



CHAPTER 49.

An Act to enable the Okanagan Land and Development Company, Limited Liability, to construct Telephone Lines and Tramways in the Towns of Enderby and Vernon.

[20th April, 1891.]

WHEREAS a Petition has been presented by the Okanagan Land and Development Company, Limited Liability, a company duly incorporated under the "Companies Act, 1890," praying that the said Company may have granted to them the right to construct, equip, maintain, and operate water works and telegraph, telephone, and tramway lines, and for certain privileges in connection with the said undertakings:

Preamble.

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

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

1. The Okanagan Land and Development Company, Limited Liability, hereinafter called "the Company," are hereby authorized and empowered to lay out, construct, operate, equip, and maintain a single or double iron tramway, with the necessary side tracks and turn outs for the passage of cars, carriages, and other vehicles adapted to the same, upon and along the streets, roads, highways, and bridges of the towns of Enderby and Vernon, or either of them; and to take, carry, and transport passengers and all classes and kinds of goods, wares, merchandises, articles, and things by any motive power the Company may deem expedient; and to erect, maintain, and construct all necessary works, poles, wires, rails, buildings, appliances, and conveniences in anywise connected with or to be used for the aforesaid purposes, or any of them: Provided, however, that when the said tramways shall pass over or along any road, highway, street, or bridge without a

Incorporation

municipality, the same shall be laid under the supervision of the Chief Commissioner of Lands and Works, and if within a municipality, under the supervision of the Municipal Council, or their servants, who shall fix the location of the said tramways over or along the said roads, streets, highways, or bridges.

Power to erect poles.

2. It shall be lawful for the Company to erect and maintain poles along any highway or bridge in the said towns and districts, and place wires thereon for the transmission and sale of electricity for lighting, power, telephone, telegraph, and other purposes.

Rails to be flush with street.

3. The rails of any tramway constructed by the Company and the track shall be laid flush with the roadbed of any road, street, highway, or bridge, and shall conform to the grade thereof so as to afford the least possible impediment to traffic along the said roads, streets, highways, and bridges; and the Company shall keep in repair the portion of the roadbed of the said road, street, highway, or bridge lying between, and for eighteen inches on each side of the rails of the said track, and in default of compliance with the provisions of this section the Chief Commissioner of Lands and Works, or the authorities of the municipality, may cause the same to be done at the expense of the Company.

Power to build water works.

4. It shall be lawful for the Company, and it is hereby authorized and empowered to design, construct, build, maintain, manage operate, and conduct water works, and all buildings, machinery, and appliances connected therewith, in the said towns of Enderby and Vernon, and to direct so much of the waters of Coldstream, Deep Creek, and Long Lake, not already appropriated by other persons or companies, as may be necessary for the purposes aforesaid, and to conduct the water by ditches, flumes, and pipes to the said towns.

Power to enter on land.

5. It shall be lawful, for the purposes of this Act, or any of them, for the Company, their servants, agents, and workmen, from time to time, and at all times hereafter, as they shall see fit, and they are hereby authorized and empowered to enter into and upon the land of any person or persons, bodies politic or corporate, in the said towns, and into and upon any land lying between the point of diversion of the waters of Coldstream, Deep Creek, and Long Lake, or either of them, and the said towns, and to survey, set out, and ascertain such parts thereof as they may require for the purposes of this Act, and to contract with the owners of the said lands, and those having an interest or right in the said waters, for the purchase of the same, respectively, or any part thereof, or of any other privilege that may be required for the purposes of the Company, and for the right to take timber, stone, gravel, sand, and other materials from the aforesaid land, or any adjacent land, for the use and construction of

said works; and in case of any disagreement between the Company and the owners and occupiers of the said land, or any persons having an interest in the said waters, or the natural flow thereof, or any such privilege or privileges, right or rights, as aforesaid, respecting the amount of purchase money, or the value thereof, or as to the damages such appropriations may cause to them, or otherwise, or as to the amount of damage arising through the construction of any dam, 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 the two such arbitrators shall, within ten days after their appointment, appoint a third arbitrator; but in the event of such arbitrators not appointing a third arbitrator within the time aforesaid, one of the Judges of the Supreme Court of British Columbia shall, on application of either party, appoint such arbitrator. In case any such owner or occupant shall be an infant, or insane or absent from this Province, or shall refuse to appoint an arbitrator on his or her behalf, then 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 disinterested persons as arbitrators. The arbitrators to be appointed as before mentioned shall award, determine, adjudge, and order the respective sums of money which the Company shall pay to the respective persons entitled to receive the same, and the award of the majority of the said arbitrators shall be final. And the said arbitrators shall be and they are hereby required to attend at some convenient place in either of said towns, 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; and each arbitrator shall be sworn before one of Her Majesty's Justices of the Peace, well and truly to assess the value or damages between the parties, to the best of his judgment:

Provided, always, that any award under this Act shall be subject to be set aside on application to the Supreme Court of British Columbia, in the same manner and on the same grounds as in ordinary cases of arbitration, in which case reference may be again made to the arbitration, as hereinbefore provided; and that any sum so awarded shall be paid within one month from the date of the award or determination of any motion to annul the same; and the award of a majority of the said arbitrators shall be binding on all parties concerned, subject as aforesaid: Provided, always, that until the Company have paid to the owner or proprietor the amount of the award, the Company shall not have any right to enter upon the premises for any purpose except for the purpose of survey.

Lands, &c., to be
vested in the com-
pany.

6. The lands, privileges, and waters which shall be ascertained, set out, or appropriated by the Company for the purposes thereof, as aforesaid, shall thereupon be vested in the Company; and it shall be lawful for the Company to construct, erect, and maintain, in and upon said lands, all such reservoirs, water works, and machinery requisite for said undertaking, and to convey the water thereto and therefrom, in, upon, and through any of the grounds and lands lying intermediate between the said reservoirs and water works and the lake, stream, or creek from which the same are supplied, by one or more lines of pipes, as may from time to time be found necessary; and for the better effecting the purposes aforesaid, the Company and their servants are hereby empowered to enter and pass upon and over the said grounds or lands intermediate as aforesaid, and the same to cut and dig up if necessary, and to lay down the said pipes through the same, and in, upon, over, under, and through the highways and roads through that part of the District of Yale, from the point or points where the waters are diverted to the said towns, or either of them, and in, through, and under the public ways, streets, lanes, and other passages of the said towns, and in, upon, through, over, and under the lands and premises of any person or persons, bodies corporate, politic, or collegiate whatsoever, and to set out, ascertain, use, and occupy such part or parts thereof as they, the Company, shall think necessary and proper for the making and maintaining of the said works, and for the purchasing of any lands required for the protection of the said works, or for preserving the purity of the water supplied, or for taking up, removing, or altering the same, and for distributing water to the inhabitants of said towns, or of the proprietors or occupiers of the land through or near which the same shall pass, and for this purpose to sink and lay down pipes, make reservoirs and other conveniences, and from time to time to alter all or any of the said works, as well in the position as in the construction thereof, as to the Company shall seem meet, doing as little damage as may be in the execution of the powers hereby granted to them, and making reasonable adequate satisfaction to the proprietors, to be ascertained, in case of dispute, by arbitrators as aforesaid; and all such water works, pipes, erections, and machinery requisite for the said undertaking shall likewise be vested in and be the property of the Company.

Regulation of distri-
bution of water.

7. The Company shall regulate the distribution and use of the water on all places, and for all purposes, and shall from time to time fix the rent or price which any owner or occupier of any house or building who shall use such water shall pay for the use thereof; but in no case shall the Company affix a greater rate than sixty cents a thousand gallons for water, or one dollar a month from the owner or occupant of any house or building wherein the number of persons does not

exceed four, and thirty cents per month per capita for each and every additional occupant: Provided, always, the Company shall, upon the application of any person or persons, furnish a supply of water within a reasonable time from the date of said application: Provided, always, that the applicant or applicants deposit with the Company a sum sufficient to pay for the actual cost of laying the necessary service pipe, in which case the Company shall allow the said person or persons a rebate of one-half of the usual water rent until the sum advanced by said person or persons shall have been recouped, then the said pipes shall become the property of the Company; and the Company shall have the power of electing whether they shall charge parties using water from their works by the gallon or per capita as aforesaid.

8. If any person shall bathe, or wash, or cleanse any wool, cloth, leather, skins, or animals, or place any nuisance or offensive thing within or near the source of supply for such water works in any lake, river, pond, source, or fountains from which the water of the said water works is obtained, or shall convey or cast, throw or put any filth, dirt, dead carcasses, or other nuisance or offensive thing therein, or cause, permit, or suffer the water of any sink, sewer, or drain to run or be conveyed into the same, or cause any other thing to be done whereby the water therein may be in anywise tainted or fouled, every such person shall, on conviction thereof before any two Justices of the Peace, be by such Justices adjudged and condemned to pay a penalty for every such offence not exceeding two hundred and fifty dollars, together with costs, and such Justices may, in default of payment, condemn such person to be confined in the common gaol for a space not exceeding three calendar months, with or without hard labour. Penalties for fouling water supply.

9. The Company may, subject to the control of the Chief Commissioner of Lands and Works, or of the proper authority having management of the streets and bridges, open and break up the soil and pavement, and any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the said limits pipes and service pipes, and from time to time repair, alter, and remove the same; and for the purposes aforesaid may remove and raise all earth and materials in and under such streets and bridges, and do all other acts which the Company shall from time to time deem necessary for supplying water to the inhabitants, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers: Power to break up streets, &c.

Before the Company proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the Chief Commissioner of Lands and Works, or other authority under whose control or manage- Proviso.

ment the same may be, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in case of emergency arising from defects in any of the pipes or other works, and then as soon as possible after the beginning of the work or the necessity for the same shall have arisen:

Proviso.

When the Company open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall, with all convenient speed, complete the work for which the same may be broken up, and shall fill in the ground, reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be open or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement where the same shall be opened or broken up, every night during which the same shall be continued open or broken up, and shall keep the road or pavement which has been so broken up in good repair for three months after replacing the same.

Water meters.

10. In order to prevent the waste of water, and settle disputes arising therefrom as to the quantity consumed, the Company are empowered to place water meters upon any service pipe or connection within or without any building or house where water is used, and neither the meter nor any fittings thereunto belonging shall be subject to or liable for rent by the possessor or owner of any premises wherein the same may be.

Regulations for management and collection of water rent.

11. The Company shall have power from time to time to make rules and regulations for the general maintenance or management, and for the collection of water rent, and for fixing the time when and the places where the same shall be payable, and in case of default in payment to enforce payment by shutting off the water, or by suit at law before any Court of competent jurisdiction, or both.

Application of "Land Clauses Consolidation Act, 1845."

12. The "Land Clauses Consolidation Act, 1845," as modified by the "Vancouver Island Land Clauses Consolidation Act, 1863," shall not apply, but the following sections of the "Land Clauses Consolidation Act, 1845," shall be read with and as part of the Act, so far as the same may be applicable, and except in so far as such sections, or any of them, may be varied or modified by the provisions of this Act, or are repugnant thereto: Sections 26, 29, 30, 31, 32, 33, 34, 36, 37, 69, 70, 71, 72, 73, 74, 76, 78, 79, but in section 69 in lieu of the word "Bank" and next following words, there shall be read the "Treasury of British Columbia, to the account of the District Registrar of the Supreme Court of British Columbia," and in section 70 and said

subsequent sections in lieu of the words "Court of Chancery in England" there shall be read "the Supreme Court of British Columbia," and in sections 71, 73, and 76 in lieu of the word "Bank" there shall be read the "Treasury of British Columbia, to the account of the District Registrar of the Supreme Court of British Columbia."

13. The various works authorized by this Act to be constructed shall be commenced within two years, and completed within five years. Commencement and completion.

14. This Act may be cited as the "Enderby and Vernon Tramway Short title. and Water Works Act, 1891."

VICTORIA, B. C.:

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