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28 Victoria – Chapter 40

An Act to incorporate certain persons holders of Property in the Lower District of Saint Stephen, for the purposes therein mentioned. Passed 8th June, 1865.

Section.

1. Company incorporated; District described.
2. Lands &c. within District liable for Debentures.
3. Public meeting, how called and for what purpose.

Section.

4. First meeting of Company, how and when called; what to be done at first meeting; proviso.
5. Duty of President.
6. Debentures, how to be applied and how redeemed.
7. Act to be published in Saint Stephen.

Whereas certain persons holding real estate in the Lower District of the Parish of Saint Stephen, in the County of Charlotte, have made known by Petition that they are desirous of being incorporated, and that certain lands held by them, and comprehended within certain limits in the said Parish, should be declared by law to be affected by and liable unto the payment of certain Debentures to be issued by the Saint Stephen Branch Railroad Company, for the sole purpose nevertheless of being in the nature of a guarantee in aid of the said Saint Stephen Branch Railroad Company, on such terms, notwithstanding, as may be required and directed by the Act of Incorporation;—

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

1. That Zachariah Chipman, Nehemiah Marks, Robert Watson, Freeman H. Todd, Hugh Cullenan, Augustus H. Thompson, William T. Rose, and James G. Stevens, owners of real estate, and such other persons as now are or shall from time to time become proprietors of lands situated in the said Parish of Saint Stephen, in the County of Charlotte, in the lower district thereof, comprising that portion of the said Parish within the limits following, that is to say:—Southerly by the River Saint Croix, at low water mark; easterly by Porter's mill stream, so called; northerly by a line parallel with the Saint Croix River at low water mark, one mile or eighty chains of four poles each distant from the said River at low water mark; and westerly by a line commencing at Hitching's corner, so called, and running southerly to the said River and northerly towards Scotch Ridge, so called, be and the same are declared, ordained, constituted and appointed to be a body corporate and politic by the name of the "Lower District of Saint Stephen," and by that name shall have all the powers and be liable to all the incidents of a corporation for such purposes only as are above recited and hereinafter expressed, and for none other, and subject to the provisions of this Act.

2. The said real estate, and all the lands, tenements and hereditaments comprehended within the aforesaid abuttals and boundaries, that is to say, southerly by the river Saint Croix at low water mark, easterly by Porter's mill stream, so called, northerly by a line parallel with the said Saint Croix River at low water mark, one mile or eighty chains of four poles each distant from the said River at low water mark, and westerly by a line commencing at Hitching's corner, so called, and running southerly to the said River, and northerly towards Scotch Ridge, so called, are hereby declared to be liable and subject to the payment of all Debentures to be issued by the said Saint Stephen Branch Railroad Company, and endorsed by the President of the Corporation hereby erected under and by virtue of this Act, together with the interest thereon, for the purposes of this Act and for none other, subject nevertheless to the several provisions, limitations and restrictions hereinafter expressed and contained.

3. Any two of Her Majesty's Justices of the Peace of the said County of Charlotte, and resident in the said Parish of Saint Stephen, within six calendar months from the day of the passing of this Act, by public notice in one or more of the newspapers printed and published in the Town of Saint Stephen, and also by printed handbills to be by them posted up in three or more of the most public places within the hereinbefore described district, shall make known to the public that they call together and will hold a public meeting of all persons interested in the real estate, lands, tenements and hereditaments situate within the said described district, at a time and place to be in such notice specified, and which time shall not be less than six days from the time of posting up and publishing such notices; and on the day, hour and place in such notices mentioned, the said two Justices shall hold such meeting, and shall preside at the same, and from notices in writing to be furnished to them then and there by parties present and having interest in the real estate, lands, tenements and hereditaments situate within the said described district, they shall then and there make a list containing the names of the parties so interested and present, with columns thereon on which to enter opposite such names "yea" or "nay," as the vote may be; and not before four of the clock in the afternoon of the same day, shall then and there openly and publicly put the question to the parties present whose names shall have been entered in the said lists, whether this Act shall be adopted by them, and shall take the votes of the parties present whose names are so entered on the said list, and none others; and if it shall appear to the said two Justices, that the parties present and voting in the affirmative represent two thirds in value of the real estate in the said described district represented at such meeting, to be estimated by the Parochial assessment last made, then the said two Justices shall forthwith certify the same to the Lieutenant Governor in Council, and His Excellency the Lieutenant Governor in Council shall thereupon announce the same by Proclamation in the Royal Gazette, whereupon this Act shall be ipso facto in full operation, force, and effect; but if on counting the votes aforesaid, and referring to the said Parochial assessment, the said Justices should find that the persons voting in favour of the adoption of this Act, do not represent two thirds of the value of the said real estate, lands, tenements and hereditaments so represented by persons present at such meeting, they the said Justices shall also certify the same unto His Excellency the Lieutenant Governor in Council, whereupon this Act and every thing herein contained shall be and become utterly null and void, any thing in this Act contained to the contrary thereof notwithstanding; and in ease of any dispute as to the qualification of any person to be entered by name on the said list, the said Justices shall

and may decide the same on the oath of the parties, or any other evidence, which oath the said Justices are hereby authorized to administer.

4. When by virtue of the certificate and proclamation in the third Section of this Act mentioned, the same shall be and become in full force and effect, the first meeting of the said Corporation shall be called by public notice by any one of the persons named in the first Section of this Act; such public notice shall set forth the time and place of such meeting; and the persons who shall attend such meeting, and who shall be proprietors of real estate, or having a legal or equitable interest in real estate within the district hereinbefore described, shall choose a President and Directors and such other officers as they may deem meet, and may make and ordain such rules, regulations and bye laws for the management of the affairs of the said Corporation hereby created under the authority of this Act, as to them shall seem meet; and at any meeting or meetings to be from time to time holden by the President and Directors aforesaid, under the authority of any bye law or regulation of the said Corporation hereby created, concerning the endorsation and guaranteeing of such Debentures as shall have been made by the said Saint Stephen Branch Railroad Company, bearing interest not exceeding six per centum per annum, payable half yearly with Coupons, the principal money to be redeemable in twenty years, and not to exceed in the whole the sum of one hundred thousand dollars, in such form and of such denomination as the said Saint Stephen Branch Railroad Company shall adopt under the authority of law, it shall and may be lawful for the said President to endorse the said Debenture or Debentures, Coupon or Coupons, with the name of the said President, and verified by the seal of the Corporation hereby created, and to deliver the same to the President of the said Saint Stephen Branch Railroad Company, to be thenceforth a debt due by the Corporation hereby created as is hereinafter set forth; provided always, that no such Debentures shall be issued or sold until it shall be made satisfactorily to appear to the Governor in Council that the stockholders of the said Saint Stephen Branch Railroad Company have *bona fide* paid in the sum of fifty thousand dollars of the subscribed stock of the Company, and have expended the same in actual work on the road.

5. It shall be the duty of the President of the Corporation hereby created, and he is hereby required as soon as may be after the act of endorsation and affixing of the corporate seal to any number of Debentures or Coupons under the authority of this Act, to file in the office of the Registrar of Deeds and Wills for the said County of Charlotte, a schedule shewing the numbers, denominations and dates of the Debentures so endorsed; and the said Debentures, with the lawful interest thereon, shall thereupon be and become an incumbrance in law affecting all the lands, tenements and hereditaments within the said described district.

6. Whenever any Debenture or Debentures shall be so endorsed under the authority of this Act, the same shall be used and applied by the said Saint Stephen Branch Railroad Company, for the use of the said Company, and for no other use or purpose whatsoever; and the said Saint Stephen Branch Railroad Company shall be and they are hereby declared to be, under the provisions and conditions of this Act, entitled to ask, demand and receive from the Corporation hereby created, such endorsement of Debenture or Debentures, and Coupons, and to such amount from time to time as the said Saint Stephen Branch Railroad Company may desire, not exceeding in the whole the said sum of one hundred thousand dollars, subject nevertheless to the repayment of the same

to the Corporation hereby created, when the same shall become due and payable as hereinafter mentioned, and to the payment of the interest thereon semi-annually, in manner following, that is to say—The said Saint Stephen Branch Railroad Company shall be held primarily liable to the holder of any such Debenture or Debentures for the payment of the principal and interest due thereon, and the liability of the Corporation hereby created shall be contingent only on every or any refusal, default or delinquency of the said Saint Stephen Branch Railroad Company; and whenever it shall happen that the said Corporation hereby created, by reason of any refusal, default, neglect or delinquency of the said Saint Stephen Branch Railroad Company, shall pay or be required to pay, or be held liable to pay to the holder of any Debenture or Debentures so endorsed as aforesaid, any sum or sums of money due for interest or principal on any such Debenture or Debentures, by virtue of such endorsement, it shall and may be lawful for the Corporation hereby created to recover the same from the said Saint Stephen Branch Railroad Company, in a summary manner, by Warrant of Distress, to be obtained on the Fiat of any Judge of Her Majesty's Supreme Court of Judicature of this Province, to be issued according to the form in the Schedule to this Act, on an *ex parte* affidavit of the President of the Corporation hereby created, to be sworn before any Commissioner for taking Affidavits to be read in the Supreme Court, setting forth the date, number and denomination of the Debenture or Debentures in question, the name of the holder thereof, the sum due for interest or principal, or both, as the case may be, the neglect or refusal of the said Saint Stephen Branch Railroad Company to liquidate the same, and the demand made upon, or the payment of the same by the said Corporation hereby created, upon which it shall be the duty of any Judge of the said Supreme Court and he is hereby required to grant his Fiat aforesaid.

7. This Act shall be published for two successive weeks in some newspaper printed in the Town of Saint Stephen before the time appointed for holding the meeting mentioned in the third Section of this Act.

Schedule.

To the Sheriff of the County of Charlotte.

By A. B., Chief Justice, or by C. D., one of the Justices of Her Majesty's Supreme Court of Judicature for the Province of New Brunswick.

Whereas it having been made known to me by the Affidavit of E. F., President of the Corporation called the "Lower District of Saint Stephen," that on the _____ day of _____ 186_____, a certain Debenture (or certain Debentures) being numbered _____ and of the denomination of _____ was (or were) duly issued by the "Saint Stephen Branch Railroad Company," payable with interest, and that the same was (or were) duly endorsed by the said "Lower District of Saint Stephen" according to law, and that _____ appears to be the holder of the same, and that demand of the payment of the same (or of the interest thereon) amounting to the sum of _____ has been made on the said Corporation of the "Lower District of Saint Stephen," in consequence of the neglect or refusal of the "Saint Stephen Branch Railroad Company" aforesaid to pay the same;

I therefore command you the said Sheriff, that of the goods and chattels, lands and tenements, of the said "Saint Stephen Branch Railroad Company," you cause to be made the sum of _____ together with the sum of ten dollars, the costs of the said Affidavit and of this Warrant, together with your own fees for levying, collecting and paying over the said amount: and that when so collected you will forthwith pay over the proceeds to the said "Lower District of Saint Stephen Corporation," and that you will make return of this Warrant to me, with your doings thereon, with all convenient speed after you shall have done as is herein commanded. In witness whereof, I have hereunto set my hand and seal at _____ this _____ day of _____ A. D. 186 _____.