

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 69 (1849)

An Act to incorporate the Saint John Suspension Bridge Company. Passed 14th April 1849.

Whereas it is proposed to construct a Suspension Bridge of Iron Wire across the Falls of the River Saint John, at Split Rock, near the City of Saint John: And Whereas a Bridge is greatly needed at that Point, and would be highly useful to the public in general, and it is thought advisable to incorporate such persons as may be willing, at their own costs and charges, to construct the said Bridge, and grant them all necessary privileges for maintaining, the same;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That William K. Reynolds, his associates, successors and assigns, shall be and they are hereby erected into a Body Politic and Corporate, by the name of "The Saint John Suspension Bridge 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.

II. And be it enacted, That the capital stock of the said Corporation shall be twenty thousand pounds of current money of New Brunswick, and shall be divided into four thousand shares of five pounds each, to be paid in at such times and in such instalments as the business of the said Company shall require; and also that the said Corporation shall, when necessary, have leave to extend the said capital stock to the sum of forty thousand pounds of like current money, and shall have power to increase the number of shares accordingly, or to assess such increase upon the original number of shares.

III. And be it enacted, That the first meeting of the said Corporation shall be held at the City of Saint John, and shall be called by the said William K. Reynolds, or in case of his death, neglect or refusal, by any two of the said Company, by giving notice in one or more of the public newspapers published in the said City, at least twenty days previous to such meeting, for the purpose of establishing bye laws, choosing five Directors and such other officers as may be necessary for the management of the affairs of the said Company; which Directors and officers so chosen shall serve until the first annual meeting, or until others are chosen in their stead, and shall have full power and authority to manage the concerns of the said Corporation, subject to the rules and regulations hereinafter made and provided.

IV. And be it enacted, That a general meeting of the stockholders of the said Corporation shall be held at the City of Saint John on the first Tuesday in June in each and every year, for the purpose of choosing five Directors and such other officers as may be necessary for the management of the affairs of the said Corporation; which Directors so chosen shall remain in office for one year, or until others are chosen in their place, and shall at the first meeting after their election choose one of their number President of the said Company; provided always, that not less than three Directors do form a quorum for the transaction of business, and in case of the absence of the

President, the Directors shall have power to appoint one of their number chairman for the occasion.

V. And be it enacted, That no person shall be eligible as a Director unless such person is a stockholder, and holds not less than twenty shares of the capital stock of the said Corporation, and is of the full age of twenty one years.

VI. And be it enacted, That the number of votes to which each stockholder shall be entitled on every occasion when in conformity to the provisions of this Act the votes of the stockholders are to be given, shall be in proportion of one to each share of stock; and that absent stockholders may vote by proxy, pro-vided such proxy be a stockholder, and produce sufficient authority in writing.

VII. And be it enacted, That the shares of the said Corporation shall be assignable and transferable, according to such rules and regulations as may be established in that behalf; but no assignment or transfer shall be valid and effectual unless the same shall be entered and registered in a book to be kept by the Directors for that purpose; that in no case shall a fractional part of a share, or other than a complete share or shares, be assignable or transferable; that whenever any stockholder shall transfer in manner aforesaid all his stock or shares in the said Company, he shall cease to be a member of the said Corporation.

VIII. And be it enacted, That if it should so happen that the said Directors or other officers should not be chosen on the said first Tuesday in June in any year as aforesaid, it shall and may be lawful to choose them on any other day, between the hours of twelve at noon and three in the afternoon of such day, on giving fourteen days notice of the time and place of such meeting in one or more of the newspapers published in the City of Saint John; and in case any Director shall be removed by the stockholders for misconduct or mal-administration, his place shall be filled up by the stockholders, fourteen days notice of the time and place of meeting for such purpose being first given; and in case of any vacancy among the Directors by death, resignation, or disqualification by sale and transfer of stock, then and in either of such cases the said Directors shall and may fill up such vacancy by choosing one of the stockholders, and the person so chosen by the stockholders or Directors shall serve until another be chosen in his room.

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 creditors, or person or persons having any demand against the said Company, for or on account of any dealings with the said Company, shall have recourse against the separate property of any stockholder in the same, except in case of deficiency, or where the joint stock of the said Company shall fall short or not be equal to the payment of any debt, due or demand against the same, or upon *nulla bona* being returned upon any execution against the goods and chattels of the said Company, that 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 one half the amount of the share or shares or interest of such shareholders in the joint stock of the said Company, but no more; and that such amount, or so much as may be necessary to satisfy such debt, due or demand, shall and may be levied and seized, by process of execution, in the same suit in which such debt, due or demand may be recovered against the said Company.

X. And be it enacted, That the said Company shall have power to levy and collect assessments upon the shares from time to time of such sums of money as may be deemed necessary for carrying on the business of the said Company; and whenever any assessment shall be made by the stockholders of the said Company, it shall be the duty of the Treasurer to give notice thereof in a newspaper printed in the City of Saint John, requiring payment of the same within thirty days; and if any stockholder shall neglect or refuse to pay to the said Treasurer the amount of such assessment upon his shares at the time prescribed, it shall be the duty of the Treasurer to advertise all such delinquent shares for sale at public auction, giving at least thirty days notice of the time and place of such sale; and all shares upon which the assessment is not then paid, with interest from the time such assessment became due, shall be sold to the highest bidder, and after retaining the amount of assessment and interest due on each share, and the expense of advertising and selling, the residue (if any) shall be paid over to the former owner, and a new certificate or certificates of the shares so sold shall be made out and delivered to the purchaser; provided always, that no assessment shall be made except by a vote of the stockholders, and by a majority of all the shares.

XI. And be it enacted, That all meetings of the said Company shall be called by public notice being given of the time and place in a newspaper printed in the City of Saint John, seven days at least before the time of such meeting; and that special meetings may be called by the Secretary, under the authority of the Directors, or by the shareholders representing not less than one thousand shares of stock, upon giving the like notice.

XII. And be it enacted, That it shall and may be lawful to and for the said Company, and their successors, their deputies, agents, servants, workmen and assistants, and they are hereby authorized and empowered to design, erect, order, and build, or cause to be built, and to complete, maintain, and keep in repair a Suspension Bridge across the River Saint John, at or near the Falls of the said River, near the Harbour of Saint John, from the Parish of Portland to the Parish of Lancaster, at such place there as may be deemed most advisable and fit for such Bridge; and to dig and make proper foundations on the lands and grounds lying on each side of the said River, for the towers, piers and abutments of the said Bridge; and to cut and level the banks of the said River in such manner as shall be necessary and proper for building the said Bridge; and to cut, remove, take and carry away all and every impediment whatsoever which may in any wise tend to hinder the erecting and completing the said Bridge; and to execute all other things necessary and requisite, useful or convenient for erecting and building, maintaining and supporting the said Bridge, according to the tenor and true meaning of this Act; and further, that they may from time to time enter and go in and upon the lands and grounds adjacent to the said Falls of the said River, on either side thereof, for the purpose of making surveys, examinations, or other necessary arrangements for fixing the site of the said Bridge; and further, that they may explore, lay out, work and make a Road, not more than four rods in width, leading from either end of the said Bridge to the Highways in the said Parishes respectively; and further, that for the purpose of erecting, building, maintaining, repairing and supporting the said Bridge, the said Company shall from time to time have full power and authority to land on either side of the said River, within two hundred yards of the said Bridge, all materials and other things to be used in and about the same,

and there to work and use such materials and things, according as they, the said Company, and the persons to be by them appointed, shall think proper, without any previous agreement with the owner or owners, tenant or tenants of the property on which such towers, piers and abutments shall be built, or in and upon which such surveys, examinations, or other arrangements may be made, or through which such roads may be explored, laid out, worked and made, or on which such materials and other things shall be landed, worked or used, doing as little damage as may be, and making such satisfaction as hereinafter mentioned to the respective owners or occupiers of all lands, and grounds, tenements and hereditaments which shall be used and occupied, altered, damaged, spoiled, taken or made use of, by means or for the purposes of this present Act; provided always, that the under part of the floor of any Bridge, (between the abutments thereof,) or of any work depending from the same, which may be built by virtue of this Act, shall be at least seventy feet above high water level at spring tides.

XIII. And be it enacted, That the said Company shall and may erect and set up, or cause to be erected and set up, one or more gate or gates, turnpike or turnpikes, in, upon and across the said intended Bridge, or within twenty yards thereof, together with toll houses and proper and necessary buildings, conveniences and fences near to each gate or turnpike, across the said intended Bridge, on the road or avenue immediately communicating therewith, and within twenty yards of the said Bridge; and that the respective tolls following may be demanded and taken by such person or persons as the said Company shall from time to time appoint at each of the said gates or turnpikes, for each and every time of passing over the said Bridge, that is to say: For every foot passenger, not to exceed two pence; for every horse, mare, gelding, mule or ass, not to exceed one shilling; for every carriage drawn by one horse or beast of draught, with one person, not to exceed two shillings; for every horse or beast of draught more than one, drawing a carriage, not to exceed six pence; for every person more than one with a carriage, not to exceed two pence; for neat cattle, not to exceed four pence each; for sheep, calves or hogs, not to exceed one half penny each; provided always, that no toll be exacted from children under five years of age.

XIV. And be it enacted, That it shall and may be lawful for the collector or collectors of such tolls, or any of them, to stop and prevent the passage of any person or persons neglecting or refusing to pay the said tolls, or any of them, or of the horse, beast, cattle, carriage, or other thing, for or in respect of which the said tolls ought to be paid; or it shall and may be lawful to and for the said collector or collectors to seize and detain the goods and chattels of such person or persons, or such horse, beast, cattle, carriage, or other thing; and in case the said tolls shall not be fully paid or satisfied, together with all reasonable costs and charges of making, detaining and keeping such distress, within the space of five days, the said collector or collectors may sell the same, rendering the overplus, (if any) after deducting such costs and charges of making, detaining and selling of such distress, to the owner or owners thereof.

XV. And be it enacted, That if any dispute shall arise about the amount of tolls due, or the costs and charges of distraining, keeping or selling any such distress, it shall and may be lawful to and for the collector, or person so distraining, to detain the distress, or the money arising from the sale thereof, until the amount of the tolls, or the charges of distraining, keeping and selling the said

distress, as the case may be, shall be ascertained by some Justice of the Peace for the City and County of Saint John, who, upon application made to him for that purpose, shall examine the said matters upon the oath or oaths of the parties, or other witness or witnesses, and shall determine the amount of tolls due, and shall also assess the charges of such distress and sale, and all other reasonable and incidental costs; all which sum or sums so determined or assessed shall be paid to the collector before he shall be obliged to return the distress, or the overplus after the sale thereof, or of any part thereof.

XVI. And be it enacted, That the said Corporation shall make, allow and pay reasonable and proper compensation and satisfaction for all lands, tenements and hereditaments taken, used, occupied, altered, damaged or spoiled by means of and for the uses and purposes of the said Corporation, to be agreed upon by the said Corporation and the respective owners and occupiers of such lands, tenements and hereditaments; and in case of disagreement between the said Corporation and the said owners and occupiers, or any of them, then such compensation or satisfaction shall be determined by three arbitrators, one to be chosen by the said Corporation and one by the owner or owners, occupier or occupiers of the private property in question, which two arbitrators so chosen shall choose the third arbitrator; and in case of their not agreeing in such choice within ten days after their appointment, then and in such case it shall and may be lawful for the Lieutenant Governor or the Administrator of the Government for the time being, upon the 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 private property shall decline making any such agreement, or appointing such arbitrator, then and in every such case the said Corporation shall make application to the Supreme Court of this Province, stating the grounds of such application; and such Court is hereby empowered and required from time to time, upon such application, to issue a writ or warrant, directed to the Sheriff of the City and County of Saint John, or in case of his being a party interested, then to the Coroner of the said City and County, and in case of the said Sheriff and the said Coroner being both interested, then to some person or persons who maybe disinterested, commanding such Sheriff, Coroner, person or persons, as the case may be, to summon and empanel a Jury of five freeholders, within the said City and County, who may be altogether disinterested; which Jury, upon their oaths, (all which oaths, 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 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 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, to be taxed and allowed by the said Supreme Court, 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.

XVII. And be it enacted, That if any person or persons shall wilfully and maliciously, and to the prejudice of the said undertaking, break, damage, throw down or destroy any of the works to be

erected or made by virtue of this Act, any such person shall be adjudged guilty of felony; and every such person so offending, and being thereof lawfully convicted, shall be liable to the punishment prescribed for felony by the laws of this Province.

XVIII. And be it enacted, That if the said Company shall not within three years from and after the passing of this Act, complete the said Bridge, so as to make the same passable for horses and carriages, that then and from thenceforth all and singular the powers and authorities vested in them by this Act shall cease and determine to all intents and purposes whatsoever.

XIX. Provided always, and be it enacted, That no toll whatever shall be demanded or taken for any horse, beast, cattle or carriage of whatever description, employed or to be employed in conveying, fetching or guarding Mails of Letters and Expresses under the authority of Her Majesty's Post Master General, or the duly authorized Post Office authorities in this Province, or of the Provincial Government, either when employed in conveying, fetching or guarding the same, or for any soldiers upon their march or upon duty, or for any horse, cattle or carriages attending them with their arms and baggage, or returning after having been so employed; nor for any wagon, cart, or other carriage whatsoever, or the horse or horses, or other cattle drawing the same, which shall be employed in conveying any Ordnance, Barrack, Commissariat, or other public stores of or belonging to Her Majesty's Service; and provided also, that no poor or other rates or taxes shall be assessed or levied upon the said Company for or on account of the said Bridge and its appurtenances, either in the Parish of Portland or in the Parish of Lancaster.

XX. And be it enacted, That the Directors shall at the general meeting to be holden on the first Tuesday in June in every year, lay before the stockholders for their information, an exact and particular statement of the then state of the affairs and business of the said Company, agreeably to the several regulations of this Act, so as the same may contain a true account of the whole affairs of the said Company; which statement shall be signed by the Directors, and attested by the Secretary; and a duplicate thereof, in like manner signed and attested, shall be transmitted to the Secretary of the Province for the information of the Lieutenant Governor or Administrator of the Government for the time being, and the Honorable Her Majesty's Executive Council; provided always, that the rendering such statement shall not extend to give any right to the stockholders, not being Directors, to inspect the accounts of any individual or individuals in the said Company.

XXI. And be it enacted, That if any shareholder shall fail to pay the amount of any assessment made by the said Company, or any part thereof, it shall be lawful for the said Company to sue such shareholder for the amount thereof, or so much thereof as may be and remain due and owing thereon, in any Court of Law or Equity having competent jurisdiction, and to recover the same with lawful interest from the day on which such assessment was payable, with costs of suit.

XXII. And be it enacted, That in any action or suit to be brought by the said Company against any shareholder to recover any money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the said Company to declare that the defendant is the holder of one share or more in the said Company, [state the number of shares,] and is indebted to the said Company in the sum of money to which the assessment or assessments in arrear shall amount, in

respect of one assessment or more, upon one share or more, [state the number and amount of such assessments,] by means of which an action hath accrued to the said Company by virtue of this Act.

XXIII. And be it enacted, That on the trial or hearing of such action or suit, it shall be sufficient to prove that the defendant at the time of making such assessment was a holder of one share or more in the said undertaking, and that such assessment was in fact made; and it shall not be necessary to prove any other matter whatsoever, and thereupon the said Company shall be entitled to recover what shall be due upon such call, and interest thereon.

XXIV. And be it enacted, That whatever may be the divisible profits of the said Suspension Bridge Company, it shall be lawful for Her Majesty's Government, if it shall think fit, subject to the provisions herein contained, at any time after the expiration of twenty one years, to purchase the said Suspension Bridge, with all its hereditaments, stock and appurtenances, in the name and on the behalf of Her Majesty, upon giving to the said Company three calendar months notice in writing of such intention, and upon payment of a sum equal to twenty five years purchase of the annual divisible profits, estimated on the average of the seven then next preceding years; provided that if the average rate of profits for the said seven years shall be less than the rate of fifteen pounds on the hundred, it shall be lawful for the Company, if they should be of opinion that the said rate of twenty five years purchase of the said average profits is an inadequate rate of purchase of such Suspension Bridge, reference being had to the prospects thereof, to require that it shall be left to arbitration, in case of difference, to determine what (if any) additional amount of purchase money shall be paid to the said Company.

XXV. Provided always, and be it enacted, That nothing herein contained shall be construed to extend to authorize the said Company in the erection of the said Bridge or otherwise, to interfere with the free navigation of the River Saint John; and if at any time hereafter any part of the said Bridge, or any of the piers or abutments thereof, or any material or thing connected therewith, should so interfere with the navigation of the said River, it shall be deemed a nuisance.

XXVI. And be it enacted, That any Bridge erected under this Act shall be constructed of iron wire or chains in all respects of sufficient strength and quality to render it perfectly safe for life and property passing over the same, which Bridge shall have a side path for foot passengers of not less than four feet in width on each side of said Bridge, railed off from the road or carriage way, with railings outside of not less than five feet in height, and so constructed as to prevent any passengers falling through said railing; and that such Bridge shall not be opened for public conveyance until it shall have been certified to His Excellency the Lieutenant Governor or Administrator of the Government for the time being, by some competent Engineer or Engineers duly appointed by His Excellency the Lieutenant Governor or Administrator of the Government for the time being, that such Bridge is in all respects of sufficient strength and materials for the purposes for which the same is intended.

XXVII. And be it enacted, That it shall be lawful for His Excellency the Lieutenant Governor or the Administrator of the Government for the time being, to appoint a competent Engineer, at any

time on complaint to him made of any injury or damage to, or any defect whatever in said Bridge, whereby it may become dangerous or unsafe for passing over the same, to examine the said Bridge; and if upon a report by said Engineer it shall appear that the Bridge is unsafe in any particular, it shall and may be lawful for His Excellency the Lieutenant Governor or the Administrator of the Government for the time being, to cause a Proclamation to be made in the Royal Gazette prohibiting any intercourse across the said Bridge until the same shall have been repaired, renewed or strengthened, as the case may be, to the satisfaction of His Excellency the Lieutenant Governor or Administrator of the Government for the time being, when and so often as the case may happen during the continuance of this Act, or any renewal thereof.

XXVIII. And be it enacted, That this Act shall not be in force until Her Majesty's Royal assent be thereto had and declared.

[This Act was specially confirmed, ratified and finally enacted by an Order of Her Majesty in Council, dated the 29th day of June, 1849, and published and declared in the Province the 1st day of August, 1849.]