



CHAPTER 53.

An Act to Incorporate the East Kootenay Valley Railway Company.

[May 20th, 1898.]

WHEREAS Thomas Earle, A. C. Flumerfelt, and David R. Ker have Preamble.
presented a Petition praying for their incorporation as a Company for the purpose of constructing, maintaining and operating a line of railway from a point at or near Cranbrook in East Kootenay; thence by the most feasible route to the St. Mary's River; thence in a westerly direction to the head-waters of the St. Mary's River; and also with power to construct and operate a line in a westerly and northerly direction from some point on the said line through the East Kootenay Valley to the neighbourhood of Horse Thief and No. 2 Creeks and the mines in that vicinity; also with power to the Company to construct a line of railway from the Bull River Group of Mines to the most convenient point on the main line of the Crow's Nest Pass Railway, and with power to construct other branch lines from time to time to any point or points distant, in a direct line, not more than twenty miles from any of such main lines of railway; and with power to build telegraph and telephone lines, and to erect and maintain all necessary works for the generation and transmission of electricity, and to build steamboats, wharves, docks, saw-mills, and to make traffic or other arrangements with railways, steamboats, or other companies, and for all other usual and necessary powers, rights or privileges:

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. Thomas Earle, A. C. Flumerfelt, and David R. Ker, and such Incorporation. other persons and corporations as shall become shareholders in the

Company hereby incorporated, are hereby constituted a body politic and corporate, by the name of "The East Kootenay Valley Railway Company," hereinafter called "the Company."

Capital stock, etc.

2. The capital stock of the Company shall be one million five hundred thousand dollars, divided into shares of one hundred dollars each, which shall be applied first to the payment of all costs and expenses incurred in the passing of this Act, and the remainder for the purposes of the Company's undertaking.

Election of Directors.

3. So soon as fifty thousand dollars of the capital stock shall have been subscribed, and ten per cent. of the amount subscribed shall have been paid into some chartered bank of Canada, the Provisional Directors shall call a meeting of the shareholders of the Company at the place where the head office is situate, at such time as they shall think proper, giving the notice prescribed by section four of this Act, at which meeting the shareholders who have paid ten per cent. on the amount of stock subscribed by them shall, from the shareholders possessing the qualifications hereinafter mentioned, elect five Directors, who shall hold office until others are elected.

Notice of meetings how given.

4. At least thirty days' notice of any meeting shall be given by advertisement published in the British Columbia Gazette and by notice in writing mailed to each shareholder, addressed to his last known place of abode, in which notice shall be specified the place, and the day, and hour of meeting. A copy of such Gazette containing such notice shall, on production thereof, be conclusive evidence of the publication of such notice.

Provisional Directors.

5. 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 constitute 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 procure subscriptions of stock for the undertaking.

Head office.

6. The head office of the Company shall be at Cranbrook, or at such other place in the Province as the Company may from time to time appoint.

Annual general meeting.

7. The annual general meeting of the Company shall be held on the first Monday in July in each year, at which meeting a Board of five Directors, of whom three shall be a quorum, shall be elected for the management of the Company's affairs.

By-laws.

8. It shall be lawful for the Company from time to time to make such by-laws as they may think fit, for the purpose of regulating the conduct of the officers and servants of the Company, and for providing for the management of the affairs of the Company, in all respects what-

soever, and from time to time to alter and repeal any such by-laws and make others; provided such by-laws be not repugnant to the provisions of this Act or the "British Columbia Railway Act."

9. The Directors of the Company, under the authority of a majority Borrowing powers. vote of the issued capital stock of the Company, may from time to time raise and borrow, for the purposes of the Company, such sum or sums of money not exceeding the sum of twenty-five thousand dollars to each mile of the Company's railway, upon such terms and in such manner as they may consider expedient, and may issue bonds or debentures of the Company in sums of not less than fifty dollars, or ten pounds sterling, each, and on such terms and credit and at such prices as they may think proper, and may pledge or mortgage all the tolls, incomes, franchises, uncalled capital and property, both real and personal (whether then acquired, or that may thereafter be acquired), of the Company, or any part thereof, for the repayment of the moneys so raised or borrowed, and the interest thereon; and any such mortgage deed may contain such description of the property, tolls, incomes, franchises, uncalled capital and property, real and personal (acquired or to be acquired), mortgaged by such deed, and upon such conditions respecting the payment of the bonds or debentures secured thereby, and of the interest thereon, and the remedies which shall be enjoyed by the holder of such bonds, or by any trustee or trustees for them, in default of such payment and the enforcement of such remedies; and may provide for such forfeitures and penalties, in default of such payment, as may be approved by the Directors; and may also contain, with the approval aforesaid, authority to the trustee or trustees upon such default, as one of such remedies, to take possession of the said property so mortgaged, and to hold and operate the same for the benefit of the bondholders thereof, or to lease or sell the said property so mortgaged after such default, and upon such terms and conditions as may be stated in such deed, and in case of any such lease or sale, the lessee or purchaser shall have the right to exercise all the powers and franchises by this Act conferred upon the Company, and the said property may continue to be held and operated under the provisions of this Act, with the corporate name and powers of the Company, and such lessee or purchaser shall have the same rights, powers, privileges and franchises, and shall stand in the same position, as regards the said tolls, incomes, franchises, powers, uncalled capital and property, real and personal, as the Company itself under this Act.

10. The Company may purchase, hold, receive or take land or other Power to hold and sell land. property, and also alienate, sell or dispose of the same.

11. The Company may lay out, construct, equip, maintain and Construction and route of line. operate the various lines of railway mentioned and referred to in the Schedule of this Act, together with the branch lines hereinafter referred

to, and for the purpose of construction, the undertaking of the Company shall be divided into three sections or divisions, as shown and particularized in the Schedule hereto, and the said sections or divisions shall be respectively known as the First, Second and Third Sections; the Company shall construct and equip the First Section on or before the 31st day of December, 1899; the Second Section on or before the 31st day of December, 1900; and the Third Section on or before the 31st day of December, 1901. Nevertheless the failure to build any one or more of said Sections, or any part thereof, within the time so limited for the completion of the same respectively, shall not prejudice the rights, powers and privileges of the Company in respect of such part or parts, if any, of the section or sections as to which such failure shall be made, as shall at the expiration of such limited time be made and completed, or in respect of any section or sections as to which the period so limited for the completion thereof shall not have expired.

Branch lines.

12. The Company may, from time to time, build branch lines from any of the lines of railway in the preceding section referred to, to any point or points distant in a direct line not more than twenty miles from any such main lines of railway.

Telegraph and telephone lines.

13. The Company may construct and operate telegraph and telephone lines along and in connection with the said lines of railway and their branches, and may establish offices thereon for the transmission of messages for the public and charge tolls thereon.

(a.) No Act of this Legislature requiring the Company in case efficient means are devised for carrying telegraph, telephone or electric wires underground, to adopt such means, and abrogating the right given by this Act to continue carrying lines on poles shall be deemed an infringement of the privileges granted by this Act.

Wharves, docks, etc.

14. The Company may also build, construct and maintain wharves, docks, saw-mills, steamboats, and other boats, and may operate the same in connection with their undertaking.

“Water Clauses Consolidation Act, 1897.”

15. The Company shall also be deemed to be a power company incorporated for the purpose of acquiring water privileges and maintaining and operating electrical and other works within the meaning of Part IV. of the “Water Clauses Consolidation Act, 1897,” and shall be entitled to all the rights and shall have all the powers and privileges appertaining to a company incorporated for the special purposes of availing itself of the provisions of Part IV. of the said “Water Clauses Consolidation Act, 1897.”

Amalgamation, etc., with other Companies.

16. The Company may also enter into an agreement with any other railway company operating within the Province of British Columbia, for conveying any of the lines or branches of the East

Kootenay Valley Railway Company, in whole or in part, or any rights or powers acquired under this Act, as also the surveys, plans, works, plant, material, machinery and other property to it belonging to such Company, or for the amalgamation with such Company; and may also enter into an agreement for the purpose of forming any connection, traffic or other arrangement with any other railway or transportation company, the whole upon such terms and conditions as are agreed upon, subject to such restrictions as to the Directors seem fit; provided that each such agreement has been sanctioned by two-thirds of the votes at a special general meeting of the shareholders duly called for the purpose of considering the same, at which meeting shareholders representing at least two-thirds in value of the stock are present in person or represented by proxy, and provided that each such agreement has received the approval of the Lieutenant-Governor in Council.

17. No person shall be eligible as a Director of the Company unless he is the owner and holder of at least ten shares in the capital stock of the Company, and qualified to vote for Directors at the election at which he is chosen. Qualification for Directors.

18. The Directors of the Company may make and issue, as paid-up stock, shares in the Company, whether subscribed for or not, and may select and hand over such stock in payment for right of way, plant, rolling stock, or materials of any kind, and also for the services of contractors, engineers, and any other person or persons who have been and are engaged in promoting the undertaking, and such issue and allotment of stock shall be binding on the Company, and such stock shall not be assessable for calls. Power to issue paid-up stock for certain objects.

19. No calls shall be made at any one time for more than twenty per cent. of the amount subscribed by any one shareholder, nor shall a greater amount than fifty per cent. of the amount subscribed be called in any one year. Calls.

20. No Chinese or Japanese person shall be employed in the construction of the undertaking hereby authorised, under a penalty of five dollars per day for each and every Chinese or Japanese person employed in contravention of this section, to be recovered on complaint of any person under the provisions of the "Summary Convictions Act." Chinese and Japanese.

21. The provisions of the "British Columbia Railway Act," except in so far as they are inconsistent with or repugnant to the express provisions hereof, shall be incorporated with this Act. "B. C. Railway Act."

22. The Company shall, within six months after the passage of this Act, deposit with the Provincial Government the sum of five thousand dollars, either in cash or approved bonds, as security that the Company will expend not less than ten thousand dollars in surveys or construction Security.

of the railway hereby authorised to be built, before the 30th June, 1899, and in default of such expenditure the aforesaid sum of five thousand dollars shall be forfeited to and become the property of the Government, as liquidated and ascertained damages, and not as a penalty ; and should such security not be deposited with the Government within the aforesaid time, all the rights and privileges conferred by this Act shall be null and void.

Schedule.

SCHEDULE.

FIRST SECTION.

A Railway from a point at or near Cranbrook, in East Kootenay District, thence by the most feasible route to the head waters of the St. Mary's River.

SECOND SECTION.

A line of Railway from such point on the line of the First Section as the Company shall determine, up the East Kootenay Valley and down the Columbia River Valley to the mines in the neighbourhood of Horse Thief and No. 2 Creeks.

THIRD SECTION.

A line of Railway extending from the Bull River Group of Mines, in East Kootenay District, to some convenient point on the main line of the Crow's Nest Pass Railway.

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