



CHAPTER 59.

An Act to Incorporate the Nicola Valley Railway Company.

[20th April, 1891.]

WHEREAS a petition has been presented praying for the incorporation of a company to construct and operate a line of railway from a point at or near Spence's Bridge, on the line of the Canadian Pacific Railway; thence running in a south-easterly direction, and following the valley of the Nicola River, and terminating at a point at or near the western extremity of Nicola Lake, with a branch commencing at or near the junction of the Coldwater and Nicola Rivers, and extending in a southerly direction along the valley of the Coldwater River to a point at or near the junction of the Voght and Coldwater Rivers:

Preamble.

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

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

1. John M. Lefevre, Stephen Tingley, and Charles Whetham, together with such other persons and corporations as shall in pursuance of this Act become shareholders of the Company hereby incorporated, are hereby constituted and declared a body corporate and politic by and under the name of "The Nicola Valley Railway Company," hereinafter called "the Company."

Incorporation.

2. The Company and their agents and servants shall have full power and authority to lay out, construct, complete, and operate a double or single line of railway of four feet eight and one-half inches gauge from a point at or near Spence's Bridge, on the line of the Canadian Pacific Railway, thence running in a south-easterly direction and following the valley of the Nicola River, and terminating at a point at or near the western extremity of Nicola Lake, with a branch commencing at or near the junction of the Coldwater and Nicola

Power to construct railway.

Rivers, and extending in a southerly direction along the valley of the Coldwater River to a point at or near the junction of the Voght and Coldwater Rivers.

Provisional Directors.

3. The persons named in section 1 of this Act, with power to add to their number, shall be and are hereby constituted Provisional Directors of the said Company, of whom a majority shall form a quorum, and shall hold office as such until the first election of Directors under this Act, and shall have power forthwith to open the stock book and procure subscriptions of stock for the undertaking, and to receive payments on account of stock subscriptions, and to cause plans and surveys to be made, and to acquire any plan and survey now existing, and to deposit in any chartered bank of Canada, having an office in the Province of British Columbia, all moneys received by them on account of stock subscriptions, and to withdraw the same for the purpose of the undertaking, and to receive for the Company any grant, loan, bonus, or gift made to it in the aid of the undertaking, and to enter into any agreement respecting the condition or disposition of any gift, bonus, guarantee, or other assistance to the railway, and with all such other powers as under the "British Columbia Railway Act" are vested in ordinary Directors.

Capital stock.

4. The capital stock of the Company shall be seven hundred and fifty thousand dollars, with power to increase the same in the manner provided in the "British Columbia Railway Act," to be divided into 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 of and incidental to the passing of this Act and the organization of the said Company, and for making the surveys, plans, and estimates connected with the work hereby authorized, for the procuring of any plans and estimates heretofore made, and all the remainder of said moneys shall be applied to the making, equipping, completing, maintaining, and operating of the said railway, and to the other purposes of this Act.

Power to exclude any one from subscribing for stock.

5. The Provisional or elected Directors of the Company may, in their discretion, exclude any one from subscribing for stock in the said 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 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.

6. It shall be lawful for the Directors, in procuring subscriptions for stock, to allot such stock and such amounts, and subject to the payment of such calls of such amount, and at such times, and at such discount as they may think fit, or they may agree for the sale of such stock, or any part thereof, at such price as they may think fit, and may stipulate for the payment of the purchase money at the time of subscription, or by instalments, and the amount of every such instalment as and when payable, shall be deemed to be money due in respect of a call made in accordance with the provisions contained in section 35 of the "British Columbia Railway Act," and non-payment of any such instalment shall carry with it all the rights, incidents, and consequences as mentioned in the said Act, as in the case of a call due by a shareholder on a share.

7. The said Provisional Directors or elected Directors must pay, or agree to pay, in paid up stock, or in the bonds of the said Company, such sums as they may deem expedient to engineers or contractors, or for right of way, or material, plant, or rolling stock, and also, when sanctioned by a vote of the shareholders at any general meeting, for the services of promoters or other persons who may be employed by the Directors for the purpose of assisting the Directors in the furtherance of the undertaking, or purchase of the right of way, material, plant, or rolling stock, whether such promoters or other persons be Provisional or elected Directors or not, and any agreements so made shall be binding on the Company.

8. When and so soon as shares to the amount of one hundred thousand dollars in the capital stock of the said Company shall have been subscribed and allotted, and ten per centum paid thereon, the Provisional Directors shall call a general meeting of the shareholders of the said capital stock at the City of Vancouver, for the purpose of electing Directors of the said Company, giving at least two weeks' notice by advertisement in the British Columbia Gazette, and in one of the daily papers published in the City of Vancouver, of the time, place, and purpose of said meeting.

9. At such general meeting the shareholders assembled in person or by proxy who shall have paid up ten per centum on their shares, shall choose not more than nine persons to be Directors of the said Company, of whom the majority shall be a quorum, and may also pass such rules, regulations, and by-laws as may be deemed expedient, provided they be not inconsistent with this Act and the "British Columbia Railway Act;" and the said Board of Directors may employ and pay one of their number as Managing Director.

10. In the election of Directors under this Act, no person shall be elected a Director until he shall be the holder and owner of at least

ten shares of the stock of the Company upon which all calls have been paid.

General annual meeting.

11. Thereafter the general annual meeting of the shareholders of the said Company shall be held in such place in the City of Vancouver, and on such days and at such hours as may be directed by the by-laws of the Company, and public notice thereof shall be given at least two weeks previous in the British Columbia Gazette, and in one or more newspapers published in the City of Vancouver during the two weeks preceding the week in which such meeting is to be held, and special general meetings of the shareholders of the said Company may be held at such place in the City of Vancouver, and at such times and in such manner, and for such purposes, as may be directed by the by-laws of the Company, upon such notice as is provided in this section.

Power to issue bonds

12. For the purposes of the Company, the Directors may issue bonds, and to secure the same and the interest thereon they may mortgage the undertaking, or part thereof, in the manner provided in the "British Columbia Railway Act," and in this respect the provisions of the said Railway Act shall apply; and it shall be lawful for any Railway Company or Companies (which may be lawfully authorized in that behalf) to agree for the loan of its or their credit, either by direct guarantee or traffic arrangements, or otherwise, to secure the payment of the interest on said bonds, or any part thereof, and to secure the payment of the principal, or any part thereof, either by the sinking fund or otherwise.

Power to acquire and dispose lands.

13. It shall be lawful for the Company to acquire, by purchase or otherwise, coal and other lands, coal mines, coal rights and mining rights, and to sell, mortgage, lease, or otherwise dispose of the same, or any part thereof, and to make such tests for coal by boring or otherwise as it may deem expedient, and to dig and mine coal, and sell or otherwise dispose of the same, upon such terms as it may deem expedient; and to carry on the business of coal mining and dealing in coal in all its branches in connection with the said railway, and for the purposes aforesaid the Company is hereby empowered to construct and lay down all necessary sidings, switches, and tracks over any lands which may intervene between the railway and the lands in which its coal mines may be situated; 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 mines are situated, and such right may be so acquired for a term of years, or permanently, as the Company may think proper, and the powers in this and preceding section may at all times be exercised and used in all respects after the railway is constructed, for the purpose of repairing and maintaining the said railway. Also, for

the purposes aforesaid the Company is hereby empowered to set up, maintain, and operate all such machinery, plant, appliances and works as it may deem expedient for the operating of coal mines, and the carrying on of the business of coal mining.

14. All the coal lands, coal mines, coal rights and privileges given under the last preceding section shall be deemed to be part of the undertaking of the Company, and the Company is hereby empowered to pledge and mortgage the same, either under the provisions of the "British Columbia Railway Act," or otherwise, for such purposes as it may deem expedient. Power to mortgage same.

15. The Company may, from time to time, for advances of money pledge any stock, debentures, or bonds which, under the powers of this Act, can be issued for the construction of the railway, or otherwise. Power to pledge stock.

16. The said Company may receive from any Government or from any persons or bodies corporate, municipal or politic, who may have power to make or grant the same, aid towards the construction, equipment or maintenance of the said railway by way of bonus, gift, or loan in money or debentures, or other securities for money by way of guarantee, upon such terms and conditions as may be agreed upon. Power to receive bonuses.

17. The said Company shall have power to agree for connections and make running arrangements with any railway company, if lawfully empowered to enter into such agreement, upon terms to be approved by two-thirds in value of the shareholders at a special general meeting to be held for that purpose, and it shall also be lawful for the said Company to enter into any agreement with any railway company, if lawfully authorized to enter into such an agreement, for the sale or leasing or hiring of their railway, or of any portion of their railway, or the use thereof, or for the sale, or lease, or hiring any locomotives, tenders, plant, or rolling stock, or other property, or either, or of both, or of any part thereof, or touching any service to be rendered by the one company to the other, and the compensation therefor, if the arrangements and agreement shall be approved of by two-thirds in value of the shareholders voting in person or by proxy at a special general meeting to be called for that purpose, and every such agreement shall be valid and binding according to the terms and tenor thereof, and the company or companies purchasing, leasing, or entering into such an agreement for using the said railway may and are hereby authorized to work the said railway in the same manner as if incorporated with their own line. Power to agree with any other company for running powers, &c.

18. The Company shall have power to collect and receive all charges subject to which goods or commodities shall come into their possession, and on payment of such back charges, and without any formal transfer, Power to receive back charges.

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.

Power to acquire gravel lands.

19. Whenever it shall be necessary for the purpose of procuring sufficient lands 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.

What is necessary to be done on acquiring gravel lands.

20. When stone, gravel, earth, or sand is or are required for the construction or maintenance of the said railway, or any part thereof, the Company may, in case they cannot agree with the owner of the lands on which the same are situate 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, for their notice of arbitration, as in the case of acquiring the roadway, and the notice of 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 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 said Company either for the right to the fee simple in the land from which the said material shall be taken, or for the right to take materials for any time they shall think necessary; the notice of arbitration, in case arbitration is resorted to, shall state the interest required.

Power to lay down sidings, &c.

21. When said gravel, stone, earth, or sand shall be taken under the preceding section of this Act, at a distance from the line of 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 said material shall be found, and all the provisions of the "British Columbia Railway Act," and of this Act, 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; and the powers in this and preceding section may at all times be exercised and used in all respects after the railway is constructed for the purpose of repairing and maintaining the said railway.

22. The Company shall have power to purchase and hold such land as may be required at each extremity of the said railway for the purpose of building thereon storehouses, warehouses, engine-houses, and other erections for the uses of the said Company, and the same or portions thereof in their discretion to sell, re-convey, and also to make use, for the purpose of the said railway, of any stream or water-course at or near which the said railway passes, doing, however, no unnecessary damage thereto, and not impairing the usefulness of such stream or water-course. Power to hold land for warehouses, &c.

23. Aliens and companies incorporated abroad, as well as British subjects and corporations, may be shareholders in the said Company, and all such shareholders, whether resident in the Province or elsewhere, shall be entitled to vote on their shares equally with British subjects, and shall also be eligible to office as Directors in the said Company. Aliens may be shareholders.

24. All the provisions of the "British Columbia Railway Act," except as varied by this Act, shall apply to the said Company. "B.C. Railway Act."

25. The railway authorized by this Act to be constructed shall be commenced within three years and completed within five years. Commencement and completion.

26. This Act may be cited as the "Nicola Valley Railway Company Act, 1891." Short title.