

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1853. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1853.

16 Victoria – Chapter 62

An Act to incorporate the North West Bridge Company. Passed 3rd May 1853.

Whereas it is proposed to construct a Bridge across the North West Branch of the River Miramichi, on the Great Road between Fredericton and Restigouche: And whereas a Bridge is greatly required and would be highly useful to the public in general, and it is thought advisable to incorporate such persons as may be willing to construct the said Bridge, and grant them all necessary privileges for that purpose, and for maintaining the same;

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

1. That David Crocker, Richard Hutchison, William Loch, Robinson Crocker, Michael M'Kenrick, Edward R. Whitney, Thomas W. Underhill, John Begnal, Alexander M'Laggan, Peter Mitchell, Daniel Witherall, William A. Black, Edward Williston, Rowland Crocker, Miles M'Millan, William Parker, Allan A. Davidson, Henry B. Allison, George Kerr, Oliver Willard, Thomas Little, and such other persons as shall from time to time become proprietors of shares in the Company hereby established, their successors and assigns, shall be and they are hereby erected into a body politic and corporate, by the name of The North West Bridge Company, and by that name shall have all the general powers and privileges made incident to a Corporation by Act of Assembly.
2. The capital stock of the said Corporation shall be three thousand pounds, and shall be divided into six hundred shares of five pounds each, to be paid at such times and in such instalments as the business of the Company shall require; and the Corporation shall when necessary have leave to extend the said capital stock to the sum of four thousand pounds, and shall have power to increase the number of shares accordingly, or assess such increase upon the original shares.
3. The first meeting of the Corporation shall be held in Newcastle on the third Tuesday in July next, and shall be called by David Crocker, or in case of his death, neglect, refusal or absence, by any five of the Company, by giving notice in the Gleaner newspaper at least fifteen days previous to such meeting, for the purpose of choosing Directors necessary for the management of the affairs of the Company, which Directors so chosen shall serve until the first annual meeting, or until others are chosen in their stead, and shall have power to manage the concerns of the said Corporation.
4. The annual meeting of the Company shall take place on the third Tuesday in January in each and every year, and shall be held in the Town of Newcastle, for the purpose of choosing seven Directors, and transacting other business as hereinafter provided for; 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, also a Secretary and such other

officers as may be necessary to manage the affairs of the said Company; provided always, that no less than four 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 on the occasion; and provided also, that in the event of the time of holding the annual meeting being found by the Company inconvenient, the stockholders shall and they are hereby authorised and empowered at any annual meeting to change the time of holding the same.

5. The Company at the first meeting, or some adjournment thereof, shall have power to make bye laws, rules and ordinances, prescribing the duties, powers and authorities of the Directors of the said Company, and for regulating the transfer, registry and forfeiture of shares, and the sale of forfeited shares, also the right of voting in respect to the number of shares held by each shareholder respectively, and for 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.

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

7. It shall and may be lawful for the Company, and their successors, officers and servants, and they are hereby authorised and empowered, to design, erect, order and build, or cause to be built, and to complete, maintain, and keep in repair the said bridge across the North West River, between the Point and the lower side of Oxford's Cove, at such place there as may be deemed most advisable and fit for such bridge, and to dig and make proper foundations in the lands and grounds lying on each side of the said river, 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, building, maintaining and supporting the said bridge according to the tenor and effect, true intent and meaning of the said Act; and further, that they may from time to time enter and go in and upon the lands and grounds adjacent to 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, they may explore, lay out, and make a road not more than four rods in width, leading from either end of the bridge to the highways in the Parishes of Newcastle, Northesk, or Nelson, respectively; and further, 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 bridge and every part thereof 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 and are occupied, altered, damaged, spoiled, taken or made use of by means or for the purposes of this Act; provided always, that the said Company shall in the erection of the said bridge, erect, build, and complete in a good, substantial and efficient manner in the said bridge on the channel side of the said river, a draw not less than thirty feet in width, to be drawn on all occasions when required for the free passage of vessels of every description navigating the said river, without hinderance or impediment from the erection of the said bridge.

8. The said Corporation shall make, allow and pay reasonable and proper compensation and satisfaction for all lands, tenements and hereditaments taken and 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 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 lands 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, or some Judge 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 not interested, and in case of the said Sheriff and Coroner being both interested, then to some other person or persons who may be 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 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 award, inquisition or verdict of such jury shall be retained 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, 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.

9. The said Company shall 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 necessary buildings, conveniences and fences near to each gate or turnpike across the said intended bridge, or on the road or avenue immediately communicating therewith, and within twenty yards of the said bridge; and the respective tolls following may be demanded and taken by such person or persons as the said Company shall from time to time appoint as toll gatherer, for each and every time of passing over the said bridge, that is to say:—For every foot passenger, not to exceed four pence; for every horse, mare, gelding, mule, or ass, not exceeding four pence; for every carriage drawn by one horse or beast of draught, with one person, not to exceed one shilling; for every horse or beast of draught more than one, drawing a carriage, not to exceed four pence; for every person more than one, with a carriage, not to exceed four pence; for neat cattle, not to exceed two 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; and the Company shall at all times by their bye laws regulate, alter and lessen the rate of tolls, when deemed advisable for the interest of the Company, but in no case exceed the rates herein specified; and at all times when the toll gatherer shall not attend to his duty, the gate or gates shall be left open; and the toll shall be collected in such manner as may be prescribed by the said Corporation; the rates of toll shall be fairly and legibly printed in large letters, and kept constantly exposed to the view of passengers.

10. No horse or other beast, or carriage of any kind, shall be taken, rode or driven over the said bridge at a faster pace than a walk, on pain of a forfeiture of twenty shillings for each and every offence, to be recovered with costs of prosecution against the owner or driver of such horse or other beast, before any Justice of the Peace of the County, on the complaint of the toll gatherer or any proprietor of stock in the said Company, on proof of the toll gatherer, who is hereby declared to be a competent witness, or any other legal proof; the amount when recovered to be applied to the use of the said Corporation.

11. Any person who shall run or evade the payment of toll from crossing the said bridge, shall forfeit and pay for the use of the said Corporation the sum of ten shillings for each and every offence, to be recovered, together with the toll and costs of suit, as is directed in the last preceding section of this Act.

12. If any person 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.

13. 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 Postmaster General, or the duly authorised 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 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.

14. The Directors shall at the general annual meeting of the Company in each and every year, lay before the stockholders for their information, an exact and particular statement of the 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.

15. 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 or 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.

16. 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 or more shares 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 thus Act.

17. 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.

18. Should the Provincial Government, at any time after the passing, of this Act, be willing and desirous of assuming the said bridge, and placing the same upon the great road establishment of the Province, for the free passage of all Her Majesty's subjects, and pay to the said Corporation the whole costs and outlay in and about its erection and maintenance, then and in such case the said Corporation shall yield and surrender up to the said Provincial Government the said bridge, with all things appertaining thereto, together with this Act, and such Corporation, from that time, shall cease and have no longer any existence

19. If the said Company shall not within three years from and after the passing of this Act, complete the said Bridge, or so as to make the same passable for horses and carriages, then and

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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.