

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1836. Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1836.

6 William IV – Chapter 59

An Act to incorporate The Shediac and Saint John Rail Road Company. Passed 16th March 1836.

'Whereas it has been deemed expedient to incorporate a Company for the purpose of establishing a rail road from some point at or near the harbour of Shediac to the Bay of Fundy;'

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That William Wiley, Thomas Prince, Henry Blackslee, J. L. Bedell, James Whitney, Ezekiel Barlow, George Scoullar, Ichabod Lewis, John Humphrey, Stephen H. Shaw, William Steadman, William Chapman, John Charters, William L. Smith, Daniel Hanington, E. B. Chandler, William Milne and William Hanington, their associates, successors and assigns shall be and they are hereby declared to be a body corporate by the name of The Shediac and Saint John Rail Road Company, and by that name shall have perpetual succession, and a common seal, and all the privileges and franchises incident to a Corporation, and shall be capable of taking and holding their capital stock and the increase and profits thereof, and of enlarging the same by new subscriptions in such manner and form as they may think proper, if such enlargement shall be found necessary to fulfil the intention and purposes of this Act, and of purchasing, taking and holding to them, their successors and assigns in fee, or for any less estate, such lands, tenements, hereditaments and estate, real and personal, and such ships, steam boats, vessels, goods and chattels as shall be necessary to them in the prosecution of their business as a rail road Company, and of suing and being sued, and doing all other matters and things which a body politic and corporate may lawfully do; Provided always, that the capital stock of the said Company shall not at any time exceed the sum of one hundred and fifty thousand pounds.

II. And be it enacted, That the capital or stock of the said Corporation shall consist of the sum of twenty thousand pounds of current money of this Province, which shall be divided into eight hundred shares of twenty five pounds each; and that five per cent, of the said capital stock shall be paid in within three years from the passing of this Act, and the residue in such parts and instalments as may be required for the service of the Company.

III. And be it enacted. That whenever four hundred shares of the said capital stock shall have been subscribed, a general meeting of the stockholders shall take place, by notice in one or more of the newspapers published in the City of Saint John, thirty days previous to such meeting, in order to organize the said Company, and to choose seven directors and such other officers as may be necessary to conduct the business of the Company, who shall serve until the first annual meeting and until like officers shall be chosen; and the said Company may then or at any subsequent meeting make, ordain and establish such bye laws and ordinances as may be thought necessary for the good rule and government of the said Corporation, provided the same be not contradictory to the laws of this Province or those in force within the same.

IV. And be it enacted, That the stockholders shall meet annually at the City of Saint John on the second Tuesday in April of each year, of which at least thirty days notice shall be given in one or more of the newspapers aforesaid, at which annual meeting there shall be chosen by a majority thereof seven directors, who shall continue in office one year or until others are chosen in their room; provided that the omission to meet and elect as aforesaid shall work no forfeiture, but the stockholders may be afterwards called together for that purpose by the directors.

V. And be it enacted, That the directors shall at the first meeting after their election choose one of their number president of the Company; and that not less than four directors shall constitute a board for the transaction of business; that in the absence of the president the directors may choose one of their number chairman for the time being; that the president or such chairman shall vote at the board as a director, and in case there be an equal number of votes for and against any question before them the president or chairman shall have a casting vote.

VI. And be it enacted, That no person shall be eligible as a director unless such person is a stockholder and holds not less than ten shares of the capital stock and is of the full age of twenty one years; that the number of votes to which each stockholder shall be entitled on every occasion when the votes of the stockholders are to be given shall be in the proportion following, that is to say, for one share and not more than two, one vote; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten and not exceeding thirty, one vote, making ten votes for thirty shares; for every six shares above thirty and not exceeding sixty, one vote, making fifteen votes for sixty shares; and for every eight shares above sixty and not exceeding one hundred, one vote, making twenty votes for one hundred shares, but no person or persons, co-partnership, body politic or corporate, being a member or members of the said Company shall be entitled to a greater number than twenty votes; and that absent members may vote by proxy, provided such proxy be a stockholder and produce sufficient authority in writing; that in case any director shall be removed by the stockholders for misconduct or mal-administration, his place shall be filled up by them, fourteen days notice of the time and place of meeting for such purpose being first given; and in case of a vacancy among the directors by death, resignation, or disqualification by sale of stock, the remaining directors may fill up such vacancy by choosing one of the stockholders, and the person so chosen by the stockholders or directors shall serve until another be chosen in his room.

VII. And be it enacted, That the joint stock or property of the said Corporation shall alone be responsible for the debts and engagements of the same.

VIII. And be it enacted, That the shares in the said stock shall be assignable and transferable according to such rules and regulations as may be established in that behalf, but no assignment or transfer shall be valid and effectual unless the same shall be entered or registered in a book to be kept by the directors for that purpose; that in no case shall any fractional part of a share or other than a complete share or shares be assignable or transferable; that whenever any stockholder shall transfer in manner aforesaid all his stock or shares in the said Company he shall cease to be a member of the said Corporation.

IX. And be it enacted, That the said Company shall have power and authority by themselves or their superintendents, engineers, artists and workmen, to enter in and upon and occupy for that purpose all or any granted or ungranted land which shall be necessary and suitable for constructing a rail road from some point at or near the harbour of Shediac on the Gulf of Saint Lawrence to the waters of the Bay of Fundy at or near some point on the Petitcodiac or Memramkook River in the County of Westmorland, doing as little damage as possible thereto, and to construct, make and erect such rail road, satisfying the several owners and occupiers of such land for the damage done thereto; and in case of disagreement between the said Corporation and the said owners or occupiers or any of them, the amount of compensation shall be determined by three arbitrators, one to be chosen by the said Corporation and one by the owner or occupier of the land in question, which two arbitrators so chosen shall choose a third, and in case of their not agreeing in such choice within ten days after their appointment, then it shall and may be lawful for the Lieutenant Governor or Commander in Chief for the time being to appoint the third arbitrator, and the award of the said arbitrators or any two of them shall be final and conclusive as to the matters referred to them; and in case the said Company and the owners or occupiers of such land should decline appointing such arbitrators, then either of the said parties may apply to the Supreme Court of Judicature of this Province, and such Court is hereby empowered and required to issue a writ or warrant in such form as they may prescribe, directed to the Sheriff of the County where such lands lie or to such disinterested person or persons as the said Court may appoint, commanding such Sheriff or other person or persons, as the ease may be, to summon, impanel and swear a Jury of twelve disinterested persons qualified to act as petit jurors in such County, to ascertain and report to the said Court what damages (if any) have been sustained by the owners or occupiers of such land by reason of such rail road, which report being confirmed by the said Court shall be final and conclusive unless sufficient cause to the contrary shall be made appear to the said Court within the term next after the filing of such report, and in case the proceedings on such writ or warrant shall be set aside by the said Court for any defect, irregularity or misconduct, the parties shall be at liberty to proceed de novo, and the amount of damages so ascertained and the costs and expenses of the proceedings shall be taxed and allowed by the said Supreme Court, and shall be borne by the said Corporation: Provided also, that if any person owning land or any other property which shall be affected by this Act be *feme covert*, under age, *non compos mentis* or out of the Province, then and in either of such cases the said Company shall within one year make representation thereof to the said Supreme Court, who shall proceed thereon in the same manner and to the same effect as is directed by this Act in other cases: Provided also, that the ground to be taken for the said rail road when the same shall pass through wilderness or forest land shall not be less than two hundred feet in breadth, and when the same shall pass through cultivated lands not to exceed one hundred feet in breadth, except such places as may be used as stopping places for taking in fuel or water, or for leaving or receiving goods, or as stations for fixed engines or other machinery, and for other purposes connected with the use of the said rail road in the line of the said rail road, at which places respectively the extent of land to be taken as aforesaid shall not exceed five hundred feet in length by two hundred and fifty feet in breadth.

X. And be it enacted, That the said Company, the superintendents, engineers, artists, workmen and laborers, with their tools, instruments, carts, waggons and other carriages, and beasts of burthen or draught, may enter upon the lands contiguous to the said rail road, whether granted or

ungranted, giving or publishing notice to the occupiers thereof (if any), and from thence take and carry away any stone, ground, sand, earth or other material necessary to the construction of the said rail road, doing as little damage as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done thereon; the amount of such damages if the parties cannot agree to be ascertained in like manner in all respects as provided for by the ninth section of this Act in other cases.

XI. And be it enacted, That a toll be and is hereby granted for the sole benefit of the said Corporation on all passengers and property of all descriptions which may be conveyed or transported upon such rail road, at such rates per mile as may be established from time to time by the directors of the said Corporation; the transportation of persons and property, the construction of wheels, the form of cars and carriages, the weight of loads and all other matters and things in relation to the use of the said road, shall be in conformity to such rules, regulations and provisions as the directors shall from time to time prescribe and direct; and such railroad may be used by any person who may comply with such rules and regulations; Provided always, that if after the expiration of six years from the time of completing the said rail road, the rates, tolls or dues that may be established by the said Corporation under and by virtue of this Act should be found excessive, it shall and may be lawful for the Legislature to reduce the said rates, tolls or dues, so as that the same shall not produce to the said Corporation a greater rate of net profit upon their capital stock than twenty pounds annually for every hundred pounds of such capital stock; and in order that the true state of the affairs of the said Corporation shall be known, it shall be the duty of the president and directors thereof to produce and lay before the several branches of the Legislature of this Province, at the expiration of six years after the said rail road shall have been completed as aforesaid, a just and true statement and account of the monies by them disbursed and laid out in making and completing the said rail road in manner aforesaid, and also of the amount of tolls and revenues of the said rail road, and of the annual expenditure and disbursements in maintaining and keeping up the same during the said six years; the said several accounts and statements to be signed by the president and treasurer of the said Corporation, and by such president and treasurer attested to on oath before any one of His Majesty's Justices of the Peace for any County in this Province; and provided also, that it shall be the duty of the said president and directors of the said Corporation, once in each and every year after the expiration of the said six years, to lay before the several branches of the Legislature a like statement and account, verified on oath by the said president and treasurer as aforesaid.

XII. And be it enacted, That the said Corporation are hereby authorised to make and erect such wharves, warehouses, depots, toll houses and other buildings, either at the termination of the said rail road or along the line thereof, as may be necessary for the purposes of the same, and shall also have power to levy and collect assessments upon the shares from time to time of such sums of money as may be required for the business of the Company, and whenever any assessment shall be made by the stockholders, it shall be the duty of the treasurer to give notice requiring payment thereof within thirty days; and if any stockholder shall neglect or refuse to pay to the treasurer the amount of such assessment upon his shares at the time prescribed, it shall be the duty of the treasurer to advertize all such delinquent shares for sale at public auction, giving at least thirty days notice of the time and place of sale; and all shares upon which the assessment is

not then paid with interest from the time the same became due shall be sold to the highest bidder, and after retaining the amount of assessment and interest due on each share, and the expense of advertizing and selling, the residue (if any) shall be paid over to the person or owner, and a new certificate or certificates of the shares so sold shall be made out and delivered to the purchaser; Provided always, that no assessment shall be made except by a vote of the stockholders and a majority of all the shares.

XIII. And be it enacted, That if the said rail road in the course thereof shall cross any private way or public highway, the said Corporation shall so construct the same as not to obstruct the safe and convenient use of such way; and for that purpose the said Corporation shall have power to raise or lower such public or private way in such manner that the said rail road, if necessary, may pass on, over or under the same, and that the said Company shall constantly maintain in good repair all bridges, with their abutments and embarkments, which they may construct for the purpose of passing the rail road over or under any public highway or private way.

XIV. And be it enacted, That no suit or action shall be brought or prosecuted by any person or persons for any act, matter or thing done under the authority of this Act, unless such suit or action shall be commenced within six months next after the offence shall have been committed or cause of action accrued, and the defendant or defendants in such suit or action may plead the general issue, and give this Act and the special matter in evidence, and that the same was done in pursuance and by authority of this Act.

XV. And be it enacted, That when such rail road shall be completed, the said Corporation shall and may, (if they deem it expedient,) procure, own and manage such steam boats or vessels as may be necessary to ply in the waters of the Bay of Fundy or of the Gulf of Saint Lawrence, or both, in connexion with the said rail road, and for that purpose shall exercise and possess all the powers, privileges and authorities necessary for the management of the same, in as full and ample a manner as they are hereby authorised to do with respect of the said rail road.

XVI. And be it enacted, That if at any time hereafter it shall be deemed expedient by the Legislature of this Province to purchase the said rail road and steam boats (if any) connected therewith, the stockholders shall be entitled to receive from the Treasury of the Province the amount of the appraised value of such rail road, steam boats and other property therewith connected, such appraisement to be made in such manner as may be prescribed by an Act of the Legislature for that purpose, and on payment of such appraised value to the stockholders of the said Company, the corporate rights hereby granted shall thereupon cease and determine, excepting so far as the same may be necessary in the settlement of the concerns of the said Company.

XVII. And be it enacted, That if any person or persons shall wilfully and maliciously, and to the prejudice of the undertaking, break, injure or destroy any of the works to be made by virtue of this Act, every such person shall be judged guilty of felony, and every person so offending and being thereof lawfully convicted shall be liable to the punishment prescribed for felony in an Act made

and passed in the first year of the reign of his present Majesty, intituled *An Act for improving the administration of Justice in criminal cases.*

XVIII. And be it enacted, That all meetings of the said Corporation shall be held at the City of Saint John, and shall be called by giving notice of the same fourteen days at least prior to such meeting, and that special meetings may be called by the secretary under the authority of the directors or of the shareholders representing not less than two hundred shares of stock, and that all notices required to be given by this Act shall be deemed sufficient if published in one or more of the newspapers printed in the City of Saint John.

XIX. And be it enacted, That the said Corporation to entitle themselves to the privileges, benefits and advantages to them granted by this Act, shall and they are hereby required to make and complete the said rail road within six years from the passing of this Act, and if the same shall not be so made and completed within the period before mentioned so as to be used for the conveyance and carriage of passengers, goods, chattels, wares and merchandize thereon, then this act and every matter and thing therein contained shall cease and be utterly null and void.