

C H A P . 6 2

An Act to amend the act incorporating the Buckingham Electric Railway, Light and Power Company, and to change its name

[Assented to 20th May, 1905]

WHEREAS the Buckingham Electric Railway, Light and Power Company has represented, by petition, that it is advisable to change the name of the company, to enlarge its powers and to authorize it to extend its line of railway, to ratify certain proceedings and otherwise to amend the act incorporating the company, and has prayed for the passing of an act to that effect, and it is expedient to grant its prayer; Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows :

1. The title of the act 58 Victoria, chapter 68, is replaced by the following : “ An act to incorporate the Lièvre Valley Power, Traction and Manufacturing Company.”

Preamble.
Title of 58 V.
c. 68, replaced.

2. Section 1 of the said act is replaced by the following :

“ **1.** The persons herein-above named and all other persons who have or may hereafter become shareholders are constituted a corporation under the name of “ The Lièvre Valley Power, Traction and Manufacturing Company.”

58 V., c. 68,
s. 1, replaced.
Incorporation.
Name.

3. Section 3 of the said act is replaced by the following :

“ **3. 1.** The company may lay out, construct, equip, and operate a railway, with a single or double track, and in such manner as may be deemed advisable, of the gauge of four feet eight and one-half inches wide, or such other gauge as may be deemed advisable, from any point or points in the city of Hull, or in the township of Hull, in the Province of Quebec, to any point or points at or near the mouth of the Du Lièvre river, in the township of Buckingham, or parish of L'Ange Gardien, and in and through the town and township of Buckingham, and thence along the Lièvre Valley to meet the Grand Trunk Pacific Railway, when constructed, at such point or points within the Province of Quebec, as the company may deem advisable, and the said line or lines of railway may cross and re-cross the said river Du Lièvre at such places as may be by the company deemed expedient ; and the said company may propel or move the cars, vehicles or machinery and carry on its operations

Id., s. 3, re-
placed.
Power to :
Build rail-
way, &c,

by the application of electricity, steam or otherwise, as may be deemed expedient.

Work mines,
&c. ;

2. The said company may mine, manufacture and deal in mines, ores, minerals, alkalies and chemicals of all kinds, and may smelt and reduce ores and minerals of all kinds.

Deal in elec-
tricity, &c.

3. The company may carry on the business of manufacturer, worker and dealer in electricity and motive power, heat and light, and any business in which the application of electricity or any power, like or otherwise, is or may be useful or convenient, and the said company may carry on the business of manufacturer and dealer in electric motors, dynamos and other electric machinery and appliances, and the company may erect pole-lines along the line of its railway and throughout the territory set forth in paragraph 6 of this section, and throughout the municipalities on and adjoining Du Lièvre River, and equip the same with wires and all appliances used in transmitting electricity, and transmit electricity thereby.

Acquire fac-
tories, &c. ;

4. The said company may, within the territory set forth and referred to in paragraph 3 of this section, acquire, construct, develop, hold, sell, lease and dispose of mills, factories, power-houses, hydraulic works, water-powers, riparian rights and all works and improvements deemed necessary or useful for the development or working or use of the same.

Acquire
boats, &c. ;

5. The said company may acquire, construct, hire and operate steamships and vessels of all kinds, and carry on the business of ship owner, ship-builder, expressman, mail-carrier, wharfinger, and warehouseman.

Establish, &c.
works to re-
gulate water,
&c.

6. The company, by its agents, servants and employees, is hereby given the right and power of entering at all times on that part of the Du Lièvre River above the forks thereof and on Lake Nemiscachinque, Lake LaCulotte, Lake Mejomangoos, Lower Lake Mejomangoos, Lake Kiamika, River and Lake Des Ours, Pike Lake, Eagle Lake, River and Lake Serpent, Lake Corbeau, Lake St. Germain, Big Lake Du Cerf and Little Lake Du Cerf, and White Fish Lake ; and on all other lakes, streams, creeks and bodies of water tributary to or of the said Du Lièvre River and of the said lakes above mentioned, or that connect the said lakes with one another or with said River Du Lièvre, with the exception of Lac des Pins, Lac des Sables, Lac de Camp, Lac Dudley, Lac Rouge, Lac Kiamika, in the township of Kiamika, Lac des Isles, Lac des Ecorces and Lac Gauvin, and on the Crown lands adjoining or in the vicinity of said part of said Du Lièvre River and of the lakes, streams, creeks and bodies of water above mentioned or referred to ; and the said company, as aforesaid, is hereby also given the right and power

of erecting and making, renewing and repairing at all times on said part of said Du Lièvre River, and on said lakes, streams, creeks and bodies of water, whereon right of entry is given, and on the beds, beaches and banks thereof and islands therein, and on said part of said Crown domain, such dams, erections, barriers, works and improvements as said company may decide to erect or make for the purpose of damming, storing, raising, lowering, retaining or regulating the waters of the said part of said Du Lièvre River, or of the said lakes, streams, creeks and bodies of water above mentioned or referred to, and the flow of water therefrom, to or in said Du Lièvre River; and the said company, as aforesaid, is hereby also given the right and power of making, in said part of said Du Lièvre River and in said lakes, streams, creeks and bodies of water above mentioned or referred to, whereon right of entry is given, and in and on the beds, beaches and banks thereof, and in and on said Crown lands, all such excavations, openings, deepening, channels, canals, reservoirs, sluiceways, conduits and other works as the said company may decide upon for the purposes aforesaid.

7. The company shall have the exclusive possession of those portions of the Crown domain on which such works shall be made and erected. Possession of certain land.

8. By the works above authorized the company is hereby given the right and power of raising, lowering, storing and retaining the waters of said lakes, streams, creeks and bodies of water above mentioned or referred to, in said lakes, streams, creeks and bodies of water, or in the vicinity thereof, at high water mark or lower, in such manner and to such extent and as long as the company may, from time to time, deem expedient; and the company, as aforesaid, is hereby also given the right and power of controlling and regulating the flow of water from said lakes, streams, creeks and bodies of water above mentioned or referred to, to and in said Du Lièvre River, in such manner and to such extent as said company may deem expedient. Power to regulate flow of water, &c.

9. The company shall not be liable for any damage resulting to the Crown, or for any damage resulting to property owned by the Crown, on the day this act comes into force, by the damming, storing, raising, lowering or retaining of the waters aforesaid, or by the regulating of the flow thereof, as aforesaid; and the company shall only be liable for the damages arising from flooding due to the works and improvements aforesaid and when occasioned to properties of private persons, or corporations, or other companies, when the properties for which compensation is claimed were Liability for certain damage.

sold or conceded by the Crown prior to the coming into force of this act.

Right of com-
pany to use
waters.

10. Subject to the provisions of paragraph 11 of this section, and without making compensation to any person, corporation or other company, the company is hereby given and granted the right at all times to take, appropriate and use, from said Du Lièvre River for hydraulic purposes at any water-powers or properties that the company may, from time to time, own or lease and operate on said Du Lièvre River, all the waters at any time flowing in said Du Lièvre River and that theretofore had been so stored or retained in the said lakes, streams, creeks and bodies of water above mentioned or referred to, or in the vicinity thereof, or so brought therefrom, or the flow of which had been so controlled or regulated in the manner aforesaid; and the company is hereby given the right and power to erect all dams, works and improvements on or near such water-powers or properties on said Du Lièvre River that the company may own or lease and operate, and of making on said water-powers and properties and in or on the beds, beaches and banks of said river, such channels, canals, excavations and works as the company may consider necessary to secure to and for the said company, in the manner aforesaid, the exclusive use and benefit of all said waters that may have been so stored or retained as aforesaid, or the flow of which may have been so controlled or regulated as aforesaid.

Right of
otherst ouse
waters, &c.

11. Provided, however, that any owner of any water-power on said Du Lièvre River, may claim, obtain and use, for hydraulic purposes in connection with his water-power, a share of the waters that may have been so stored or retained as aforesaid, or the flow of which may have been so controlled or regulated, when and as the waters are flowing in the said Du Lièvre River, and such owner shall then be entitled to claim, obtain and use a quantity of such water in the proportion of the capacity of the water-power of such owner before said work or improvements were made, to the capacity of all the water-powers on said Du Lièvre River then operated by said company, or others, and only on condition that such owner previously and annually pays to the company an amount that fairly represents interest on the cost of the works and improvements by which said waters are so stored, retained and regulated, and of the cost of the renewing, repairing and maintenance thereof, proportionate to the share of the said waters that such owner, under the terms hereof, is entitled to claim, obtain and use.

Arbitration in
certain cases.

12. In the event of the company not being able to agree with any such owner as to the terms and conditions on which any such owner may use any part of such waters the flow of

which may have been so controlled or regulated as aforesaid, and in the event of any such owner using any portion of such waters or desiring to claim, obtain and use such portion of said waters as he is entitled to claim, and in the event of any difficulty arising as to whether such owner is actually using a portion of such waters, or as regards the quantity of such waters that such owner is entitled to claim under the preceding paragraphs, or as regards the annual amount which such owner should pay to the company for the same as aforesaid, the said questions shall be referred to arbitration, and one arbitrator shall be named by the company, one by such owner, and a third shall be appointed by a judge of the Superior Court for the district of Ottawa, and such judge, when naming such arbitrator, shall fix the time within which the award shall be rendered, and such arbitrators, after hearing the parties and their witnesses and making such other investigations as to them shall seem proper, shall decide :—(a) whether such owner is actually using a portion of such waters, and if so, what portion ; (b) the quantity of such waters that such owner is entitled to claim, and (c) the annual amount that such owner should pay to the company for the waters being used or claimed by such owner, and they shall make their award accordingly. The award of said arbitrators, or a majority of them, shall be final and conclusive and without appeal ; and, without prejudice to the other rights and recourses of the company, the company may sue for and recover the amount of said award before any court of competent jurisdiction, as in any action for an ordinary debt, to the amount of such award. And the said arbitrators, when rendering their award, shall, in addition to the matters above referred to, decide which party thereto shall bear the costs thereof, in whole or in part ; and the costs shall in all cases be taxed by the said judge on a summary application to that end.

Provided, however, that should such owner, after said award is rendered, use a smaller quantity of water than theretofore, or *vice versa*, or should the relative proportions of the water powers aforesaid be altered, then and in such cases such owner or the company may petition the said judge to obtain a revision of such award, and in the cases aforesaid such judge shall order a revision thereof, and thereupon arbitrators shall be selected as aforesaid, and render a new award as aforesaid, which shall be binding until revised in the manner aforesaid.

The term " owner " in paragraphs 11 and 12 of section 3 includes the Crown. Interpretation.

13. The company shall so construct and locate the improvements and works that the company is authorized to make so as to allow the passage of logs and timber through Navigation, &c., not to be interfered with.

or around the same, and also so as not to unduly interfere with navigation and flotation on said rivers, lakes, streams and bodies of water, mentioned or referred to."

Id., s. 5, re-
placed.

Capital
stock and in-
crease thereof.

4. Section 5 of the said act is replaced by the following :

" 5. 1. The capital stock of the said company is presently one hundred thousand dollars common stock, and the capital of the company may be increased from time to time, to any amount, by a by-law passed by the directors of the company, and approved by a vote, in person or by proxy, of the shareholders who hold at least two-thirds in amount of the subscribed stock of the company, at a meeting expressly called for that purpose. All capital stock of the company shall be divided into shares of one hundred dollars each.

Preferred and
ordinary
stock.

2. Such capital stock of the said company as may hereafter be issued may be preferred stock or common stock, or both preferred stock and common stock, and the same may be issued by by-law passed and approved as aforesaid, in such amounts and proportions as shall be named. from time to time, in said by-law or by-laws. The holders of the preferred stock shall be entitled to receive, when and as declared, yearly or half-yearly dividends at the rate of seven per cent. per annum, payable as provided by the by-law or by-laws authorizing the same. The dividends on the preferred stock shall be cumulative or non-cumulative, as the by-law or by-laws authorizing the same shall determine. No dividend shall be paid on the common stock until all dividends payable in respect of preferred stock have been paid or provided for. In the event of any liquidation or dissolution or winding-up (whether voluntary or involuntary) of the company, the holders of the preferred stock shall be entitled to be paid in full both the principal amount of their shares and the unpaid dividends accrued thereon, before any amount shall be paid to the holders of the common stock.

Bonds, debentures, &c.

3. The company may also issue first and second mortgage bonds or debentures, or both such bonds and debentures, to any amount that shall be determined and named by and in the by-law or by-laws authorizing the same, which by-law shall be passed and approved as aforesaid, and, subject to the exception in paragraph 5 of this section, the company may secure the same by a first and second mortgage or mortgages, hypothec or hypothecs upon its properties and assets in such manner and upon such conditions as may be determined by the by-law authorizing the same, and the company may, by such by-law or by-laws, provide that such mortgage and hypothec, or mortgages and hypothecs shall be granted to a trustee or trustees, and the company may, by such by-law or by-laws, determine the

rights and powers of such trustee or trustees over the properties and assets of the company.

4. The company, from time to time, may also borrow on current account, or on promissory notes or other negotiable instruments, and on such terms as may be agreed upon, all such sums as the directors may, from time to time, decide are required. The company, before the sale or disposal of such bonds or debentures, may pledge the same or any part thereof for advances then secured or applied for and secured thereafter.

Promissory notes.

Pledging debentures, &c.

5. The company may purchase or otherwise acquire all or any of the water-powers and hydraulic properties on, in and near the Du Lièvre River, and also all other land and properties, wherever situate, deemed useful by the directors for the purposes of the company, and the company may pay for the same, in whole or in part, in the stock, bonds or debentures of the company, and the purchase price thereof, in whole or in part, may be secured by a first mortgage or hypothec upon the said properties, the price whereof is so due in whole or in part, and such mortgages or hypothecs shall rank, as regards any such properties so purchased or acquired, before any hypothec or mortgage granted to secure said bonds, or debentures, issued under paragraph 3 of this section.

Purchase of water powers, &c.

6. The directors of the company may issue as paid up stock shares in the company, preferred or common, whether subscribed for or not, and may allot and hand over such stock in payment, in whole or in part, for right of way, plant, rolling-stock or materials of any kind, and also for services of any kind; and such stock and allotment of stock shall be binding on the company, and such stock shall not be assessable for calls. The stock of the company may be sold at such prices or discount as may be deemed expedient, or be necessary."

Paid up shares, &c.

5. The second clause of section 7 of said act is replaced by the following :

Id., s. 7, amended.

"Three of such directors shall form a quorum."

Quorum of Board.

6. Section 8 of the said act is replaced by the following :

Id., s. 8, replaced.

"8. It is hereby declared that the said company has been duly organized and has duly begun its operations, and its said act of incorporation, save as amended by this act, is declared to be and to have always been in full force, and all the things done, performed or adopted at the meetings of the directors and shareholders of the said company, at the town of Buckingham, in the Province of Quebec, on the

Declaratory and confirmatory.

26th January, 1905, and on the 1st March, 1905, are hereby declared legal and valid in all respects and are hereby ratified and confirmed in all respects, and the purchase and acquisition by the company from Albert MacLaren of the plans and reports, the result of surveys on the rivers, lakes, streams, creeks and bodies of water above mentioned or referred to, are hereby approved, ratified and confirmed.

Id., sec. 16 to 18 repealed. **7.** Sections 16, 17 and 18 of the said act are repealed.

Commencement and completion of railway. **8.** The company shall commence the construction of the railway authorized by this act within four years from the coming into force of this act, and shall complete the same within fifteen years from the coming into force of this act; and, if the railway, the construction whereof is authorized by this act, is not completed within the said period of fifteen years, the powers conferred upon the company to construct said railway shall cease and be null and void as respects so much of said railway as then remains uncompleted.

If road not completed within certain time.

Annual sum payable to Crown in certain event after certain time. **9.** In case the railway mentioned in the present act is not completed, within fifteen years from the coming into force of this act, to, at or near the mouth of the river Kiamika, the company shall, from and after the expiration of fifty years from the coming into force of this act, pay to the Crown annually the sum of one thousand dollars; and, in case said railway is so completed within said period of fifteen years, then the company shall pay said annual amount of one thousand dollars from and after the expiration of one hundred years after the coming into force of this act.

Coming into force. **10.** This act shall come into force on the day of its sanction.