

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1853. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1853.

16 Victoria – Chapter 3 (1852)

An Act to repeal certain Acts of Assembly for facilitating the construction of the European and North American Railway, and to make other provisions for the construction of the same, with branches and extensions. Passed 29th October 1852.

Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, as follows:—

1. An Act made and passed in the fourteenth year of the Reign of Her present Majesty, intituled *An Act to facilitate the construction of the European and North American Railway*; and also an Act made and passed in the same year, intituled *An Act further to facilitate the construction of the European and North American Railway*, are hereby repealed.
2. When the European and North American Railway Company shall make it appear to the satisfaction of the Lieutenant Governor in Council, that twenty thousand pounds sterling have been actually expended in the construction of a principal line of Railway across this Province, from the Boundary of Nova Scotia to the Eastern Boundary of the State of Maine, or in the construction of certain branches and extensions thereof, or of any of them, or of any portion of them, that is to say, an extension of the Trunk Line from some point between the Bend of Petitcodiac, and the Harbour of Shediac, or from one of those places to the River Miramichi, which is to be constructed simultaneously with or immediately after the completion of the road from Saint John to the Bend of Petitcodiac; another branch or extension to some convenient place at or near the Harbour of Shediac, in case the principal line shall not touch such Harbour; and another branch or extension of such principal line of Railway west of the River Saint John, from some point between the City of Saint John and the Eastern Boundary of the State of Maine, to the City of Fredericton, which is also to be constructed simultaneously with or immediately after the completion of the Main Trunk Line from Saint John to the Eastern Boundary of the State of Maine; then and in such case, the Provincial Treasurer shall be authorised, by the Lieutenant Governor in Council, to subscribe on behalf of the Province, for shares in the said Company to the amount of five thousand pounds sterling; and in payment therefor, to deliver to the said Company special Certificates of Debt, to be called Debentures, bearing interest at a rate not exceeding six per cent, per annum, payable half-yearly, the principal money redeemable in twenty years; and so from time to time, when it shall be satisfactorily proved to the Lieutenant Governor in Council, that the proceeds of the Debentures previously delivered have been expended in the construction of such principal line of Railway, or of its branches or extensions as aforesaid, and that a further sum of at least twenty thousand pounds sterling has been actually expended in like manner, the Provincial Treasurer shall be again authorised to subscribe, on behalf of the Province, for shares in the said Company to the amount of five thousand pounds sterling, and also to pay in full for such shares, by a further delivery of Debentures; provided always, that the amount of shares subscribed for by the said Provincial Treasurer on behalf of the Province, shall not exceed in the whole the sum of two hundred and fifty thousand pounds sterling, and that the route or location of the principal line of Railway, and

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the several branches and extensions herein specified, before being finally adopted, shall in all cases be subject to the approval of His Excellency the Lieutenant Governor in Council.

3. The Debentures shall be in the form hereto annexed, marked Schedule No. 1 ; they shall be signed by the Lieutenant Governor, and verified by his seal of office, and also countersigned by the Provincial Treasurer; they shall be numbered consecutively, beginning with number one, and shall be issued in such sums, not less than one hundred pounds sterling, as may be deemed expedient; the interest thereon shall be paid half-yearly in London, and the principal of such Debentures shall be paid in full at the end of twenty years from the date of their respective issues, to the then holders thereof, at the same place.

4. The certificates of shares in the European and North American Railway Company from time to time received by the Provincial Treasurer, shall be held by him for and on behalf of the Province, as public property ; and while such shares are so held, no vote thereon shall be given at any meeting of the shareholders in the said Company; and no interest shall be paid to or be claimed by the Province, in respect of such shares, in consideration of their having been paid for in full at the time of subscription.

5. The dividends accruing from the shares held by the Provincial Treasurer shall be applied towards the payment of interest on the said Debentures; and at the expiration of twenty years, when such Debentures become due and payable, the shares not previously disposed of shall then be sold, and the proceeds applied towards the payment of the said Debentures; provided that there shall be no sale by the Province, of any share so held, below the par value, until the expiration of ten years from the time of the first subscription for stock by the Provincial Treasurer.

6. The Lieutenant Governor in Council is hereby authorised and required to advance Provincial Debentures in the form specified in Schedule No. 1. payable in like manner, by way of loan to the said European and North American Railway Company, such loan being payable in twenty years, with interest thereon payable half-yearly, and to an amount, which, with the Provincial subscriptions for stock, shall not in the aggregate exceed three thousand pounds sterling per mile of the principal line of Railway, and of its said several branches and extensions; such loan to be from time to time advanced as the construction of the principal railway and of such branches and extensions shall progress, and under such restrictions as the Lieutenant Governor in Council may from time to time impose for the protection of the public interest, and to secure the proper application of the said loan ; and such loan and the interest accruing thereon, is to attach, and stand, and is hereby declared to be, a primary mortgage, or first charge, in favour of this Province, upon the principal railway, its branches and extensions, stations, station houses, rolling stock, and property of every description, and shall attach immediately on the advance of each portion of such loan, upon all property owned by the said Company, and whether the said principal railway, its branches and extensions, shall be in course of construction, or fully completed, any law, usage or custom to the contrary notwithstanding: and in order to ascertain and fix the amounts from time to time advanced to the said Company, the President and Treasurer of the same shall deliver to the Provincial Treasurer, on the receipt of each portion of the loan, a certificate under the seal of

the Company, stating its amount in the Form No. 2 in the Appendix to this Act; which receipt shall be sufficient evidence of such primary mortgage, or first charge, under this Act.

7. Subject to the payment of any previously existing Provincial liability, and of the Civil List, the faith and credit of this Province, and the ordinary revenues thereof, and the amount or proceeds of any special impost which may hereafter be levied and collected for the purpose of paying off all such Railway Debentures, and the interest thereon, shall be, and hereby are declared, pledged to any and every holder of the same for payment of interest as it becomes due, and for payment in full of the said Debentures when the principal of the same becomes due and payable.

8. The Lieutenant Governor in Council is hereby authorised from time to time to appoint during pleasure, some fit and proper person of eminent standing in his profession, as consulting Engineer on behalf of this Province, whose duty it shall be to watch over the interests of the Province, in the construction of the principal Railway herein before described, and its branches and extensions.

9. This Act shall not come into force until Her Majesty's Royal approbation thereof shall be first had and declared.

[L.S.]

SCHEDULE No. 1.

Province of New Brunswick.

No. _____

£ _____ Sterling Debenture.

£ _____ Sterling transferable.

Under the authority of the Legislature of New Brunswick.

The Government of New Brunswick promises to pay, in London, to the Bearer, the sum of _____ Pounds Sterling, twenty years from and after the _____ day of _____; likewise the Interest from the same date, at the rate of Six per cent, per annum, to be paid half-yearly, on the presentation of the proper Coupons for the same, as hereunto annexed, on the day of _____ and the day of _____ in each year, at _____ in London.

In testimony whereof, I, the Lieutenant Governor, by virtue of the authority vested in me in and by an Act of the General Assembly of the Province of New Brunswick, passed the _____ day of _____ 18____, intituled *An Act to repeal certain Acts of Assembly for facilitating the construction of the European and North American Railway, and to make other provisions for the construction of the same, with branches and extensions*, have hereunto set my Hand, and affixed my Seal of Office, at Fredericton, in the said Province, and the Provincial Treasurer has countersigned the same this _____ day of _____ A. D. 18____.

A. B., Lieut. Governor.

C. D., P. Treasurer.

Form of Coupon.

Province of New Brunswick. Debenture No. _____ £ _____ Sterling.

Pounds Sterling payable at the Office of _____, London, being Six months Interest on the above Debenture, due _____ day of _____.

A. B., Lieut.. Governor.

C. D., P. Treasurer.

Schedule No. 2.

The European and North American Railway Company hereby acknowledge to have this day received from _____ Treasurer of the Province of New Brunswick, the sum of pounds sterling, by way of loan from the said Province in Debentures, No. _____ to No. _____ inclusive, under and by virtue of the provisions of an Act of Assembly made and passed in the sixteenth year of Her Majesty's Reign, intituled *An Act to repeal certain Acts of Assembly for facilitating the construction of the European and North American Railway, and to make other provisions for the construction of the same, with branches and extensions.*

This certificate is granted under the directions of the said Act, and in conformity thereto the Seal of the said European and North American Railway Company is hereunto affixed, and the President and Treasurer of the said Company have hereunto placed their signatures, this _____ day of _____ in the year of our Lord

[L. S.]

E. F., President.

G. H., Treasurer.

[This Act was specially confirmed, ratified, and finally enacted, by an Order of Her Majesty in Council, dated the 28th day of December 1852, and published and declared in the Province the 26th January 1853.]