

Laws of Her Majesty's Province of United Canada, passed in the year 1852. Quebec: Stewart Derbishire and George Desbarts, 1852.

16 Victoria – Chapter 246

An Act to amend the Act incorporating The Industry Village and Rawdon Railroad Company. Assented to 14th June, 1853.

Whereas it is expedient to amend and extend the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to incorporate a Company for making a Railroad from the Village of Industry to the Township of Rawdon, in Lower Canada*: Be it therefore 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, in the borrowing of moneys by way of loan, and in creating mortgages or hypothèques for securing the same, the Debentures of the said Company shall and may be in the form contained in the Schedule A, annexed to this Act, or in any other convenient form similar thereto, and need not be before Notaries; and the registration at full length of a Debenture, (without the interest *coupons* thereto attached) in the said form in the Registry Office for the County of Leinster, shall perfect the mortgage and hypothecate created by such Debenture as regards all parties whomsoever, and the Debenture and Mortgage and Hypothèque thereby created shall be to all intents and purposes binding upon the said Company in favor of the holder of the Debenture, and have the effect of mortgaging and charging all the lands and property of the said Company without any other more formal or particular description, but the description in the said Schedule A shall be held to comprehend all the lands and tenements of the said Company, all wharves and buildings of every nature thereon, and in short all the immoveable estate belonging to the said Company, including the rails and iron thereto affixed; any law or usage to the contrary notwithstanding: Provided always, that no Debenture of the said Company shall be for a less sum than One Hundred Pounds currency.

II. And be it enacted, That if after the registration in the said County Registry Office of a Debenture of the said Company creating a mortgage or hypothèque, such Debenture shall be presented at the said Registry Office with the word cancelled, and the signature of the President, or other duly authorized Director of the said Company, or of the Secretary and Treasurer of the said Company, written across its face, the Registrar or his Deputy, on receiving the fee of One Shilling therefor, and on proof of the cancellation by the oath of one credible witness, (which oath the Registrar or his Deputy is hereby authorized to administer) shall forthwith make an entry in the margin of the Register against the registry of such Debenture, to the effect that the same has been cancelled, adding to such entry the date thereof and his signature, and thereupon the cancelled Debenture shall be filed and remain of record in the said Registry Office.

III. And be it enacted, That all Debentures bearing mortgage by this Act authorized to be issued, shall, notwithstanding the issue and registration thereof at different periods, all rank concurrently and by equal privilege on the Real Estate of the said Company, as much to all intents and purposes whatsoever, as if all such Bonds and Mortgages were issued and registered at the same time, the registration thereof being only requisite in so far as the rights of the holders thereof against third parties are concerned, it being the true intent and meaning of this Act that each and every holder of a Debenture, to be issued under its authority, shall rank and have equal precedence the one with the other on the Real Estate of the said Company, irrespective of the time when any such Debentures may have been issued or registered.

IV. And to enable the said Company to carry into effect the provisions of this Act, Be it enacted, That it shall be competent for the Directors thereof, to pass such resolutions not inconsistent with this Act, either with respect to depositing Debentures for the purpose of being disposed of to redeem the other Debentures in this Act mentioned already issued, or of being exchanged therefor, and with regard to cancelling the whole or any part thereof, and in order to render the notices to be given by any parties conclusive on them, and in respect of the Bonds for which such notice may be given, and touching all other matters and things whereby the true intent and meaning of this Act may be the better earned in to effect.

V. And to facilitate the registration of the Debentures of the said Company creating mortgages or hypothèques and the cancellation thereof, Be it enacted, That the said Company, shall, at their own expense, deposit in the Registry Office of the Comity of Leinster, wherein such their Debentures may require to be registered, any number of their printed or engraved Blank Debentures in the form of the said Schedule annexed to this Act, without its being necessary to add the *coupons* thereto, bound together in a book, and having the pages thereof numbered and signed by the Secretary of the Company, and thereupon the Register or his Deputy shall be bound to receive and retain the same as one of The Registry Books of his Office, and to register therein the said Debentures of the Company, instead of registering them in The ordinary Registry Books of The Office; any ordinance or law to the contrary notwithstanding: and for each such registration the said Registrar shall receive One Shilling and Three Pence fee.

VI. And be it enacted, That the said Company have and shall continue to have power to become parties to Promissory Notes and Bills of Exchange; and any Promissory Note made or endorsed and any Bill of Exchange drawn, accepted or endorsed by the President of The Company or any two of the Directors for the Company, with the counter-signature of the Secretary of the Company, and under the authority of a majority of a *quorum* of the Directors, is and shall be binding upon the Company; and every Promissory Note or Bill of Exchange made, drawn, accepted or endorsed by the President, of the said Company or any two of the Directors as such, with the counter-signature of the Secretary 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 ease is it or 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 or Directors or Secretary of the Company so making, drawing, accepting or endorsing, or assisting to make, draw, accept, or endorse any such Promissory Note or Bill of Exchange, be thereby subjected individually to any liability

whatever: Provided always, that nothing in this Section 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, nor shall any Note issued or to be issued by the said Company be assignable or transferable otherwise than by endorsement in full.

VII. And be it enacted, That for and notwithstanding any thing in any Act or Law to the contrary, it shall be lawful for the said Company, in pursuance of any resolution to that effect adopted at a Special General Meeting of the Shareholders duly convened for that purpose, to subscribe for, purchase and hold shares in the stock of any other Railroad or Steamboat Company in this Province, and to pay for the same, and to pay all Calls or Instalments on the same, out of any money belonging to The said Company.

VIII. And be it enacted, That it shall and may be lawful for the said Company by their servants or workmen, to enter into and upon any land through which the said Railroad or any part of the same may pass, and to fell and remove any trees standing in any woods, lands or forests, to the distance of four rods from either side of the said Railroad, doing as little damage as may be, and making satisfaction to the owner or proprietor of, or person interested in such land, for all that he may suffer by reason of such entry or felling, or removal as aforesaid, in the manner provided by the Act cited in the Preamble to this Act.

IX. And be it enacted, That it may and shall be lawful for the said Company to cross, intersect, join and unite the said Railroad with the Railroad or Railway of any other Company, with their consent, at any point on its route, and upon the lands of such other Railway or Railroad, with the necessary conveniences for the purpose of such connection, and the owners of both Railways may unite in forming such intersection and in granting the facilities therefor; and in ease of disagreement upon the amount of compensation to be made therefor, or upon the point or manner of such crossings and connect ion, the same shall be determined by Arbitrators to be appointed as follows, that is to say: one by each Company, and a third, or umpire, by the other two before proceeding to business; and in the event of either Company refusing or neglecting to appoint an Arbitrator within twenty days after having been called upon so to do by the other, by notice in writing duly served on the President or Secretary thereof, or if the two Arbitrators cannot agree as to the appointment of a third or umpire, an Arbitrator on behalf of the Company so refusing or neglecting, or a third, or umpire as the case may require, shall be appointed by a Judge of the Superior Court in Lower Canada.

X. And be it enacted, That it shall be lawful for the said Company to enter into any agreement with any other Railway Company in this Province for leasing the said Railroad or any part thereof, or the use thereof, at any time or times to such other Company, or for leasing or hiring out to such other Company any Locomotives, Cars, Carriages, Tenders or other moveable property of the said Company, either altogether or for any time or times, occasion or occasions, or for leasing or hiring from such other Company any Railroad or part thereof, or the use thereof at any time or times, or for leasing or hiring from such other Company any Locomotives, Cars, Carriages, Tenders, or other moveable property, or for using cither the whole or any part of the said Railroad or of the moveable property of the said Company, or of the Railroad and moveable property of such other

Company in common by the two Companies, or generally to make any agreement or agreements with any such other Company touching the use by one or the other or by both Companies, of the Railroad or moveable property of either, or of both, or any part thereof, or touching any service to be rendered by the one Company to the other, and the compensation therefor; and any such agreement shall be valid and binding, and shall be enforced by all Courts of Justice in this Province according to the terms and tenor thereof.

XI. And be it enacted, That in case of the absence or illness of the President of the Company, the Vice-President shall have all the rights and powers of the President, and shall be competent to sign all notes, bills, debentures and other instruments, and to perform all acts which by the Regulations and By-laws of the Company, or by the Acts incorporating and relating to the said Company are required to be signed, performed and done by the President; and the Directors may at any meeting require the Secretary to enter such absence or illness among the proceedings of such meeting, and a certificate thereof, signed by the Secretary, shall be delivered to any person or persons requiring the same, on payment to the Treasurer of Five Shillings, and such certificate shall be taken and considered as *prima facie* evidence of such absence or illness, at and during the period in the said certificate mentioned in all proceedings for or against the said Company in Courts of Justice, or otherwise.

XII. And be it enacted, That if any person fail to pay the tolls or freight in respect of any carriage or goods conveyed on the said Railroad, it shall be lawful for the Company to detain such goods and carriage, for payment of such tolls or freight; and if the same shall not be paid within six weeks, the Company shall thereafter have power to sell such carriage or the whole or any part of such goods, and out of the money arising from such sale to retain the tolls and freight payable as aforesaid, and all charges and expenses of such detention and sale; rendering the surplus, if any, of the money arising from such sale or of such of the carriages or goods that may remain unsold, to the person entitled thereto; or it shall be lawful for the Company to recover any such tolls or freight by action at law; and if any goods shall remain in the possession of the Company unclaimed for the space of twelve months, the Company shall thereafter, and on giving public notice thereof by advertisement for six weeks in the *Canada Gazette*, and in such other papers as they may deem necessary, have power to sell such goods by public auction at a time and place to be mentioned in such advertisement, and out of the proceeds thereof to pay such tolls or freight, and all reasonable charges for storing, advertising and selling such goods, and any balance of such proceeds shall be kept by the Company for a further period of three months, to be paid over to any party entitled thereto, and in default of such balance not being claimed before the expiration of the period last aforesaid, such balance shall be paid over to the Receiver General, to be applied to the general purposes of the Province, until such time as the same shall be claimed by the party entitled thereto.

XIII. And be it enacted, That no person shall be entitled to carry or to require the Company to carry upon the said Railway any *aqua fortis*, oil of vitriol, gunpowder, lucifer matches, or any other goods which, in the judgment of the Company, may be of a dangerous nature; and if any person send by the said Railway any such goods without distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice in writing to the Book-keeper or

other servant of the Company with whom the same are left at the time of so sending the said goods, he shall forfeit to the Company the sum of Five Pounds currency, for every such offence; and it shall be lawful for the Company to refuse to take any package or parcel that they may suspect to contain goods of a dangerous nature, or to require the same to be opened to ascertain the fact.

XIV. 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.

XV. And be it enacted, That the Interpretation Act shall apply to this Act, and that this Act shall be a Public Act.

Schedule A

Referred to in this Act.

The Industry Village and Rawdon Railroad Company, Mortgage Loan.

Number _____ £ _____ Sterling (or Currency.)

This Debenture witnessed] that the Industry Village and Rawdon Railroad Company, under the authority of the Provincial Statute passed in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to incorporate a Company for making a Railroad from the Village of Industry to the Township of Rawdon, in Lower Canada*, and of the Act passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to amend the Act incorporating the Industry Village and Rawdon Railroad Company*, and the several Acts incorporating and having reference to the said Company, have received from _____ of _____ the sum of _____ currency, (or sterling) as a Loan, to bear interest from the date hereof, at the rate of _____ per centum per annum, payable half yearly, on the _____ day of _____ and on the _____ day of _____, which sum of _____ currency (or sterling) the said Company bind and oblige themselves to pay on the _____ to the said _____, or to the bearer hereof; and to pay the interest thereon half yearly as aforesaid, on the production of the coupon therefor, which now forms part of this Debenture.

And for the due payment of the said sum of money and interest, the said Company, under the power given to them by the said Statute and Acts, do hereby mortgage and hypothecate the real estate and appurtenances hereinafter described, that is to say: *The whole of the Railroad from the Township of Rawdon to the Village of Industry, including all the Lands at the two Termini of the said Road, and all the Lands of the Company within those limits, and all buildings thereon erected, and all and every the appurtenances thereto belonging.*

In testimony whereof _____, President of the said Company, hath hereto set and affixed his signature, and the Common Seal of the said Company, at the this _____ day of _____ one thousand eight hundred and _____

A. B.
President.

Countersigned and entered
C. D.
Secretary.

I certify that this Debenture was duly registered in the Registry Office for the County of _____ in the District of _____ on the _____ day of _____ one thousand eight hundred and _____ at _____ of the clock in the _____ noon, in Register _____ page

E. F.
Registrar.