



CHAPTER 69.

An Act to Incorporate the Nanaimo Electric Tramway
Company, Limited.

[20th April, 1891.]

WHEREAS George Norris, Newspaper Publisher; John Hatswell Pleace, Merchant; Emil Arnold Praeger, Physician and Surgeon; George A. McBain, Real Estate Agent; William K. Leighton, Insurance Agent; and Marcus Wolfe, Merchant, all of the City of Nanaimo, in the Province of British Columbia, have by their petition prayed for an Act of Incorporation under the name of "The Nanaimo Electric Tramway Company, Limited," for the purpose of constructing and operating a single or double steel Tramway in the City of Nanaimo, and from the City of Nanaimo to such place or places in the Electoral District of Nanaimo as may hereafter from time to time be determined by such Company:

Preamble.

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 said George Norris, John Hatswell Pleace, Emil Arnold Praeger, George A. McBain, William K. Leighton, and Marcus Wolfe, together with such other persons as under the provisions of this Act become members of the Company hereby incorporated, are hereby constituted a body corporate, by the name of "The Nanaimo Electric Tramway Company, Limited," capable of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, with power to hold lands.

Incorporation.

2. The capital of the said Company shall be one hundred thousand dollars, divided into five thousand shares of twenty dollars each, but the capital may be increased by the shareholders, from time to time, to a sum not exceeding two hundred thousand dollars.

Capital stock.

Head office.

3. The chief office of the Company shall be at the City of Nanaimo, British Columbia.

Limited liability.

4. The liability of the members of the Company shall be limited to the amount, if any, unpaid on the shares respectively held by them.

Stock to be deemed personal estate.

5. The stock of the Company shall be deemed personal estate, and shall be deemed transferable in such manner as the Directors shall by by-law direct.

Power to construct tramway.

6. The Company are hereby authorized and empowered to construct, maintain, complete and operate a single or double track street railway, with all necessary switches, side-tracks and turn-outs, and other requisite appliances in connection therewith, upon and along such streets within the City of Nanaimo as the Mayor and Council of the said City of Nanaimo may direct, and under and subject to any by-laws of the Corporation of the said City of Nanaimo made in pursuance thereof, and also upon and along such lands and highways lying between the City of Nanaimo and such place or places in the Electoral District of Nanaimo as the Company from time to time determines, subject, in so far as the same passes over or along any highways and bridges between the said place or places, to the supervision of the Chief Commissioner of Lands and Works for the time being of the said Province, who shall fix the location of the tramway over the said highways and bridges between the said place or places, and to take, transport, and carry passengers and freight upon the same by electric or such other motive power as the Company may deem expedient, and to erect, maintain and construct all necessary works, poles, wires, buildings, appliances and conveniences connected therewith.

Provisional directors

7. The said George Norris, John Hatswell Pleace, Emil Arnold Praeger, George A. McBain, William K. Leighton, and Marcus Wolfe are hereby constituted Provisional Directors of the Company, and a majority of them shall constitute a quorum; and the said Provisional Directors shall hold office as such until the first election of Directors under this Act, and may forthwith open books and allot shares, and deposit in any chartered bank in British Columbia moneys received by them on account of shares allotted, which moneys shall not be withdrawn for any cause whatsoever, except for the purposes of the Company, or upon the dissolution thereof.

First annual meeting.

8. The first annual meeting of the Company shall be held at such time, not being more than six months after the passing of this Act, and at such place as the Provisional Directors may determine, at which meeting the whole of the Provisional Directors shall retire from office, and not more than ten nor less than five Directors shall be

elected, and the Directors so elected, and all Directors afterwards elected or appointed, shall hold office until the annual general meeting of the Company next after their respective election or appointment.

9. No person shall hereafter be qualified to be a Director of the Company who is not the holder in his own right of at least five shares in the Company ; but no person shall be disqualified to be a Director by reason of his receiving any salary or remuneration for attending to the affairs of the Company as Managing Director or agent. Qualification of Director.

10. The Directors shall have full power to make all by-laws for the management of the Company, the acquirement, management, and disposition of its stock, property, and effects, and of its affairs and business, and payment of dividends out of the profits of the said Company, the form and issuing of share certificates and the transfer of shares, the calling of special and general meetings of the Company, the appointment and removal and remuneration of all officers, agents, clerks, workmen, and servants of the Company, the fares to be received from persons transported over the said tramway, or any part thereof, and the remuneration for the transfer of all or any goods, chattels or effects transferred over the said tramway, or any part thereof, and in general to do all things necessary to carry out the objects of and exercise any powers incident to the Company. Power to make by-laws.

11. It shall be lawful 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, lying between the City of Nanaimo and such place or places in the Electoral District of Nanaimo, and to survey and ascertain such parts thereof as they may require for the said works, and to contract with the owners and occupiers of the lands lying between the said points and those having any interest in the same, for the purchase of the same, or of any part thereof, or of any privilege that may be required for the purpose of this Act, and for the right to take timber, stone, gravel, sand, and other materials from the aforesaid land, or any lands adjacent thereto, for the use and construction of the said works ; and in case of disagreement between the Company and the owners and occupiers of the said lands respecting the amount of the purchase money or value thereof, or as to damages any appropriation shall cause to them through the construction of the said street tramway, 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 arbitrators so appointed shall, within ten days after their appointment, appoint a third arbitrator ; but in the event of the two arbitrators not appointing Power to enter on lands.
Arbitration.

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 third arbitrator.

Infant.

In case any owner or occupant shall be an infant, or insane, or absent from the Province, or shall refuse to appoint an arbitrator on his behalf, then the said Company may apply to one of the Judges of the Supreme Court of British Columbia, who shall nominate and appoint three disinterested persons as arbitrators.

Arbitrators' awards.

12. The arbitrators to be appointed as hereinbefore 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.

Meeting of arbitrators.

13. The said arbitrators shall be and they are hereby required to attend at some convenient place at or near the vicinity of the said City of Nanaimo, 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 such arbitration shall be sworn before one of Her Majesty's Justices of the Peace: 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, and that any sums so awarded, and costs, shall be paid within one month from the date of the award or determination of any motion to annul the same, and in default of such payment the proprietor may resume occupation of his property, and all his rights shall thereupon revive, and the award of a majority of the said arbitrators shall be binding on all parties concerned, subject as aforesaid.

Lands to be vested in the company.

14. The lands which shall be ascertained, set out, and appropriated by the Company, for the purposes thereof as aforesaid, shall thereupon, and so long as they comply with the provisions of this Act, be vested in the Company; and it shall be lawful for the Company to construct, erect, and maintain in and upon said lands such works as may be requisite for the undertaking.

Power to erect poles.

15. It shall be lawful for the said Company to erect and maintain poles along any highway or bridges in the said Electoral District of Nanaimo near where the tramway is laid, and place wires thereon for the transmission and sale of electricity for lighting, power, and other purposes.

16. The Company may purchase, lease, hold, or acquire, and transfer, any real or personal estate necessary for carrying on the operations of the Company under this Act. Power to hold real estate.

17. The fare shall be due and payable for every passenger on entering the car or other conveyance, and any person refusing to pay the fare when demanded by the conductor or driver, and refusing to quit the car or other conveyance when requested so to do by the conductor or driver, shall be liable to a fine of not more than twenty dollars, besides costs, recoverable before any two Justices of the Peace, any Police Magistrate or Stipendiary Magistrate in the said Province. Fares.

18. The Company shall be entitled to and shall be accorded the right of way on all roads traversed by their tracks. Right of way.

19. Nothing in this Act shall authorize the said Company to construct a street railway beyond a point ten miles from the present limits of the City of Nanaimo. Extent of railway limited.

20. This Act is passed upon the express understanding that no Chinese shall be employed in or about or concerning any works or services authorized by this Act, or required by the Company to be done or performed. In the event of any Chinese being employed by the Company, the Company shall be liable, upon summary conviction before any two Justices of the Peace, or functionary having the power of two Justices of the Peace, upon the oath or affirmation of one or more credible witness or witnesses, to a penalty not exceeding twenty-five dollars, nor less than ten dollars, for every Chinese employed; and in default of the immediate payment of the penalty, the same may be levied by distress and sale of the goods and chattels of the Company; and in the event of any Chinese being employed by any of the Company's contractors or sub-contractors, contrary to the provisions of this Act, then any such contractor or sub-contractor shall be liable, on summary conviction as aforesaid, to a penalty not exceeding twenty-five dollars, nor less than ten dollars, for every Chinese employed; and in case of default in immediate payment of such last mentioned penalty, the same may be recovered by distress and sale of the goods and chattels of the offender; and in default of sufficient distress the offender may be committed to any gaol or place of confinement situate within the territorial jurisdiction of the convicting Justices, and there imprisoned for any term not exceeding thirty days; and any Director or officer of the Company who causes or procures any Chinese to be employed, contrary to the provisions of this Act, or permits or connives at such employment, shall be liable, upon summary conviction as aforesaid, to the like penalties as hereinbefore in this section provided, recoverable in manner secondly hereinbefore mentioned. No Chinese to be employed.
Penalty

Penalty for each
day's employment.

21. The offender shall be liable to separate and successive penalties for each and every day during which any Chinese shall be employed.

Meaning of the word
"Chinese."

22. The term "Chinese" wherever used in this Act, shall mean any native of the Chinese Empire or its dependencies, not born of British parents, and shall include any person of the Chinese race.

Evidence as to a per-
son being a Chinese.

23. Upon any prosecution under sections twenty and twenty-one of this Act, evidence under oath of any witness that, to the best of his knowledge and belief, any person alleged to have been employed contrary to the provisions of this Act is a Chinese, shall be *prima facie* evidence that such person is a Chinese within the meaning of this Act, and shall cast upon the defendant the burden of proving that such person is not a Chinese. The Justices may also decide upon their own view and judgment whether any person produced before them is a Chinese within the meaning of this Act.

Application of
"Companies Act,
1862."

24. Table marked "A" in the first Schedule of the "Companies Act," the Imperial Act intituled "The Companies Act, 1862," except such parts as are inconsistent with this Act, shall apply to the Company, but the Company in general meeting may reject any of the provisions of said Table "A" aforesaid, and may in lieu thereof adopt any others not inconsistent with this Act.

Short Title.

25. This Act shall be cited as the "Nanaimo Electric Tramway Company Act, 1891."

VICTORIA, B. C. :

Printed by RICHARD WOLFENDEN, Printer to the Queen's Most Excellent Majesty.