



CHAPTER 86.

An Act empowering the Corporation of the City of Victoria to lease the Market Building Premises and otherwise carry into effect the "Victoria Terminal Railway By-Law, 1900."

[*May 11th, 1901.*]

WHEREAS a petition has been presented, praying for the passage Preamble.
of an Act empowering the Corporation of the City of Victoria to lease certain corporation property known as the Market Building, and being Lots 586, 587, 588, 594, 595, 596, 597, 598, and the west half of Lot 589, according to the official map of the City of Victoria, in accordance with and upon the terms set forth in a certain by-law known as the "Victoria Terminal Railway By-Law, No. 326," and which, after ratification by the electors of the Municipality of the City of Victoria, was finally passed on the 3rd day of December, 1900, to a railway to be incorporated for the purposes and objects set forth in such by-law, and to grant a renewal of such lease upon the terms set forth in the said by-law, and also confirming and ratifying the said by-law and all and every the agreement, provisions, stipulations and conditions therein contained, and generally empowering the Corporation to carry out and give effect to all and every the provisions of said by-law which on its part are or ought to be performed, anything to the contrary in the "Municipal Clauses Act" contained notwithstanding, and whether the same would otherwise be ultra vires of the Corporation or not:

And whereas it is expedient to grant the prayer of the said petition:

Interpretation.

1. In the construction of this Act, the following expressions shall have the following meanings, respectively:—

“The Corporation” shall mean the Corporation of the City of Victoria:

“The Municipality” shall mean the Municipality of the City of Victoria:

“The Council” shall mean the present or, when the context so requires, any future Council of the Corporation of the City of Victoria, as the same shall be constituted under the provisions of the “Municipal Clauses Act,” or any statute passed by the Legislative Assembly of the Province amending or in substitution for the said Act.

Power to lease Market Building.

2. The Council is hereby empowered to enter into and execute, under the seal of the Corporation, a lease to and in favour of such company as may be incorporated under the authority of the Legislative Assembly of this Province for the purpose of constructing and establishing a railway and car-ferry service connecting the City of Victoria with the Mainland of this Province, in accordance with a by-law of the Corporation, Number 326, passed on the 3rd day of December, 1900, and intituled “The Victoria Terminal Railway By-Law, 1900,” and set forth in the Schedule to this Act, of the premises known as the Market Building, and being further described as “all those pieces or parcels of land situate, lying, and being in the City of Victoria, in the Province of British Columbia, and more particularly known as Lots 586, 587, 588, 594, 595, 596, 597, 598, and the west half of Lot 589, according to the official map or plan of the said City of Victoria filed in the Land Registry Office at Victoria,” for the term of twenty-five (25) years at a rental of one hundred dollars (\$100.00) a year, and otherwise upon the terms and conditions set forth in such by-law, and also, at the expiration of such term, to renew such lease for a further term of twenty-five (25) years at a rental to be then agreed upon between such company and the Council.

Lease to contain powers for re-entry.

3. Any lease made by the Council under this Act shall contain, in addition to the terms and conditions set forth in the “Victoria Terminal Railway By-Law, 1900,” aforesaid, a proviso for re-entry on non-payment of rent or non-observance or non-performance of any of the covenants and provisos therein contained.

Confirming and validating Railway By-law.

4. Notwithstanding anything to the contrary contained in the “Municipal Clauses Act,” the aforesaid by-law known as “The Victoria Terminal Railway By-Law, 1900,” is hereby declared to have been duly passed and to be and shall be absolutely valid and binding upon the Corporation according to the terms thereof, and shall not be

quashed or set aside or declared to be invalid on any ground whatever, and the Council is hereby empowered to carry out and give full force and effect to all and every the provisions, agreements, stipulations, and conditions in said by-law contained which are or ought, according to the terms of such by-law, on its part to be performed and observed.

5. This Act may be cited for all purposes as the “Victoria Terminal Short title. Railway By-Law Act, 1901.”

BY-LAW.

A BY-LAW to aid a Railway Company to be Incorporated for the purpose of Constructing, Maintaining, and Operating a Line of Railway through certain Streets of the City of Victoria and on the Mainland of British Columbia, and for the further purpose of Constructing, Maintaining, and Operating a Car-Ferry Service between Sidney and a point on the Mainland of British Columbia at or near the mouth of the Fraser River.

WHEREAS, under and by virtue of the “Municipal Clauses Act,” the Council of every municipality may from time to time make by-laws for the granting of bonuses of money to any railway company in aid of such railway, and the right to construct a railway along any street or highway within the municipality on such terms and conditions as the Council shall see fit :

And whereas Alexander Scott Innes, of the firm of Bodwell & Duff, of the City of Victoria, barrister-at-law and solicitor, as trustee for a company to be formed, has submitted to the Municipal Council of the Corporation of the City of Victoria a proposition for the establishment of a railway and car-ferry service connecting the City of Victoria with the Mainland, which proposition is set forth in a draft agreement submitted to and approved by the Council, and which said draft agreement is in the words and figures following :—

Agreement made and entered into the _____ day of _____, 1900, between the Corporation of the City of Victoria, in the Province of British Columbia (hereinafter called “the Corporation”), of the one part, and Alexander Scott Innes, of the City of Victoria, barrister-at-law and solicitor (hereinafter called “the Trustee”), of the other part :

Whereas the Trustee has submitted to the Corporation a proposition for the establishment of a railway and car-ferry service connecting the City of Victoria with the Mainland of British Columbia :

And whereas, in order to encourage and assist the said undertaking, the Corporation has agreed to grant the bonuses and privileges hereinafter referred to :

Now this agreement witnesseth that the parties hereto mutually agree with each other as follows :—

1. The Trustee shall take all necessary steps to procure the incorporation, at the next Session of the Legislative Assembly of the Province of British

Columbia, of a company (hereinafter called "the Company"), which shall, among other things, possess the following powers—that is to say, power:—

- (a.) To construct, operate, and maintain a line of railway over the streets of Victoria hereinafter named, so as to connect the Victoria and Sidney Railway, as it at present exists, with the Esquimalt and Nanaimo Railway, and to make traffic and other agreements and contracts for the transfer of freight and passengers with the companies operating each of the said railways; and also to extend the said line of railway to such other points and over such other streets or ways within the corporate limits of the City of Victoria as may at any time and from time to time hereafter be agreed upon between the Corporation and the Company:
- (b.) To construct, operate, and maintain a car-ferry service between the present or any future terminus of the Victoria and Sidney Railway Company on the Saanich peninsula and a convenient point at or near the mouth of the Fraser River:
- (c.) To construct, operate, and maintain a line of railway from a point at or near the mouth of the Fraser River, on the south side thereof, and extending in an easterly direction and as far as practicable through the centre of the districts of Delta and Surrey to a point where a connection can be conveniently made with the New Westminster Southern Railway, and also to extend the said railway to a point at or near Chilliwack, and to such other point or points east of said connection as may be determined upon by the Company; and to amalgamate with the Great Northern Railway Company, or with any railway corporation controlled or operated by said company, and to enter into traffic and other arrangements for the transfer of passengers and freight with the said Great Northern and other railway corporations.

2. The Company, when incorporated, shall proceed with all due dispatch to construct, and within six (6) months from the date of the passing of the Act of Incorporation shall commence the construction of that portion of the said railway in the City of Victoria which is necessary to connect the Victoria and Sidney Railway system with that of the Esquimalt and Nanaimo Railway, and also that other portion of the said railway which, when completed, shall extend from a point at or near the mouth of the Fraser River to a point where it shall form connection with the said New Westminster Southern Railway, and shall diligently proceed with and complete both of said portions of the said railway within two (2) years from the date of the passing of the said Act of Incorporation, and shall also, within the said period of two (2) years, build, equip, and put in operation a seaworthy and efficient railway ferry steamship capable of transferring, with reasonable dispatch and with suitable accommodation for at least four hundred (400) passengers on each trip, together with not less than eight (8) loaded freight cars of standard gauge and load capacity of 30,000 pounds each, and such other freight as may, from time to time, be delivered for transportation to the Company. The Company shall, after completion, operate the said ferry, at a regular and uniform rate of speed of not less

than 14 miles per hour, and as a continuous service between the present or any future terminus of the Victoria and Sidney Railway, as aforesaid, to the point or points which shall be selected at or near the mouth of the Fraser River as the western terminus or termini of that portion of the said railway to be constructed through the Districts of Delta and Surrey, aforesaid : The Company shall at all times maintain their works in an efficient condition :

3. The Company shall run at least one passenger train each way over its railway and connections each day and, extraordinary storms or fog and the dangers of navigation always excepted, shall operate the said ferry so as to make connection with the said passenger trains each way without undue delay, it being understood that the service herein provided for is to be in addition to that which has heretofore been agreed upon between the Corporation and the Victoria and Sidney Railway, and that the operation of the said trains over the railway of the Company shall be so arranged as not in any way to diminish or impair the service over the Victoria and Sidney Railway, which has heretofore been provided for by any agreement between the Corporation and the said Victoria and Sidney Company :

4. The Company shall also enter into a traffic agreement with the Great Northern Railway Company which shall procure for the transportation over the railway and ferry of the Company of the freight passing over the Transcontinental Line of the Great Northern Railway and which is designed for the City of Victoria. The said traffic agreement with the Great Northern Railway Company shall in the first instance be made to exist for a period of five (5) years at least, and may be renewed from time to time on such terms as the Company and the said Great Northern Railway Company shall agree upon, but if at any time in the future the railway-ferry service of the Company shall cease to be used as the main thoroughfare for the transportation of through freight consigned over the Great Northern Railway to Victoria, then the Corporation, at its option, may cancel or agree to alter or modify the terms of this contract, and in the event of cancellation all payments of the bonus hereinafter referred to accruing after the date of such cancellation shall cease, and all privileges and franchises granted to the Company by this agreement shall be abrogated :

5. The Company shall also enter into such traffic arrangements with the Victoria and Sidney Railway Company as shall ensure to the said last-mentioned Company the payment of a reasonable charge for all freight and passengers transported by the Company over the said Victoria and Sidney Railway, having regard to the mileage of said railway and to the usual conditions which are attached to traffic arrangements between railway companies transferring freight to each other's lines :

6. If the railway ferry to be constructed, as aforesaid, shall be completed before the line of railway between the point or points at the mouth of the Fraser River and the junction of such railway on the Mainland with the New Westminster Southern Railway is finished, the Company shall, until the time of such completion, operate the said ferry between Liverpool and Sidney so as to transfer loaded cars and passengers directly between the said points :

7. The maximum local passenger rate over the said railway and ferry between the City of Victoria and the junction with the Westminster Southern Railway shall not exceed the sum of two dollars each way, and the Company shall also establish and maintain over the said line of railway and ferry a reasonable and moderate scale of local freight charges so as to encourage as far as possible the interchange of commodities and passenger travel between places on the said line of railway and the City of Victoria.

8. In consideration of the construction and operation of the said railway and ferry system, the Corporation agrees as follows :—

The Company, when incorporated, shall have, and the Corporation hereby gives and grants unto the Trustee on behalf of the Company, the right to construct the track of and, the Company observing and performing from time to time, and at all times, all the material obligations of this contract, the right to operate permanently the said railway over, along and across the following streets of the City of Victoria, that is to say,—“A” Street, Bay Street, First Street, Blanchard Street, Fisguard Street, Cormorant Street and Store Street ; together with the right to construct and operate the said railway across any street or streets which intersect with the streets above named or any of them ; and the Corporation shall and may also at any time and from time to time hereafter give and grant unto the Company a right of way for the construction and operation of its railway over such other streets of the City of Victoria as may be agreed upon between the Company and the Mayor and Council for the time being in office : Provided, however, that no such agreement to be made in the future shall be binding upon the Corporation unless and until a by-law ratifying the same shall have been submitted to and approved by the ratepayers in the manner provided in the “Municipal Clauses Act” : Provided also, that no system of double tracking (except reasonable facilities for switching) shall be permitted on any streets of the City : And provided further, that the construction of the road-bed and laying of tracks in and over any street of the City shall be subject to the approval of the City Engineer for the time being in office, or some other competent person appointed or approved by the Corporation, and that all repairs, additions or alterations of the same shall be subject to the same approval :

9. The Company shall be liable for all damages and consequences arising through the act, neglect or default of the Company occurring in the course of the construction, or during, or by reason of, the operation of the works herein contemplated within the municipality and shall pay all claims for damages for compensation arising in respect of property injuriously affected thereby for which the Corporation would be liable :

10. The Company shall, at its own cost and throughout the whole length of the railway within the City, cause the space between the rails and a space of two (2) feet on the outer side of each rail to be paved or macadamized, as the case may be, in conformity with the remainder of the street over which the said railway passes.

11. Before breaking up, opening or interfering with any of the said streets for the purpose of constructing the said railway, the Company shall

give or cause to be given to the Corporation at least ten (10) days' notice of their intention so to do, and not more than twenty-five hundred (2,500) feet of the said streets shall be broken up or opened at any one time, and when work is commenced on any of said streets the same shall be proceeded with steadily and without interruption as rapidly as the same can be carried on, due regard being had to the proper and efficient construction of the same.

12. During the construction of the said works due and proper care shall be taken to leave sufficient space and crossings so that the traffic and travel on the said streets and other streets intersecting the same shall not be unnecessarily impeded, and proper lights and watchmen shall be provided and kept by the Company.

13. The location of the said railway in any of the streets shall not be made until the plans thereof showing the position of the rails and other works in each street shall have been submitted to and approved by the City Engineer or other officer as aforesaid.

14. The rails on all streets shall be laid and kept flush with the level of each such street, and generally all work of construction and maintenance of such railway shall be done in a substantial manner and according to approved modern methods, and, so far as the City streets are concerned, subject to the approval of the City Engineer or other officer as aforesaid.

15. If the Company shall, after construction, neglect to keep their tracks, the roadways between the same, or the crossings between and on each side of the rails, and two (2) feet on the outer side of each rail along the whole length thereof in the said streets in good condition, or shall fail to have the necessary repairs made thereon, the City Engineer shall give notice thereof to the Company requiring such repairs to be made within a reasonable time, and if not so made the City Engineer may cause the repairs to be made, and the amount so expended by the Corporation may be retained by the Corporation out of subsidy for the year in which same occurs.

16. The Company shall regulate the rate of speed of its trains so that the same shall not exceed the rate of six miles an hour while running over any of the streets of the City; and shall also provide suitable gates for the protection of the public at the points where the railway crosses Douglas and Store Streets respectively.

17. The Corporation shall also acquire the necessary legislative power in this behalf, and shall execute to the Company a lease, to be settled by the solicitor of the Corporation, for the term of twenty-five (25) years, at a rental of one hundred dollars (\$100.00) a year, of the premises known as the Market Building, and being further described as: All those pieces or parcels of land situate, lying and being in the City of Victoria, in the Province of British Columbia, and more particularly known as Lots five hundred and eighty-six (586), 587, 588, 594, 595, 596, 597, 598, and the west half of Lot 589, according to the official map or plan of the said City of Victoria filed in the Land Registry Office at Victoria.

The said lease shall contain covenants on the part of the Company to keep the said Market Building insured in a sum of not less than twenty-five thousand dollars (\$25,000) during the whole of said term, and to perform

ordinary repairs on the said building during the said term ; and shall also contain an option in favour of the Company, at the expiration of the said term, to lease the same premises from the Corporation for a further term of twenty-five (25) years, at a rental to be then agreed upon between the Company and the Mayor and Council for the time being in office : Provided that the failure to obtain such legislative powers shall not render the Corporation liable for damages.

18. The said lease shall also provide that the Company may make such changes and alterations in the said building and premises as shall render them suitable for a passenger and freight station, and if in so doing the Company shall materially alter the structure of the said building they shall, at the expiration or sooner determination of the term, restore it to substantially the condition in which it now is, due regard being had to the structural condition at the commencement of the term and the age of the structure at the termination, but without regard to the use to which the same has been put in the meanwhile, damage by fire and tempest always excepted.

All improvements made to the said building other than the track, fixtures and other matters connected with the permanent operation of the railway, shall, at the expiration or sooner determination of the said term, fall in and be the property of the Corporation.

It shall also be provided in said lease that if at any time during the said period of twenty-five years the Company shall cease to use the said building as a passenger or freight station, the Corporation may cancel the lease.

19. The Corporation shall also have the privilege of deducting from the first payment of the bonus hereinafter provided for the sum of seven thousand five hundred dollars (\$7,500.00), for transferring to and establishing in other quarters the Fire Department and other property of the City now in or about the said Market premises :

20. If at any time hereafter the Esquimalt and Nanaimo Railway Company shall be desirous of using the said Market Building as a Union station with the Company, they shall have the right to do so during the term and subject to the conditions of the said lease, upon paying a reasonable sum for the necessary alterations in the position of tracks and the arrangement of the building for that purpose ; and if the Company shall be unable to agree with the Esquimalt and Nanaimo Railway Company as to any or all of the said matters, or as to the amount of space or the position of the necessary offices of the Esquimalt and Nanaimo Railway Company in the building, then all questions in difference between the said Companies shall be referred to arbitration.

21. The Corporation agrees to grant to the Company for the period of twenty years the sum of fifteen thousand dollars (\$15,000.00) per year as a cash bonus. The Council of the Corporation shall make provision for the payment of the first payment of the said bonus to the Company on the 30th day of June in the year following that in which the said railway and ferry shall be fully completed and in actual operation and ready for the conveyance of passengers and the transportation of freight, and shall further

provide for the raising of the sum of fifteen thousand dollars (\$15,000.00) a year every year for the period of nineteen years next ensuing the date of the said first payment: Provided, however, that if the Company shall have in all material respects faithfully performed the conditions of this agreement which up to that date they have covenanted to observe, the Corporation shall, on the 30th day of June in each year as aforesaid, pay to the order of the Company the said sum of fifteen thousand dollars (\$15,000.00) in cash, without any deductions whatsoever: Provided, however, that in no event shall the Corporation be called upon to make more than twenty annual payments of said bonus: Provided further, that if at any time hereafter the Company shall cease to operate and maintain their said railway or said ferry as a continuous service, except for causes of a temporary nature (to be determined in case of dispute by a reference to arbitration), or if the Company shall by any extension of the said road or change in the system deprive the City of Victoria of the traffic and passenger rates or other facilities for business which would ordinarily obtain if the terminus of the said road were continued at the City of Victoria, then and in either or any of the said events the Corporation may cancel this contract, or may agree to an alteration of the terms thereof, and in the event of cancellation all payments of the said bonus which would otherwise accrue after the date of cancellation shall cease, and all the rights, privileges and franchises granted to the Company by this agreement shall be wholly abrogated.

22. It is also agreed between the parties hereto that in the Act of the Legislative Assembly of the Province of British Columbia incorporating the said Company, provision shall be made for the adoption by the Company of this agreement, and that when the said Company shall be incorporated and when the Directors thereof shall adopt this agreement, the same shall be binding upon the Corporation and upon the Company, its successors and assigns respectively, in the same manner and with the same force and effect in all respects as if the proposed Company were now in existence and actually named as a party to this agreement: And if this agreement shall not be adopted by the Company within the period of six months from the date of incorporation, then the same shall be null and void

23. The Company shall, before entering into a contract for the construction of the said car-ferry, cause public advertisement to be made in the City of Victoria, and shall provide for the inspection of the plans and specifications and take such other steps as are reasonably necessary to allow the shipbuilders or others of the City of Victoria to make offers to the Company for the construction of the said work, it being intended by this agreement that, other things being equal and all conditions being as favourable to the interests of the Company, the Company shall cause its ferry to be constructed in the City of Victoria, and all other things being equal and all conditions being as favourable to the interest of the Company, the Company shall purchase its supplies for the construction and maintenance of the said road and ferry in the said City of Victoria.

24. The Corporation shall not be liable, in the event of any right or privilege granted or intended to be granted under this agreement infringing upon any right or privilege of the company operating street railways in the City,

nor in the event of the Corporation not having power to grant or undertake to grant any of such rights or privileges.

25. The provisions of the Arbitration Act and of any future amendments thereto shall apply to all and any arbitration mentioned in this agreement.

26. No Chinese or Japanese person shall be employed in any of the works or undertakings hereby agreed to be carried out by the Company, or in the operation of such undertaking after construction, and in the event of any such Chinese or Japanese person being employed as aforesaid, the Company shall forfeit and pay to the Corporation, as liquidated and ascertained damages and not as a penalty, the sum of fifty dollars per day for every person so employed, and for every day on which such persons or any of them shall perform any work in the construction or operation of the Company's undertaking.

In witness whereof the Corporation has caused its Corporate Seal to be hereunto affixed, and the Trustee has hereunto set his hand and seal the day and year first above written :

The Corporate Seal of the Corporation of the City of Victoria was hereunto affixed in the presence of	}
Signed and Sealed by the above named Alexander Scott Innes in the pres- ence of	}

And whereas it is expedient and necessary to raise a sum of money for the purpose of providing for the payment of the cash bonus referred to in the said draft agreement, and for that purpose to raise the annual sum of fifteen thousand dollars:

And whereas it will require the sum of fifteen thousand dollars to be raised annually, by rate, for payment of the annual sums mentioned in the said agreement:

And whereas the whole ratable lands and improvements on real property of the said Corporation of the City of Victoria, according to the last revised Assessment Roll for the year 1899, is \$14,003,985 :

And whereas it will require an annual rate of 1.28 mills on the dollar for paying such annual sum:

And whereas this by-law cannot be altered or repealed except with the consent of the Lieutenant-Governor in Council :

And whereas a petition under section 69 of the "Municipal Clauses Act" has been presented to the Municipal Council, signed by the owners of more than one-tenth of the value of the real property in the City of Victoria, as shown by the last revised Assessment Roll, requesting the said Council to introduce a by-law with the hereinbefore recited objects :

Therefore, the Municipal Council of the Corporation of the City of Victoria, enacts as follows :—

1. The terms of the said draft agreement hereinbefore recited shall be and the same are hereby accepted, and the said Alexander Scott Innes and the

Company to be formed by him and incorporated, as aforesaid, are hereby authorised and empowered to have, hold and exercise all the rights, franchises and privileges in the said draft agreement mentioned or referred to, upon and subject only to the conditions and restrictions in said draft agreement expressly set forth; and the Corporation of the City of Victoria shall, from time to time during the period in the said draft agreement mentioned, pay to the Company referred to in the said draft agreement the annual sum of fifteen thousand dollars (\$15,000.00) at the times and in the manner provided in the said draft agreement, and subject only to the conditions and restrictions in said draft agreement expressly set forth, and the said draft agreement is hereby incorporated with and shall be read as a part of this by-law in so far as the same contains any grants or covenants on the part of the Corporation, and the acceptance of the benefits thereof by the Trustee or his assigns shall bind said Trustee or his assigns to all the terms and conditions therein expressed to be performed by him or them :

2. For the purpose of providing for the payment of the before-mentioned annual bonus of \$15,000, there is hereby settled, imposed and levied, and there shall be raised and collected an annual equal rate of 1.28 mills on the dollar upon all land and improvements in the said City of Victoria for the year commencing on the 1st day of January following the establishment and completion of the works herein stipulated to be performed by the Company, and during each and every of the nineteen years following and succeeding the same until the annual payments herein provided for shall have been fully paid and satisfied :

3. The said annual sums when collected, as aforesaid, shall, in each year, be set apart and appropriated for the purpose of providing the said annual payments to the Company referred to in the said draft agreement :

4. This by-law shall, before the final passing thereof, receive the assent of the electors of the said Corporation in the manner provided for in the "Municipal Clauses Act" and amendments thereto, and shall take effect on the third day of December, 1900.

This by-law may be cited as "The Victoria Terminal Railway By-Law, 1900."

Passed the Municipal Council the 13th day of November, 1900.

Received the assent of the electors on the 29th day of November, 1900.

Reconsidered, adopted, and finally passed by the Council this 3rd day of December, 1900.

CITY OF VICTORIA, VANCOUVER ISLAND.



CHAS. HAYWARD,
Mayor.

INCORPORATED A.D. 1862.

WELLINGTON J. DOWLER,
C. M. C.

VICTORIA, B. C. :

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