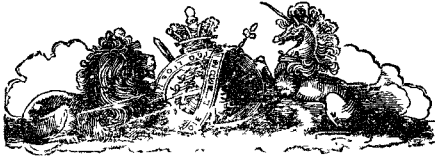


A.D. 1886.



CHAP. 29.

An Act to Incorporate the Victoria and Saanich Railway Company.

[6th April, 1886.]

WHEREAS a Petition has been presented praying for the incorporation of a Company for the purpose of constructing and working a Railway from a point in the City of Victoria, to some point at or near Shoal Harbour, in the District of North Saanich;

And whereas it is expedient to grant the prayer of the said Petition;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

1. Amor DeCosmos, gentleman; Alexander Alfred Green, banker; James Fell, merchant; William Parsons Sayward, merchant; Dennis Reginald Harris, real estate agent; John Ash, physician; together with such other persons as shall, in pursuance of this Act, become shareholders in the Company hereby incorporated, are hereby constituted a body corporate and politic, by the name of "The Victoria and Saanich Railway Company," hereinafter called the "Company."

Incorporation.

2. The capital stock of the Company shall be five hundred thousand dollars, divided into five thousand shares of one hundred dollars each, which shall be applied first to the payment of all costs and expenses incurred in obtaining the passing of this Act, and the remainder for the purpose of the Company's undertaking; but the said capital stock may be increased from time to time by the vote of the majority in value of the shareholders present, in person or represented by proxy, at any meetings specially called for the purpose.

Capital stock five hundred thousand dollars.

3. The number of directors shall be seven, and the persons named in the first section of this Act shall be and are hereby constituted Provisional Directors of the Company, of whom three shall form a quorum for the transaction of business; and they shall hold office until the first election of directors under this Act, and shall have power to open stock books and to procure subscriptions of stock for the undertaking, and receive payments on stock subscribed, and to issue stock.

Provisional Directors.

4. The head office of the Company shall be in the City of Victoria.

Head Office.

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First meeting of
shareholders.

5. The provisional directors may order a general meeting of the shareholders to be called at Victoria, at such time as they may think proper, within two months after the passing of this Act, giving at least three weeks' notice thereof in one or more newspapers published in the City of Victoria, and by a circular letter mailed to each shareholder, at which meeting the shareholders present in person or by proxy, shall elect seven directors, qualified as hereinafter provided, who shall hold office until the first Wednesday in March, in the year following their election.

Annual meetings of
shareholders.

6. On the first Wednesday in March, and on the same day in each year thereafter, at the office of the Company in the City of Victoria, or at such other place as shall be appointed by the directors or fixed by the by-laws of the Company, there shall be held a general meeting of the shareholders for receiving the report of the directors transacting the business of the Company, general or special, and electing the directors thereof; and public notice of such annual meeting and election shall be published for one month before the day of meeting in one or more newspapers in the City of Victoria, and by circular letter mailed to each shareholder at least one month prior thereto. The election of directors shall be by ballot, and all shareholders may vote by proxy.

Election of Direct
tors.

Quorum.

7. Three of the directors elected under sections five and six shall form a quorum for the transaction of business, and the board may employ one or more of their number as paid director or directors; provided that no person shall be elected director unless he owns at least twenty-five shares of the stock of the Company on which all calls have been paid.

Limit of calls.

8. No call shall be made for more than ten per centum at any one time on the amount subscribed, nor shall more than fifty per centum of the stock be called up in any one year.

Consolidated Rail-
way Act, 1879, of
Canada, and amend-
ing Acts to apply.

9. The provisions of "The Consolidated Railway Act, 1879," of Canada, and of the Acts amending the same, except section 97 of "The Consolidated Railway Act, 1879," shall, so far as such provisions are applicable to the undertaking and are not inconsistent with or contrary to the provisions of this Act, apply to the said Railway, and shall be read with and form part of this Act.

Interpretation.

"Canada Gazette."
"Superior Court."
"Clerks of the
Peace."
"Minister of Public
Works."

10. The following expressions wherever appearing in the said Consolidated Railway Act of Canada, 1879, and the amending Acts, shall, in the construction and for the purpose of this Act, have the several meanings hereby assigned to them, that is to say, the expression "Canada Gazette" shall mean the British Columbia Gazette; the expression "Superior Court" shall mean the Supreme Court of British Columbia; and the expressions "Clerks of the Peace" and "Minister of Public Works" shall both mean the Chief Commissioner of Lands and Works.

The "Parliament of Canada" shall mean the Legislative Assembly of British Columbia:

"Parliament of Canada."

"Governor" and "Governor in Council" shall both mean the Lieutenant-Governor in Council, except in cases arising under section 7, sub-section 3, of the said "Consolidated Railway Act, 1879," where the land, public beach, or land covered with water sought to be acquired may be the property or under the control for the time being of the Dominion Government:

"Governor."

"Governor in Council."

"Registry Offices" shall mean the Land Registry Office at Victoria: "Registry Offices."

"Clerk of the Court" shall mean the Registrar of the Supreme Court.

"Clerk of the Court."

11. The Company may lay out, construct, acquire, equip, maintain, and work a continuous line of Railway, with double or single track of iron or steel, and uniform gauge of four feet eight and one-half inches, from a point in the City of Victoria to some point at or near Shoal Harbour, in the District of North Saanich, Vancouver Island, with power to construct branches to any point or points within the Districts of Lake and North and South Saanich, and to acquire, charter, own, and operate steamers and other vessels in connection with the said Railway.

Power to construct line from Victoria to point at or near Shoal Harbour, with branches, and to own steamers, &c.

12. The said Railway shall be commenced within one year and shall be completed within two years from the passing of this Act.

Time of completion.

13. The Company shall construct, equip, maintain, and work a telephone line, or an electric telegraph line, in connection with the said Railway.

Power to operate telegraph and telephone line.

14. The Company may receive from any Government, or from any persons or bodies corporate, municipal, or politic, who may have power to make or grant the same in aid of the construction, equipment, and maintenance of the said Railway, grants of land, premises, loans, gifts of money, guarantees and other securities for money, or any of them, and hold or alienate the same.

Power to accept grants of land, &c., in aid of construction.

15. The Railway constructed under the terms hereof shall be the property of the Company, and shall be maintained by the Company and operated at all reasonable times, so as to meet the requirements of the public.

Railway to be property of Company.

16. The submission to any arbitration under this Act, and the Acts incorporated herewith, may be made a rule of the Supreme Court of British Columbia on the application of either of the parties.

Submission may be made a rule of Court.

17. Within sixty days from the passing of this Act, the Company shall deposit with some chartered bank in Victoria the sum of ten thousand dollars, or such other securities to that amount as shall be satisfactory to the Government of British Columbia, to the credit of

Company to deposit \$10,000 for completion.

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the said Government, there to remain until the Company shall have completed the said Railway in accordance with the terms of this Act. And if the said amount or other securities above mentioned be not deposited as aforesaid within sixty days, this Act shall be null and void. And provided also that if the said Railway shall not be completed as aforesaid, the said sum of ten thousand dollars shall be forfeited to the Government of British Columbia, and the provisions of this Act shall be null and void. And upon completion of the Railway in accordance with this Act, the deposit or security shall be returned to the Company.

Powers of Railway Committee conferred on Chief Commissioner of Lands and Works.

18. The powers conferred by sections 35 to 59, both inclusive, of the said "Consolidated Railway Act, 1879," upon the Railway Committee, shall be and are hereby conferred upon and be exercisable by the Chief Commissioner of Lands and Works.

Chinese not to be employed directly or indirectly by the Company or its contractors.

19. This Act is passed upon the express understanding that no Chinese, either directly or indirectly, shall be employed in or about or concerning any work or services authorized by this Act, or required by the Company to be done or performed. In the event of any Chinese being employed by the Company, the Company shall be liable upon summary conviction before any two Justices of the Peace or functionary having the power of two Justices of the Peace, upon the oath or affirmation of one or more credible witness or witnesses, to a penalty not exceeding twenty-five dollars or less than ten dollars for every Chinese employed; and in default of immediate payment of the penalty the same may be levied by distress and sale of the goods and chattels of the Company. And in the event of any Chinese being employed by any of the Company's contractors, or sub-contractors, contrary to the provisions of this Act, then any such contractor or sub-contractor shall be liable, upon summary conviction as aforesaid, to a penalty not exceeding twenty-five dollars nor less than ten dollars for every Chinese employed; and in case of default in immediate payment of such last mentioned penalty, the same may be recovered by distress and sale of the goods and chattels of the offender; and in default of sufficient distress, the offender may be committed to any gaol or place of confinement situate within the territorial jurisdiction of the convicting Justices, and there imprisoned for any term not exceeding thirty days; and any director or officer of the Company who causes or procures any Chinese to be employed, contrary to the provisions of this Act, or permits or connives at such employment, shall be liable, upon summary conviction as aforesaid, to the like penalties as hereinbefore in this section provided, recoverable in manner secondly hereinbefore mentioned.

Penalties.

Successive penalties

20. The offender shall be liable to separate and successive penalties for each and every day during which any Chinese shall be employed.

21. The term "Chinese" wherever used in this Act shall mean any native of the Chinese Empire or its dependencies not born of British parents, and shall include any person of the Chinese race.

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Meaning of "Chinese."

22. Upon any prosecution under sections nineteen and twenty of this Act, evidence under oath of any witness that to the best of his knowledge and belief any person alleged to have been employed contrary to the provisions of this Act is a Chinese, shall be prima facie evidence that such person is a Chinese within the meaning of this Act, and shall cast upon the defendant the burden of proving that such person is not a Chinese. The Justices may also decide upon their own view and judgment whether any person produced before them is a Chinese within the meaning of this Act.

Evidence.

23. No conviction or warrant for enforcing the same or any other process or proceeding under this Act shall be held insufficient or invalid by reason of any variance between the information and the conviction, or by reason of any other defect in form or substance, provided it can be understood from such conviction, warrant, process, or proceeding, that the same was made for an offence against some provision of this Act, and provided there is evidence to prove such an offence, and that it can be understood from such conviction, warrant, or process that the appropriate penalty or punishment for such offence was intended to be thereby adjudged. Upon any application to quash any such conviction or the warrant for enforcing the same, or other process or proceeding, whether in appeal or upon habeas corpus, or by way of certiorari or otherwise, the Court or Judge to which such appeal is made, or to which such application has been made upon habeas corpus, or by way of certiorari or otherwise, shall dispose of such appeal or application upon the merits, notwithstanding any such variance or defects as aforesaid; and in all cases where it appears that the merits have been tried, and that the conviction, warrant, process, or proceeding is sufficient and valid under this section or otherwise, such conviction, warrant, process, or proceeding shall be affirmed, or shall not be quashed (as the case may be); and such Court or Judge may, in any case, amend the same if necessary, and any conviction, warrant, process, or proceeding so affirmed, or affirmed and amended, shall be enforced in the same manner as convictions affirmed on appeal, and the costs thereof shall be recoverable as if originally awarded.

Conviction, &c., not to be quashed for want of form.

24. This Act may be cited as the "Victoria and Saanich Railway Company Act, 1886."

Short title.