

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1850. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1850.

13 Victoria – Chapter 11 Private or Personal Acts

An Act to incorporate the Fredericton and Saint John Electric Telegraph Company. Passed 26th April 1850.

Whereas the construction of a Line of Electro-Telegraphic Communication between the Cities of Saint John and Fredericton, in this Province, would be of great advantage, and it is deemed advisable to extend encouragement to such persons as may erect and maintain such line, by granting them an Act of Incorporation;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That Robert Jardine, John Duncan, Lemuel A. Wilmot, Charles Fisher, Spafford J. Barker, Frederick W. Hatheway, Charles Macpherson, and William H. Robinson, 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 Corporation, and a Body Politic and Corporate, by the name of "The Fredericton and Saint John Electric Telegraph Company," and by that name shall have all the powers made incident to a Corporation by the Acts of Assembly in this Province, for the purpose of constructing such line of Electro-Telegraphic Communication, as hereinafter more particularly set forth.

II. And be it enacted, That the capital stock of the said Corporation shall be one thousand five hundred pounds, with power to the said Company to increase the same to two thousand pounds if the same shall become desirable in carrying out the purposes of the Company; the whole amount of the said capital stock to be divided into shares of five pounds each, which shares shall be vested in the several persons hereinbefore named, and such other persons as may take shares in the said Corporation, their successors and assigns, in proportion to their respective shares and interest: which said shares shall be paid at such times and places and in such proportions as the Directors of the Company shall appoint; 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.

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, communicating from and between the Cities of Fredericton and Saint John, by the way of the Nerepis Road, with power to establish such branch lines in connexion therewith as the increase of business, the establishment of rail roads, or other circumstances may make advisable, and for the purposes of the said main line and the several branches thereof to make such erections as may be necessary, and to purchase and acquire such machinery and contrivances, and real or moveable property, as may be or become necessary for the making, maintaining and working the said Electro-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, and their servants and aforesaid, to enter upon the side or sides of any or all of the public roads, bridges, streets or highways in this Province through, along, across or by which the said Electro-Telegraphic Line, or any of its branches, shall pass or be required to pass, and on the same to set up, erect and construct such and so many posts or other works as they in their discretion may deem necessary for making, using and maintaining the said Electric Telegraph, and from time to time, as often as the said Company or their servants 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, wagons, or horses, and to keep the same open during the time necessary for the setting up, erecting and constructing of such posts or other works; provided always, that nothing herein shall be construed to extend to permit the setting up, erecting or constructing of any post or work which may in any way obstruct any of the said public roads, streets, bridges, or highways; and provided always, that the said Company and their servants shall and do at their proper costs and charges, and without any 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 or their servants to carry any part of the said main or branch lines of the said Electro-Telegraphic Communication 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 the making, completing, maintaining or repairing the said line or lines, 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 and easy using of the said Electric Telegraph, or its branches, or the works connected therewith; 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 or their servant, and one by the owners 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 a 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 private or corporate 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 or City and 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 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 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 which may and shall be sustained by such owner or owners, occupier or occupiers of such private or corporate property as aforesaid, and the award, inquisition 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 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, 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 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, and branches, 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 shall connect, and that the rates of charge therefor shall not in any one case or at any one time exceed the 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 when and so soon as one half of the shares of the said capital stock shall have been subscribed for, a meeting of the stockholders shall and may be called by any of the corporators hereinbefore named, and that such meeting shall be held at Fredericton, after fourteen days' notice in the public newspapers, or some of them, in Fredericton and Saint John; and that at such meeting, or some adjournment thereof, Directors shall be chosen, bye laws made, and the Corporation organized, pursuant to the usual powers and usages of Corporations.

IX. 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 when the joint stock of the said Company shall fall short of or not be equal to the payment of any debt due by the said Company, or upon *nulla bona* being returned in 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.