

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1867. Fredericton, NB: G. E. Fenety, Printer to the Queen's Most Excellent Majesty, 1867.

30 Victoria – Chapter 71

An Act to incorporate the Western Telegraph Company of New Brunswick. Passed 17th June 1867.

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1. Incorporation of Company; Telegraph lines.	6. Tolls.
2. Capital.	7. Governor to have preference.
3. First meeting, how called.	8. Joint stock alone liable for debts.
4. Power to enter on public roads, &c.	9. Injury to property, how punished.
5. May enter on private property; compensation to owners.	10. Liability in case of transfer.

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

1. That Egerton R. Burpee, Honorable Charles Fisher, William B. Robinson, Charles N. Skinner, M. P. P., Frederick H. Burpee, and John Glasier, M. P. P., 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 body politic and corporate by the name of "The Western Telegraph Company of New Brunswick," and by that name shall have all the powers made incident to a Corporation by the Acts of Assembly of this Province, for the purpose of constructing, maintaining and working a single or double line of Electro Telegraphic communication from the City of Saint John in this Province to the eastern boundary of the State of Maine in the United States of America, along or near the line of Railway connecting the City of Saint John with the said eastern boundary of the State of Maine, with power to establish such branch lines and extensions to any other part of the Province, in connection therewith, as the increase of business, the establishment of Railroads, or other circumstances may make advisable; and for the purposes of the main line and the several branches and extensions thereof, to make such erections as may be necessary, and to purchase and acquire such real or moveable property as may be necessary for the making, maintaining and working the said Electro Telegraphic communication.

2. The capital stock of the said Corporation shall be fifty thousand dollars, to be divided into twelve hundred and fifty shares of forty dollars each, with power to the said Company to increase the same to two hundred thousand dollars, by increasing the number of shares.

3. The first meeting of the stockholders, for the purpose of organizing the said Corporation, shall be called by any two of the said Corporation hereinbefore named, by

giving fifteen days notice of the time and place of such meeting in the Royal Gazette, or in some other paper published in the Province.

4. The said Company may, by their agents and servants, enter upon the side or sides of any or all of the public roads, streets, bridges or highways in the Province, through, along, across, or by which the said telegraphic line, or any of its branches and extensions, shall pass, or be required to pass, and on the same erect and construct such and so many posts or other works as they may deem necessary for making, maintaining and using the said Electric Telegraph; and from time to time, as often as the said Company, their agents or servants, shall think proper, break up and open any part of the said roads, streets, or highways, not interfering with that part of the same appropriated for the use of carriages, waggons, or horses, and keep the same open during the time necessary for setting up, erecting and constructing such posts or other works; provided always, that the said Company shall not in any case obstruct any of the said public roads, streets, bridges, or highways, and that the said Company shall and do at their own costs and charges, and without 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 conditions in which they were before breaking up the same.

5. If it shall at any time be deemed necessary by the said Company, their agents or servants, to carry any part of the said main line of Electrical Telegraph communication, or any of the branches or extensions thereof, 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 making, completing, maintaining or repairing the said line of Electric Telegraph, or any of its branches or extensions, 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 or extensions thereof, and do all other matters and things which they, the said Company, shall think convenient and necessary for the making, extending, improving, completing and easy using of the said Electric Telegraph, or any of its branches or extensions, or any of the works therewith connected, 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, their agents or servants, and one by the owner or owners, occupier 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 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 corporate or private 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 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 of 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 five 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 that may and shall be sustained by such owner or owners, occupier or occupiers of such corporate or 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, when taxed and allowed by the said Supreme Court, or one of the Judges thereof, shall be borne by the said Corporation; which amount of such damages and costs shall be paid or tendered by the said Corporation to the person or persons, or body politic or corporate, entitled to the same, before the said Corporation shall be entitled to take possession of such property for the purposes aforesaid.

6. So soon as the main line of communication by the said Electric Telegraph, or any part thereof, or any of its branches or extensions, shall be complete and opened, it shall and may be lawful for the said Corporation at all times 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 transmitted and conveyed at the cost and charges of the said Company, by or upon the said Electric Telegraph, as the said Company may think just and reasonable.

7. The Governor shall 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, branches and extensions, 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 or extensions shall connect; and the rates of charges therefor shall not in any case exceed the rates of charges made to private individuals and others for the transmission of like messages.

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

9. Whoever 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, or any branch or extension 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 three years, which punishment shall be in addition to any civil or other remedy for such offence.

10. In case the said Western Telegraph Company shall lease, underlet, transfer or set over to any person or persons, body corporate, or joint stock company, any line or lines of Telegraph owned by the said Telegraph Company, the said Western Company shall still remain liable under the terms of this Act for any fault, neglect, or miscarriage of the person or persons, or body corporate, or joint stock company, to whom such sale, lease, transfer or setting over shall be made; and the service of any writ, summons, process or paper in law or in equity, upon the President or other officer or Secretary of the said Western Telegraph Company, shall be sufficient in all respects, in all suits or actions either at law or in equity, to enable the plaintiff in any such suit or action for such fault, neglect, or miscarriage, to issue and have issued any execution or executions against the property or effects of the said person or persons, or body corporate, or joint stock company, or their assigns, or of the said Western Telegraph Company, on judgment duly obtained.