

*Laws of Her Majesty's Province of United Canada*, passed in the year 1851. York: Stewart Derbyshire and George Desbarts, 1851.

14 & 15 Victoria – Chapter 143

**An Act to incorporate *The Montreal and Kingston Rail-way Company*. 30th August, 1851.**

Whereas the construction of a Rail-way connecting the extremities of the Province must conduce greatly to the interest and welfare of its inhabitants: And whereas John Young, the Honorable George Moffatt, the Honorable A. N. Morin, L. H. Holton, A. T. Galt, George E. Cartier, M.P.P., and Ira Gould, have prayed to be incorporated, with the powers requisite for making and maintaining a portion of such Rail-way: Now therefore be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That John Young, the Honorable A. N. Morin, the Honorable George Moffatt, L. H. Holton, A. T. Galt, George E. Cartier, M. P. P., and Ira Gould, together with such person or persons as shall, under the provisions of this Act, become subscribers to, and proprietors of, any share or shares in the Rail-way hereby authorized to be made, and their several and respective heirs, executors, administrators, curators and assigns, being proprietors of any share or shares in the said Rail-way, are and shall be a Company for constructing and maintaining the said Rail-way, according to the rules, orders and directions hereinafter expressed, and shall for that purpose be one Body Politic and Corporate by the style and title of, "The Montreal and Kingston Rail-way Company;" and the said Company shall be and are hereby authorized and empowered from and after the passing of this Act, by themselves, their deputies, agents, officers, workmen and servants, to make and complete a Rail-way to be called "The Montreal and Kingston Rail-way," from the City of Montreal, by such line as may be found most advantageous, to the City of Kingston, or such other point on or near the River St. Lawrence or Lake Ontario in the vicinity of Kingston, as shall seem most suitable to the purposes of the said Company.

II. And be it enacted, That the Governor shall, with all convenient speed, cause to be ascertained by actual survey the shortest and most direct line between Montreal and Kingston, having due regard to the best Grades and the interests of the Province; and that the said Company shall construct the said Rail-way on the line selected by the Governor after such survey.

III. And be it enacted, That if the line so selected be such as, in the opinion of the Governor, to require that the Company hereby incorporated should purchase, and the Montreal and Lachine Rail-road Company shall be willing to sell to them, the Railroad and property, rights, privileges and advantages of the said last mentioned Company, but the said two Companies shall not be able to agree upon the price to be paid for the same, such price shall be established by the award of Arbitrators, one of whom shall be named by each of the said Companies, and the third by the Governor, and the decision of the said Arbitrators or any two of them, the third being present,

duly notified to attend, shall be final and conclusive, and binding on both Companies; and on payment, by the Company hereby incorporated, to the said Montreal and Lachine Rail-road Company, of the sum ascertained by such award, the Rail-road and property, rights, privileges and advantages of the said last named Company shall be transferred to and vested in the Company hereby incorporated: Provided always, that in estimating the price to be paid as aforesaid, the said Arbitrators shall be guided by the consideration of the actual value of the said Rail-road and property, rights, privileges and advantages of the Company hereby incorporated at the time when the said arbitration shall take place; and if at that time, the actual or prescribed Gauge of the Rail-way of the said Company shall be different from that of the Rail-road of the said Montreal and Lachine Rail-road Company, the value of the locomotive engines, cars, tenders and other equipments of the said Rail-road not adapted for use on a Rail-road of a different Gauge, shall not be taken into account by the said Arbitrators; nor shall the property or possession thereof be transferred by or under the said award, or otherwise, without the full and free consent of both companies.

IV. And be it enacted, That the several clauses of "The Rail-way Clauses Consolidation Act," to be passed during the present Session, with respect to the first, second, third and fourth clauses thereof, and also the several clauses of the said Act with respect to the "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "Directors — their Election and Duties," "Shares and their Transfer," "Municipalities," "Shareholders," "Actions for indemnity, and fines and penalties, and their prosecution," "Working of the Rail-way," and "General Provisions," shall be incorporated in this Act.

V. And be it enacted, That the Gauge of the said Rail-way shall not be broader or narrower than five feet six inches.

VI. And to the end that the said Company may be enabled to carry on so useful an undertaking, Be it enacted, That it shall and may be lawful for the said Company and their successors, to raise and contribute among themselves, in such proportions as to them shall seem meet and convenient, a competent sum of money for the making and completing the said Rail-way, and all such other works, matters and conveniences as may be found necessary for making, effecting, preserving, improving, completing, maintaining and using the said Rail-way and other works: Provided always, that the before mentioned John Young, the Honorable A. N. Morin, the Honorable Geo. Moffatt, G. E. Cartier, M. P. P., L. H. Holton, Ira Gould and A. T. Galt, or a majority of them, shall cause Books of Subscription to be opened in the Cities of Montreal and Kingston, and elsewhere, as they may from time to time appoint, until the first Meeting of Shareholders hereinafter provided for, for receiving the signatures of persons willing to become subscribers to the said undertaking, and for this purpose they shall be held and bound to give public notice in the Canada Gazette, and such other newspaper or newspapers as they or a majority of them shall think proper, of the time and place at which such Books will be opened and ready for receiving signatures as aforesaid, and of the persons by them authorized to receive such subscriptions, and every person who shall write his or her signature in such Book as a subscriber to the said undertaking, shall thereby become a Member of the said Company, and shall have the same rights

and privileges as such, as are hereby conferred on the several persons who are herein mentioned by name as Members of the said Company.

VII. And be it enacted, That the sum so to be raised or subscribed shall constitute the Capital Stock of the said Company, and shall not exceed in the whole the sum of Six Hundred Thousand Pounds currency, and the money so to be raised is hereby directed and appointed to be laid out and applied, in the first place, for and towards the payment, discharge and satisfaction of all fees and disbursements for obtaining and passing this Act, and for making the surveys, plans and estimates incident thereunto, and all the rest, residue and remainder of such money, for and towards making, completing and maintaining the said Rail-way, and other the purposes of this Act, and to no other use, intent or purpose whatever.

VIII. And be it enacted, That the said sum of Six Hundred Thousand Pounds shall be divided and distinguished into twenty-four thousand equal parts or shares, not exceeding Twenty-five Pounds each, and that such shares shall be deemed personal estate, and shall be transferred as such, and that the said twenty-four thousand shares shall be and are hereby vested in the said several subscribers, and their several respective heirs, executors, curators, administrators and assigns, to their and every of their purpose, use and behoof, proportionally to the sum they and each of them shall severally subscribe and pay thereunto; and all and every the bodies politic, corporate or collegiate, or communities, and all and every person or persons, their several and respective successors, executors, curators, administrators and assigns, who shall severally subscribe and pay the sum of Twenty-five Pounds, or such sum or sums as shall be demanded in lieu thereof, towards carrying on and completing the said intended Rail-way, shall be entitled to and receive, after the said Rail-way shall be completed, the entire and net distribution of the profits and advantages that shall and may arise and accrue by virtue of the sum and sums of money to be raised, recovered or received by the authority of this Act, in proportion to the number of shares so held, and every body politic, corporate or collegiate, or community, person or persons, having such property of one twenty-four thousandth part or share in the said undertaking, and so in proportion as aforesaid, shall bear and pay an adequate and proportional sum of money towards carrying on the said undertaking in manner by this Act directed and appointed.

IX. And be it enacted, That in case the said sum of Six Hundred Thousand Pounds, hereinbefore authorized to be raised, shall be found insufficient for the purposes of this Act, then and in such case it shall be lawful for the said Company to raise and contribute amongst themselves, in manner and form aforesaid, and in such shares and proportions as to them shall seem meet, or by the admission of new subscribers, a further or other sum of money for completing and perfecting the said intended Rail-way, and its branches and other works or conveniences incidental or relative thereto, not exceeding the sum of Four Hundred Thousand Pounds currency aforesaid; and every subscriber towards raising such further or other sum of money, shall be a Shareholder in the said undertaking, and have a like vote by himself, or herself, or his or her proxy, in respect of every share in the said additional sum so to be raised, and shall also be liable to such obligations, and stand interested in all the profits and powers of the said undertaking, in proportion to the sum he, she or they shall or may subscribe thereto, as generally and extensively as if such other or

further sum had been originally raised, and a part of the said first sum of Six Hundred Thousand Pounds; any thing herein contained to the contrary notwithstanding.

X. And be it enacted, That it shall be lawful for the Directors of the said "Montreal and Kingston Rail-way Company," or a majority of a *quorum* of them, to enter into and make any arrangement with the Directors of any other Rail-way Company now or hereafter to be chartered in any portion of the country between Montreal and Toronto, and more particularly with the Directors of the Montreal and Lachine Rail-road Company, for the union, junction, amalgamation or purchase of any Rail-way now or hereafter to be constructed, and wholly or partially completed. And in case of the amalgamation or purchase of such Rail-way, the same shall become, to all intents and purposes, a portion of the said "Montreal and Kingston Rail-way Company," and the Capital Stock of the said Montreal and Kingston Rail-way Company, if the said Company think fit to increase the same, shall be thereupon increased to the extent of the Capital Stock of the road so purchased, independently of all other increase of the same authorized by this Act.

XI. And be it enacted, That the number of votes to which each Shareholder in the said undertaking shall be entitled on every occasion when, in conformity to the provisions of this Act, the votes of the Members of the said Company are to be given, shall be in proportion to the number of shares held by him: Provided always, that no one Shareholder as aforesaid shall have more than three hundred votes.

XII. And be it enacted, That the first General Meeting of the Shareholders for putting this Act in execution, may be held at the Court House, in the City of Montreal, whenever one thousand shares in the said undertaking shall have been subscribed, provided that public notice thereof be given during one week in the Canada Gazette, and in any other paper published in Montreal, and in some paper published at Kingston aforesaid; and at such said first General Meeting the Shareholders assembled, together with such proxies as shall be present, shall choose nine persons, being each a Shareholder of twenty or more shares in the said undertaking, out of whom any five or more of them shall be a Committee for managing the affairs of the said Company, until the due appointment of Directors as hereinafter provided, and such Committee shall have the same powers and authorities as are by law conferred on the said Directors, and shall be subject to the same restrictions and control.

XIII. And be it enacted, That the said Committee, or any five of them, shall call a General Meeting of the Shareholders for the purpose of putting this Act into effect, to be held in the City of Montreal, within one month after one fourth of the Capital Stock authorized to be raised under this Act shall have been subscribed, fifteen, days' public notice thereof being given in the Canada Gazette, and in not less than one other newspaper published in each of the Cities of Montreal and Kingston, at which said General Meeting the Shareholders assembled with such proxies as shall be present, shall choose nine persons, being each a Shareholder of not less than twenty shares in the said undertaking, to be Directors of the said Company, in such manner as is hereinafter directed.

XIV. And be it enacted, That in the month of February in each year, an Annual General Meeting of the said Company shall be held to choose Directors in the room of those whose office may at that

time become vacant, and generally to transact the business of the Company; but if at any time it shall appear to any eleven or more of such Shareholders, holding together two thousand shares at least, that for more effectually putting this Act in execution, a Special Meeting of Shareholders is necessary to be held, it shall be lawful for such eleven or more of them to cause fifteen days' notice, at least, to be given thereof in the Canada Gazette, and in any other newspaper in each of the Cities of Montreal and Kingston, or in such manner as the Shareholders or their successors shall, at any General Meeting, direct or appoint, specifying in such notice the time and place, and the reason and intention of such Special Meeting respectively; and the Shareholders are hereby authorized to meet pursuant to such notices, and proceed to the execution of the powers by this Act given them, with respect to the matters so specified only; and all such acts of the Shareholders, or the majority of them, at such Special Meetings assembled, such majority not having either as principals or proxies less than two thousand shares, shall be as valid to all intents and purposes as if the same were done at General Meetings: Provided always, that it shall and may be lawful for the said Company, at such Special Meetings, in case of the death, absence, resignation or removal of any person named of the Committee to manage the affairs of the said Company in manner aforesaid, to choose and appoint another or others, in the room or stead of those of such Committee who may die, or be absent, resign or be removed as aforesaid; any thing in this Act to the contrary notwithstanding.

XV. And be it enacted, That at the said Annual Meeting, three of the said nine Directors shall annually retire in rotation, the retirement of the said first elected nine Directors being decided by lot, but the Directors then or at any subsequent time retiring shall be eligible for re-election: Provided always, that no such retirement shall have effect except the Shareholders at such General Meeting proceed to fill up the vacancies thus occurring in the direction.

XVI. And be it enacted, That any Meeting of the said Directors, at which not less than five Directors shall be present, shall be competent to do and perform all and any of the powers hereby vested in the said Directors of the said Company.

XVII. And be it enacted, That the Stock Qualification of Shareholders to be Directors of the said Company, shall be Twenty Shares, of Twenty-five Pounds currency each, of the Capital Stock.

XVIII. And be it enacted, That every such Annual General Meeting shall have power to appoint not exceeding three Auditors, to audit all accounts of money laid out and disbursed on account of the said undertaking, by the Treasurer, Receiver and Receivers, and other Officer and Officers to be by the said Directors appointed, or by any other person or persons whatsoever, employed by or concerned for or under them, in and about the said undertaking, and to that purpose shall have power to adjourn themselves over from time to time, and from place to place, as shall be thought convenient by them.

XIX. And be it enacted, That no call of money from the Shareholders shall exceed the sum of Two Pounds Ten Shillings per share of Twenty-five Pounds.

XX. And be it enacted, That in all actions or suits at Law, by or against the Company, instituted in Lower Canada, recourse shall be had to the Rules of Evidence laid down by the Laws of England, as recognized by the Courts in Lower Canada in Commercial Cases, and no Shareholder shall be deemed an incompetent witness, either for or against the Company, unless he be incompetent otherwise than as a Shareholder.

XXI. And be it enacted, That if any Writ of *Saisie-Arrêt* or Attachment shall be served upon the said Company, it shall be lawful for the Secretary or Treasurer in any such case to appear in obedience to the said Writ, to make the Declaration in such case by Law required according to the exigency of each case, which said Declaration, or the Declaration of the President, shall be taken and received in all Courts of Justice in Lower Canada, as the Declaration of the Company; and in causes where Interrogatories *sur faits et articles*, or *serment décisoire*, may have been or may hereafter be served upon the Company, the Directors shall have the power, by a Vote or Resolution entered among the Minutes of the proceedings of any meeting, to authorize the President or Treasurer to appear in any cause to answer such Interrogatories; and the answers of the President or Treasurer, so authorized, shall be held and taken to be the answers of the Company to all intents and purposes, as if all the formalities, by law required, had been complied with; and the production of a copy of such Resolution, certified by the Secretary, with the said answers, shall be sufficient evidence of such authorization.

XXII. And be it enacted, That it shall and may be lawful for the Company to take and appropriate for the use of the Rail-way so much of the land covered with the waters of the Rivers Ottawa or Saint Lawrence, or of any other river, stream or canal, or of their respective beds, as may be found necessary for the making and completing, or more conveniently using the same, and thereon to erect such wharves, quays, inclined planes, cranes and other works as to the Company shall seem meet: Provided always, that it shall not be lawful for the said Company to cause any obstruction in or to impede the free navigation of the River Saint Lawrence or of the River Ottawa, or of any other river, stream or canal to or across which their Rail-way shall be carried; and if the said Rail-way shall be carried across any navigable river or canal, the said Company shall leave such openings between the piers of their bridge or viaduct over the same, and shall construct such draw-bridge or swing-bridge over the channel of the river or canal, and shall be subject to such regulations with regard to the opening of such draw-bridge or swing-bridge for the passage of vessels and rafts, as the Governor in Council shall direct and make from time to time; nor shall it be lawful for the said Company to construct any wharf, bridge, pier, or other work upon the public beach or bed of any navigable river or stream, or upon the land covered with the waters thereof, until they shall have submitted the plan of such work to the Governor in Council, nor until the same shall have been approved by him in Council as aforesaid.

XXIII. And be it enacted, That by any regulations to be made by the Governor in Council touching any such draw-bridge or swing-bridge as aforesaid, penalties not exceeding Ten Founds, in any case, may be imposed for the contravention thereof, and such penalties shall be recoverable from the said Company or from any of their Officers or Servants by whom the regulations shall have been contravened.

XXIV. And be it enacted, That the said Company shall have power to become parties to Promissory Notes and Bills of Exchange for sums not less than Twenty-five Pounds, and any such Promissory Note made or endorsed, and any such Bill of Exchange drawn, accepted or endorsed by the President or Vice-President of the Company, and countersigned by the Secretary and Treasurer, and under the authority of a majority of a *quorum* of the Directors, is and shall be binding upon the Company; and every such Promissory Note or Bill of Exchange made, drawn, accepted or endorsed by the President or Vice-President of the said Company, and countersigned by the Secretary and Treasurer as such, either before or after the passing of this Act, shall be presumed to have been properly made, drawn, accepted, or endorsed, as the case may be, for the Company, until the contrary be shewn; and in no case shall it be necessary to have the Seal of the Company affixed to any such Bill of Exchange or Promissory Note, nor shall the President, Vice-President, or the Secretary and Treasurer of the Company so making, drawing, accepting, or endorsing any such Promissory Note or Bill of Exchange, be thereby subjected individually to any liability whatever; Provided always, that nothing in this clause shall be construed to authorize the said Company to issue any Note payable to Bearer, or any Promissory Note intended to be circulated as money, or as the Notes of a Bank.

XXV. And be it enacted, That if at any time the Mayor, Aldermen and Citizens of the City of Montreal, or the Municipality of the City of Kingston, or the Ecclesiastics of the Seminary of Saint Sulpice of Montreal, or any other Corporate Body, Civil or Ecclesiastical, or any Municipality in this Province, shall be desirous of subscribing for Shares of the Capital Stock of the said Company, or of otherwise promoting the speedy completion of the said Rail-way, by loans of money or securities for money at interest or *à constitution de rente*, it shall be lawful for them respectively so to do in like manner, and with the same rights and privileges in respect thereof as private individuals may do under or in virtue of this Act, any thing in any Ordinance or Act or Instrument of Incorporation of any such body, or in any law or usage to the contrary notwithstanding: Provided always that should the said Company require to purchase from the Ecclesiastics of the Seminary of Saint Sulpice of Montreal, any land either on the Lachine Canal, River Saint Lawrence, or in any other place, for the purposes of the Rail-way, it shall be lawful for the said Ecclesiastics to sell and convey the same to the Company, without advertising and offering the said lands at public sale, or without any other formality of sale than is herein provided by this Act.

XXVI. And be it enacted, That the Provincial Government may, at any time after the commencement of the said Rail-way, assume the possession and property thereof, and of all the property which the said Company is empowered to hold and shall then have, and of all the rights, privileges and advantages vested in the said Company; all of which shall, after such assumption, be vested in Her Majesty, on the said Government giving to the Company six months' notice of the intention to assume the same.

XXVII. And be it enacted, That the Government shall, within six months after the Company shall render an account in writing of the amount of money expended by the said Company, and all their then ascertained liabilities, up to the time of such assumption, pay to the Company the whole amount of the money so expended, and of the liabilities so ascertained, together with interest at the rate of six per cent, and ten per cent additional thereon, after deducting the amount of any

dividends before then declared; and the said Government shall also from time to time pay and discharge all liabilities of the Company, not ascertained at the time of such assumption, as the same shall be established against the said Company: Provided always, that in case of difference between the Government and the Company, as to the amounts so to be paid by the Government, such difference shall be referred to two Arbitrators, one to be named by the Government, the other by the Company, and in case of disagreement, such difference shall be referred to an Umpire, to be chosen by the said Arbitrators before entering into the consideration of the said difference; and that the said Award so made by the Arbitrators or the Umpire shall be final: And provided also, that in case of refusal by the Company to appoint an Arbitrator on their behalf, the same shall be appointed by any two of the Judges of the Superior Court for the District of Montreal, on application of the Government.

XXVIII. And be it enacted, That this Act shall be in force so to enable the said Company to enter upon, lands, to make all necessary surveys for the construction of the said Rail-way, from the time that the same shall receive the Royal Assent, but not for any other purpose, until the Governor shall issue a Proclamation declaring it to be in force.