



CHAPTER 54.

An Act to incorporate the Lardeau and Kootenay
Railway Company.

[12th April, 1893.]

WHEREAS a Petition has been presented praying for the incor- Preamble.
poration of a Company to construct, maintain, equip, and operate
a line of railway commencing at or near Lardeau City, situate at the
head of the north-east Arm of the Upper Arrow Lake, thence through
Lardeau Pass to some point on the north-west shore of Lake Kootenay,
with power to extend to Nelson, and with power to construct, equip,
maintain, and operate a branch from said proposed line from the said
Lardeau City, in a northerly direction, along the course of the Incom-
appleux River, or Fish Creek, to some point or points near the head-
waters of the same; with further power to construct, equip, maintain,
and operate branch lines from any point or points on the main line or
branch lines to any adjacent mine or mines; and with further power to
build wharves and docks, and erect and maintain telegraph and tele-
phone lines in connection with the said railway, its extensions and
branches:

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

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

1. That Peter Curran Dunlevy, gentleman; William Harrington Incorporation.
Ellis, editor: and Robert Irving, financial agent, all of the City of
Victoria, in the Province of British Columbia, and such other persons
and corporations as shall in pursuance of this Act become shareholders
in the Company hereby incorporated, are hereby constituted a body
politic and corporate by the name of "The Lardeau and Kootenay
Railway Company," hereinafter called "the Company."

Power to construct
railway and branch
lines.

2. The Company, their servants, agents and workmen, shall have full power and authority to lay out, construct, equip, complete and operate a double or single line of railway of four feet eight and one-half inches, or standard gauge, commencing at or near Lardeau City, situate at the head of the north-east arm of the Upper Arrow Lake, thence through Lardeau Pass to some point on the north-west shore of Lake Kootenay, with power to extend to Nelson, and with power to construct, equip, maintain and operate a branch from the said proposed line from the said Lardeau City, in a northerly direction, along the course of the Incomappleux River, or Fish Creek, to some point or points near the head-waters of the same; with further power to construct, equip, maintain and operate branch lines from any point or points on the main line, to any adjacent mine or mines, to the distance of not more than thirty miles from the main line; provided that no such branch line shall be built up the Kaslo Valley until the whole railway authorized and empowered by this Act shall be completed and in operation; and with further power to build wharves and docks, and erect and maintain telegraph and telephone lines in connection with the said railway, its extensions and branches.

Head office.

3. The chief place of business and the head office of the Company shall be at the City of Victoria.

Power to construct
telegraph and tele-
phone lines.

4. The Company may construct, maintain, and work telegraph and telephone lines throughout and along the whole line of the railway and its branches, or any part or parts thereof, and may undertake the transmission of messages for the public by any such line or lines of telegraph or telephone, and collect tolls for so doing, or may lease such lines of telegraph or telephone, or any portion thereof; and they may use any improvement that may hereafter be invented (subject to the rights of patentees), and any other means of communication that may be deemed expedient by the Company at any time hereafter.

Power to acquire,
navigate, and sell
steamers, &c.

5. The Company may acquire, build, equip, maintain and navigate, sell and dispose of, charter and work steamers and other vessels in and upon the waters of British Columbia, and generally do all things necessary and incidental to the exercise of the powers, rights, and privileges granted by this Act within the Legislative authority of the Provincial Legislature.

Capital stock.

6. The capital stock of the Company shall be five hundred thousand dollars (\$500,000), divided into five thousand shares of one hundred dollars each, and the money so raised shall be applied in the first place to the payment of all fees, expenses, and disbursements incurred in and about the promotion and passage of this Act, and for making the surveys, plans, and estimates authorized by this Act, and the remainder

to the making, equipping, completing and maintaining of the said railway, and the other purposes of this undertaking authorized by this Act, and to no other purposes whatsoever.

7. The shares of the Company shall be transferable in such manner Shares and upon such conditions as shall be provided by the by-laws of the Company, and such shares, or any part thereof, may be granted and issued as paid up stock for value received by the Company, either in money at par or at such price and upon such conditions as the Board of Directors may fix, or as payment for, or as part of the payment for, any service performed for, or plant, rolling stock, or material supplied to or contract made by the Company, and such stock shall not be assessable for calls.

8. The persons named in section 1 of this Act are hereby constituted the Provisional Directors of the Company, and the number of Provisional Directors. Directors shall not at any time exceed five in number. The Board of Directors so constituted may forthwith open stock books and procure subscriptions of stock for the undertaking, and cause plans and surveys to be made, and deposit in any bank in the Province the moneys so received by them, and generally have all the powers conferred upon the Directors of the Company, and they shall hold office until the first election of Directors under this Act.

9. Each of the Directors of the Company hereby appointed, or hereafter appointed or elected, shall hold at least ten shares of the Director to hold ten shares. stock of the Company on which all calls have been paid.

10. Three of the Directors shall form a quorum of the Board; and until otherwise provided by by-law Directors may vote and act by proxy, such proxy to be held by a Director only; but no Director shall hold more than one proxy, and no meeting of Directors shall be competent to transact business unless at least three Directors are present thereat in person. Quorum.

11. The Board of Directors may appoint from out of their number an Executive Committee, composed of at least three Directors, for the Executive Committee. transaction of the ordinary business of the Company, with such powers and duties as shall be fixed by the by-laws; and the Chairman shall be ex-officio member of such Committee.

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

Liability of shareholder.

13. No shareholder of the Company shall in any manner be liable to or be charged with the payment of any debt or demand due by the Company beyond his or her subscribed shares in the capital stock of the Company.

Failure to elect Directors.

14. 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 be afterwards performed at a meeting called in conformity with the by-laws, or at a meeting called especially for the purpose. The first general meeting shall be held on the first Thursday of the month of June, 1893. at the City of Victoria, for the purpose of electing a Board of Directors for the management of the Company's affairs, giving at least two weeks' previous notice by advertisement in the British Columbia Gazette and in some daily newspaper published in the City of Victoria, and also by a circular addressed by mail to each shareholder at his last known place of abode of the time, place, and purpose of the said meeting.

Annual general meetings.

15. Thereafter the annual general meeting of the Company shall be held at the City of Victoria on the second Thursday in the month of September in each year, and two weeks' previous notice shall be given by publication in the British Columbia Gazette and in one daily newspaper published in the said City of Victoria, and also by a circular addressed to each shareholder at his last known place of abode.

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 Directors of the Company, or any Executive Committee of such Directors; 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; increasing and decreasing the number of Directors; the procedure at general meetings and meetings of their own body; the appointment of Committees; regulating the conduct of the officers and servants of the Company, and generally for managing the affairs and property of the Company, and for carrying out the objects contemplated by this Act, not inconsistent with this Act or the Railway Act of British Columbia incorporated herewith, and may from time to time repeal, amend, and re-enact the said by-laws.

Application of 1890,
c. 39.

17. The several clauses of the "British Columbia Railway Act" shall be incorporated with and be deemed to be part of this Act, and shall apply to the Company and to the railway to be constructed by them except only so far as they may be inconsistent with the express enactments hereof; and the expression "this Act," when used herein, shall be understood to include the clauses of the said Railway Act so incorporated with this Act.

18. The Provisional or Elected Directors of the Company may, in their discretion, exclude anyone from subscribing for stock in the Company, or rescind the subscription and return the deposit of any person, if they are of the opinion that such person would hinder, delay, or prevent the Company from proceeding with and completing their undertaking under the provisions of this Act; and if at any time more than the whole stock shall have been subscribed, the said Board of Directors shall allocate and apportion it amongst the subscribers as they shall deem most advantageous and conducive to the furtherance of the undertaking, and in such allocation the said Directors may, in their discretion, exclude any one or more of the said subscribers, if in their judgment this will best secure the building of the said railway.

Directors may apportion stock.

19. All moneys expended by the Provisional Directors, or any of them, in the furtherance of the undertaking authorized by this Act, either before or after the passing of this Act, shall be treated as cash advanced on account of the Company; and at the first meeting of the Directors after the passing of this Act a resolution shall be passed giving credit to each Provisional Director in the books of the Company for such amount as he or they may have so expended.

Directors to have credit for moneys advanced.

20. The Company may for the purposes of the railway receive from any Government, person, municipal or any other body corporate, in aid of the construction, equipment, and maintenance of the said railway, grants of land, bonuses, loans or gifts of money, or exemption or freedom from any municipal, provincial, or other tax or impost.

Company may receive aid.

21. The amount of bonds or debentures authorized by sub-section (11) of section 9 of the Railway Act of British Columbia shall not exceed twenty-five thousand dollars per mile of the railway hereby authorized to be constructed; and provided further, that if the Company shall issue land grant bonds under the provisions of section 22 of this Act, any land grants to the Company may be excluded from the operation of any mortgage deed other than that given to secure the repayment of the land grant bonds.

Bonds not to exceed \$25,000 per mile of railway, &c.

22. The Directors of the Company may borrow for the purposes of the Company such sum or sums of money as they may consider expedient, and may issue bonds or debentures of the Company in sums of not less than one hundred dollars each, and on such terms and credit as they may think proper, and may issue mortgage bonds, to be called "Land Grant Bonds," not to exceed one dollar per acre, secured upon any lands granted in aid of the undertaking authorized by this Act, such issue 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 such mortgage may be evidenced by a deed or deeds of mortgage

Power to borrow money and issue bonds

"Land Grant Bond."

to be executed under the like authority to 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 therein, and upon the holders of the bonds secured thereby, remedies, authorities, powers, and privileges, and may provide for forfeitures and penalties similar to those which may be inserted and provided for under the provisions of this Act in any deed securing the issue of bonds on the said railway, together with such other provisions and conditions as are not inconsistent with this Act.

Denomination of
bonds.

23. The bonds or debentures authorized by this Act to be issued upon the railway, or upon lands to be granted to the Company, or upon both, may be so issued, in whole or in part, in the denomination 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 bond 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 may 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 holders 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, with such rights, liens, privileges, and preferences, at such place, and upon such conditions, as shall be provided by the Company.

Disposal of.

Power to issue pre-
ference stock.

24. The Directors of the Company, under the authority and with the powers and on the terms hereinbefore set forth with respect to the issue of bonds or debentures, may issue preference stock or shares of the Company, to be redeemed or made liable to be called in at such time and in such manner as the Directors, by the by-law for issuing the same, fix and determine, upon which preference stock a dividend may be made payable, at such rate, not exceeding eight per cent. per annum, as to the Directors seem fit; and such dividend may be made payable in scrip, which shall have the same security and shall be redeemable in the like manner as the said preference stock, and such preference stock may, subject to the same authority, be exchanged by the holder thereof for ordinary stock, on such terms and conditions as the Directors from time to time by by-law fix and appoint: Provided, always, that the total amount of bonds and preference stock to be issued by the Company shall not exceed twenty-five thousand dollars per mile for every mile of the railway constructed, or under contract to be constructed: and provided, also, that the holders of preference stock shall have the same right of voting as ordinary shareholders.

Bonds and prefer-
ence stock not to
exceed \$25,000 per
mile of railway.

Holders of prefer-
ence stock may
vote.

25. The lands acquired by the Company, and held for sale for the purposes thereof, may be conveyed to trustees, to be held and conveyed by them upon the trusts and for the purposes herein declared in reference to such lands: and all moneys arising from the sale of such lands shall be held and applied in trust for the purposes following, that is to say:—First, in payment of the expenses connected with the acquisition, survey, management, and sale of the said lands; secondly, in payment of the interest on bonds secured by such lands from time to time; thirdly, in payment and redemption of the said bonds when and as they become due; and, fourthly, for the general purposes of the Company.

Lands acquired may be conveyed to trustees.

Application of moneys arising from sale.

26. All lands sold and conveyed by the Company and the said trustees, after a conveyance thereof to them upon the trusts aforesaid, and which have been paid for in cash, shall be forever released and discharged from all mortgages, liens, and charges of any kind or nature by this Act or by the Company created; and the purchase money arising from the sale of such lands shall be applied in accordance with the trusts in the last preceding section declared.

Lands sold to be free from encumbrances.

27. If the Company make default in payment of the principal or interest of any of the bonds, preference stock, or scrip for dividend hereby authorized at the time when the same, by the terms of the bonds or the conditions upon which the preference stock or scrip for dividends was issued, become due and payable, then at the next ensuing annual general meeting of the Company, and all subsequent meetings, all the holders of the bonds, preference stock, or scrip for dividends so being and remaining in default shall, in respect thereof, have and possess the same rights, privileges, and qualifications for being elected Directors and for voting at the general meetings as they would possess if they had held fully paid up shares of the Company to a corresponding amount: Provided, nevertheless, that the right given by this section shall not be exercised by any bondholder, preference stock holders, or holders of scrip for dividends, unless the bonds, preference stock, or scrip for dividends in respect of which he claims to exercise such right has been first registered in his name in the same manner as provided by by-law for the registration of shares of the Company, and for that purpose the Company shall be bound on demand to register any bond, preference stock, or scrip for dividends in the name of the holder thereof, and to register any transfers thereof in the same manner as a transfer of shares: Provided, also, that the exercise of the right given by this section shall not take away, limit, or restrain any other rights or remedies to which the holders of the said bonds, preference stock, or scrip for dividends are entitled.

Default in payment of bonds not to incapacitate shareholders from voting.

Proviso.

28. All bonds, preference stock, debentures, and other securities hereby authorized, and the coupons and interest warrants thereon

Bonds may be payable to bearer.

respectively, may be made payable to bearer, and shall in that case be transferable by delivery until registry thereof in manner provided in the last preceding section, and while so registered they shall be transferable by written transfer, registered in the same manner as in the case of shares; they shall again become transferable by delivery upon registration of a transfer to bearer, which the Company shall be bound to register on the demand of the registered holder for the time being.

Power to receive
back charges.

29. The Company shall have the 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 or commodities as the persons to whom such charges were originally due had upon such goods or commodities while in their possession, and shall be subrogated by such payment in all the rights and remedies of such person for such charges.

Power to purchase
lands for stations,
&c.

30. Whenever it shall be necessary, for the purpose of procuring sufficient land for stations or gravel pits, or for constructing, maintaining and using the said railway, and in case by purchasing the whole of any lot or parcel of land over which the railway is to run the Company can obtain the same at a more reasonable price or to greater advantage than by purchasing the railway line only, the Company may purchase, hold, use and enjoy such lands, and also the right of way thereto if the same be separated from their railway, and may sell and convey the same, or any part thereof, from time to time as they may deem expedient, but the compulsory clauses of the "British Columbia Railway Act" shall not apply to this section.

Arbitration.

31. When stone, gravel, earth or sand is or are required for the construction or maintenance of such railway, or any part thereof, the Company may, in case they cannot agree with the owner of the lands on which the same is situated for the purchase thereof, cause a Provincial Land Surveyor to make a map and description of the property so required, and they shall serve a copy thereof with their notice of arbitration, as in case of acquiring the roadway; and the notice of the arbitration, the award and the tender of the compensation, shall have the same effect as in the case of arbitration for the roadway, and all the provisions of the "British Columbia Railway Act," and of this Act, as to the service of the said notice, arbitration, compensation, deeds, payment of any money into Court, the right to sell, the right to convey, and the parties from whom lands may be taken or who may sell, shall apply to the subject-matter of this section as to the obtaining materials as aforesaid, and such proceedings may be had by the Company either for the right to the fee simple in the land from which such material may be taken, or for the right to take

material for any time they shall think necessary: the notice of arbitration, in case arbitration is resorted to, to state the interest required.

32. When the said gravel, stone or other material shall be taken under the preceding section of this Act at a distance from the line of the railway, the Company may lay down the necessary sidings and tracks over any lands which may intervene between the railway and the lands on which the said materials shall be found, whatever the distance may be; and all the provisions of the "British Columbia Railway Act," and of this Act, except such as relate to filing plans and publications of notice, shall apply and may be used and exercised to obtain the right of way from the railway to the land on which such materials are situated: and such right may be so acquired for a term of years, or permanently, as the Company may think proper.

Power to lay sidings to gravel lands.

33. The Company is hereby authorized and empowered to take and make the surveys and levels of the lands through which the railway of the Company is to pass, together with the map or plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, as far as then ascertained, and also the book of reference for the railways, and deposit the same, as required by the clauses of the "British Columbia Railway Act" with respect to "plans and surveys," by sections or portions less than the whole length of said railway hereby authorized, of such length as the Company may from time to time see fit, so that no one of such sections or portions shall be less than five miles in length: and upon such deposit as afore-said of the map, or plan, or book of reference of and of each of such sections or portions of the said railway, all and every one of the clauses of the said Railway Act applied to, included in or incorporated with this Act, shall apply and extend to any and each of such sections or portions of the said railway, as fully and effectually as if the surveys and levels had been taken and made of the lands through which the whole of said railway is to pass, together with the map or plan of the whole thereof, and of its whole course and direction, and of the lands intended to be passed over and taken, and the book of reference for the whole of the said railway had been taken, made, examined, certified and deposited, according to the said clauses of the said Railway Act with respect to "plans and surveys."

Power to make surveys, &c.

34. The railway may be constructed in sections, and the first section between the point of commencement, at or near Lardeau City and Trout Lake, shall be commenced within two years and completed within three years from the passing of this Act, and the whole railway completed within six years from the passing of this Act; but failure to complete any portion of the said railway within the time limited in this section shall not prejudice the rights, powers and privileges of the

Commencement and completion of railway.

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Company in respect of so much of the said railway as is constructed at or before the expiration of said time, or their corporate powers hereby granted, and the Company will be entitled to operate the same and exercise and have all the powers hereby granted in respect to the portion constructed.

Short title.

35. This Act may be cited as the “Lardeau and Kootenay Railway Act, 1893.”

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