BRITISH COLUMBIA.

V. R.

No. 5. An Ordinance to encourage the construction of a line of Telegraph, connecting the Telegraphs of British Columbia with the Telegraph lines of Russia, the United States and other Countries, and for other purposes.

[21st February, 1865.]

Preamble.

WHEREAS, PERRY MACDONOUGH COLLINS, a citizen of the United States of North America, has obtained from the Governments of Russia, and the United States, the right to make and maintain a line of Electric Telegraph through their respective territories,

And, whereas, Her Majesty's Government desires cordially to co-operate with the United States and Russia, in the establishment and maintenance of such continuous line of International Telegraph;

Be it therefore enacted by the Governor of British Columbia, by and with the advice and consent of the Legislative Council thereof, as follows:—

Grants power to make Telegraph.

I. From and after the date of this Ordinance, it shall be lawful for the said Perry Macdonough Collins, his associates and assigns, to survey and, the consent of the Government of British Columbia having been first obtained to the general direction so chosen therefor, construct and maintain a line or lines of telegraph, from any point or points on the line of the said proposed International Telegraph in Russian America, to any point or points on the said line in the United States, over or across any unappropriated and unoccupied Crown or tidal lands in the said Colony of British Columbia and its Dependencies, and along or across any public street or highway therein (not obstructing such street or highway), and to lay down a telegraph cable or cables along the said proposed line, through or across any stream, creek, river, strait, bay, gulf, water, or water course, within the said Colony of British Columbia and its Dependencies (but so as not thereby to impede navigation or other public rights), and, with the consent aforesaid, to have and to hold all such other rights of way, in connection with the said telegraph line, over the lands aforesaid as are necessary for its construction and maintenance.

Over unappropriated Crown Lands.

Public streets or highways.

Waters.

Power to erect stations and defensive posts.

II. There is hereby granted to the said Perry Macdonough Collins, his associates and assigns, the power to make and erect all stations, block-houses, and defensive posts which may, in the opinion of the said Government, be necessary for the proper use or defence of the said International Telegraph line against Native tribes within the said Colony or its Dependencies.

When Government may take possession thereof.

Provided that it shall be lawful for the Government of British Columbia in case of any emergency arising, sufficient in the opinion of the said Government to warrant such action, to take possession of and freely use any such block-houses or defensive posts.

Grants use of unappropriated Crown Lands.

III. And it shall be further lawful for the said Perry Macdonough Collins, his associates and assigns, for the purpose of establishing and maintaining such line, and without compensation, to use so much of the unappropriated Crown lands in the Colony, not reserved for Indians, as may be necessary for such Stations, so long only as the same may be used for the said purpose; with full power to the said Perry Macdonough Collins, his associates and assigns, without compensation, to take from such part or parts of the said unappropriated Crown lands in the neighbourhood of the line, as the said Government shall, from time to time indicate in that behalf, any wood, timber, stone, sand, and lime, for the purpose of making any buildings or works necessary, in or for the construction, maintenance, repair, or due working of such telegraph, or the stations or defensive posts thereof.

And of any wood, lime, stone, sand &c.

No right of soil conveyed.

IV. Provided that this grant shall convey a right of use of the said land for the purpose aforesaid, and not a right to the soil, which shall remain vested in the Crown.

Saving of Crown Rights.

Provided, also, that nothing herein contained shall be construed to affect, limit, or abridge the jurisdiction or prerogative rights of the Queen, Her heirs or successors, over the said lands, or Her or their right of using, selling, or otherwise disposing thereof, as far as the same may be done without interfering with the construction or working of the said line.

Power to construct Telegraph over private lands.

V. The said Perry Macdonough Collins, his associates and assigns, are hereby also authorized to place, construct, and maintain a line or lines of telegragh in the direction so to be settled as aforesaid of the said proposed International Telegraph, over any private lands in the said Colony or its Dependencies, upon the payment of a reasonable compensation therefor, and may, with the sanction in writing of the Chief Commissioner of Lands and Surveyor General, purchase or lease, fence in and occupy any cultivable land or other property in British Columbia, necessary or convenient for stations, or for the maintenance, repair, or working of the International Telegraphic line herein provided for, or for effectually carrying on the telegraphic business in connection therewith, but not further or otherwise.

Term of Grant to be from passage of this Ordinance to A. D. 1903.

VI. This Ordinance is passed, and the rights and privileges hereinmentioned are, subject as herein mentioned, granted to the said Perry Macdonough Collins, his associates and assigns, for the term commencing from the date hereof until the expiration of thirty-three years from the first day of January, A. D. one thousand eight hundred and seventy. Nevertheless, upon and subject to all and singular the express conditions following, that is to say:—

Conditions.

To commence by 1st January, 1867

(*a*) That the said Perry Macdonough Collins, his associates and assigns, shall, on or before the first day of January, A. D. one thousand eight hundred and sixty-seven, effectually commence the operations necessary for the construction and maintenance of the works of the said International Telegraph line, in the manner herein provided for;

To complete by 1st day of January, 1870.

(*b*) And shall, on or before the first day of January, A.D. one thousand eight hundred and seventy, complete, or cause to be thoroughly completed, and put into continuous operation, a continuous line or lines of telegraph, the direction of which shall be settled by the said Perry Macdonough Collins, his associates or assigns, subject to the written approval of the Chief Commissioner of Lands and Surveyor General, from the City of New Westminster, in the said Colony, so as to connect directly with the existing telegraph systems of the United States on the South, and the telegraph system of Russia on the North, along the line of the Pacific Coast, so as to place and maintain the said City of New Westminster and the British Columbia system of telegraphs in complete and continuous telegraphic communication with the whole telegraphic systems of the United States and Russia, and all other countries whose telegraphic systems

are or may be hereafter brought into connection with any of those countries or places, respectively.

(c) And upon this further condition, also, that he and they shall and will at his and their own expense, and within the time, and with the concurrence, and in the manner, and subject to the conditions aforesaid, place, construct, erect, and hereafter maintain all stations, block-houses, and defensive posts, and other works requisite for the due maintenance and regular working of the said proposed line. To construct all necessary stations, defensive posts, &c.

(*d.*) And upon this further condition, that the said Perry Macdonough Collins, his associates or assigns, after the said completion and, setting in operation of the said line, shall not fail (unless prevented by repairs, storms, breakages of cables or other unavoidable accident) for any continuous period of one calendar month during the said term, to keep the said through International Telegraph line in working order, and open for public use, between New Westminster and the said United States, to the eastern coasts thereof and Russia, and the other lines in connection with the said International line. To keep up constant Telegraphic communication save when prevented by accident.

(*e*) And upon this further condition that all despatches and messages that shall be sent by or on behalf of Her Majesty's Government, and the Government of British Columbia, shall have precedence over all other despatches whatsoever along the said proposed International line within the said Colony and its Dependencies. Government messages to have precedence in the Colony.

(*f.*) And upon this further special and express condition, that the general arrangements of the said telegraph throughout the said International line from end to end, and in whichever hemisphere, and of all such other lines as may be or come in connection therewith, shall be such as to place English, Russian, and United States messages upon an equal footing, in regard to the use of the said International Telegraph. English, Russian and United States messages to be on an equal footing.

VII. On failure of the said Perry Macdonough Collins, his associates or assigns, effectually to commence and complete the portion of the said International line contained within the said Colony and its dependencies, within the respective times, and in manner herein mentioned, and to fulfil and keep all and singular the conditions in this Ordinance specified, the powers, rights and privileges hereby granted shall cease and determine, and this Ordinance become absolutely void. Forfeiture in default of performing conditions.

VIII. Upon the completion of the said International Telegraph line, hereinbefore more particularly mentioned and described, within the time and manner, and subject to the several conditions in this Ordinance specified, there is hereby granted to the said Perry Macdonough Collins, his associates and assigns, the right of sending and receiving messages by telegraph, and making a reasonable charge for the same, subject as herein mentioned, between any place within the said Colony, and to and from Russia, and the United States, or any other Countries or place beyond the limits thereof respectively, for the period of thirty-three years, from and after the said first day of January, A. D. one thousand eight hundred and seventy. Rights of grantees as to sending messages. Charges.

IX. This Ordinance shall not be construed to prevent, or in any manner interfere with any other line or lines of telegraph whatever, nor to limit the right of any person, corporation or company fully to establish and work any other telegraph line or lines anywhere within, to, or from the said Colony, either in or not in connection with the said International line. No exclusive rights granted.

X. The Government of British Columbia shall at all times have the right to connect the said line or lines by telegraph with any Military or Civil posts of Her Majesty's Government, and to use the same for Government purposes. Government may connect Civil and Military Posts with the Telegraph.

XI. Subject to the right of prior use by the Government as aforesaid, the said line or lines shall be at all times open to the public, and to any Telegraph Company, upon the payment of the regular charges for transmission of despatches, and (save as aforesaid) all despatches received, shall be transmitted over the said line or lines in the order of their reception at any Telegraph Office connected Subject to the priority of Government, the line to be open to the public.

with the said line; and the answers to the said despatches shall be delivered as may be directed by the senders.

Limitation of rate of charges.

XII. The rate of charges for public or private messages on the line or lines, shall not exceed the average usual rates in Europe and North America for the same service, or such rates as shall be ascertained and fixed by a convention between Great Britain, Russia, and the United States.

The Company to be Registered.

XIII. The Company to be formed by the said Perry Macdonough Collins, his associates or assigns, to carry on the undertaking hereby authorized, shall be duly registered and incorporated as a Joint Stock Company, under the laws of the Colony in that behalf, upon or before the effective commencement of the said telegraph works.

Malicous injury to Telegraph a misdemeanour. How punished.

XIV. If any person shall wifully or maliciously, cut, break or throw down, any telegraph pole, or any tree or other material used in any telegraph line or lines herein authorized to be constructed, or shall wilfully or maliciously break, displace or injure, any insulator in use in any such telegraph line, or shall wilfully or maliciously cut, break or remove from its insulators, any wire used as a telegraph line, or shall wilfully or maliciously cut, break, molest or injure, any submarine telegraph cable used or intended to be used in any such telegraph line, or shall by the attachment of a ground wire, or by any other contrivance, wilfully destroy the insulation of such telegraph line, or interrupt the transmission of electric current through the same, or shall in any other manner wilfully destroy, injure or molest any property or materials appertaining to any such telegraph line, or shall wilfully interfere with the use of any such telegraph line, or obstruct or postpone the transmission of any message over the same, or procure or advise any such injury, interference or obstruction, the person so offending shall be deemed guilty of a misdemeanor, and be liable upon conviction before any Justice or Justices of the Peace, for every such offence, to be punished by fine not to exceed one hundred pounds, or imprisonment not to exceed six months, or by both such fine and imprisonment in the discretion of the said Justice or Justices, and shall moreover be liable to the owners of the said telegraph line, for three times the amount of all loss and damage sustained by reason of such wrongful act.

Telegraph materials admitted duty free.

XV. Subject to the due observance by the said Perry Macdonough Collins his associates or assigns, of the conditions and provisions of this Ordinance, the wire, submarine cables, and materials necessary and *bona fide* intended for the construction, maintenance or repair, of the said telegraph line or lines, (of which the Collector of Customs, or officer deputed by him in that behalf, shall be final and sole judge) shall be admitted free of duty at any port of entry in British Columbia, up to the first day of January, A. D. one thousand eight hundred and seventy.

Special Ports of Entry may be appointed.

XVI. To facilitate the operations of the said Perry Macdonough Collins his associates and assigns, in the International work aforesaid, it shall be lawful for the Government by an order published in the *Government Gazette*, to appoint any port or ports, place or places in the said Colony or its Dependencies, for the entry duty free of the wire, submarine cables, and materials mentioned in the preceding clause, and to allot ample and exclusive room there for storing the same, but with, under, and subject to such precautions and restrictions for the protection of the Revenue, as the said Government may from time to time deem expedient.

Short title.

XVII. This Ordinance shall be cited as "The International Telegraph Ordinance 1865."

Passed the Legislative Council this 26th day of January, A. D. 1865.

CHARLES GOOD, Clerk

ARTHUR N. BIRCH, Presiding Member.

Assented to, in Her Majesty's name, this twenty-first day of February, 1865.

FREDERICK SEYMOUR. Governor.