

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1851. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1851.

14 Victoria – Chapter 8 Private or Personal Acts

An Act to incorporate within this Province the British North American Electric Telegraph Association. Passed 30th April 1851.

Whereas under the provisions of an Act made and passed by the Legislature of the Province of Canada in the twelfth year of the Reign of Her present Majesty, intituled *An Act to incorporate the British North American Electric Telegraph Association*, the said Company has been duly organized and constituted, and the works by them erected are now in actual operation: And whereas it is deemed advisable to incorporate the said Company within this Province, to enable them to connect their works at Woodstock, in the County of Carleton, with those of a similar nature to be constructed to Woodstock by the Fredericton and Saint John Electric Telegraph Company;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That George O'Kill Stewart, The Honorable Rene Edouard Caron, Peter Langois, Junior, John Jones, Christian Wurtell, James Tibbits, Henry John Noad, Alexander Gillespie, and Edward Boxer, together with such other persons as shall hereafter become proprietors of Shares in the said Company, their successors and assigns, shall be and they are hereby united into a Company for the constructing, completing and maintaining a line or lines of Telegraphic communication from some place in the said Province of Canada to and through Woodstock in this Province, and shall for that purpose be and are hereby declared to be a Corporation and a Body Politic and Corporate by the name of The British North American Electric Telegraph Association, and by that name shall have perpetual succession and a Common Seal and all other powers made incident to a Corporation by the Acts of Assembly in this Province, for the purpose aforesaid.

II. 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 some place in the Province of Canada to and through Woodstock in this Province, 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, contrivances and materials, and real or moveable property, as may be 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.

III. And be it enacted, That it shall be lawful for the said Company, their agents and servants, to enter upon the side or sides of all or any 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 agents or servants, shall think proper, to dig, break up and open any part whatsoever of the said roads, 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 prevent the setting up, erecting or constructing of any posts or work which may in any way obstruct any of the said public roads, streets, bridges or highways; and provided also, that the said Company, their agents or servants, do and shall 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, dug or opened as aforesaid, to the like condition in which they were before digging and breaking up the same.

IV. And be it enacted, That if it shall at any time be deemed necessary by the said Company, or their agents or servants, to carry any part of the said main or branch lines of the said Electric Telegraph 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, or 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, or their agents, shall think convenient and necessary for the making, extending, repairing 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 thereof shall be ascertained and determined by three arbitrators, one to be chosen by the said Company or their agents, 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, or their agent, to appoint a third arbitrator; and the award of the said arbitrators, or any two or them, shall be final and conclusive in the matters referred to them, and shall be filed in the Office of the Clerk of the Pleas of the Supreme Court; 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 arbitrator, then and in every such case the said Corporation or their agent 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 Coroner being both interested, then to some disinterested person or persons, 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 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.

V. 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 Company at all times thereafter to ask, demand, take, sue for and recover to and for their own proper use, such rates, tolls or dues, and such sum or sums of money as they may think just and reasonable, 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.

VI. And be it enacted, That it shall be lawful for the Governor General or Administrator of the Government of the Province of Canada for the time being, and 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 any of its branches, for the transmission of messages or communications 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 and communications are strictly and solely of a public nature.

VII. And be it enacted, That any award made, or any verdict given by any Jury of inquiry, in the manner and for the purposes provided for in the fourth section of this Act, shall have the force and effect of a judgment of the Supreme Court, and that it shall and may be lawful for any person or persons, or bodies politic or corporate, in whose favour any such award shall be made or verdict given, to issue out of the Supreme Court of this Province a Writ in the form as near as may be of a *fiery facias*, for the recovery of the amount of such award or verdict, and the costs thereof together with the costs of obtaining such Writ, directed to the Sheriff of any County in this Province where property of the said Company may be found, which Writ shall briefly recite such award or verdict, and shall be subject to the like rules in every respect as executions issued upon judgments in ordinary cases; provided always, that no such Writ shall issue against the said Company till after the expiration of thirty days from the filing of such award or verdict, nor without the order of the

Supreme Court or a Judge thereof, to be made on affidavit of a demand of the amount of such award or verdict, and the taxed costs, from the said Company or their agents, thirty days before such application and the non-payment thereof.

VIII. And be it enacted, That the property of the said Company shall alone in the first instance be responsible for the debts, liabilities and engagements of the same; and that no creditor, person, or body politic or corporate, having any demand against the said Company for or on account of any dealings or transactions 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 property of the said Company shall fall short of or not be equal to the payment of any debtor liability of the said Company, or upon *nulla bona* being returned to any execution issued against the goods and chattels, lands and tenements 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.

IX. And be it enacted, That whosoever 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 line of Electric Telegraph or any branch 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 four years, which punishment shall be in addition to any civil or other remedy for such offence.