourses which the canal crosses, touches or interferes with, and which are in existence at the time of the construction of the canal.

Disputes to be determined by Railway Committee.

2. All subsequent questions, disputes or complaints as to the construction of new drains, and as to the alterations, enlargement and change of existing drains and of natural streams or watercourses, and as to who shall make such alterations, enlargement and change, and by whom the expense thereof shall be paid, and also any complaint or dispute as to the sufficiency of compliance with the provisions of the next preceding subsection, shall be inquired into, heard and determined by the Railway Committee of the Privy Council, in the same manner as is provided for other matters to be inquired into, heard and determined by the said committee under *The Railway Act*.

Arbitration in case of disagreements.

13. When the Company and the owners or occupiers of private property entered upon cannot agree as to the compensation for lands required for the construction or maintenance of any work authorized under this Act, or for damages to lands injured by the Company the matter shall be settled in the same manner as is provided for obtaining title and fixing compensation under *The Railway Act*, so far as the same may be applicable.

"Lands" defined.

2. In this section and in sections 10, 14, and 17 the expression "lands" means the lands the acquiring, taking or using of which is incident to the exercise of the powers given by this Act.

Urgent repairs to works.

14. In case of any accident requiring immediate repair on the canal the Company may enter upon the adjoining land (provided such land is not an orchard or garden) and may dig for, work, get, carry away and use such gravel, stone, earth, clay or other materials as may be necessary for the repair of the accident aforesaid, doing as little damage as possible to such land and making compensation therefor; and in case of dispute or difference regarding the amount to be so paid, the same shall be decided by arbitration as provided in *The Railway Act*; but before entering upon any land for the purposes aforesaid, the Company shall, in case the consent of the owner is not obtained thereto, pay into one of the superior courts of the province of Ontario, such sum with interest

Arbitration in case of disputes.

thereon for six months as is fixed, on the ex parte application of the Company, by a judge of the county court of the county in which such land is situate.

15 **15.** The Company may open, cut, erect and use such ponds and basins for the laying up and turning of vessels using the canal at such points thereon as it deems expedient, and may also build, erect and operate such dry docks, slips and machinery for the hauling out and repairing of vessels as it thinks proper, or may lease or hire the same.

Basins for laying up vessels.

Dry docks.

20 **16.** The Company shall, at every place where the canal crosses any railway, highway or public road, (unless exempted from the provisions of this section, so far as any highway or public road is concerned, by the municipality having jurisdiction over such highway or public road,) construct and maintain, to the satisfaction of the Governor in Council, bridges for passage over or tunnels for passage under the canal, so that the public thoroughfare or railway may be as little impeded as reasonably possible, and the Company shall not, in making the canal, cut through or interrupt the passage on any highway or public road, until it has made a convenient road past its works for the use of the public; and for every day on which it shall neglect to comply with the requirements of this section, the Company shall incur a penalty of one hundred dollars.

Bridges to be constructed.

Penalty for impeding traffic.

25 **17.** The lands, ground or property to be taken or used, without the consent of the proprietors, for the canal and works, and the ditches, drains and fences to separate the same from the adjoining lands, shall not together exceed two thousand feet in breadth, except in places where basins and other works are required to be cut or made as necessary parts of the canal as shown on the plan to be approved as hereinafter provided by the Governor in Council, or where flooding or drowning of lands is unavoidable, on account of the construction of dams.

Extent of land which may be expropriated.

35 **18.** Before the Company breaks ground or commences the construction of the canal or any of the works hereby authorized, the plans, locations, dimensions, and all necessary particulars of the canal and other works, including a guard lock or gate at the Lake St. Clair entrance of the canal, if required by the Governor in Council, shall be submitted to and receive the approval of the Governor in Council.

Plans to be approved by Governor in Council.

40 **19.** The Company may take, use, occupy and hold, but not alienate, so much of the public beach or beach road, or the land covered with the waters of the rivers or lakes which the canal may cross, start from or terminate at, as may be required, for the wharfs and other works of the canal, for making
45 easy entrance thereto, and for the other works which they are hereby authorized to construct, doing no damage to nor causing any obstructions in the navigation of the said rivers or lake, and conforming in all respects to the plan and modes of construction sanctioned as aforesaid by the Governor in Council,
50 except in so far only as he may at any time authorize a deviation from such plan and mode of construction.

Public beach.

- By-laws. **20.** In addition to the general powers to make by-laws under *The Railway Act*, the Company may, subject to the approval of the Governor in Council, make by-laws, rules or regulations for the following purposes, that is to say:—
- Speed. (a.) For regulating the speed at which, and the mode by which, vessels using the Company's works are to be propelled: 5
- Hours of arrival and departure of vessels. (b.) For regulating the hours of the arrival and departure of such vessels:
- Loading and draught. (c.) For regulating the loading or unloading of such vessels and the draught thereof: 10
- Travel. (d.) For regulating the travelling and transportation upon, and the using and the working of the canal:
- Use of canal. (e.) For the maintaining, preserving and using the canal and all other works hereby authorized to be constructed, or connected therewith, and for the governing of all persons and vessels passing through the canal: 15
- Management of affairs. (f.) For providing for the due management of the affairs of the Company in all respects.
- Bond issue. **21.** The Company may issue and pledge or dispose of bonds, debentures or other securities as provided in *The Railway Act*, to the extent in all of eight million dollars, and may issue such bonds, debentures or other such securities, in one or more separate series, and limit the security for any series to such of the franchises, property, assets, rents and revenues of the Company, present or future, or both, as are described in the mortgage deed made to secure each separate series of bonds, debentures or other securities; and every such limited series of such bonds, debentures or other securities, if so issued, shall, subject to the provisions contained in section 94 of *The Railway Act*, form a first charge upon, and be limited to, the particular franchises, property, assets, rents and revenues of the Company with respect to which they are issued and which shall be described in the mortgage deed made to secure the same. 20 25 30
- Issue of paid-up stock. **22.** The directors may issue, as paid-up stock, shares of the capital stock of the Company in payment of and for all or any of the businesses, franchises, undertakings, properties, rights, powers, privileges, letters patent, contracts, real estate, stock and assets, and other property of any person or municipal corporation which it may lawfully acquire by virtue of this Act, at the true and actual price at which the same has been bona fide purchased, and may allot and hand over such shares to any such person or corporation or its shareholders; and may issue, as paid-up and unassessable stock, shares of the capital stock of the Company, and allot and hand over the same in payment for right of way, lands, rights, plant, property, letters patent of invention, rolling stock or materials of any kind, and any such issue and allotment of stock shall be binding on the Company, and such stock shall not be assessable for calls, nor shall the holders thereof be liable in any way thereon, and the Company may pay for any such property, wholly or partly in paid-up shares, or wholly or partly in debentures, as the directors deem proper. 35 40 45 50

23. In all cases where there is a fraction of a mile in the distance which vessels, ratts, goods, wares, merchandise or other commodities or passengers shall be conveyed or transported on the canal, such fraction shall, in ascertaining the rate of charge be deemed and considered as a whole mile; and in all cases where there is a fraction of a ton in the weight of any such goods, wares, merchandise and other commodities, a proportion of the said rate shall be demanded and taken by the Company, calculated upon the number of quarters of a ton contained therein; and in all cases where there is a fraction of a quarter of a ton, such fraction shall be deemed and considered as a whole quarter of a ton.

Rates of charge.

24. Every owner or master of a vessel navigating the canal shall permit it to be gauged and measured, and every such owner or master who refuses to permit the same shall forfeit and pay the sum of two hundred dollars; and the proper officer of the Company may gauge and measure all vessels using the canal, and he may mark the tonnage or measurement on every vessel using the canal.

Measurement of vessels.

25. The Company shall, within six months after any land shall be taken for the use of the canal, divide and separate, and shall keep constantly divided and separated, the land so taken, from the lands and grounds adjoining thereto, with a sufficient post and rail, hedge, ditch, bank or other kind of fence sufficient to keep off hogs, sheep and cattle, to be set and made on the lands or grounds purchased by, conveyed to, or vested in the Company, as aforesaid, and shall, at its own cost and charges, from time to time maintain, support and keep in sufficient repair the said posts, fences, rails, hedges, ditches, trenches, banks and other fences so set up and made as aforesaid.

Lands taken for use of canal to be separated by fence, etc.

26. So soon as possible after the canal is completed, the Company shall cause it to be measured, and stones or posts, with proper inscriptions on the sides thereof denoting the distances, shall be erected and maintained at convenient distances from each other.

Canal to be measured.

27. If any vessel is sunk or grounded in any part of the canal or in any approach thereto, and if the owner or master thereof neglects or refuses to remove it forthwith, the Company may forthwith proceed to have it raised or removed, and may retain possession of it until the charges and expenses necessarily incurred by the Company in so raising and removing it are paid and satisfied; and the Company may sue for and recover in any court of competent jurisdiction such charges and expenses from the owner or master of such vessel.

Sunken vessels.

28. Her Majesty may at any time assume the possession and property of the canal and works, and all the rights, privileges and advantages of the Company, all of which shall, after such assumption, be vested in Her Majesty, on giving to the Company one month's notice thereof, and on paying to the Company the value of the same, to be fixed by three arbitra-

Crown may take over canal.

Notice to Company.

tors or the majority of them, one to be chosen by the Government, another by the Company, and a third arbitrator by the two arbitrators; and the arbitrators may, in such valuation, take into account the expenditure of the Company, its property, the business of the canal and other works hereby authorized, and their past, present and prospective business, with interest from the time of the investment thereof. 5

Obstructions
in canals, etc.

29. Every person who obstructs, interrupts or impedes the navigation of the canal, or interferes with any of the works belonging thereto, by the introduction of any timber or vessels or any other substance, or by any other means contrary to the provisions of this Act or of the by-laws of the Company, shall for every such offence incur a penalty not to exceed four hundred dollars, one-half of which penalty shall go to the Company and the other half to Her Majesty. 15

Time for
construction
limited.

30. If the construction of the canal hereby authorized to be constructed is not commenced, and ten per cent on the amount of the capital stock is not expended thereon, within three years from the passing this Act, or if the said canal is not finished and put in operation within seven years from the passing of this Act, then the powers granted by this Act shall cease and be null and void as respects so much of the canal as then remains uncompleted. 20

Use of
canal by
Government.

31. Any Act hereafter passed by Parliament, or any order of the Governor in Council, with regard to the exclusive use of the canal by the Government at any time, or the carriage of Her Majesty's mails or Her Majesty's forces, and other persons or articles, or the rates to be paid for carrying the same, or in any way respecting the use of any electric telegraph or telephone or any service to be rendered by the Company to the Government, shall not be deemed an infringement of the privileges conferred by this Act. 25 30

1888, c. 29.

32. *The Railway Act* shall, so far as applicable, and when not inconsistent with this Act, and except sections 3 to 25, both inclusive, sections 36, 37, 38, 89, subsection 3 of section 93, sections 103, 104, 105, 112, 120, 173 to 177, both inclusive, 179, 180, 182 to 199, both inclusive, 209, 210, 214, 240 to 263, both inclusive, 271 to 274, both inclusive, 276 to 286, both inclusive, and 288 to 293, both inclusive, apply to the Company, and to its canal and works, except the railways and branches authorized under paragraph (f) of section 10 of this Act, to which railways the whole of *The Railway Act* shall apply. 40

"Railway" to
mean "canal."

2. Wherever in *The Railway Act* the expression "railway" occurs, it shall, unless the context otherwise requires, and in so far as it applies to the provisions of this Act, or to the Company, mean the "canal" "or other works" hereby authorized to be constructed; and in any section of *The Railway Act* relating to the collection of tolls, where the expressions "passengers" and "goods," or either of them, occur, such expressions shall be held to include any vessel passing through the canal, whether laden or otherwise. 45 50

"Goods" to
include
"vessel."

R.S.C., c. 118.

33. *The Companies Clauses Act* shall not apply to this Act or to the Company. 55