

CCAP/12
[NEW BRUNSWICK PRIVATE OR PERSONAL ACTS.]

Laws, Statutes, etc. Session Laws



5293

BY AUTHORITY.

ANNO DECIMO TERTIO VICTORIÆ REGINÆ.

CAP. I.

An Act relating to the Saint Andrews and Quebec Rail Road.

Passed 26th April 1850.

I. **B**E it enacted by the Lieutenant Governor, Legislative Council and Assembly, That the fourth, fifth, sixth, seventh, eighth and ninth sections of an Act made and passed in the sixth year of the Reign of King William the Fourth, intituled *An Act to incorporate the Saint Andrews and Quebec Rail Road Company*, be and the same are hereby repealed; and in lieu thereof,

6 W. 4, c. 31, in part repealed.

II. Be it enacted, That the said Company shall be and are hereby invested with all the powers, privileges and immunities which are or may be necessary to carry into effect the intentions and objects of this Act; and for this purpose the said Company, their successors, deputies, agents, and assistants, shall have the right to enter and go into and upon the lands and grounds of all and every description lying in the said route and general direction of the said Rail Road, for the purpose of making surveys, examinations, or other necessary arrangements for fixing the site of the said Rail Road; and it shall and may be lawful for the said Company and their successors to take and hold so much of the land and other real estate as may be necessary for the laying out, making and constructing and convenient operation of the said Rail Road; and shall also have the right to take, remove and use for the necessary construction and repair of the said Rail Road and appurtenances, any earth, gravel, stone, timber, or other materials on or from the land so taken, without any previous agreement with the owner or owners, tenant or tenants of the land, and upon which such surveys, examinations or other arrangements may be made, or through which the said Rail Road may be explored, laid out, worked, made and constructed, or on which materials or other things shall be laid for the purposes of the said Rail Road; provided also, that the said land so taken shall not exceed six rods in width, except where greater width is necessary for the purposes of excavation or embankment; and where the said Rail Road shall pass through any wood lands or forests, the said Company shall have the right to fell or remove any trees standing thereon to the distance of four rods from either side of the said Rail Road, which by their liabilities to be blown down, or from their natural falling, might obstruct or impair the said Rail Road; provided always, that in all cases the said Company shall pay for such land or estate so taken and used, (in case the owner thereof demand it)

Company invested with powers to carry out this Act.

Take and hold lands;

And materials for construction or repair, without previous agreement.

Extent of land limited.

Fell trees.

Compensation to be made to the owners.

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In case of disagreement, damages to be assessed by a Jury.

it) such price as the said Company and the owner or respective owners thereof may mutually agree on; and in case the said parties should not agree, then it shall be lawful for the said Company to apply to two of Her Majesty's Justices of the Peace in the County wherein the said lands may be situate, for a Warrant, which Warrant shall be in the form set forth in the Schedule (A) to this Act annexed, and shall be directed to the High Sheriff, his Deputy, or any Constable within the said County, commanding such High Sheriff, Deputy, or Constable, to summon a jury of five disinterested freeholders or occupiers of land in the said County, who shall be sworn to examine the site of the said Rail Road; and in case the said Rail Road shall pass through or extend upon any improved lands, or shall occasion the removal of any buildings or fences, then and in all such cases the damages shall be ascertained and assessed by such jury; provided nevertheless, that the said jury in assessing the said damages, are authorized and empowered, and shall take into consideration the enhancement in value of the land by the passage of the Rail Road, in regard to the increased facilities of access to the different stations and termini of the said Rail Road, in diminution of the damages; and in all cases where the Jury shall assess damages to be paid to the owner or owners of any land over which the said Rail Road may be laid out, the Justices who issued the Warrant shall lay the said assessments before the next annual meeting of the said Company, who are hereby required to pay the amount set forth in the said assessment into the hands of the person for whom such damages may have been assessed, within twenty one days next after such annual meeting of the said Company, together with the costs and charges of assessing such damages, which shall be agreeable to a scale in Schedule (B) of this Act, and in default of such payment, it shall and may be lawful for the said Justices or either of them, (in case of the death or absence of the other) at the instance of the said party or parties to whom such damages are payable, by Warrant under the hands and seals of the said Justices, or of one of them, (in case aforesaid) to levy the same, with costs, by distress and sale of the goods and chattels of the said Company; provided also, that nothing in this Act contained shall be construed to affect the rights of the Crown in any ungranted lands within this Province, or to authorize the said Company to enter upon or take possession of any such land without the previous permission of the Executive Government of the Province.

Discharges by a Corporation, Committee, &c., to be valid.

III. And be it enacted, That when the said Company shall take any lands or estate of any body corporate, aggregate or sole, guardians, committees, executors or administrators, or other trustees whatsoever, held for and on behalf of those whom they represent, whether Corporations, infants, idiots, lunatics, feme covert, persons deceased or beyond seas, or other person or persons whatsoever, who are or shall be possessed of or interested in the said land or estate, the respective contracts, agreements, and sales of the said Corporations, guardians, committees, executors, administrators, or other trustees whatsoever, shall be valid and effectual in law to all intents and purposes whatsoever, and their respective receipts shall be good and valid releases and discharges therefor; and it shall be lawful for them respectively to agree and settle with the said Company for damages, (if any) by reason of taking such land or estate as aforesaid; and in case of disagreement, such damage to be ascertained and settled as provided by the second section of this Act.

Company may take materials for construction or repair

IV. And be it enacted, That the said Company, their superintendents, engineers, agents, and workmen, may enter upon the land adjoining the said Rail Road;

Road, and from thence take and carry away any timber, stone, gravel, sand and earth, or any material necessary for the construction of the said Rail Road; and in case of any slip happening or being apprehended to any cutting, embankment or other work belonging to the said Rail Road, the said agents and workmen shall at all times hereafter have full egress and regress into and upon such adjoining lands, for the purpose of repairing and preventing such accident, and to do such works as may be necessary for the purpose; provided always, that such works shall be as little injurious to the said adjoining land as the nature of the operations will admit of, and shall be executed with all possible dispatch; in all which cases the damage incurred, if the parties cannot agree, shall be ascertained and paid in like manner in all respects as provided for in the second section of this Act.

of Rail Road from adjoining lands and have egress and regress.

V. And whereas it is expedient to enable the Saint Andrews and Quebec Rail Road Company to make further arrangements respecting their Class A Shares; Be it therefore enacted, That the second and fourth sections of the Act passed in the twelfth year of the Reign of Her present Majesty, intituled *An Act in further amendment of the Acts relating to the incorporation of the Saint Andrews and Quebec Rail Road Company*, are so far, but so far only as is necessary to give full effect to the provisions of this Act, hereby repealed, but without prejudice to any act or thing already made or done under or by virtue of the same sections or either of them.

12 V. c. 60, s. 2 & 4, repealed.

VI. And be it enacted, That at every annual general meeting of the Company the shareholders present and appearing by proxy may choose, by a majority of votes, thirteen Directors, who shall be distinguished as "The Directors of the Company," being holders of at least ten shares each, and resident in this Province, and who shall continue in office for one year, or until others be chosen in their place; and the third section of the last mentioned Act shall apply to "The Directors of the Company," and except as otherwise provided by this Act, all the powers and duties conferred and imposed upon any Board of Directors mentioned in the Act incorporating the Company, or any Act in addition to or in amendment of such Act, shall be enjoyed, executed and fulfilled by "The Directors of the Company."

Thirteen Directors to be chosen at the annual meetings, to be designated "The Directors of the Company."

VII. And be it enacted, That the holders of Class A Shares may from time to time choose from among themselves seven Directors, who shall be distinguished as "The Directors for Class A Shareholders," and make such regulations concerning "The Directors for Class A Shareholders" as such holders think fit.

Class A Shareholders to choose seven Directors, to be styled "The Directors for Class A Shareholders."

VIII. And be it enacted, That "The Directors of the Company," with the consent of "The Directors for Class A Shareholders," may from time to time by Deed enter into such covenants, conditions and stipulations with respect to the conduct and management of the affairs of the Company, and delegate to the holders of Class A Shares and "The Directors of Class A Shareholders" respectively, such powers and authorities with reference to the conduct and management of such of the affairs of the Company in any way affecting or likely to affect the interests of the holders of Class A Shares, as may from time to time be agreed on between "The Directors of the Company" and the holders of Class A Shares, or "The Directors of Class A Shareholders."

Covenants may be made between the two directing bodies as to the management of the Company affairs.

IX. And be it enacted, That the Common Seal of the Company, or a duplicate thereof, may from time to time be used by "The Directors of Class A Shareholders," for such purposes and in such manner as may from time to time be agreed on between "The Directors of the Company" and "The Directors of Class A Shareholders."

The Common Seal may be used by the Directors of Class A Shareholders.

X.

The Directors of the Company may grant special advantages to the holders of Class A Shares.

X. And be it enacted, That "The Directors of the Company" may from time to time, by Deed, grant and assure in such manner as they think fit, unto the holders of Class A Shares, not only the whole or any part of any guarantee of interest, grant of money or lands, or other benefit, profit or advantage already or to be hereafter granted, conceded or allowed to the Company by Act of Assembly, or otherwise howsoever; but also such preferential interest or dividend, and such preferential, exclusive or other profits, privileges and advantages whatsoever, and on such terms and conditions whatsoever as "The Directors of the Company" from time to time think proper.

XI. And be it enacted, That "The Directors of the Company" may from time to time by Deed subject and charge in such manner as they think fit the present and future lands, goods and other property and effects, tolls, income and profits whatsoever of the Company, or such parts thereof as "The Directors of the Company" think fit, to and with the payment or other satisfaction, to the holders of Class A Shares, of such interest or dividend, profits, privileges and advantages.

Deeds executed in accordance with the 8th, 9th and 10th sections, to be under the Common Seal, and binding.

XII. And be it enacted, That every Deed executed by "The Directors of the Company," in accordance with the eighth, ninth and tenth sections respectively of this Act, shall be under the Common Seal of the Company, (which "The Directors of the Company" are hereby authorized to affix to every such Deed,) and under the respective hands and seals of any three or more of "The Directors of the Company;" and every Deed so executed shall have as full effect and be as binding and conclusive on the Company, and "The Directors of the Company," and "The Directors of Class A Shareholders," and the several shareholders and classes of shareholders respectively of the Company, as if the terms and provisions of such Deed were by this Act expressly enacted and made binding and conclusive accordingly.

Act of Incorporation, and Acts in amendment, so far as repugnant to this Act, repealed.

XIII. And be it enacted, That the Act incorporating the Company, and the several Acts in addition to and in amendment of such Act respectively, so far as the provisions thereof respectively are repugnant to or inconsistent with any of the provisions or purposes of this Act, are hereby repealed, but in all other respects such Acts respectively, so far as the same respectively are now unrepealed and in force, shall subject and without prejudice to the provisions and purposes of this Act be and remain in full force.

Faith of Province pledged to Class A Shareholders, that privileges conceded by this Act shall not be repealed except on consent.

XIV. And be it enacted, That the faith of this Province shall stand pledged, and the same is hereby pledged to the holders of Class A Shares, that this Act or any of the provisions thereof, or any of the rights, authorities, privileges, profits or advantages by this Act granted or secured, or authorized to be granted or secured to or for the benefit of the holders of Class A Shares, or any of them, shall not directly or indirectly be taken away, lessened, or in any way prejudicially affected by any Act of Assembly or facility Act, without or otherwise than in accordance with the previous consent of the holders of Class A Shares, to be testified by some Petition under the hands of three or more of "The Directors for Class A Shareholders," to the Assembly of this Province.

SCHEDULE A.

Form of Warrant to Summon Jury.

To the Sheriff, Deputy Sheriff, or any Constable of the County of

You are hereby commanded to summon a Jury of five disinterested Freeholders of your County on the day of , at of the clock in the noon, and then and there to assess the damages (if any) which A. B. alleges he has sustained by reason of the works and operations of the Saint Andrews and Quebec Rail Road Company through and upon his lands. Warrant to Summon a Jury.

Given under our hands and seals the day of , A. D. one thousand eight hundred and

SCHEDULE B.

Scale of Fees in proceedings before Justices upon assessing damages under the foregoing Act:— Fees.

To the Justices.

- Warrant to Summon Jury, two shillings and six pence. To Justices.
- For every Subpœna, six pence.
- For every Copy thereof, three pence.
- Every adjournment made at the instance of the party, one shilling.
- Trial and Judgment, two shillings and six pence.
- Swearing each Witness and Constable, three pence.
- Swearing Jury, one shilling.
- Execution or Distress Warrant, one shilling and six pence.

To the Sheriff or Constable.

- Summoning Jury, five shillings. Sheriff or Constable.
- Attendance on Jury, one shilling.
- For all other services same as fixed by Law in Civil Cases before Justices of the Peace.

To Witnesses.

- Attendance and Travel same as in Civil Cases before Justices of the Peace. Witnesses.

To Jurors.

- Each Juror sworn on Inquiry, two shillings. Jurors.

FREDERICTON, N. B.:

J. SIMPSON, PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.