

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1851. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1851.

14 Victoria – Chapter 11 Private or Personal Acts

An Act to incorporate the Saint Stephen Rail Road Company. Passed 28th March 1851.

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That George M. Porter, Horatio N. Hill, Daniel Hill, John M'Adam, Joseph E. Eaton, George S. Hill, Nebemiah Marks, George J. Thomson, David Upton, Robert Watson, Samuel Gilmor, Ninian Lindsay, and Henry Eastman, their associates, successors and assigns, are hereby made and constituted a Body Politic and Corporate, by the name of The Saint Stephen Rail Road Company, and by that name shall have all the general powers and privileges made incident to a Corporation by Act of Assembly in this Province, and may sue and be sued, plead and be impleaded, and shall have and enjoy all proper remedies at law and equity to secure and protect them in the exercise and use of the rights and privileges, and in the performance of the duties hereinafter granted and enjoined, and to prevent all invasion thereof in exercising and performing the same; and the said Corporation are hereby authorized and empowered to locate, construct, and finally complete, alter, and keep in repair a Rail Road, with one or more sets of rails or tracks, with all suitable bridges, tunnels, viaducts, turnouts, culverts, drains, and all the necessary appendages, from the Upper Mills (so called) in the Parish of Saint Stephen, in the County of Charlotte, in this Province, over the most practicable route along or near the left bank of the River Saint Croix, to the mouth of Dennis Stream, and thence to extend the same to the Ledge, or to Oak Point, in the said Parish, whenever the the said Company may deem it expedient to do so, and to make such branches thereof as they may think proper; and the said Corporation shall be and hereby are invested with all the powers, privileges and immunities which are or may be necessary to carry into effect the purposes and objects of this Act as herein set forth; and for this purpose said Corporation shall have the right to purchase or take and hold so much of the land and other real estate of private persons or Corporations as may be necessary for the location, construction and convenient operation of said Rail Road and branches thereof; and they shall also have the right to take, remove and use, for the construction and repair of said Rail Road and appurtenances, any earth, gravel, stone, timber, or other materials, on or from the land so taken; provided however, that said land so taken shall not exceed four rods in width, except where greater width is necessary for the purpose of excavation and embankment; and provided also, that in all cases said Corporation shall pay for such lands, estate or materials so taken and used, such price as they and the owner or respective owners thereof may mutually agree upon; and in case said parties shall not otherwise agree, then said Corporation shall pay such damages as shall be ascertained and determined in the same manner and under the same conditions and limitations as are provided by the second section of an Act made and passed in the thirteenth year of the Reign of Queen Victoria, intituled An Act relating to the Saint Andrew and Quebec Rail Road, as also for the recovery of the same; and the land so taken by said Corporation shall be held as land taken and appropriated for highways; and all applications for damages shall be made within three years from the time of taking such land or other property, and not after.

II. And be it enacted, That when said Corporation shall take any land or other estate as aforesaid, of any infant, person non compos mentis, deceased person, or *feme covert*, whose husband is under guardianship, the guardian of such infant, or person non compos mentis, or the executor or administrator of such deceased person, and such *feme covert*, with the guardian of her husband, shall have full power and authority to agree and settle with said Corporation for damages or claims for damages by reason of taking such land and estate aforesaid, and give good and valid releases therefor.

III. And be it enacted, That the capital stock of the said Corporation shall consist of fifty thousand pounds, to be divided into two thousand shares of twenty five pounds each, and the immediate government and direction of the affairs of the said Corporation shall be vested in seven directors, who shall be chosen by the members of the said Corporation in the manner hereinafter provided, and shall hold their offices until others shall have been duly elected and qualified to take their places, a majority of whom shall form a quorum for the transaction of business, and they shall elect one of their number to be President of the Board, who shall also be President of the Corporation; and shall have authority to choose a Clerk, who shall be sworn to the faithful discharge of his duty; and a Treasurer, who shall be sworn, and also give bonds to the Corporation, with sureties to the satisfaction of the Directors, in a sum not less than one thousand pounds, for the faithful discharge of his trust.

IV. And be it enacted, That the three persons first named in the first section of this Act, are hereby authorized to call the first meeting of said Corporation, by giving notice in one or more Newspapers published in the said County of Charlotte, of the time and place and purpose of such meeting, at least fourteen days before the time mentioned in such notice.

V. And be it enacted, That the said Corporation shall have power to make, ordain and establish all necessary bye laws and regulations consistent with the laws in force in this Province, for their own government, and for the due and orderly conducting of their affairs and the management of their property.

VI. And be it enacted, That the President, Directors and Company for the time being, are hereby authorized and empowered by themselves or their agents, to exercise all the powers herein granted to the Corporation, for the purpose of locating, constructing and completing said Rail Road and branches, and for the transportation of persons, goods and property of all descriptions, and all such power and authority for the management of the affairs of the Corporation as maybe necessary and proper to carry into effect the objects of this grant; to purchase and hold within or without the Province, land, materials, engines, cars, and other necessary things, in the name of the Corporation, for the use of said road, and for the transportation of persons, goods and property of all descriptions; to make such equal assessments from time to time on all the shares in said Corporation, as they may deem necessary and expedient in the execution and progress of the work, and direct the same to be paid to the Treasurer of the Corporation, and the Treasurer shall give notice of all such assessments; and in case any subscriber or stockholder shall neglect to pay any assessment on his share or shares for the space of thirty days after such notice given, as shall be prescribed by the bye laws of said Corporation, the Directors may order the Treasurer to sell

such share or shares at public auction, after giving such notice as may be prescribed as aforesaid, to the highest bidder, and the same shall be transferred to the purchaser; and such delinquent subscriber or stockholder shall be held accountable to the Corporation for the balance, if his share or shares shall sell for less than the assessment due thereon, with the interest and costs of sale; and shall be entitled to the overplus, if his share or shares shall sell for more than the assessment due, with the interest and costs of sale; provided that no shareholder in said Company shall be in any manner whatever liable for any debt or demand due by said Company beyond the extent of his, her or their shares in the capital stock of the said Company not paid up; and no assessment shall be laid upon any shares in said Company of a greater amount in the whole than ten pounds.

VII. And be it enacted, That a toll is hereby granted and established for the sole use and benefit of said Corporation, upon all passengers and property of all descriptions which may be conveyed or transported by them upon said Road, at such rate as may be agreed upon and established from time to time by the Directors of said Corporation; the transportation of persons and property, the construction of wheels, the form of cars and carriages, the weights of loads, and all other matters and things in relation to said Road, shall be in conformity with such rules, regulations and provisions as the Directors shall from time to time prescribe and direct.

VIII. And be it enacted, That the Legislature may authorize any other Company or Companies to connect any other Rail Road or Rail Roads with the Rail Road of said Corporation, at any points on the route of said Rail Road; and this Company is hereby authorized and empowered to connect any Railway they may construct under this charter with any other Railway existing, to be constructed within or without the Province; and the said Corporation shall receive and transport all persons, goods and property of all descriptions which may be carried and transported to the Rail Road of said Corporation, on such other Rail Roads as may be hereafter authorized to be connected therewith, at the same rates of toll and freight as may be prescribed by said Corporation, so that the rates of freight and toll on such passengers, goods and other property as may be received from such other Rail Road so connected with such Rail Road as aforesaid, shall not exceed the general rates of freight and toll on said Rail Road, received for freight and passengers at any of the deposits of said Corporation.

IX. And be it enacted, That if the said Rail Road in the course thereof shall cross any private way, the said Corporation shall so construct said Rail Road as not to obstruct the safe and convenient use of such private way; and if such Rail Road shall in the course thereof cross any canal, mill-pond, turnpike, rail road, or other highway, the said Rail Road shall be so constructed as not to obstruct the safe and convenient use of such canal, mill pond, turnpike, or other highway; and the said Corporation shall have power to raise or lower such turnpike, highway, or private way, so that the said Rail Road, if necessary, may conveniently pass under or over the same, and erect such gate or gates thereon as may be necessary for the safety of travellers or persons on said turnpike, mill pond, rail road, highway, or private way.

X. And be it enacted, That said Rail Road Corporation shall constantly maintain in good repair all bridges, with their abutments and embankments, which they may construct for the purpose of

conducting their Rail Road over any canal, mill pond, turnpike, highway, or private way, or for conducting such private way or turnpike over said Rail Road.

XI. And be it enacted, That if said Rail Road, or any branch thereof shall in the course thereof cross or partly cross any tide waters, navigable rivers or streams, the said Corporation are hereby authorized and empowered to erect, for the sole and exclusive travel on their said Rail Road, a bridge across or partly across each of said rivers or streams, or across or partly across any such tide waters; provided such bridge or bridges, or other erections, shall be so constructed as not unnecessarily to obstruct or impede the navigation of such rivers or waters.

XII. And be it enacted, That said Rail Road Corporation shall erect and maintain substantial, legal and sufficient fences on each side of the land taken by them for their Rail Road, where the same passes through enclosed or improved lands, or lands that may hereafter be improved; and for neglect or failure to erect and maintain such fences, said Corporation shall be liable to be indicted in any Court having competent jurisdiction within and for the County of Charlotte, and to be fined in such sum as shall be adjudged necessary to repair the same: and such fine shall be collected and paid as other fines are by law collected and paid, and shall be expended for the erection or repair of said fence, under the direction of an agent appointed by the Court imposing the fine; provided however, that such fences may be dispensed with at the receiving and landing places of passengers and freight, and at such' other places as fences are not elsewhere usually required.

XIII. And be it enacted, That the said Corporation shall be subject to all such regulations, provisions and conditions in reference to the transmission of Mails and Troops as are established by any law in force in this Province with respect to any other Rail Road Corporation; and said Corporation, after they shall commence the receiving of tolls, shall be bound at all times to have said Rail Road in good repair, and a sufficient number of suitable engines, carriages and vehicles for the transportation of persons and articles, and be obliged to receive at all proper times and places, and convey the same when the appropriate tolls therefor shall be paid and tendered, and a lien is hereby created on all articles transported for said tolls; and the said Corporation, fulfilling on its part all and singular the several obligations and duties by this section imposed and enjoined upon it, shall not be held or bound to allow any engine, locomotive, cars, carriages, or other vehicles, for the transportation of persons or merchandise to pass over said Rail Road or its branches other than its own, furnished and provided for that purpose as herein enjoined and required; provided however, that said Corporation shall be under obligations to transport over said Rail Road and branches in connection with their own trains, the passengers and other cars of any other incorporated Company that may hereafter construct a Rail Road connecting with that hereby authorized, such other Company being subject to all the provisions of the seventh and eighth sections of this Act as to rates of toll, and all other particulars enumerated in said sections.

XIV. And be it enacted, That if any person shall wilfully and maliciously or wantonly, and contrary to law, obstruct the passage of any carriage on said Rail Road, or in any way spoil, injure or destroy said Rail Road or any part thereof or of any of its branches, or anything belonging thereto, or any material or implements to be employed in the construction or repair or for the use of the said Rail Road and branches, he, she or they, or any person or persons assisting, aiding or abetting such

trespass, shall profit and pay to the said Corporation for every such offence, treble such damages as shall be proved before the Justice, Court or Jury before whom the trial shall be had, to be sued for before any Justice, or in any Court proper to try the same, by the Treasurer of the Corporation, or other officer whom they may direct, to the use of the Corporation; and such offender or offenders shall be liable to indictment by any Grand Jury of the County of Charlotte, or of any County within which such trespass shall have been committed, for any offence or offences contrary to the above provisions; and upon conviction thereof before any Court competent to try the same, shall pay a fine not exceeding one hundred pounds to the use of the Province, or may be imprisoned in the Provincial Penitentiary and kept to hard labour for a term not exceeding five years, at the discretion of the Court before whom such conviction may be had.

XV. And be it enacted, That the annual meeting of the said Corporation shall be holden on the last Wednesday in July, or such other day as shall be determined by the bye laws, at such time and place as the Directors for the time being shall appoint, at which meeting the Directors shall be chosen by ballot, each proprietor, by himself or proxy, being entitled to as many, votes as he holds shares; and the Directors are hereby authorized to call special meetings of the stockholders whenever they shall deem it expedient and proper, giving such notice as the Corporation by their bye laws shall direct

XVI. And be it enacted, That the Legislature shall at all times have the right to inquire into the doings of the Corporation, and into the manner in which the privileges and franchises herein and hereby granted may have been used and employed by said Corporation, and to require returns of profits and expenditure, and to correct and prevent all abuses of the same, and to pass any laws imposing fines and penalties upon said Corporation which may be necessary more effectually to compel a compliance with the provisions, liabilities and duties hereinbefore set forth and enjoined, but not to impose any other or further duties, liabilities, or obligations; and this Charter shall not be revoked, annulled, altered, limited or restrained without the consent of the Corporation, except by due process of law.

XVII. And be it enacted, That if the State of Maine shall, in any legal way and manner, constitute this. Company a Company within its limits and jurisdiction, this Company is hereby authorized and empowered to exercise, within said limits and jurisdiction of such State, all the rights and powers, and shall have and enjoy all the privileges and immunities which it could have, exercise or enjoy within this Province.

XVIII. And be it enacted, That the said Company, to entitle themselves to the privileges, benefits and advantages to them granted in this Act, shall and they are hereby empowered to make and complete the said Railway, from the Upper Mills in the Parish of Saint Stephen, in the County of Charlotte, in this Province, to the mouth of Dennis Creek, within five years from the passing of this Act, and complete the remaining part of the said Railway, from Dennis Creek to the Ledge, or to Oak Point, in the said Parish, within ten 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 merchandise thereon, then this Act, and every matter and thing therein contained, shall cease and be utterly null and void.