

*Laws of Her Majesty's Province of Newfoundland, passed in the year 1852.*

15 Victoria – Chapter 6

**An Act to repeal certain parts of an Act passed in the Fourteenth Year of Her Majesty's Reign, entitled "An Act for the appointment of Electric Telegraph Commissioners and for Incorporating Electric Telegraph Companies," and also to provide for Incorporating the Newfoundland Electric Telegraph Company. (Passed, 14th June, 1852.)**

Whereas it is deemed advisable to repeal certain parts of an Act passed in the Fourteenth Year of Her Majesty's Reign, entitled "An Act for the appointment of Electric Telegraph Commissioners and for Incorporating Electric Telegraph Companies," and to make other provisions in lieu thereof:

Be it therefore enacted, by the Governor, Council, and Assembly, in Legislative Session convened, that from and after the passing of this Act, the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth and Seventeenth Sections of the said in part recited Act shall be, and they are hereby repealed.

II. And be it enacted, That Frederick N. Gisborne and all persons who shall become Proprietors of Shares for the purpose of establishing a Company to carry into effect the provisions of this Act, and their successors and assigns, shall be, and they are hereby created a Body Corporate and Politic, by the name of the "Newfoundland Electric Telegraph Company," and by that name may have a Common Seal, and Sue and be Sued, and may hold Lands and Goods, and Let, Sell, Assign and Convey the same or any part thereof.

III. And be it enacted, That the Capital or Joint Stock of the said Company shall be One Hundred Thousand Pounds, in One Thousand Shares of One Hundred Pounds each, and that the Shareholders shall be individually liable for no more than Twenty-five Pounds per Share over and above the full paid up amount of every such Share held by them respectively, and the Company may sue for and recover the amount of any Shares or Instalments not paid in conformity with the Bye-laws: Provided always that nothing herein contained shall be construed to exempt the Joint Stock of the said Corporation from being liable for and chargeable with the Debts and Engagements of the same.

IV. And be it enacted, That so soon as Five Hundred Shares of the said Capital Stock shall be subscribed, the Stockholders may meet at such time and place, and upon such notice, as a majority of them shall appoint, and at such Meeting a Board of Directors of Five Stockholders, owning at least Five Shares each of the Capital Stock, shall be chosen; which Board of Directors shall choose from among themselves a President and Vice-President, and any Three of such Directors, of whom the President or Vice-President shall be One, shall be a quorum for the transaction of business; and such Board of Directors shall appoint a Secretary and other Officers and Servants, and fix their Salaries, and shall frame Byelaws for regulating and managing the affairs of the Company: Provided no Bye-law shall be repugnant to this Act, or any Law or Statute of this Colony.

V. And be it enacted, That the said Board of Directors shall commence operations, and continue in office until the First Monday in July, One Thousand Eight Hundred and Fifty-Three, on which said

Monday of July, and on the First Monday of July in every succeeding Year, there shall be a General Meeting of the Stockholders, at such town or place as a majority of the Shareholders may name, Fourteen Days' notice thereof having been given in Two of the Public Newspapers of such town or place; at which Meeting the Board of Directors for the past Year shall exhibit a full statement of the affairs of the Company; and the Meeting shall thereupon proceed to audit the Accounts, declare a Dividend, elect a Board of Directors for the ensuing Year, amend or annul any Bye-law, or make any new Bye-law, and transact such other business as may then be brought before them; and all Boards of Directors so appointed shall have the like powers with the Board of Directors first above mentioned.

VI. And be it enacted, That the Shares in the Capital Stock of the said Company shall be deemed Personal Property and be liable to Attachment and Execution in like manner as other Personal Property now is, and that the Process or Warrant in such ease shall be served on the President or Vice-President of the Board of Directors, or the Secretary or other principal Agent of the said Company resident in Newfoundland, and such service shall bind the Share or Shares of any Stockholder to the extent of such Attachment or Execution issued against him; and that for the purpose of ascertaining the number of Shares held by any Shareholder against whom any Attachment or Execution may have issued, such President, Vice-President, Secretary, or other principal Agent as aforesaid, or any Director or Officer of the said Company, may be examined in like manner as any third person having in his or her possession any Goods, Monies, Debts or Effects of any Defendant may now be examined and upon the Sale by the Sheriff of any such Shares under any Execution, such Secretary or other principal Agent of the said Company as aforesaid, shall, on production of a Bill of Sale from the Sheriff, transfer the number of Shares by him sold under such Execution to the purchaser or purchasers thereof, and such transfer shall be valid and effectual to all intents and purposes: Provided always that the proceeds of such Sale shall be subject and liable in the first instance to any Debt that may be due from such Shareholder to the said Company.

VII. And be it enacted, That the said Company may construct and complete a Main or Trunk Line of Magnetic Electric Telegraph from St. John's towards Cape Ray, and may also construct such Lines from St. John's towards Trepassey, or such other part of the South-western coast as may be selected for the purpose, as also Branch Lines connecting the said Main or Trunk Lines with any Town or Village: Provided always that the said Lines or Branch Lines shall not interfere with the Lines of the St. John's and Carbonear Electric Telegraph Company.

VIII. Be it enacted, That the Company may erect the said lines of Telegraph along the side of any public highways, provided they do not interfere with the right of travelling thereon; and may enter into any Lands, and survey and set off such parts thereof as may be necessary for the Lines of Telegraph, and may take from any of the Public Lands of the Colony any Posts or Building Materials necessary to make or repair the Lines or any Buildings in connection therewith; and in case of disagreement between the Company and the owner or occupier of Lands which the Company may take for the purpose aforesaid, or in respect of any damage done to the same, by erecting the lines thereon, the Company and such owner or occupier, as the case may be, shall each choose an Arbitrator, which Two Arbitrators shall choose a Third, and the decision of any Two of them, in writing, shall be final; and if such owner or occupier, or the Agent of the said Company, shall neglect or refuse to choose and appoint an Arbitrator within Four Days after notice in writing to him from the opposite party, or if such Two Arbitrators when

duly chosen and appointed shall disagree in the choice of a Third Arbitrator, in any such case it shall be lawful for the Colonial Secretary for the time being to nominate any such Arbitrator, or such Third Arbitrator, as the case may be, who shall possess the same power as if chosen in manner above provided.

IX. And be it enacted, That the Governor or Administrator of the Government, shall have, at all times, in preference to all others, the right of using the lines of Telegraph to be established by the said Company for the transmission of Messages relating to the public service, and the rates of charges therefor shall not exceed the charges made to private individuals; and the said Company shall at all times transmit the messages of private parties without preference or delay, subject to a scale of charges which shall not exceed in any case a rate of Two Shillings for Ten Words over each Hundred Miles.

X. And be it enacted, That any person wilfully interrupting the free use of any Telegraph line established by the said Company, or works connected therewith, shall be subject to a penalty of not less than Two Pounds, nor more than Ten Pounds, to be recovered by any person informing and suing for the same, in a summary way, before one or more Justices of the Peace, and be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, one half whereof shall go to the party suing for the same, and the other half be applied to the public use of the Colony; and in default of Goods and Chattels to satisfy such Warrant, every such Offender shall be committed to gaol by such Justice or Justices for any period not exceeding Thirty Days. And if any person shall wilfully or maliciously obstruct or damage any such Telegraph Line, Works, Buildings or Machinery connected therewith, he shall be guilty of Misdemeanor, and the Court before whom the Offender shall be convicted, shall have power to cause such person to be punished accordingly.

XI. And be it enacted, That so soon as the said line of Electric Telegraph shall be built and completed from St. John's to Cape Ray, it shall and may be lawful for the Governor or Administrator of the Government for the time being, to issue Grants under the Great Seal of this Island, to the said Corporation, of any ungranted and unoccupied Wilderness Land, on either side of the said Telegraph, West of Piper's Hole, and in such localities as shall first have been approved of by the Governor and Council, not nearer than One Mile from High-Water Mark, in blocks not exceeding Five Square Miles, and in all not exceeding Thirty Square Miles, when and as applied for by the said Corporation; subject, nevertheless, to such conditions, terms and reservations, respecting all Mines of Gold, Silver, and Coal, and all other Mines and Minerals that may be found in any part thereof, and as to the permanent settlement thereof by One Settler in fee simple to every Five Hundred Acres so granted within Five Years from the date of any such Grant, and the right of the Public to construct any Road in and over the said Lands, or any of them, as the Governor, or Administrator of the Government, with the advice of the Council, may deem just and reasonable: and the said Company shall have power to alien and dispose of the said Lands, or any part or parts thereof, subject to the like conditions, terms, and reservations, as aforesaid.

XII. And be it enacted, That so soon as the said line of Electric Telegraph from St. John's to Cape Ray shall have been completed, and a good traversable Bridle Path or Road along the course of the said Telegraph shall be constructed and completed from the Ship Harbour Road to Cape Ray, or Port-a-

Basque, not less than Four Feet in width, and opened to the Public, it shall be lawful for the Governor, by Warrant on the Colonial Treasurer, to pay to the said Company a sum at the rate of Fifteen Hundred Pounds for every One Hundred Miles of the said Road, and the said Road shall be thereupon deemed and used as a Public Highway, subject to the rights of the said Company therein: Provided that all Bridges forming part of the said Bridle Path shall not be less than Eight Feet in width respectively, and that the said Bridle Path in its course across all Marshes shall be drained of the width of not less than Twelve Feet; and further, that no part of the said sum shall be paid until the said Road shall have been inspected by a Government Surveyor, and certified by him to be in conformity to the provisions of this Act.

XIII. And be it enacted, That unless One-half at least of the Capital or Joint Stock of the said Company shall be subscribed, and effective operations commenced for the building and laying down of the said Line of Telegraph, within One Year and a Half from and after the passing of this Act, this Act and every thing herein contained, shall cease to have any force or effect, and every clause, matter and thing herein contained, shall thenceforth be utterly null and void.

XIV. And be it enacted, That all Wires and Materials required for the use of Main Lines, or Branch Lines of Telegraph, shall and may be imported Free of Duty.

XV. And be it enacted, That the Corporation hereby created, (provided the said Line of Electric Telegraph shall have been completed from St. John's to Cape Ray within Three Years from the passing of this Act,) shall have the right to the Building, Making and Working of the said Line, or of any other Line of Electric Telegraph between St. John's and Cape Ray, or any other Western points of the Island, to the exclusion of all other persons, and Bodies Politic or Corporate, for the full period of Thirty Years from the passing of this Act, subject nevertheless to the right of pre-emption by the Government of Newfoundland hereinafter contained.

XVI. And be it enacted, That if at any time after the passing of this Act, it shall be deemed advisable, by the Governor for the time being, in Council, that any Line of Telegraph and Branch Lines established by the said Company, should be transferred to and vested in the Government of this Island, it shall be lawful for such Governor to cause a written notice to be given to the said Company, which shall be served upon the President, or any other principal Officer thereof, or by leaving the same with any Officer in the Office of such Company at St. John's, which notice shall state that the Government have decided on becoming the holders of the said Lines and Branches, and shall require a statement of the actual outlay and expenses which the Company have made or incurred in the construction of such Main or Trunk Lines, and Branch Lines, and Buildings and Erections connected therewith; such statement to be authenticated in such manner as by the Governor and Council may be required; and upon the expiration of Twelve Calendar Months from the service of such notice, and after payment made or tendered in manner hereinafter provided, all and singular the Lands and Estate not previously alienated or disposed of by the said Company, Trunk or Main Line of Electric Telegraph and Branches, Batteries, Posts, Wires, Machinery, and all other things whatsoever then owned and possessed by such Company, under and by virtue of the provisions of this Act, or for the purposes thereof, and all the right, title, and interest of such Company in and to the same respectively, and all Deeds, Conveyances, and Charters relating thereto, shall become transferred, surrendered up, and vested in Her Majesty,

Her Heirs and Successors, for the public use and benefit of this Island, and shall be thenceforth held free and discharged from all claims of such Company, or any Shareholder thereof, or any person whomsoever; and it shall thereupon be lawful for the Governor to draw a Warrant or Warrants on the Treasurer for the payment to such Company of the actual outlay and expenses so made or incurred by them as aforesaid, together with an addition of Fifty Pounds per Centum thereto; and the payment or payments in discharge of such Warrant or Warrants shall be made or tendered by the Treasurer aforesaid to the President and Directors of the said Company, or to their principal Officer or Agent in this Island, in such manner as the Governor for the time being shall direct and appoint.

XVII. And be it enacted, That all Stockholders resident within this Colony or elsewhere may vote by proxy, upon the production of sufficient authority, in writing, from his constituents, so to act.

XVIII. And be it enacted, That all and every the Shares in the Capital Stock of the said Company, and all profits and advantages thereof, shall be deemed to be Personal Estate, and shall be transmissible as such according to the Rules and Regulations to be established in that behalf: Provided always, that no Assignment or Transfer of any Share shall be valid or effectual until such Transfer be entered and registered in a Book to be kept for that purpose: and Provided also, that whenever any Stockholder shall transfer, in manner aforesaid, all his Stock or Shares in the said Company, to any person or persons, such Stockholder shall cease to be a member of the said Corporation; but such Shareholder shall nevertheless be liable in manner and to the extent hereinbefore provided, for any Debts or Liabilities of the said Corporation, incurred or subsisting at the time of any such Transfer.

XIX. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of, and shall have the effect of a Public Act without being specially pleaded.