

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1848. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1848.

11 Victoria – Chapter 55

An Act to incorporate the New Brunswick Electric Telegraph Company. Passed 30th March 1848.

Whereas the speedy transmission of information by means of the Electric Telegraph has become a matter of great importance, and it is highly desirable that Lines of communication by such Telegraph should be established in this Province, and that the same should be connected with other Lines in Nova Scotia, Canada and the United States: And whereas certain persons are desirous of being incorporated for the purpose of establishing such communication;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That Thomas Leavitt, Charles Ward, William M'Lauchlan, John Duncan, Robert Jardine, John V. Thurgar, Israel D. Andrews, Francis O.J. Smith, Nathan Cummings, and Amos Kendall, their associates, successors and assigns, shall be and they are hereby erected into a Body Politic and Corporate, by the name of "The New Brunswick Electric Telegraph Company," and by that name shall have all the general powers and privileges made incident to a Corporation by Act of Assembly in this Province, for the purpose of constructing, maintaining and working lines of communication, by means of the Electric Telegraph, within the Province of New Brunswick, as hereinafter more particularly set forth.

II. And be it enacted, That the capital stock of the said Corporation shall not be more than the sum of twenty five thousand pounds, and shall be divided into two thousand five hundred shares of ten pounds each, to be paid in at such times and in such instalments as the business of the said Company shall require; provided always, that the money so to be raised as aforesaid, is hereby directed and required to be laid out for and towards the making, completing and maintaining the said Electric Telegraph, and other purposes therewith connected, and to no other use or purpose whatsoever.

III. And be it enacted, That it shall be lawful for the said Company, and they are hereby authorized and empowered by themselves, their deputies, agents, officers and workmen, to make and complete a single or double line of Electric Telegraph, communication from the boundary line between this Province and Nova Scotia, by way of Sackville, Dorchester, Moncton, Sussex Vale, and Hampton, to the City of Saint John, and thence to Saint Andrews and Saint Stephen, in the County of Charlotte; and also with power to extend branches from such main line of communication, by Electrical Telegraph, from the City of Saint John to Fredericton, in the County of York, and thence to Woodstock, the Grand Falls, and the Canadian boundary in that direction; and from Fredericton to Miramichi; with such other branch lines within this Province as the increase of business, the establishment of Rail Roads, or the settlement of the country may render necessary or expedient; and for the purposes of the said main line and the several and respective branches thereof, to make such erections as may be necessary, and to purchase and acquire such machinery and contrivances, and real or movable property, as may be necessary for the making,

maintaining and working the said Electrical Telegraphic communication, and may use, hold and possess the land over which the said Electric Telegraph is to pass, in the manner and under the provisions hereinafter set forth.

IV. And be it enacted, That it shall and may be lawful for the said Company, their deputies, agents, servants, and workmen, to enter upon the side or sides of all or any of the Public Roads, Bridges, Streets or Highways in this Province, and on the same to set up, erect and construct such and so many posts or other works or devices, as they in their discretion may deem necessary for making, completing, supporting, using and maintaining the said Electric Telegraph; and from time to time, as often as the said Company, their deputies, agents, officers or workmen shall think proper, to break up and open any part whatsoever of the said Road, Streets or Highways, not interfering with that part of the same appropriated for the use of carriages, waggons, or horses, and to keep the same open during the time necessary for the setting up, erecting, and constructing of such posts, works, or devices; provided always, that nothing herein contained shall extend or be construed to extend to permit the setting up, erecting, or constructing of any post, work, or device which may in any way obstruct any of the said Public Roads, Streets, Bridges, or Highways; and provided also, that the said Company, their deputies, agents, officers, and workmen, shall and do at their own proper 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 condition in which they were before breaking up the same.

V. And be it enacted, That 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 line of Electrical Telegraph communication, or any of the branches thereof, through or over any estates, lands 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 line of Electric Telegraph, or any of its branches, and on such lands to set up, construct, or build such posts, buildings, or other erections as may be necessary for such line or the branches 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 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 Lieutenant Governor or Administrator of the Government 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 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 twelve freeholders within the said County, who may be altogether disinterested; which Jury upon their oath, which oath, as well as the oaths 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 inquire, 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, and shall be by them paid within thirty days after the said inquisition, award or verdict shall be filed as aforesaid.

VI. And be it enacted, That so soon as the said main line of communication by the said Electric Telegraph, or any part thereof, or any of its branches, shall be completed and opened, it shall be lawful for the said Corporation, at all times thereafter, to ask, demand, take, sue for and recover, to and for their own proper use and behoof, such rates, tolls or dues, for the transmission and writing out of any and every message or communication of any kind soever, transmitted and conveyed at the cost and charge of the said Company, by or upon the said Electric Telegraph, and such sum or sums of money as the said Company may think just and reasonable.

VII. And be it enacted, That it shall be lawful for the Lieutenant Governor or Administrator of the Government of this Province for the time being, to have an 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, and branches, for the transmission of messages relating to the public service only, whether to have whether Imperial or Provincial, from or to any Stations in and throughout the Province; and that the rates of charge therefor shall not in any one case, or at any one time, exceed the established and ordinary rates of charge made to private individuals and others, for the transmission of like messages; provided always, that such messages are strictly and solely of a public nature.

VIII. And be it enacted, That it shall be lawful for the persons first named in this Act, immediately after the passing thereof, to open a Book for the subscription of shares in the said Company, and no person shall be entitled to subscribe for more than twenty shares until thirty days shall have

elapsed from the day on which such Subscription Book shall have been opened, nor until after ten days public notice given by advertisement in at least two of the newspapers published in the City of Saint John; and if, at the end of ten days after such public notice so given, the whole number of shares in the said Company shall not be taken up or subscribed, then any person may subscribe for the residue of such shares, including the previous holders of shares, as well as others.

IX. And be it enacted, That when one fourth of all the shares in the said Company shall be subscribed, it shall and may be lawful to call a meeting of the shareholders, at the City of Saint John, upon giving fourteen days previous notice of the time and place of such meeting in at least two of the newspapers published in the said City; and at such meeting, or any adjournment thereof, to choose a President, Directors, and Officers of the said Company, and to make bye laws, rules and ordinances for prescribing the duties, powers and authorities of the said President, Directors and Officers; for limiting the number of Directors; for regulating the transfer, registry and forfeiture of shares; for the making of calls on shares, and the time of paying such calls; the times of holding meetings of the said Company, or of the Directors; the right of voting in respect of the number of shares held by each shareholder respectively, and of voting either personally or by proxy; and generally for the good order, conduct and government of the said Company, its affairs and business, as may be requisite and necessary; provided always, that no bye law, rule or ordinance shall be repugnant to this Act, or to the Laws of this Province, or those in force within the same; and provided also, that a majority of the Directors of the said Company shall always be resident within the Province.

X. And be it enacted, That the joint stock and property of the said Company shall alone in the first instance be responsible for the debts and engagements of the same; and that no creditor or person having any demand against the said Company, for or on account of any dealing with the said Company, shall have recourse against the separate property of any shareholder on account thereof, except in case of deficiency, or where the joint stock of the said Company shall fall short of or not be equal to the payment of any debt due by or demand against the said Company, or upon *nulla bona* being returned on any execution issued against the goods and chattels of the said Company, then and in either of such cases, the goods and chattels, lands and tenements of each shareholder shall and may be levied upon and seized respectively to satisfy such debt or demand, to the extent of double the amount of the share or shares, or interest of such shareholder in the joint stock or capital of the said Company, but no more; and that such double amount, or so much thereof as may be necessary to satisfy such debt or demand, shall and may be levied and seized by process of execution in the same suit in which such debt or demand may be recovered against the said Company.

XI. And be it enacted, That if any person shall by any means or in any manner or way whatsoever obstruct or interrupt the free use of the said Telegraph or any of its branches, or other works incidental or relative thereto or Connected therewith, such person shall for every such offence incur a penalty or forfeiture of not less than five pounds nor exceeding ten pounds currency, to be recovered by summary conviction before one or more Justices of the Peace for the County, or City and County, where such offence is committed; one half of the same, when levied and recovered, to be paid to the informer or person prosecuting for the same, and the other half to be paid into

the hands of the Treasurer of such County, and applied to the public uses of such County; provided always, that the payment of such penalty or forfeiture shall not be held to relieve or discharge the person convicted of the same from any claim for damages by the said Company for any loss or injury sustained by them in consequence of such obstruction or interruption.

XII. And be it enacted, That if any person or persons shall wilfully, maliciously, and to the prejudice of the said Company, break, throw down, damage or destroy any post or posts, rail, support, wire, machine, machinery, or other works or device erected, constructed or possessed under the authority of this Act, or do any other wilful act, hurt or mischief, to disturb, hinder or prevent the carrying into execution, making, completing, supporting, maintaining and using the said Electric Telegraph, either on the main line or on any of its branches, or other works therewith connected, every such person or persons so offending shall forfeit and pay to the said Company the amount of the damages and the costs of suit in that behalf incurred, in like manner as for any other trespass; and for the further protection of the said Company, all persons wilfully breaking, throwing down, damaging or destroying any of the works or property of the said Company as aforesaid, shall also be liable to the punishment prescribed for felony in any Act now or hereafter to be in force within this Province.