

CAP. XLIV.

An Act to incorporate the British and American Telegraph Company in New Brunswick.

Section

1 Incorporation of Company; Telegraph lines.

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Section

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Passed 17th June 1867.

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

1. That Sir David Brewster, Sir Patrick Colquhoun, the Honorable William A. Henry, the Honorable Peter Mitchell, the Honorable Amos E. Botsford, Honorable Edward Wiliston, Thomas Allan, William Stafford, Thomas Page, and such other persons as shall from time to time become proprietors of shares in the Corporation hereby established, their successors and assigns, shall be and they are hereby ordained, constituted and declared to be a body politic and corporate by the name of "The British and American Telegraph Company in New Brunswick," and by that name shall have all the powers made incident to a Corporation by the Acts of Assembly of this Province, for the purpose of constructing, maintaining and working a single or double line of Electro Telegraphic communication from any part of the borders of Nova Scotia, or shores of New Brunswick, through the said Province, to the eastern boundary of the State of Maine, in the United States of America, and also to the boundary of Canada, by such routes and directions as they may deem best, with power to establish such branch lines and extensions through the Province, in connexion therewith, as the increase of business, the establishment of railroads, or other circumstances, may make advisable, and for the purposes of said lines, and the branches and extensions thereof, to make such erections as may be necessary, and to purchase and acquire such real or moveable property as may be necessary for the making, maintaining and working the said Electro Telegraphic communications.

2. The capital stock of the said Corporation shall be fifty thousand dollars, to be divided into twelve hundred and fifty shares of forty dollars each, with power to the said Company to increase the same to two hundred thousand

dollars, either by increasing the number of shares or by adding to the amount of each share.

3. The first meeting of the stockholders for the purpose of organizing the said Corporation, shall be called by any two of the said Corporation hereinbefore named, by giving fifteen days notice of the time and place of such meeting in the Royal Gazette, or in some other paper published in the Province.

4. The said Company may by their agents and servants enter upon the side or sides of any or all of the public roads, streets, bridges or highways in this Province, through, along, across, or by which said Telegraphic lines, or any of their branches and extensions, shall pass or be required to pass, and on the same erect and construct such and so many posts or other works as they may deem necessary for making, maintaining and using the said Electric Telegraph; and from time to time as often as the said Company, their agents or servants, shall think proper, break up and open any part of the said roads, streets, or highways, not interfering with that part of the same appropriated for the use of carriages, waggons, or horses, and keep the same open during the time necessary for setting up, erecting and constructing such posts or other works; provided always, that the said Company shall not in any case obstruct any of the said public roads, streets, bridges, or highways, and that the said Company shall and do at their own costs and charges, and without unnecessary delay, repair and amend the said public roads, streets and highways in any part where they shall be so broken up and opened as aforesaid, to the like conditions in which they were before breaking up the same.

5. If it shall at any time be deemed necessary by the said Company, their agents or servants, to carry any part of the said main lines of Electrical Telegraph communication, or of any of the branches or extensions thereof, through or over any estates, lauds or grounds, being private property, it shall be lawful for the said Company, by their agents or servants, to enter into and upon the lands of any person, bodies politic or corporate, as they shall think necessary, for making, completing, maintaining or repairing the said lines of Electric Telegraph, or any of its branches or extensions, and on such lands to set up, construct or build such posts, buildings

or other erections as may be necessary for such lines, or the branches or extensions thereof, and do all other matters and things which they the said Company shall think convenient and necessary for the making, extending, improving, completing and easy using of the said Electric Telegraph, or any of its branches or extensions, or any of the works therewith connected, they the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and agreeing with the owner or owners, occupier or occupiers of such private property, as to the amount of compensation to be paid to such owners or occupiers respectively; and in case of disagreement as to the amount of damages or compensation to be paid by the said Company, then the amount of such damages or compensation shall be ascertained and determined by three arbitrators, one to be chosen by the said Corporation, their agents or servants, and one by the owner or owners, occupier or occupiers of the private or corporate property in question; which two arbitrators so chosen shall choose a third arbitrator, and in case the two first mentioned arbitrators shall not agree in the choice of a third arbitrator, then and in such case it shall and may be lawful for the Governor for the time being, upon application of the said Corporation, to appoint the third arbitrator, and the award of the said arbitrators or any two of them shall be final and conclusive in the matters referred to them; and in case any of the said owners or occupiers of such corporate or private property shall decline making any such agreement or appointing such arbitrators, then and in every such case the said Corporation shall make application to the Supreme Court of this Province, or to any one of the Judges thereof, stating the grounds of such application, and such Court or Judge is hereby empowered and required from time to time, upon such application, to issue a writ or warrant directed to the Sheriff of the County in which such lands lie, or in case of his being a party, or interested, then to any Coroner of such County, and in case of the said Sheriff and of the said Coroner being both interested, then to some person or persons who may be disinterested, commanding such Sheriff, Coroner, person or persons disinterested, as the case may be, to summon and empanel a jury of five freeholders within

the said County, who may be altogether disinterested, which jury upon their oath (which oath, as well as the oath to be taken by any person or persons who shall be called upon to give evidence in the matter, the Sheriff, Coroner, or person or persons summoning such jury, is and are hereby empowered to administer,) shall enquire, ascertain and assess the distinct sum or sums of money or annual rent to be paid as the amount of compensation and satisfaction for the damages that may and shall be sustained by such owner or owners, occupier or occupiers of such corporate or private property as aforesaid; and the inquisition, award or verdict of such jury shall be returned and filed in the office of the Clerk of the Pleas in the said Supreme Court, and shall be final and conclusive between the parties; which amount so assessed as aforesaid, and the costs and expenses of such proceedings when taxed and allowed by the said Supreme Court, or one of the Judges thereof, shall be borne by the said Corporation; which amount of such damages and costs shall be paid or rendered by the said Corporation to the person or persons, or body politic or corporate, entitled to the same, before the said Corporation shall be entitled to take possession of such property for the purposes aforesaid.

6. So soon as the main lines of communication by the said Electric Telegraph, or any part thereof, or any of its branches or extensions, shall be complete and open, it shall and may be lawful for the said Corporation at all times to ask, demand and take, sue for and recover to and for their own proper use, such rates, tolls, or dues, for the transmission and writing out of any and every message or communication of any kind transmitted and conveyed at the cost and charges of the said Company, by or upon the said Electric Telegraph, as the said Company may think just and reasonable.

7. The Governor shall have and enjoy at all reasonable and proper times, and in preference to all others whomsoever, the right and privilege of using the said line of Electric Telegraph, branches and extensions, for the transmission of messages relating to the public service only, whether Imperial or Provincial, from or to any Stations with which the said line or any of its branches or extensions shall connect; and the rates of charges therefor shall not in any case exceed the rates of charges made to private individuals and others for the transmission of like messages.

8. The joint stock and property of the said Corporation shall alone be responsible for the debts and engagements of the said Company.

9. Whoever shall wilfully break, throw down, cut, sever, injure, damage or destroy any of the works, machinery or property of the said Company, or do any other act whereby the communication by the said lines, or any branch or extension thereof, may be interrupted, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned in the Provincial Penitentiary for any term not exceeding three years, which punishment shall be in addition to any civil or other remedy for such offence.

10. In case the said British and American Telegraph Company shall lease, underlet, transfer, or set over to any person or persons, body corporate, or joint stock company, any line or lines of Telegraph owned by the said Telegraph Company, the said British and American Telegraph Company shall still remain liable under the terms of this Act for any fault, neglect or miscarriage of the person or persons, or body corporate or joint stock company to whom such sale, lease, transfer or setting over shall be made; and the service of any writ, summons, process, or paper in law or equity, upon the President or other officer or Secretary of the said British and American Telegraph Company, shall be sufficient in all respects, in all suits or actions either at law or in equity, to enable the plaintiff in any such suit or action for such fault, neglect, or miscarriage, to issue and have issued any execution or executions against the property or effects of the said person or persons, or body corporate, or joint stock company, or their assigns, or of the said British and American Telegraph Company, on judgment duly obtained.

CAP. XLV.

An Act in amendment of and in addition to an Act intituled *An Act to incorporate the New Brunswick Electric Telegraph Company.*

Section 1 Company authorized to construct additional lines.

Section 2 Liability of Company, if Lines leased or transferred.

Passed 17th June 1867.

WHEREAS by the third Section of an Act made and passed in the eleventh year of Her Majesty's Reign, intituled *An Act to incorporate the New Brunswick Electric Telegraph Com-*