

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 63

An Act to incorporate the Courtney Bay Bridge Company. Passed 3rd May 1853.

Whereas it is proposed to construct a Bridge across the sand flats of Courtney Bay, in the City and County of Saint John, from some place or point in the said City fronting on the said Bay, across the same to some place or point on the opposite side, in the Parish of Simonds: And whereas such Bridge 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;

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

1. That Henry Chubb, Isaac Woodward, Thomas M'Avity, William Hawkes, Thomas Davidson, William O. Smith, John M. Robinson, Gregory Vanhorne, John M. Walker, George V. Nowlin, their associates, successors and assigns, shall be and they are hereby erected into a body politic and corporate, by the name of The Courtney Bay Bridge Company, and by that name shall have all the general powers and privileges made incident to a Corporation by any Act or Acts of Assembly.
2. The capital stock of the Company shall be twenty thousand pounds, 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 Company shall require; and the Company shall also when necessary have leave to extend the capital stock to forty thousand pounds, and to increase the number of shares accordingly, or to assess such increase upon the original number of shares.
3. The first meeting of the Corporation shall be held at the City of Saint John, and shall be called by Henry Chubb, Esquire, or in case of his death, neglect or refusal, by any two of the persons named in the first section, by giving notice in one or more of the public newspapers printed in the City, at least twenty days previous to such meeting, for the purpose of establishing bye laws and choosing five Directors for the management of the affairs of the Company; which Directors 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 Company, subject to the provisions hereinafter contained.
4. The Directors when chosen shall as soon as convenient, choose out of their number a President, and shall have power from time to time to appoint all such officers, servants, agents and other persons as they shall think fit for executing and carrying on the business of the Company, and to remove them or any of them at pleasure, and appoint others in their stead.

5. A general meeting of the stockholders of the Company shall be held at the City of Saint John on the first Tuesday in October in every year, for the purpose of choosing five Directors, who shall remain in office for one year, or until others are chosen in their place; provided 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 appoint one of their number Chairman for the occasion.

6. No person shall be eligible as a Director unless such person is a stockholder and holds not less than twenty shares of the stock, and is of the full age of twenty one years.

7. The stockholders in the said Company shall vote according to the following scale:—For one share and not more than two, one vote; for every two shares above two and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten, and not exceeding thirty, one vote, making ten votes for thirty shares; for every five shares above thirty, and not exceeding sixty, one vote, making sixteen votes for sixty shares; and for every ten shares above sixty, and not exceeding one hundred, one vote, making twenty votes for one hundred shares; which said number of twenty votes shall be the greatest that any shareholder shall be entitled to give; and absent stockholders may vote by proxy, provided such proxy be a stockholder, and produce sufficient authority in writing.

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

9. If it should happen that the Directors should not be chosen on the said first Tuesday in October, in any year as aforesaid, it shall be lawful to choose them on any other day, on giving fourteen days notice of the time and place of a meeting to be held for such purpose, in one or more of the public newspapers of the City; and in case of any vacancy among the Directors, then the Directors may fill up the same by choosing one of the stockholders, who shall serve until another is chosen in his room.

10. The joint stock and property of the Company shall alone, in the first instance, be responsible for its debts and engagements, and no creditor or person having any demand against the Company on account of any dealings, shall have recourse against the separate property of any stockholder in the same, except in case of deficiency, or when the joint stock of the Company shall fall short or not be equal to the payment of any debt or demand against the same, or upon nulla bona being returned upon any execution against the goods and chattels of the Company, that then and in either of such cases, the goods, 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 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 Company.

11. The 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 Company; and whenever any assessment shall be made by the stockholders, it shall be the duty of the President to give notice thereof in one of the public newspapers of the City, requiring payment of the same within thirty days, at the office or place of business of the Company; and in case of non-payment, the delinquent shares may be sold at public auction to the highest bidder, and after retaining the amount of assessment and interest on each share, and all expenses, the residue, if any, shall be paid over to the former owner; provided always, that no assessment shall be made except by a vote of the stockholders, and by a majority of all the shares.

12. All meetings of the stockholders shall be called by seven days at least public notice being given of the time and place in one of the public newspapers of the City; and special meetings may be called by the President under the authority of the Directors, or by shareholders representing not less than one thousand shares, upon giving the like notice.

13. It shall be lawful for the Company and their successors, deputies, agents, servants, workmen and assistants, 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, a bridge or roadway of such design, form, materials, dimensions and construction as they shall think fit, across the sand flats of Courtney Bay aforesaid, from the City of Saint John to the Parish of Simonds, and at and from and to such points and places in the said City and Parish as they may deem most advisable and fit for such bridge or roadway, and to dig and make proper foundations and works on the lands and grounds lying on each side of the said Bay, for the towers, piers, abutments and other purposes of the bridge or roadway, and to cut and level the said lands and grounds as may be necessary, and to cut, remove and take away any impediment or obstruction which may in any wise tend to hinder the erecting and completing the bridge; and without any previous agreement with the owner or owners, tenant or tenants, occupier or occupiers thereof, to enter upon, use, occupy and appropriate so much of the said flats, lands and grounds as may be required for the site, construction and purposes of the said bridge or roadway, and to lay out, explore, survey and establish the line, course and position thereof, through and across the said flats, and also to connect the same by suitable roadways to the streets of the City, and the roads and highways of the said Parish of Simonds, on either side of the said Bay, and to execute all other things necessary and requisite, useful or convenient for erecting, building, maintaining and supporting the said bridge or roadway, according to the true intent and meaning of this Act, making such satisfaction nevertheless, as is hereinafter mentioned, to the respective owners or occupiers of all lands, grounds, tenements and hereditaments which shall be used, occupied, taken or appropriated by means or for the purposes of this Act; provided always, that in case it may be deemed necessary for the purposes of this Act, to use, occupy or enter upon any common, lands of the City, or premises belonging to the Mayor, Aldermen and Commonalty of the City of Saint John, the previous consent and agreement of the said Mayor, Aldermen and Commonalty of the City of Saint John shall be had and obtained, and testified by some deed or instrument under their

Common Seal; and provided also, that a sufficient draw or other means shall be placed and maintained in the said bridge or roadway to allow access, to ships and vessels up and down, the Creek, running through the said sand flats into the Harbour, at all suitable and reasonable times, and under proper regulations.

14. The Company shall and may erect and set up one or more gate or gates, turnpike or turnpikes in, upon and across the said intended bridge or roadway, or within twenty yards thereof together with tollhouses and necessary buildings, conveniences and fences, near to each gate or turnpike across the said bridge or roadway, or the street, road or avenue immediately communicating therewith; and the respective tolls following may be demanded and taken by such person or persons as the Company may appoint, for each and every time of passing over or upon the said bridge or roadway, that is to say:—For every foot passenger, not to exceed two pence; for every horse, mare, gelding, male 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; children under five years of age to pass free.

15. It shall be lawful for any collector of tolls to stop mid prevent the passage of any person 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; and it shall be lawful for any such collector to seize and detain the goods and chattels of such person, or such horse, beast, cattle, carriage, or other thing; and in case the tolls shall not be fully paid: or satisfied, with all reasonable costs and charges of making, detaining and keeping such distress within five days, the collector may sell the same, rendering, the overplus, if any, after deducting such costs and charges of making; detaining and selling such distress, to the owner thereof.

16. If any dispute shall arise respecting the amount of tolls due, or the amount of such costs and charges, the collector or person distraining may detain the distress, or the money arising from the sale thereof, until the amount shall be ascertained by some Justice of the Peace of the City and County of Saint John, who on application, shall examine the matter on the oath or oaths of the parties, or other parties, and shall determine the amount of tolls, costs and charges due, which amount shall be paid to the collector before he shall be obliged to return the distress, or the overplus after sale.

17. The Company shall make and allow, and pay reasonable and proper compensation and satisfaction for all lands, tenements and hereditaments taken, used, occupied or appropriated for the purposes of this Act; and in case no agreement can be made by the Company and the respective owners of such lands, tenements and hereditaments, the Mayor of the City, or should he be a stockholder in the said Company, then and in such case any Judge of the Supreme Court, shall issue a warrant 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 his being interested, then to some person who may be disinterested, requiring him to summon a jury of

twelve disinterested freeholders of the City and County, who shall set and appraise the damages sustained by such owner, on oath of the said jurors, and any witness or witnesses, to be administered by such Sheriff Coroner or other person; and the jury shall also inquire and return in their verdict who are the owner or owners to whom such value and damages shall be paid.

18. The Sheriff, Coroner or other person, as the case may be; in holding Such inquiry, shall be entitled to the same fees and invested with the same jurisdiction, powers and authority as such Sheriff would have in executing: any writ of inquiry of the Supreme Court; and the jury shall be authorised in assessing the damages, to take into consideration the advantages which may accrue to such owner by the erection and establishment of the bridge, in diminution of such damages; and the amount assessed shall be returned with the name or names of the owner or owners as aforesaid, and the inquisition, award or verdict of the jury shall be filed in the Office of the Clerk of the Peace of the City and County, and shall be final and conclusive between the parties; and the amount so assessed shall be borne by the Company and shall be paid by them within three months after the said inquisition, award or verdict shall be filed as aforesaid.

19. If any person shall wilfully and maliciously break, damage, injure, throw down or destroy any of the works or materials of the Company, he shall be adjudged guilty of felony.

20. No toll whatever shall be demanded or taken for any horse, beast, cattle or carriage employed in respect of the mails, or for any soldiers on duty, or for any horse, cattle or carriages attending them with their arms or baggage, or employed in the service of the Ordnance, Barrack or Commissariat Departments; and no rates or taxes for public charges shall be assessed or levied on the Company in respect of the bridge either in the City of Saint John or in the Parish of Simonds.

21. The Directors shall at every general annual meeting lay before the stockholders an exact and particular statement of the then state of the affairs and business, which statement shall be signed by the Directors or the major part of them, and a duplicate thereof shall be transmitted to the Provincial Secretary for the information of the Government.

22. 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 Company to sue such shareholder for the amount in any Court of law or equity having jurisdiction, and to recover the same with interest and costs.

23. In any such action it shall be sufficient for the 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 Company in the sum 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 Company by virtue of this Act.

24. On the trial or hearing, 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 Company shall be entitled to recover what shall be due upon such call, with interest and costs.

25. A plan and fully detailed description of the site and position of the road to be built under this Act, shall be filed in the offices of the Provincial Secretary and of the Common Clerk of the City of Saint John; and the site and position so selected shall be subject to the approval of the Lieutenant Governor in Council.

26. Unless at least ten per cent, of the capital stock of the said Company be paid in to the Treasurer of the said Company, and the work commenced according to the plan as herein specified to be filed, and as sanctioned by the Governor and Council, within three years, and fully completed within five years from the passing of this Act, then this Act shall be null and void.