



CHAPTER 59.

An Act to authorize the Hall Mines, Limited, to construct Tramways and Electrical and other Works in the vicinity of Nelson.

[11th April, 1894.]

WHEREAS the Hall Mines, Limited, a Company duly incorporated under the "Companies' Acts, 1862 and 1867," (Imperial) and registered in the Province under the "Foreign Companies' Act," and hereinafter called "the Company," have by their petition prayed for authority to construct, equip, maintain and operate a tramway, to be worked by gravitation, steam, electric, or other motive power, from the said Silver King mines to a point at or near the Town of Nelson, and to construct, equip, maintain, and operate the said tramway, and also to construct electric power and lighting works at a point in the vicinity of the said town, or within five miles thereof, and for generating electricity to be used as a motive power for said tramways and other works of the Company :

Preamble.

And also to enter upon and expropriate lands for a tramway line :

And also to erect, lay, construct, and maintain all necessary works, buildings, pipes, appliances, or conveniences necessary or proper for the generating and transmitting of electricity or power to, in, between, and about the places above named :

And all other powers necessary for the above objects :

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. The Company are hereby authorized and empowered to construct, maintain, complete and operate upon and along the lands and highways

Company may construct tramways, etc.

On highways, etc.,
subject to permis-
sion of Chief Com-
missioner.

Motive power.

Power to clear ad-
joining lands of un-
derbrush.

Construct power-
houses and gener-
ating plant.

To construct lines,
cables, meters, etc.

within the said area, a line or lines of single or double iron tramways, with the necessary branches, side tracks, and turn-outs for the passage of cars, carriages, and other vehicles adapted to the same (subject, in so far as the same passes over or along any land, highways or bridges within the said area, to the permission and supervision of the Chief Commissioner of Lands and Works of the Province, and to transport and carry passengers, freight and ores upon the same by electricity or such other motive power as the Company may deem expedient, and also to erect, maintain and construct all works, buildings, pipes, poles, wires, and appliances and conveniences which the Company may deem necessary or proper for the use of the said tramway, or in connection therewith. And for the purposes aforesaid the Company are hereby authorized and empowered to enter upon and expropriate any lands other than Crown lands, within the said area, which may be required for the said tramway line, subject however to making compensation therefor in manner hereinafter mentioned.

2. The Company may also, by its workmen, servants, or agents, enter into and upon any lands adjoining the works of the Company, or any line or lines of pipe, fluming, or wire laid or erected by the Company as a means of transmitting power for or in connection with the tramway or any other works authorized by this Act, and clear the said lands of timber and underwood to such width on each side of the said works, or such line or lines of pipe, fluming, or wire as aforesaid, as the Company may deem necessary for the proper protection of the same, subject, however, to making compensation for such clearing in manner hereinafter mentioned.

3. The Company are hereby authorized and empowered to erect, construct, operate, and maintain electric works, power-houses, generating plant, and such other appliances and conveniences as they may deem necessary and proper for the generating of electricity or electric power, and for transmitting the same to any part of the said area, to be used by the Company as a motive power for the tramways by this Act authorized, or other works of the Company, or to be supplied by the Company as a motive power for hauling, pumping, lighting, smelting, drilling, or any other operations to which it may be adapted, or to be used or supplied for in connection with any of their works for which electricity or electric power may be applied or required. And for any of the above purposes the Company is hereby authorized and empowered, by its servants, agents, contractors, and workmen, from time to time, to make and erect such electric works, and to sink, lay, place, fit, maintain, and repair such electric lines, accumulators, storage batteries, electric cables, mains, wires, pipes, switches, connection branches, electric meters, dynamos, engines, machines, cuts, drains, wheels, water-courses, pipes, buildings, and other devices as they may deem necessary. And to erect and place any

electric line, cable, main, wire, or other electric apparatus, above or below ground, along, over, or across any road in the said area, and to erect poles for the purpose of placing the same in such manner as the said Company shall think fit, necessary or proper for the purpose of carrying out the operations of the said Company in respect of and incidental to the making, generating, or supplying of electricity. The provisions of this section to be subject to the permission and supervision of the Chief Commissioner of Lands and Works.

4. It shall be lawful for the Company to contract with the owners or occupiers of any lands required by the Company for the works in this Act authorized for the purchase thereof, or any part thereof, or of any easement or privilege that may be required for the purposes of the said Company, and for the right to take all timber, stone, gravel, sand, and other materials from the same or adjacent lands for the use and construction of the said works.

Power to contract with owners for land.

5. In case of disagreement between the said Company and the owner or owners or occupiers of the said lands, or any such privilege or privileges, right or rights, as aforesaid, respecting the amount of purchase money or value thereof, or as to the amount of damages arising through the disturbance of the surface of any of the said lands in the course or by reason of the construction of tramways, or as to the compensation to be paid by the Company in respect of the clearing mentioned in section 2 of this Act, the same shall be decided by three arbitrators to be appointed as hereinafter mentioned, namely: The Company shall appoint one, the owner or owners shall appoint another, and such two arbitrators shall, after their appointment, appoint a third arbitrator.

In case of disagreement.

Arbitration.

6. Either the Company or the owner or owners may, after making such appointment, serve notice thereof on the other parties, and if, within ten days after service of such notice, the party so served fails to appoint an arbitrator on his or their behalf, or in the event of the two arbitrators so appointed failing within twenty days after their appointment to appoint a third arbitrator, then, or in any of such cases, one of the Judges of the Supreme Court of British Columbia shall, on the application of either party, appoint such arbitrator.

On failure after notice by party to appoint arbitrator,

Judge may appoint one on application.

7. In case any such owner or occupant shall be an infant, insane, or under any other legal disability, or shall be absent from this Province, it shall be the duty of one of the Judges of the Supreme Court of British Columbia, on application being made to him for that purpose by the Company, to nominate and appoint three indifferent persons as arbitrators.

In case of disability, as of an infant.

8. If, before the matter so referred shall be determined, any arbitrator appointed by either party die, or become incapable, or

On failure of party appointed to act, appointment of one in his place.

neglect or refuse to act, the party by whom such arbitrator was appointed may nominate and appoint, in writing, some other person to act in his place, and if, for the space of seven days after notice in writing from the other party for the purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte* :

(a.) If any arbitrator appointed by the Court under any of the provisions hereinbefore mentioned should die or become incapable, or neglect or refuse to act before the matter so referred shall be determined, the Court may, on the application of either party, appoint some other person to act in his place :

(b.) Every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability, neglect or refusal, as aforesaid.

Award.

9. The arbitrators to be appointed as hereinbefore mentioned shall award, determine, adjudge, and order whether any, and, if so, what sum or sums of money the Company shall pay to any person or persons in respect of the matters so referred, and the award of the majority shall be final.

Place of holding of arbitration.

10. The said arbitrators shall be and they are hereby required to attend at some convenient place at or in the vicinity of the said Town of Nelson to be appointed by the Company, after eight days' notice given for that purpose by the Company, then and there to arbitrate and award, adjudge and determine, such matters and things as shall be submitted to their consideration by the parties interested; but no formal agreement or submission in writing shall in any case be necessary. The said arbitrators shall, before entering into the consideration of any of the matters so referred to them, each be sworn before one of Her Majesty's Justices of the Peace for any County or Electoral District of British Columbia, well and truly to decide between the parties to the best of his judgment.

Oath of arbitrators.

Time in which award to be made.

11. The arbitrators shall make their award within thirty days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by such arbitrators under their hands.

Production of documents, etc.

12. The said arbitrators shall call for the production of any documents in the possession or power of either party which the said arbitrators, or any of them, may think necessary for determining the question in dispute, and shall examine the parties, or their witnesses, on oath, and administer the oath necessary for that purpose.

Costs, by whom borne.

13. All the costs of any such arbitration and incident thereto, including the fees of the arbitrators, shall be borne by the Company,

unless the arbitrators shall award the same, or a less sum than shall have been offered by the Company, in which case the owners or occupiers shall bear the said costs incident to the arbitration, and the costs of the arbitrators.

14. The costs of any such arbitration may, on the application of either party, be taxed by the Registrar of the County Court at Nelson, and on such taxation the Registrar shall not be limited by any scale of fees in force in the said Court, or laid down in the "Arbitration Act," but may allow all such costs and expenses, including fees to arbitrators, witnesses, and counsel, as he shall consider reasonable and proper, having regard to the importance of the matters in dispute, and the length of time occupied in the said arbitration. Taxation.

15. The arbitrators shall, upon payment of their proper fees in that behalf, deliver their award in writing to the Company, and the said Company shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party of the arbitration, and shall at all times on demand produce the said award and allow the same to be inspected or examined by such party or any other person appointed by him for that purpose. Award to be delivered to company, who shall furnish copy.

16. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form, but any such award shall be subject to be set aside or be referred back to the arbitrators, on application to the Supreme Court of British Columbia, in the same manner and on the same grounds (except irregularity or error in matter of form) as in ordinary cases of arbitration. For the purposes of such application, any award made under this Act shall be deemed to have been so made under a submission which has been duly constituted a rule or order of the said Supreme Court of British Columbia. No award to be set aside for want of form, but may be referred back by Court.

17. The award of the majority of the said arbitrators shall be binding upon all parties concerned, subject as aforesaid: Provided, however, if a majority of the said arbitrators shall not agree upon an award, the said reference shall be deemed to be abandoned and the parties may appoint other arbitrators and proceed to a second arbitration in accordance with the provisions of this Act, and so on from time to time until an award shall be made. Award of a majority to bind.
If disagreement on an award, reference abandoned, and parties may proceed to second award.

18. Any sum so awarded, shall be paid within three months from the date of the award, or the determination of any motion to annul the same, and in default of such payment the proprietor may resume possession of his property, and all his rights shall thereupon revive. Time for payment of sum awarded.

19. If the purchase money or compensation so awarded in respect of any lands or any interest therein purchased or taken by the Company, or in respect of any damages for disturbance of surface In certain cases, money to be paid into Court.

rights as aforesaid, shall be payable to a person who for any reason cannot make a conveyance thereof, or who shall be absent from this Province, then the Company may pay the amount awarded (less any sum which may be taxed against the other party for costs) into the Supreme Court of British Columbia, and thereupon the said Court may make an order vesting the said lands, or interest therein, or the rights or privileges sought to be acquired, in the Company, and no further conveyance or grant shall be requisite to perfect the title of the Company or its successors to the said lands, rights, or privileges:

- (a.) The said Court may make such order as to the disposition of any moneys so paid in, as shall be deemed requisite or proper:
- (b.) In all other cases, upon payment or tender of the amount so awarded the owners or occupiers of the lands, rights or privileges aforesaid, shall, at the cost and expense of the Company, make, do, and execute all such acts, deeds, matters and things necessary on the part of such owners or occupiers, or any of them, to vest a complete and perfect title to the said lands, rights, or privileges in the said Company and its successors.

Lands, etc., expropriated to belong to company during use.

20. The lands, rights, and privileges which shall be ascertained, set out, or appropriated by the said Company for the purposes aforesaid, shall, so long as the said Company use the same for the purposes of this Act, be vested in the said Company.

Power to deal with roads, etc., crossing the tramway, subject to control of Chief Commissioner.

21. Subject to the approval of the Chief Commissioner of Lands and Works, it shall be lawful for the Company to divert or alter the course of any road or way crossing the tramway, or to raise or sink any road or way in order the more conveniently to carry the same over or under or by the side of the tramway, and if in the course of making the tramway the Company shall interfere with any road or way they shall with all convenient speed make good, to the satisfaction of the Chief Commissioner of Lands and Works, all damage done by them to such road or way. And all rails laid by the Company on any road or way shall be of a description to be approved of by the said Chief Commissioner.

May acquire and deal with lands, buildings, etc.

22. The Company may purchase, acquire or lease and hold, and may sell, dispose or surrender, either absolutely or individually, any lands, buildings or tenements, and may purchase or lease for any term of years any tramway system established, or to be established, within the said area, and may enter into working arrangements with, or may enter into a lease of or acquire running powers over or the right to work the line of, any such other tramway, and may sell or lease to any company authorized to operate tramways within the said area, either wholly or in part, the rights hereby granted, upon such terms and conditions as may be agreed upon by the Board of Directors of the respective companies.

23. The directors shall have full power to make by-laws, rules and By-laws. regulations to be observed by the officers and servants of the Company and by all other persons using the tramways, rails, electric lines, electricity, electrical or other appliances, or any property of the Company; also rules and regulations for the maintenance of the Company's undertakings and for the collection of tolls for freights or ores, fares for the carriage of passengers, rates for electricity supplied, and rents for electric lines and appliances let for hire, and for fixing the time or times when and the places where the same shall be payable, and in case of default of payment to enforce payment by cutting off the electricity, or by suit at law, or both; provided, always, that such by-laws are not in conflict with any of the provisions of this Act, and provided further that the powers by this section confined shall be limited to the undertakings authorized by this Act and shall not be deemed to anyway interfere with such powers as the Company may have by virtue of their memorandum rules of association.

24. The Company may unite, amalgamate and consolidate its stock. Amalgamation with other companies.
property, business and franchises with those of any other company incorporated for all or any of the purposes which this Company is formed to carry on, and may enter into working engagements with, or may enter into a lease of and acquire running powers over, or the right to work the line of, any other company which has been or may hereafter be empowered to construct and operate tramways within the area aforesaid, upon such terms and conditions as may be agreed upon by the Board of Directors of the respective companies.

25. The privileges and powers by this Act granted are subject to the following provisions:

- (a.) The Company shall not interfere with the public right of travelling on or using such roads, streets, highways or water-courses, and shall not do any unnecessary damage, nor in any way obstruct the entrance to any door or gateway, or free access to any building erected in the vicinity; the Company shall not affix within the corporate limits of any town, any overhead wire, nor erect more than one line of poles along any road or street without the consent of the Municipal Council or Chief Commissioner of Lands and Works; in any municipality the poles shall be as nearly as possible straight and perpendicular, and shall be painted, if so required by any by-law of the Council:
- Company not to interfere with right of travel on public roads, etc.
Consent of Municipal Council as to poles and wires.
- (b.) Whenever, in case of fire, it becomes necessary for its extinction, Cutting of poles and wires in case of fire.
or the preservation of property, that the poles or wires should be cut, the cutting under such circumstances of the poles or any of the wires of the Company, under the direction of the

chief engineer or other officer in charge of the fire brigade, shall not entitle the Company to demand or claim compensation for any damage thereby incurred:

Erection of poles in towns, subject to approval of engineer.

(c.) Within the limits of any incorporated town, the opening up of streets for the erection of poles, or for carrying the wires underground, shall be subject to the direction or approval of the engineer or such other official as the Council appoints, and shall be done in such manner as the Council directs; the Council may also direct and designate the places where the poles are to be erected in such municipality:

Restoration of surface of streets.

(d.) The surface of the street shall, in all cases, be restored as far as possible to its former condition, by and at the expense of the Company.

Act requiring underground wires not infringement.

26. No Act of Parliament requiring the Company, in case efficient means are devised for carrying wires underground, to adopt such means and abrogating the right given by this Act to continue carrying their electric lines on poles through incorporated cities or towns, shall be deemed an infringement of the privileges granted by this Act.

Company not compelled to carry certain dangerous goods.

27. No passenger shall carry or require the Company to carry upon its tramway aqua fortis, oil, vitriol, gunpowder, nitro-glycerine, or any other goods which in the judgment of any agent of the Company are of a dangerous nature; and every person who sends by the tramway any such goods without, at the time of so sending the same, distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice in writing to the station-master or other servant of the Company with whom the same are left, shall forfeit to the Company the sum of five hundred dollars for every such offence.

Refusal to take certain suspected articles.

(a.) The Company may refuse to take any package or parcel which any agent of the Company suspects to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact.

Limit for bringing of actions for damages.

28. All actions or suits for indemnity for any damage or injury sustained by reason of the tramway, shall be commenced within six months next after the time when such supposed damage is sustained, or, if there is continuance of damage, within six months next after the doing or committing of such damage ceases and not afterwards; and the defendants may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and may prove that the same was done in pursuance of and by authority of this Act.

Time of commencement and completion of work.

29. The works hereby authorized shall be commenced within two and completed within five years after the passage of this Act, and

unless the said works are commenced and completed within the said periods the powers conferred by this Act with reference to such works shall cease.

30. In this Act, unless the context otherwise requires, the expression “electric line” shall mean and include, in addition to any of the electrical appliances specifically mentioned in this Act, wire or wires, cables, conductors or other means which are now in use or hereafter may be used for the purpose of conveying, transmitting, or distributing electricity with any casing, coating, covering, post, tube, pipe, or insulator enclosing, surrounding or supporting the same, or any part thereof, or any apparatus connected therewith, for the purpose of conveying, transmitting, or distributing electricity, electric power, or electric current, or any apparatus for converting electrical into mechanical power, or for converting mechanical into electrical power.

Meaning of “electric line.”

31. The powers by this Act conferred upon the Company are hereby declared to be in addition to and furtherance of the powers of the Company as incorporated, and not to in anywise restrict same; and all limitations and restrictions upon the Company by this Act imposed are expressly limited to such works as the Company may undertake by virtue and authority of this Act solely, and not by virtue or authority of any powers of the Company already existing, and shall not be deemed to in anywise affect such powers or privileges as the Company now enjoy.

Powers hereby conferred additional to powers of company as incorporated.

32. The provisions of the “British Columbia Railway Act” and amendments thereto, so far as consistent with this Act, shall apply.

“British Columbia Railway Act” to apply.

33. This Act may be cited as the “Hall Mines Limited Tramway Act, 1894.”

Short title.

VICTORIA, B. C.:

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