



CHAPTER 47.

An Act to Incorporate the Arrowhead and Kootenay Railway Company.

[May 20th, 1898.]

WHEREAS a petition has been presented for an Act to incorporate Preamble.
a Company for the purpose of constructing, equipping and operating a standard or narrow-gauge railway, in the District of Kootenay, from a point at or near Arrowhead, on Arrow Lake, thence by the most direct and feasible route, viâ Trout Lake or Duncan River, to some point at the north end of Kootenay Lake, in said District, with power to construct, equip, and operate branch lines and all necessary roads, bridges, ways, ferries, and other works, and to acquire and expropriate lands for the purposes of the Company, and for all other usual and necessary rights, powers 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. Elliott T. Galt, H. S. Holt, William D. Barclay, and Charles A. Magrath, together with such other persons and corporations as become shareholders in the Company hereby incorporated, are hereby constituted a body corporate under the name of the “Arrowhead and Kootenay Railway Company,” or such other name as the Lieutenant-Governor in Council, upon the request of the Company, may approve of. Incorporation.

2. The head office of the Company shall be at the City of Victoria, Head office.
or at such other place in Canada as the Company may from time to time determine.

3. The capital stock of the Company shall be one million five hundred thousand dollars, divided into fifteen thousand shares of one Capital stock, shares, etc.

hundred dollars each, with power to increase from time to time to any amount by the creation of new shares of such amount as may be deemed expedient. Such new shares shall be issued upon such terms and conditions, and with such rights and privileges annexed thereto, as the general meeting resolving upon the creation thereof shall direct, and if no direction be given, as the Directors shall determine; and, in particular, such shares may be issued with a preferential or qualified right to dividends, and in the distribution of the assets of the Company, and with a special or without any right of voting.

Preference stock.

4. The Company, with the sanction of the majority in value of all the subscribed shares of the Company at any meeting specially called for that purpose, may change a portion of its capital stock, not exceeding one-half, into preference stock, either of one class with the same privileges, or of several classes with different privileges, with any fixed, fluctuating, contingent, preferential, cumulative, perpetual, terminable, deferred, or other dividend or interest, and subject to the payment of calls, of such amounts and at such times as the Company from time to time shall think fit.

Shares how transferable, etc.

5. The shares in the Company shall be transferable in such manner and upon such conditions and subject to such restrictions as the by-laws of the Company may provide, and if no such by-laws or regulations are provided, then in manner prescribed by the "British Columbia Railway Act," and such shares may be granted and issued as paid-up shares for value received or services rendered to the Company by engineers, contractors, and any other persons or corporations who have been or are engaged in promoting the undertaking or for any other purposes in connection with the interests of the Company, and such shares shall be deemed to be fully paid up and non-assessable.

Provisional Directors.

6. The persons named in section 1 of this Act are hereby constituted the Provisional Directors of the Company, of whom two shall form a quorum for the transaction of business. The Board of Directors so constituted shall have all the powers hereby conferred upon the Directors of the Company, and they shall hold office until the first election of Directors under this Act.

Directors' qualification, etc.

7. Each of the Directors hereby appointed or elected shall hold at least fifty shares of the stock of the Company; but the number of Directors to be hereafter elected by the shareholders shall be such number, not exceeding nine, as shall be fixed by the by-laws.

Director not disqualified by receiving pay, etc.

8. No Director shall be disqualified from holding office by reason of or on account of his being concerned directly or indirectly as partner in any other company or association, or in any contract with the Company, or on account of his receiving any pay or remuneration from the Company.

9. The first annual meeting of the shareholders of the Company for the appointment of Directors shall be held at such time and place as the Provisional Directors may determine, and the annual general meeting of the shareholders for the election of Directors and the transaction of business generally shall be held on the same day in each year thereafter, unless otherwise provided by the by-laws; and notice of such meeting shall be given by such means as shall from time to time be directed by the by-laws, and by notices as provided by section 12 of this Act. Annual meetings.

10. No failure to elect Directors or to hold the first or any annual meeting shall operate as a dissolution of the Company, but anything omitted to be done may afterwards be performed at a meeting called in conformity to the by-laws specially for the purpose. Failure to hold meetings or elect Directors.

11. Special general meetings of the shareholders may be convened in such manner as shall be provided by the by-laws, and, except as hereinafter provided, notice of such meetings shall be given in the same manner as notices of annual general meetings; the purpose for which such meeting is called shall be mentioned in the notices thereof, and, except as herein provided, all such meetings shall be held at the head office of the Company. Special general meetings.

12. If at any time before the first annual meeting of the shareholders of the Company it should become expedient that a special general meeting of the shareholders should be held before such annual meeting can be conveniently called, and notice thereof given in the manner hereafter provided by this section, or by the by-laws or before the by-laws in that behalf have been passed, and at a place other than the chief place of business of the Company, it shall, before the enactment of the by-law authorising the holding of such meeting, be lawful for the Chairman, or any two Directors of the Company, to call special meetings of the shareholders, to be held at such times and places respectively as may be determined, such times and places to be stated in the notices to be given of such meetings respectively. And thirty days' notice of such meetings shall be validly given by publication in the British Columbia Gazette and by a circular mailed to the ordinary address of each shareholder stating in general terms the purpose of the intended meeting, and in case of a meeting of shareholders the proceedings of such meeting shall be held to be valid and sufficient and to be binding on the Company in all respects, notwithstanding that notice of such meeting shall not have been given in the manner required by this Act. Special general meeting prior to first annual meeting.

13. The provisions of the "Companies' Clauses Consolidation Act, 1897," shall apply to the Company and to the undertaking authorised hereby, save so far as they are expressly varied or excepted by this Application of "Companies Clauses Consolidation Act, 1897."

Act, or as any of the provisions hereof are repugnant to or inconsistent with the provisions of the said Act, in which case the provisions of this Act shall, to the extent of such repugnancy or inconsistency, govern.

Route of line.

14. The Company may lay out, construct, acquire, equip, maintain, and operate a line of railway, with one or more tracks, of a standard or narrow gauge from a point at or near Arrowhead, on Arrow Lake, Kootenay District; thence by the most direct and feasible route viâ Trout Lake or Duncan River to some point on the north end of Kootenay Lake in said district, with power to construct branch lines to any point or points not more than 20 miles in a direct line from the said main line of railway, and the said railway and branches shall constitute a line of railway called "The Arrowhead and Kootenay Railway," or such other name as provided by section 1 hereof.

Telegraph and telephone lines.

15. The Company may construct, maintain and work continuous telegraph and telephone lines, throughout and along the whole line of the said railway, or any part thereof, and may also construct or acquire, by purchase, lease or otherwise, any line or lines of telegraph or telephone connecting with the line so to be constructed along the line of the said railway, and may undertake to transmit any messages for the public by any such line or lines of telegraphing or telephoning, and collect tolls for so doing, or may lease such line or lines of telegraph or telephone, or any portion thereof, and they may use any improvements that may hereafter be invented for telegraphing or telephoning, and any other means of communication that may be deemed expedient by the Company at any time hereafter :

(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.

By-laws.

16. The Directors may from time to time make and prescribe such by-laws as to them appear needful and proper to provide for the remuneration of the Chairman and the Directors of the Company, the transfer of stock and shares, the registration, inscription and transfer of stock, shares and bonds, the payment of dividends and interest, the election of Directors, the procedure at general meetings and meetings of their own bodies, the appointment of Committees, and for all other matters by this Act to be regulated by by-laws, and generally for managing the affairs and property of the Company, and for the carrying out of the objects contemplated by this Act not inconsistent with this Act or contrary to law, and from time to time to repeal, amend and re-enact the said by-laws: Provided that the said by-laws so

made shall in no case have any force and effect after the next general meeting of the shareholders which shall be held after the passage of the by-laws, unless they are approved by such general meeting.

17. All contracts made and all moneys expended by the Provisional Directors in connection with the Company or upon its behalf, either before or after the passing of this Act, shall be treated as engagements made or cash advanced on account and on behalf of the Company; and at the first meeting of the Directors after the passing of this Act, resolutions shall be passed confirming and giving credit for same.

Contracts and cash advanced by Provisional Directors.

18. The Company may receive, take, hold, enjoy, sell, lease or otherwise dispose of, either conditionally or absolutely, or for any limited estate or interest therein, and upon such terms and conditions as the Directors may deem proper, from, of, or to any government, person, corporation, municipal or otherwise, any land, bonus, donations, loans, gifts of money, bonds, guarantee of bonds or interest guarantees, exemption from taxes or other impost, or any or all of same, and generally any benefit or advantage to the Company, or in aid of the same, of any nature or kind whatsoever, and the generality of the latter part of this clause is not to be held to be restricted by the specific mention of the foregoing ways and means.

Power to hold and deal with land and other property.

19. The Company under the authority of a special general meeting of the shareholders called for that purpose, and with the sanction of the majority in value of all the subscribed shares of the Company, may dispose of the undertaking in whole or in part, or may issue mortgage bonds for the purpose of the undertaking authorised by the present Act, and in case mortgage bonds are issued such issue shall constitute a first mortgage and privilege upon the said railway, or all or part of its real or personal property acquired and to be hereafter acquired, including rolling stock and plant, and upon its tolls and revenues (after deducting from such tolls and revenues the working expenses), and upon the franchises of the Company; the whole as shall be declared and described as so mortgaged in any deed of mortgage as hereinafter provided: Provided always, however, that if the Company shall have issued, or shall intend to issue, land bonds under the provisions of the next succeeding section hereof, any lands or other property acquired or to be acquired by the Company may be excluded from the operations of such mortgages and privileges; and provided, also, that such mortgages and privileges shall not attach upon any property which the Company are hereby authorised to acquire or receive until the same shall have been conveyed to the Company, but shall attach upon such property if so declared in such deed as soon as the same shall be conveyed to the Company, and such mortgage and privilege may be evidenced by a deed or deeds of mortgage executed by the Company with the authority of its shareholders

Mortgage bonds.

expressed by a resolution passed at such special general meeting, and any such deed may contain such description of the property mortgaged by such deed, and upon such conditions respecting the payment of the bonds secured thereby, and of the interest thereon, and the remedies which shall be enjoyed by the holders of such bonds, or 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 of by such meeting, 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 property mortgaged, and to hold and operate the same for the benefit of the bondholders thereof for a time to be limited by such deed, or to sell the said property after such delay and upon such terms and conditions as may be stated in such deed with like approval. Any such deed may contain provisions to the effect that upon such default, and upon such other conditions as shall be described in such deed, the right of voting possessed by the shareholders of the Company, and by the holders of the preferred stock therein, or by either of them, shall cease and determine, and shall thereafter appertain to the bondholders, or to them and to the holders of the whole or of any part of the preferred stock of the Company as shall be declared by such deed, and such deed may also provide for the conditional or absolute cancellation after such sale of all or any of the shares so deprived of voting power, or of any or all of the preferred shares of the Company, or both, and may also, either directly by its terms, or indirectly by reference to the by-laws of the Company, provide for the mode of enforcing and exercising the powers and authority to be conferred and defined by such deed under the provisions thereof; such deed and provisions thereof, under the authority hereof, and such other provisions thereof as shall purport with like approval to grant such further and other powers and privileges to such trustee or trustees, and to such bondholders, as are not contrary to law or to the provisions of this Act, shall be valid and binding, but if any change in the ownership or possession of the said property shall at any time take place under the provisions hereof, or of any such deed, or in any other manner, the said property shall continue to be held and operated under the provisions hereof.

Land bonds.

20. The Company may dispose of or issue mortgage bonds upon any lands granted for any estate therein in aid of the said railway and of the undertaking authorised by this Act, such mortgage bond issues to be made only upon similar authority to that required by this Act for the issue of bonds upon the railway, and when so made such bonds shall constitute a first mortgage upon such lands, and shall attach upon them when they shall be granted, if they are not actually granted at the time of the issue of such bonds, and such

mortgage may be evidenced by a deed or deeds of mortgage to be executed under like authority to the deed securing the issue of bonds on the railway, and such deed or deeds under like authority may contain similar conditions and may confer upon the trustee or trustees named thereunder, and upon the holders of the bonds secured thereby, remedies or authorities, powers and privileges, and may provide for forfeitures and penalties similar to those that may be inserted and provided for under the provisions of this Act in any deed securing the issue of bonds on the railway, together with such other provisions of this Act in any deed securing the issue of bonds on the railway, together with such other provisions and conditions not inconsistent with law or this Act as shall be so authorised, and such bonds may be styled "Land Bonds."

21. If it is provided by the mortgage executed to secure the issue of bonds that any of the signatures to bonds, or to the coupons thereto appended, may be engraved, stamped or lithographed thereon, such engraved, stamped, or lithographed signature shall be valid and binding on the Company. Signatures to bonds, etc.

22. The bonds authorised by this Act to be issued upon the railway and upon any land that may be granted to the Company, or both, may be so issued in whole or in part in the denominations of dollars, pounds sterling, or francs, or in any or all of them, and the coupons may be for payment in denominations similar to those of the bonds to which they are attached, and the whole or any of such bonds may be pledged, negotiated or sold, upon such conditions and at such price as the Board of Directors shall from time to time determine, and provision may be made by the by-laws of the Company that after the issue of any bond the same may be surrendered to the Company by the holder thereof, and the Company may in exchange therefor issue to such holder inscribed stock of the Company, which inscribed stock may be registered or inscribed at the chief place of business of the Company, or elsewhere, in such manner and with such rights, lien, privileges and preferences, at such place, and on such conditions as shall be provided for by the by-laws of the Company. Denomination of bonds.

23. The phrase "working expenses" shall mean and include all expenditures of maintenance of the undertaking and the buildings, works and conveniences belonging thereto, and of the rolling and other stock and movable plant used in the working thereof, and all such tolls, rents, or annual sums as may be paid in respect of hire of machinery, engines, carriages or waggons let to the Company, also all rents, charges or interest on the purchase money of land belonging to the Company, purchased but not paid for, and also all expenses of and incidental to working, undertaking, and traffic thereon, including stores and consumable articles, also rates, taxes, insurance and com- Definition "working expenses."

pensation for accidents or losses, also all salaries and wages of persons employed in or about the working of the undertaking and traffic, and all office and managing expenses, including Directors' fees, agency, legal and other like expenses.

Bonds, etc., payable to bearer.

24. All bonds, preference stock, debentures and other securities hereby authorised, and the coupons and interest warrants thereon respectively, may be made payable to bearer, and shall in that case be transferable by delivery without regard to any equities between the holder or holders thereof and the Company.

Time of commencement and completion of work.

25. The work of construction of the main line of railway shall be commenced within two years from the passage of this Act, and shall be completed within three years from such commencement; nevertheless, failure to comply with the conditions of this section shall not prejudice the rights, powers or privileges of the Company in respect of such parts thereof as shall at the expiration of such limited periods be constructed, nor any other rights, powers or privileges of the Company by this Act conferred.

Taking of timber, stone, etc.

26. It shall be lawful for the Company, subject to the consent of the Chief Commissioner of Lands and Works, to take from any public lands adjacent to or near the line of the said railway all stone, timber or gravel, and other material which may be necessary or useful for the construction of the railway.

Application of the "B. C. Railway Act."

27. The clauses or sections of the "British Columbia Railway Act" shall, in so far as the Legislature of this Province has power to enact the same, apply to this Company in the same manner and to the same extent as if the same had been set forth clause by clause in this Act, save and except in the case of any conflict, inconsistency or repugnancy between the other clauses of this Act and the clauses or sections of the "British Columbia Railway Act," so made a part of this Act, the other clauses of this Act shall prevail and override any clause or section of the "British Columbia Railway Act" so incorporated herewith, to the extent of any such conflict, inconsistency or repugnancy.

Change of name.

28. In the event of the name of the Company being changed under authority of section 1 hereof, this Act shall be deemed thereby to be amended so as to conform therewith in all respects, and the name so approved and substituted shall thereby be deemed to be inserted in lieu and place of the name "Arrowhead and Kootenay Railway Company," wherever the same occurs in this Act.

Chinese and Japanese.

29. No Chinese or Japanese person shall be employed in the construction of the undertaking or operation 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, upon

complaint of any person, under the provisions of the "Summary Convictions Act."

30. 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 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.

31. This Act may be cited as the " Arrowhead and Kootenay Railway Company Act, 1898."