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4th Session, 4th Parliament, 45 Victoria, 1882.

BILL

An Act to incorporate the Canada
Mutual Telegraph Company.

*(Reprinted as reported to the Railway
Committee by the Sub-Committee to
which it was referred.)*

(PRIVATE BILL.)

Mr. KIRKPATRICK.

OTTAWA:

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1882.

An Act to incorporate the "Canada Mutual Telegraph Company."

(Reprinted as reported to the Railway Committee by the sub-Committee to which it was referred.)

WHEREAS the Canada Mutual Telegraph Company, Preamble.
 which has been incorporated under "*The Canada Joint Stock Companies' Act, 1877*," has, by petition, prayed for a special Act of incorporation, with the extended powers hereinafter set forth; and it is desirable to grant the prayer of the said petition: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Charles Rudolph Hosmer, Edward Nassau Heney, Alexander Fowler Riddell, George Burchell Williams, and John Franklin Olmstead and their associates, and all other persons who are now or may hereafter become shareholders in the Canada Mutual Telegraph Company, are hereby constituted a body politic and corporate by the name of "The Canada Mutual Telegraph Company," hereinafter called "the Company," and the head office of the Company shall be in the city of Montreal, in the Province of Quebec, until the same shall be removed as hereinafter provided for.

Certain persons incorporated.

Short title and head office.

2. The said Canada Mutual Telegraph Company, incorporated under "*The Canada Joint Stock Companies' Act, 1877*," is hereby merged in and declared to be the Canada Mutual Telegraph Company incorporated by this Act, and all the properties, rights, credits, debts and liabilities belonging to or attached to the said first mentioned company are hereby declared to belong and be attached to the said Canada Mutual Telegraph Company incorporated by this Act.

Properties and rights obtained by charter to remain attached to Company.

3. If the Company at any time desire to remove the head office from one place in Canada to another place in Canada they shall have the power to do so by a by-law to such effect, which said by-law shall be forthwith published in the *Canada Gazette* for a period of eight weeks thereafter, and upon and from the last of such publications the said head office shall be thereby and thereafter transferred and removed in accordance with the terms of the said by-law so published.

Removal of head office.

4. The Company shall have power to establish, construct, and work a line or lines of telegraph from and to any

Powers granted.

Constructing lines. place or places in the Dominion of Canada, either by land or water, over which exclusive telegraph line rights do not now exist by any law of the Dominion or of any Province of the Dominion, and from and to any place or places without the Dominion of Canada, and to make connection with the line or lines of any telegraphic company in the United States of America or elsewhere, and to aid or advance money to build or work any such line in the said United States; and also to borrow such sum of money not exceeding the amount of the paid-up capital of the Company, as the Company shall deem necessary, and to issue bonds therefor which shall be a first charge upon the whole lines, works and plant of the Company, in such sums and at such rate of interest, and payable at such times, as the Company shall determine, for the purpose of carrying out any of the objects or purposes of this Act; the Company shall also have power to enter into any arrangements with any person, board or company, possessing as proprietors any line of telephone communication, or any power or right to use communication by means of the telephone or other similar apparatus, upon such terms and in such manner as the board of Directors may from time to time deem expedient or advisable.

Lines not to interfere with travelling.

5. The Company may lay down, erect and maintain its line or lines of telegraph along the sides of and across any public highways, bridges, watercourses or other such places, or under any navigable waters either wholly in Canada or dividing Canada from any other country, provided the Company shall not interfere with the public right of travelling thereon; and may enter upon any lands or places, and survey, set off and take such parts thereof as may be necessary for such line or lines of telegraph; and in case of disagreement between the Company and any owner or occupier of lands which the Company may take for the purposes aforesaid, or in respect to any damage done to the same by constructing the line or lines through or upon the same, 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 on the matter in difference of any two of them in writing shall be final, and if the said owner or occupier or the agent of the Company neglects or refuses to choose an arbitrator within four days after the notice in writing, from the opposite party to him, and upon proof of personal service of such notice, or if such two arbitrators, when duly chosen, disagree in the choice of a third arbitrator, in any such case it shall be lawful for the Minister of Public Works 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: Provided always, that nothing herein contained shall be construed to confer on the Company the right of building a bridge over any navigable river in Canada.

Arbitration in case of disagreement with owners.

Proviso: not to build bridges over navigable waters.

May cut down trees and underwood.

6. Wheresoever the said line or lines shall pass through any wood, the trees and underwood may be cut down for the space of fifty feet on each side of the said

telegraph upon which such trees and underwood may be, they, the Company, doing as little damage as may be, in the execution of the several powers to them hereby granted, and making satisfaction, whenever
 5 required so to do, to the owners or proprietors of or the persons interested in the lands, tenements, or hereditaments, water, water-courses, brooks or rivers, respectively, which shall be taken, used, removed or prejudiced, or woods in which trees or underwood shall be cut down, or for all
 10 damages to be by them sustained in or by the execution of all or any of the powers of this Act: Provided always, that the Company shall not cut down or mutilate any tree planted or left standing for shade or ornament or any fruit tree; *Provided also that in so doing the said Company*
 15 *shall not cut down or mutilate any tree*; and provided that in cities, towns and incorporated villages the opening-up of the street for the erection of poles or for carrying the wires under ground shall be done under the direction and supervision of the engineer or such other officer as the Council
 20 may appoint, and in such manner as the Council may direct, and that the surface of the street shall in all cases be restored to its former condition by and at the expense of the Company.

Proviso: as to shade trees

7. The capital of the Company shall be one million dollars and shall be divided into shares of fifty dollars each, and the said capital may be increased from time to time by resolution of the Board of Directors by and with the consent of a majority in value of the shareholders present in person or represented by proxy at any general meeting or at any special
 25 general meeting of shareholders called for that purpose; but such capital shall at no time be made to exceed two million
 30 dollars.

Capital stock and shares.

Limit to increase of capital stock.

8. The said Charles Rudolph Hosmer, Edward Nassau Heney, Alexander Fowler Riddell, George Burchell Williams
 35 and John Franklin Olmsted are hereby constituted the Board of Directors of the Company and shall hold office as such until other Directors shall be elected by the shareholders in the manner hereinafter provided.

Provisional Directors.

9. The Directors of the Company shall have power and
 40 authority to open stock books and to procure subscriptions for the undertaking, to make calls upon the subscribers and to cause surveys and plans to be executed.

Their powers.

10. Every subscriber to or holder of any stock of the Company, shall thereby become a member of the Company
 45 and shall have the same rights and privileges as such as are hereby conferred on the several persons who are herein mentioned by name as members of the Company.

Subscribers to stock to be members of the Company.

11. The affairs and business of the Company shall be managed by a Board of Directors to consist of not less than
 50 five nor more than nine members, and each such Director shall be the proprietor of at least twenty shares in the stock

Board of Directors.

of the Company, and they shall be elected and hold office as hereinafter provided.

Aliens may be shareholders.

Liability of shareholders limited.

12. Aliens shall have equal rights with British subjects to take stock and to vote, and shall be eligible to office in the Company; and no shareholder shall be liable beyond the extent of the stock subscribed by him, for any debt contracted by the Company. 5

Organization of Board of Directors.

Quorum.

Honorary or local Directors.

13. The Directors shall appoint one of their number to act as President, and another to act as Vice-President, and may appoint such other officers and agents as they shall deem necessary; and the Directors may remove all officers appointed by them and appoint others in their places, and may fill all vacancies in the offices; three of the Directors shall form a quorum, and all questions shall be decided by a majority of votes of the Directors present; and upon every equal division the President or the Chairman for the time being, shall give his casting vote in addition to the vote previously given by him as one of the Directors; the Directors may appoint honorary or local Directors if they think proper so to do at any time. 10 15 20

Directors may open stock books.

May appoint agents.

And regulate the issue and transfer of shares.

14. The Directors of the Company for the time being may open or cause to be opened, stock-books for the subscription of parties desiring to become shareholders in the capital stock of the Company, in such places as they shall think fit, and may make the shares payable in such manner as they shall see fit, and may make the dividends thereon payable at such place or places as to such Directors shall from time to time seem fit; and from time to time may appoint agents of the Company in or out of Canada, and may delegate to such agents such powers as to the Directors of the Company shall from time to time seem fit, and may make such rules and regulations as to the Directors of the Company shall from time to time seem fit, as to the issuing of shares, and as to the mode, time, place or places of the transfer of such shares, and as to the mode, time and places of paying the dividends from time to time to accrue thereon, and otherwise as shall be deemed requisite or beneficial, for giving full effect to the powers hereby vested in the Directors of the Company in respect of issuing such shares. 25 30 35

One vote for each share.

15. The said Directors shall hold office until the first annual meeting of the stockholders of the Company after the passing of this Act, and at all meetings of the stockholders each share shall entitle the holder to one vote which may be given either in person or by proxy. 40

General meeting for election of Directors.

16. On the second Wednesday of the month of February or on such other day in each year as the Company shall by any by-law from time to time appoint, there shall be held a general meeting for the election of Directors at the head office of the Company, and one month's notice of every such meeting shall be given by the Directors in the *Canada Gazette* and in one or more newspapers published in the place where the head office of the Company shall 45 50

then be; and at every such general meeting the Directors in office or any of them may be re-elected.

17. Special general meetings of the shareholders of the Company may be held at such places in the town or city where the Company shall have its head office, and at such times and in such manner, and for such purpose as may be provided by the by-laws of the Company, and after at least fifteen days public notice thereof, inserted in two daily newspapers published in the same manner as provided in the next preceding section.

Special
general
meetings.

18. In the event of one or more of any such Directors dying or resigning, the remaining Directors shall appoint a Director or Directors in lieu of the person or persons so dying or resigning.

Resignation
of Directors.

19. The Directors may from time to time, make, alter, amend or repeal such regulations and by-laws when they may from time to time deem it advisable, but every such by-law and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the shareholders, duly called for that purpose, shall only have force until the next annual meeting of the Company, and in default of confirmation thereat shall, at and from that time only, cease to have force.

Directors may
amend by-
laws, &c.

20. The Directors may require payments of subscriptions to the said capital stock at such times and in such proportions as they may deem proper, and, if, after such demand or notice as by the by-laws of the Company may be prescribed, any call made upon any share or shares be not paid within such time as, by such by-laws may be limited in that behalf, the Directors, in their discretion, by vote to that effect duly recorded in their minutes, may summarily declare forfeited any shares whereon such payment is not made, and the same shall thereupon become the property of the Company and may be disposed of as, by the by-laws of the Company or otherwise, they may ordain; but, notwithstanding such forfeiture the holder of such shares at the time of forfeiture shall continue liable to the then conditions of the Company for the full amount unpaid on such shares at the time of forfeiture, less any sums which may have been subsequently received by the Company in respect thereof.

Calls on
capital stock.

21. The Company may, if they see fit, instead of declaring forfeited any share or shares, enforce payment of all calls and interest thereon, by action in any competent court; and in such action it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more upon one share or more (stating the number of calls and the amount of each) whereby an action hath accrued to the Company, under this Act; and a certificate under

Enforcement
of calls by
suit.

their seal, and purporting to be signed by any officer of the Company, to the effect that the defendent is a shareholder, that such call or calls has or have been made, and that so much is due by him and unpaid thereon, shall be received as against the defendent in all courts as *prima facie* evidence to that effect. 5

Transfer of shares.

22. All and every the shares in the capital stock of the Company, and all profits and advantages thereof, shall be transferable and transmissible as such : 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. 10

Transfer when share is not fully paid up.

23. No transfer of shares whereof the whole amount has not been paid in shall be made without the consent of the Directors ; and whenever any transfer of shares, not fully paid in, has been made with such consent to a person being apparently of insufficient means to fully pay up such shares, the Directors jointly and severally shall be liable to the creditors of the Company, in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been : but if any Director present, when any such transfer is allowed, do forthwith, or if any Director, then absent, do within twenty-four hours after he shall have become aware thereof and able so to do, enter on the minute book of the Board of Directors his protest against the same, and do within eight days thereafter publish such protest in at least one newspaper published at, or as near as may be possible to, the office or chief place of business of the Company, such Director may thereby, and not otherwise, exonerate himself from such liability. 15
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Transmission of share otherwise than by transfer.

24. Whenever the interest in any share or shares of the capital stock of the Company shall be transmitted by the death of any shareholder or otherwise, or whenever the ownership of or legal right of possession in any such share or shares shall change by any lawful means other than by transfer, and the Directors of the Company shall entertain reasonable doubts as to the legality of any claim to and upon such share or shares of stock,—then, and in such case, it shall be lawful for the Company to make and file in one of the Superior Courts of Law or Equity in the Province in which the head office of the Company is situated, a declaration and petition in writing, addressed to the Justices of the Court, setting forth the facts and the number of shares previously belonging to the party in whose name such shares stand in the books of the Company, and praying for an order or judgment adjudicating and awarding the said shares to the party or parties legally entitled to the same, and by which order or judgment the Company shall be guided and held fully harmless and indemnified and released from all and every other claim for the said shares or arising therefrom : Provided always, that notice of such petition shall be given to the party claiming such share or shares, or to the attorney of such party duly authorized for the purpose, who shall, 35
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Proviso.

upon the filing of such petition, establish his right to the several shares referred to in such petition; and the delays to plead and all other proceedings in such cases shall be the same as those observed in analagous cases before the said Superior Courts: Provided also, that the costs and expenses of procuring such order and adjudication shall be paid by the party or parties to whom the said shares shall be declared lawfully to belong; and such shares shall not be transferred until such costs and expenses be paid, saying the recourse of such party against any party contesting his right.

Proviso.

25. It shall be the duty of the Company (subject to the provisions in the next following section) to transmit all despatches in the order in which they are received, under a penalty of not less than twenty nor exceeding one hundred dollars, to be recovered with costs of suit by the person or persons whose despatch is postponed out of its order; and the Company shall have full power to charge for the transmission of such despatches, and to receive, collect and recover such rates of payment as shall be from time to time fixed by the by-laws.

Order of sending despatches.

Charges for transmitting despatches.

26. Any message in relation to the administration of justice, the arrest of criminals, the discovery or prevention of crime, and Government messages or despatches, shall always be transmitted in preference to any other message or despatch, if required by any person connected with the administration of justice or any person thereunto authorized by the Secretary of State of Canada.

Priority to be given to Government messages.

27. Any operator of the said telegraph line or person employed by the Company, divulging the contents of a private despatch, except when compelled as a witness by a Court of Justice, shall be held to be guilty of a misdemeanor and may be prosecuted summarily before any Recorder, Police Magistrate or Justice of the Peace, where the offence was committed, and shall be liable to a fine not exceeding one hundred dollars, or to imprisonment not exceeding three months, or both, in the discretion of the court before which the conviction shall be had.

Penalty for divulging contents of private despatches.

28. Any person who shall wilfully or maliciously injure, molest, or destroy any of the lines or posts, or the material or property belonging thereto, or in any way obstruct the working of the said line of telegraph, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be liable to be imprisoned in the common gaol for any period less than two years, with or without hard labor at the discretion of the court.

Injuring property of Company to be a misdemeanor.