



CHAPTER 73.

An Act to Incorporate the Crow's Nest Southern Railway Company.

[April 25th, 1901.]

WHEREAS a petition has been presented for the incorporation of a Preamble.
Company to construct and operate railways as hereinafter set forth, and it is expedient to grant the prayer of their petition:

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

1. The Honourable George A. Cox, Elias Rogers, Henry M. Pellatt, J. W. Flavell, E. R. Wood, and A. E. Ames, together with such other persons as become shareholders in the Company hereby incorporated, are hereby constituted a body corporate under the name of "The Crow's Nest Southern Railway Company," hereinafter called "the Company."

2. The head office of the Company shall be in the town of Fernie, Head office.
District of East Kootenay, British Columbia, but may be changed to such other place in Canada as is fixed by by-law passed at an annual general meeting or at any special meeting.

3. The Company may lay out, construct and operate the lines of Route of line, etc.
railway hereinafter described of the gauge of four feet eight and one-half inches, namely, from, at or near the coal mines at Michel, in the East Kootenay District, British Columbia; thence by way of Michel Creek, or part thereof, and a feasible and practicable route east or west of the Elk and Upper Kootenay Rivers southwards to a point within the Province of British Columbia at or near the international boundary; also from, at or near Michel Creek northerly along the

valley of the Elk River; thence to a point within the Province of British Columbia at or near the easterly boundary thereof; also from a point on the proposed line of railway near the junction of the south fork of the Elk River; thence northerly and easterly by the North Kootenay Pass to a point within the Province of British Columbia at or near the easterly boundary thereof; also branches from any points on the proposed line not exceeding in any one case twenty miles in length.

Powers of Company. **4.** The Company may also construct, acquire, maintain and operate bridges, ways, wharves, docks, coal bunkers, telegraph and telephone lines in connection with the said railway or branches, and branch lines in connection with the said telegraph and telephone lines in the transmission of messages for the public and charge tolls therefor, and all kinds of plant for the purpose of supplying light heat, electricity or any kind of motive power. The Company may also acquire and dispose of lands, bonuses or other aids from any Government, persons or bodies corporate, and make traffic or other arrangements with railway, steamboat or other companies or other persons; and the Company may purchase, build, charter or otherwise acquire, maintain, sell and dispose of, navigate and work steamers, ferries and other vessels in and upon the inland waters of British Columbia, in connection with the said undertaking, and may carry on a general express business, and the Company shall have generally such rights, powers and privileges as are necessary or incidental or conducive to the attainment of the above objects or any of them.

Capital stock. **5.** The capital stock of the Company shall be three millions of dollars, divided into thirty thousand shares of one hundred dollars each, and may be called up by the Directors from time to time as they deem necessary.

First general meeting. **6.** So soon as one hundred thousand dollars of the capital stock shall have been subscribed and allotted and ten per cent. of the amount shall have been paid into some chartered bank in Canada, the Provisional Directors shall call a meeting of the shareholders of the Company at the place where the head office is situate, at such time as they shall think proper, giving the notice prescribed by section 7 of this Act, at which meeting the shareholders who have paid ten per cent. on the amount of stock subscribed by them shall elect five Directors (of whom three shall form a quorum for the transaction of business), who shall hold office until others are elected: Provided that the number of Directors to be hereafter elected by the shareholders shall be such number, not exceeding five, as shall be fixed by the by-laws and subject to the same conditions as the Directors appointed by or under authority of section 8 hereof. The number thereof may be

altered from time to time in like manner: Provided, also, that the quorum of the Board of Directors shall be such as may be from time to time fixed by by-law, and in default of such by-law the majority of the Directors shall form a quorum of the Board.

7. At least thirty days' public notice of the first meeting of the shareholders of the Company shall be given by advertisement published in the British Columbia Gazette, and at least for thirty days in one newspaper published in the place where the head office is situated, and by a twenty days' notice in writing to each shareholder, delivered to him personally or mailed properly directed to him at his last known place of abode, in which notice shall be specified the place and the day and hour of meeting. All such notices shall be published at least weekly, and a copy of such Gazette and newspaper containing such notice shall, on production thereof, be evidence of the sufficiency of such notice. Notice of first general meeting.

8. The persons named in the first section of this Act shall be and are hereby constituted Provisional Directors of the Company, of whom three shall form a quorum, with power to add to their number, but so that the Directors shall not in all exceed fifteen in number. 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. Provisional Directors.

9. The first annual general meeting of the Company shall be held at such time as the Directors of the Company may determine, not later than the third Monday in September, 1901, and all subsequent annual general meetings shall be held at such time as may be prescribed by the Company in general meeting, and if no other time is prescribed the annual general meeting shall be held on the third Wednesday of October in each year, at which annual general meetings a Board of Directors (of whom three or such other number as shall be fixed by by-law as hereinbefore provided shall form a quorum for the transaction of business) for the management of the Company's affairs, shall be elected. Annual general meetings.

10. 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 contracts with the Company, or on account of his receiving any pay or remuneration from the Company. Director not disqualified by holding office.

11. The Board of Directors may appoint from out of their number an Executive Committee for the transaction of the ordinary business of the Company, with such powers and duties as may be fixed by the by-laws. Directors may appoint Executive Committee.

Failure to elect Directors not to operate as dissolution.

12. 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.

Company may enter into agreements, etc.

13. The Company may enter into any agreement or agreements for conveying or leasing to any other railway, steamship, transportation, telegraph or telephone company, in whole or in part, the lines of railway or branches, telegraph or telephone lines, which the Company by this Act is empowered to construct and operate, or for an amalgamation with any other such company if lawfully empowered to enter into such agreement, or for forming any traffic or other arrangements with any railway or steamboat or transportation company, the whole upon such terms and conditions as may be agreed upon by the contracting parties: Provided that each such agreement has been first sanctioned by two-thirds of the votes at a special general meeting of the shareholders duly called for the purpose of considering the same, at which meeting shareholders representing at least two-thirds in value of the stock are present in person or represented by proxy; and provided also that each such agreement shall be assented to by the Lieutenant-Governor in Council.

1. Such assent shall not be signified until after notice of the proposed application therefor has been published for thirty days in the Provincial Gazette, and also in one newspaper circulating in the district in which the railway of the Company runs.

2. A duplicate of each agreement referred to in this section shall, within thirty days after its execution, be filed in the office of the Provincial Secretary, and notice thereof shall be given by the Company in the Provincial Gazette, and the production of the Provincial Gazette containing such notice shall be *primâ facie* evidence of the requirements of this Act having been complied with.

Bonding powers.

14. The Company may issue bonds, debentures or other securities to the extent of fifteen thousand dollars per mile of the railway and branches, and such bonds, debentures or other securities may be issued only in proportion to the length of railway constructed or under contract to be constructed: Provided, however, that no such bonds, debentures or other securities shall be issued unless the Directors have been authorised to do so by a resolution passed by a two-thirds majority at any general or special meeting for that purpose among others called, at which meeting shareholders representing at least two-thirds in value of the subscribed stock of the Company are present or are represented by proxy.

Proviso.

Power to promote other companies.

15. The Company shall have power to promote any other company or incorporation or association of persons for any purposes which may

seem directly or indirectly calculated to benefit the Company, and for that purpose to obtain any Act of Parliament which may seem expedient, and to oppose any proceedings or applications which may seem calculated, directly or indirectly, to prejudice the Company's interests.

16. The Company may from time to time, for advances of money, Pledge of stock, etc. pledge any stock, debentures or bonds which under the powers of this Act can be issued for the construction of the railway, or other purposes of the Company hereby authorised.

17. It shall be lawful for the Company, with 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, its branches or extensions, all stone, timber or gravel and other material which may be necessary or useful for the construction of the railway, and also to fill in upon any public lands. Stone, timber, etc., required for construction.

18. The said Company shall have power to collect and receive all charges subject to which goods or commodities may come into their possession, and on payment of such back charges, and without any formal transfer, shall have the same lien for the amount thereof upon such goods and commodities as the person to whom such charges were originally due, and shall be subrogated by such payment in all the rights and remedies of such persons for such charges. Collection of charges on goods.

19. The clauses or sections of the "British Columbia Railway Act," and all future amendments thereto, shall apply to this Company in the same manner and to the extent as if the same had been set forth clause by clause in this Act. "B. C. Railway Act" to apply.

20. 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 Act, or as any of such provisions are repugnant to or inconsistent with the provisions of this Act or the said "British Columbia Railway Act" as incorporated into this Act, in which case the provisions of this Act or of the said Railway Act as so incorporated herein, as the case may be, shall to the extent of such repugnancy or inconsistency govern. "Companies Clauses Act" to apply.

21. The Company shall, within six months after the coming into force of this Act, deposit with the Minister of Finance and Agriculture the sum of five thousand dollars, either in cash or securities approved by said Minister, 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 first day of October, 1902, and in default of such expenditure the aforesaid deposit of money or Deposit to secure expenditure of \$10,000 on construction before 1st October, 1902.

securities shall be forfeited to and become the property of the Government; and should such security not be deposited as aforesaid all the rights and privileges conferred by this Act shall be null and void.

Future legislation to apply.

22. Any Act hereafter passed for the purpose of controlling, regulating or affecting railway companies incorporated by the Legislature of British Columbia with regard to any matter or thing shall apply to the Company from the time such Act goes into effect, and this section shall not be construed to imply that any such Act would not apply to the Company without the enactment of this section.

As to employment of aliens.

23. No aliens shall be employed on the railway during construction unless it is demonstrated to the satisfaction of the Lieutenant-Governor in Council that the work cannot be proceeded with without the employment of such aliens.

When Act takes effect.

24. This Act shall not come into force until such time as the Company shall give security to the satisfaction of the Lieutenant-Governor in Council—

1. That the Lieutenant-Governor in Council shall have the right from time to time to fix maximum rates for freight and passenger traffic, and the Company shall not charge rates higher than those so fixed :
- (2.) That in the event of Dominion legislation bringing this Railway Company under the exclusive jurisdiction of the Parliament of Canada the foregoing conditions shall be carried out by the Company so incorporated, as a contract and obligation of said Company prior to any other charge thereon:

Nor until such time as the Crow's Nest Pass Coal Company shall execute an Agreement in the terms of Schedule A to this Act, and shall file the same with the Provincial Secretary.

Short title.

25. This Act may be cited as the "Crow's Nest Southern Railway Company's Act, 1901."

SCHEDULE A.

An agreement made and entered into this day of A.D. 190 , between the Crow's Nest Pass Coal Company, hereinafter called "the Company," of the one part, and His Majesty the King, represented herein by the Chief Commissioner of Lands and Works for the Province of British Columbia, of the other part:

Whereas the Company are engaged in the production of coal and the manufacture of coke in the Province of British Columbia and in the supply thereof in said Province:

And whereas it is desirable to secure for the smelters and refineries in the Counties of Yale and Kootenay, in the said Province, an adequate and sufficient supply of coal and coke:

Now, therefore, this agreement witnesseth, that the parties hereto mutually covenant and agree as follows, that is to say:—

1. If at any time hereafter it shall appear to the Lieutenant-Governor in Council that there is reason to believe that a supply of coal and coke for use in the Counties of Yale and Kootenay is not furnished by the Company at all times, now or hereafter, in sufficient quantities to the smelters and refineries in said counties, the Lieutenant-Governor in Council may by Order in Council refer such question to arbitration under the provisions of the "Arbitration Act" and amending Acts

2. The Lieutenant-Governor in Council and the Company shall each appoint an arbitrator, and the two arbitrators so appointed shall select a third, and the decision of the Board of Arbitration shall be final, and the terms and conditions of their award shall be assumed and carried out by the Company until such time as the same may be superseded by any other award made hereunder, and so from time to time as occasion may require or the Lieutenant-Governor in Council may deem necessary. The Company shall appoint their arbitrator within forty-eight hours of being notified by the Lieutenant-Gouncil so to do, and the arbitrators shall thereafter appoint a third arbitrator within the like time; and the Board of Arbitration shall sit forthwith after appointment and continue in session de die in diem until the matters hereunder referred to them shall have been finally heard and determined.

3. The costs of the arbitration shall be paid and borne as the arbitrators may determine.

4. Pending the award, that is between the date of the appointment of an arbitrator by the Lieutenant-Governor in Council and the performance of the conditions of any award made hereunder, the Company shall furnish to the smelters and refineries in Yale and and Kootenay, as aforesaid, a supply of coal and coke satisfactory to the Lieutenant-Governor in Council, failing which the Company shall pay to the Lieutenant-Governor in Council, as liquidated damages, the sum of two dollars per ton in respect of the shortage.

In witness whereof the Company has caused its Common Seal to be affixed to these presents the day and year first above written.

The Common Seal of the Crow's Nest
Pass Coal Company was affixed hereto }
in the presence of

VICTORIA, B. C.:

Printed by RICHARD WOLFENDEN, Printer to the King's Most Excellent Majesty.
1901.