

PROVINCIAL LEGISLATURE

TWENTY-NINTH DAY.

Thursday, Feb. 27, 1896. Mr. Speaker took the chair at two o'clock, prayers being read by Rev. Dr. Campbell.

Mr. Huff moved that a respectful address be presented to His Honor the Lieutenant-Governor, praying him to accept of immediate steps being taken to protect the banks of the Cowichan river, so as to prevent the great danger, so as to prevent the great danger, so as to prevent the great danger.

Mr. Semlin moved that it be the opinion of this house that more than one commissioner should have been appointed for the revision of the statutes. That for the revision of the law as it at present stands, suggested by the commission, should have been first submitted to this house, and should not have been included in the revision itself, until and only so far as such proposed changes only so far as such proposed changes only so far as such proposed changes.

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on this subject. In the year 1888 an act was passed which at the time was thought to work satisfactorily in some respects and not in others. In 1891 another act was introduced which was supposed to do away with the right of lien of the material man. This has been found to work an unjust hardship to the material man. The act of 1891 was amended, and from the decisions, and from what he could gather of the opinions of the profession, Mr. Helmecken found that that act was not such as it ought to be, so he had endeavored in the present bill, to introduce such sections of the acts of 1888 and 1891 as to make it one which he thought would find favor with every member of the house. This bill deals with the right of the laborer, the mechanic and the material man, and endeavors to give that protection to the laborer or material man which will insure him his just wages for the labor he has performed, or the material which he has furnished. Under the act of 1888 very often questions arose as to what the term "good faith" meant in reference to the percentage of money to be paid and retained, the result being that a great portion of the money which should have found its way into the hands of the honest workman and material men found its way into the pockets of solicitors. While this might not be at all objectionable to the hon. member for Vancouver (Mr. Williams), yet if the house could arrange so that the working man can avoid getting into litigation, it was the first duty of the house to do so. The right of keeping back ten per cent. had been retained, and Mr. Helmecken felt that in the long run this would be found to be a just protection. In legislating in this particular way, Mr. Helmecken endeavored to keep properly in view the relation which should exist between an honest man who gives a contract to an honest contractor. Mr. Helmecken also spoke of the injustice done the working man by an owner giving a contract for a price which he knew was not sufficient to pay for the work. To meet this a provision had been inserted providing that, while the owner is liable for the full amount of the contract price, yet he will not be compelled to pay that amount to the contractor until he was satisfied that all the outstanding bills in connection with the building were satisfactorily accounted for, so that it is known that the money reaches the proper hands. Another feature of the bill is to prevent the possibility of the contractor and the owner entering into such a contract as will prevent the sub-contractor from taking advantage of the provisions of the act, that is to say, that while the owner and contractor may agree to any thing between themselves, yet a contract of that kind shall not affect the sub-contractor, so as to prevent him realizing his full benefits. Another hardship of the act now in force is the sole jurisdiction of the county court in the matter of mechanics' lien claims. It would be in the recollection of some members of the house that a claim involving the large sum of \$300,000 was disposed of before a county court judge in the district of Kootenay a short time ago with scarcely as much argument as is taken over an ordinary case. Mr. Helmecken also pointed out that under the act of 1891 it was doubtful with respect to the material man whether he had the right of lien. This decision was followed by Sir Henry Crease, but it was reversed by the court of appeal, who held that under that act the material man had no lien. It was the intention to make the bill apply to all contracts, not merely contracts of \$50 and over, because the experience was that there was more trouble over small than large contracts. It was further intended that although the owner shall not be liable for any greater sum than the amount of the contract, yet under an amendment introduced during the last session that he should be compelled to see that all wages were paid, and in the event of his not doing so should not be liable to more than four weeks' wages, which might seem to be rather a severe punishment on the owner, but it is contended by many that it would have the effect of making him see that all the provisions of the contract were carried out by the contractor. Mr. Helmecken intended during the course of the bill in committee to introduce a clause modifying the stringency of this clause, and which would have equally as good an effect. In section 27 it is proposed that no lien shall fail or be declared void by reason of any defect or omission in the affidavit claiming the lien, unless the court or judge shall consider that the person against whose property the lien is claimed has been misled or prejudiced thereby. This will obviate the hardship and perhaps injustice that is sometimes done under the present act by the dismissal of a bona fide claim often through a bare technicality.

Hon. Mr. Eberts congratulated the hon. member upon the successful result of the great care and trouble he had had in the preparation of this bill. Last session a number of bills of this character had come before the house, but for some reason or other had died in their infancy. It was the duty of the house to see that those men in whose interest this bill is introduced should be fully and fairly protected. This bill has got a number of the provisions of the act of 1888, which worked well at that time, and also of the act of 1891. Under this act the laborers are entitled before every other lien holder for one month's wages, if the owner of the building is shown to have been lax in his duty of seeing that a contractor has carried out the contract fully. This is an improvement Mr. Helmecken also complimented Mr. Eberts also complimented Mr. Helmecken on his improvement in the law relating to the procedure of launching liens.

Mr. Sword, while conceding to Mr. Helmecken all the credit due him for the bill just introduced, yet was wholly opposed to giving the material man the benefit of the lien act. It seemed to be overlooked that the very nature of a lien is an exceptional remedy. The material man can rank as an ordinary creditor and has his regular remedy at law. He is not to be compared with the laborer, for it is apparent to any one that the man who has to depend for his livelihood on his labor, and has no other capital, is not in the same position to help himself as the man who has goods for sale. With regard to the technical portion of the act, Mr. Sword, as a layman, would not attempt to criticize it, but he understood that the principle embodied in the bill is the principle embodied in the material man, and Mr. Sword, for his part, on that

account, would have no hesitation in voting against the second reading of the bill. Hon. Col. Baker gave the bill gave the first lien to the laborer for his wages, and it was not until the present session had been paid that the material man could come in. Mr. Semlin reviewed the legislation in this connection, and said so far he had heard no complaint against the law now in force, and he thought that the act fully performs its mission so far as the laboring man is concerned. The act now proposed was intended to benefit the material man. Now the material man is supposed to be some one of some substance, a man who can take care of himself. The object of a mechanics' lien act should be to benefit those obliged to work for a living. Mr. Semlin was afraid that in this act will be introduced that discordant element which was before denounced as the cause of sending a large portion of the population out of the country.

Mr. Walkem did not intend to support this bill because, as stated by the present speaker, the law of mechanics' lien covers all the requirements of the laboring man. Mr. Williams did not intend to support the bill. Defects had been pointed out in the act, and he thought that the remedy for those defects should have been brought in as amendments to the act, and not in a bill for the benefit of the material man. There is no reason why a material man should be protected any more than the laborer. If a pound of tea across the counter. If the customer, in his opinion, is not worthy of credit the material man need not part with his goods; so that, so far as the material man is concerned, Mr. Williams was entirely opposed to it.

Mr. Kitchen did not, for the same reason, intend to support the bill. The material man is able to take care of himself, as unlike the man looking for wages and liens before the courts since the present act was in force. Mr. Kellie said that he had received letters from Rossland and other places indicating because the present one was unworkable. The second reading was passed on division, 17 to 13.

The cattle and line fences bill having been read a second time, the house went into committee on the bill. Mr. McGregor in the chair, and rose to report progress at a few minutes to six o'clock. The house then adjourned.

TWENTY-FIRST DAY. Friday, February 28, 1896. Mr. Speaker took the chair at two o'clock, prayers by Rev. A. B. Winchester.

Mr. Walkem, speaking to a question of privilege, asked the return of the magistrates holding small debts court when the primary object of the road was the development of the Trail creek country. Without accomplishing anything the committee rose and reported progress.

NOTICES OF MOTION. Mr. Sword—For copies of all correspondence between the government or any member thereof and any person or persons, company or companies, in relation to the proposed construction of the British Pacific railway; also any papers relating thereto. Mr. Macpherson—For all information collected, compiled and tabulated by the Bureau of Statistics relative to the municipalities of B. C.

Dr. Walkem—For a return giving names and particulars respecting applications for employment by the land surveyors during the past year, and the engagements made by them.

Mr. Helmecken—To introduce a bill to amend the wages act, 1894. Hon. Mr. Turner—To introduce a bill to further amend the licenses act.

Hon. Mr. Eberts—To introduce a bill to further amend the sheriffs act. Mr. Adams—To introduce a bill for the extermination of wild horses. Major Mutter—Whereas the services of Mr. W. A. Carlyle, a competent and experienced surveyor, are required by the government; and whereas there is reason for the belief that there exist within the district of Cowichan-Alberni and districts contiguous thereto, gold and silver-bearing quartz of vast richness, the early removal of which is exceptionally mild, and no obstacles are presented to the immediate examination of the country; Be it therefore resolved, that the government be requested to employ Mr. Carlyle to visit the said district or districts at an early date for the purpose of examining and reporting upon the said resources.

Major Mutter—That a respectful address be presented to His Honor the Lieutenant-Governor, praying that he will cause urgent representations to be made to the Dominion government to have the necessary borings and soundings made of the bar at the mouth of Somas river, Cowichan-Alberni, with a view to the early removal of the said bar, so as to enable shipping of the largest class to reach the wharf at the upper town of Alberni.

VITAL TO PERFECT HEALTH. If In Doubt Use South American Kidney Cure. The average man or woman cannot trifle with that slight pain in the back, that may be thought only a result of a cold. More than likely it is the warning note that kidney trouble has taken to the system. It is simply amazing the extent to which kidney disease is common in Canada. The wise man will take time by the forelock, and in using South American Kidney Cure drive the disease from the system in its incipient stages. It is another instance of only doing one thing, but doing it well. South American Kidney Cure is a kidney cure. It does not make any other claims, but no other remedy can meet it on its own ground. Sold by Hall & Co. and Dean & Hildebrand.

ROYAL Baking Powder has been awarded highest honors at every world's fair where exhibited.

2750 acres, Shuswap Col. River, Indian sections 15, 16, 17, 18, 19, and 20 of reserve. September 27, 1888, 680 acres, Kootenay "Isidore's ranch, Indian reserve. September 27, 1888, 100 acres, Kootenay, Casimiro's, Indian reserve. March 4, 1893, 11 acres, Fort Steele, Indian reserve. February 25, 1890, 240,000 acres, Elk river, Mitchell creek and Coal creek, government reserve. August 12, 1890, 480,000 acres, southeast angle of province, government reserve. October 13, 1894, 1280 acres, Canoe river, government reserve. Total, 763,542 acres.

AN ACT to amend the fire insurance act, and to amend the law relating to the same. The act provides that section 4 of the fire insurance policy amendment act, 1895, is repealed, and section 8 of the fire insurance policy act, 1893, is repealed and the said act is amended hereby and by the fire insurance policy amendment act, 1895, shall come into force on the 1st of July, 1896.

Mr. Sword moved in amendment that only sub-section (a) of the fourth section of the act should be struck out, and that the act should be reported complete with that amendment. The house next went into committee on the Langley municipality bill, with Mr. Hume in the chair, and after a short discussion the committee rose, reported progress and asked leave to sit again.

The Nelson electric light company bill and the New Westminster and Burrard street railway company bill, and the B. C. Southern railway bill were committed and reported complete for third reading. There was a long discussion over the Columbia & Western railway bill in committee, which resulted in the committee rising and reporting complete. The bill provides that the company shall complete the first section from the mouth of Trail creek, on the Columbia river, to the town of Rossland within two years; the second from the mouth of Trail creek in an easterly or southeasterly direction, not more than 20 miles in a direct line, within two years; the third from the town of Rossland to Christina lake, within three years; the fourth from Christina lake to the town of Midway, within four years; the fifth from the town of Midway to a point half-way or more to the town of Penton, within five years; and the sixth from Penton to the town of Penton, within six years.

Both Mr. Semlin and Mr. Williams contended that there was nothing in the bill to compel the company to build to Penton. Mr. Williams was in favor of having the building of the road commenced at Penton and let the work continue from there, and Mr. Semlin, while not insisting upon such a condition, thought there should be some precaution taken whereby the company would be obliged, within a reasonable time, to build into the point named. Mr. Hume, Mr. Kitchen and Mr. Kellie and others thought it would be unfair and severe on the company to compel them to build the Penton section first when the primary object of the road was the development of the Trail creek country.

Without accomplishing anything the committee rose and reported progress. The house then adjourned.

MISCHIEVOUS ANIMALS. The mischievous animals act was re-committed. Mr. Kellie in the chair. Hon. Mr. Eberts moved an amendment section 9, which reads as follows: 9. The owner or owners of any swine shall be liable for the actual damage committed by his or their swine when running at large, such damage to be recovered in an action at law by the person or persons sustaining the same, or by the arrest and sale of such swine, as hereinafter mentioned, by applying to "animals unlawfully at large," instead of "swine."

The attorney-general also moved to insert as section 11 the following: "11. It shall be lawful for any provincial police officer or constable, or for any bona fide settler or resident in the province who is the owner of land, or on the public lands of the province, to arrest and detain, under authority of this act, any stallion or bull which he may find running at large, or being in a state of estrus, on his or her land, or on the public lands of the province, and if detained under authority of this act, to supply any such stallion or bull with fit and sufficient food and water, and safely keep the same at the expense of the owner of said stallion or bull." This, the attorney-general explained, was identical with the provisions of the Stock Breeding Act.

The amendment was passed and the following sections re-numbered to agree with the new act: "16. The mischievous animals act, the mischievous animals amendment act, 1890, the breeding stock act, and the breeding stock act amendment act, 1893, are hereby repealed. The committee rose and reported the bill complete with amendments, to be read a third time at the next sitting of the house.

Hon. Mr. Martin presented a return showing (a) the total area of lands at present under reservation in East Kootenay district; (b) date reserved, area and location and the reason why of such reserve. June 27, 1874, 160 acres, Hayden creek, near Kootenay City, government reserve. August 29, 1884, 10,520 acres, Tobacco Plains, Indian reserve. August 28, 1884, 1831 acres, Lower Kootenay river, Indian reserve. August 14, 1884,

known. So plentiful are they, indeed, that they are to be bought in Vancouver at the rate of somewhere about 3d. per lb. Hitherto we have had Canadian salmon in this only; but it was thought that advantage might be taken of the cold chambers on board ocean-going steamers to send the whole salmon to Great Britain in a frozen condition. The distance to be traversed was, of course, enormous. Dispatched from Vancouver in the steamships of the new Canadian-Australian line, the fish was to be first taken in Sydney, New South Wales, and there transferred to other steamers, which would bring it to London, the total distance thus covered being no less than 18,000 miles. Some trial shipments were so encouraging that 413 boxes, representing the 140 tons of fish in question, were dispatched in order to inaugurate the project on a business footing. Unfortunately, however, insufficient precautions had been taken in the transshipment at Sydney, the boxes being exposed to the ordinary atmosphere for a longer time than should have been the case, and the result was that a certain proportion of the fish did not arrive in a perfectly satisfactory condition. Hence, when the broker, Mr. W. E. Aylwin, offered the salmon for sale at Hay's Wharf, Tooley street, on Tuesday, he did so with the condition that the fish should be sold without reserve, and sold with all faults as "fish in question." The fish dealers present were not slow to take advantage of the "without reserve" clause, and the prices realized ranged from 1d. to 3d. per pound, though the greater part of the stock believed to be thoroughly sound. Some of the fish was resold in Billingsgate market at 4d. per pound. It is believed that when better arrangements are made at Sydney the fish will come through in such condition as to realize on the wholesale market from 3d. to 4d. per pound, and at this figure, it is declared, a considerable business could be done from Vancouver, leaving the exporters a profit which would amply repay the cost well satisfied. It is believed that Canadian frozen salmon, to be sold retail at from 6d. to 8d. per pound, will soon enter almost as largely into the British housewife's domestic economy as New Zealand frozen mutton does already.

On Saturday, at Billingsgate (wholesale), frozen salmon was in request, and sold at 2 1/2d. to 4d. British salmon was selling at 1s. 6d. to 2s. At the General Fish Market (retail) the prices were: British salmon, 2s. to 2s. 6d.; frozen, 6d. per pound.—Canadian Gazette, Feb. 12.

NAKUSP & SLOCAN RAILWAY. Reason Why the Government Paid the Company Interest on Their Deposit. The following is the return presented in the house by the finance minister relative to the payment to the Nakusp & Slocan railway of one year's interest on their deposit of \$118,000: The committee of council have had under consideration the opinion of the hon. the attorney-general, dated the 15th of December, 1894, in regard to the interpretation of the agreement between the Nakusp & Slocan railway company and the government, and referring to the same and pursuant to the provisions of the Nakusp & Slocan Railway Act, 1894, and particularly to clause 16 of the schedule to the said act, the committee recommend that the Nakusp & Slocan railway company be paid interest at the rate of 3 1/2 per cent per annum on the sum of \$118,000 from the 27th of July, 1893, the date on which the above sum was deposited, until the 1st of July, 1894, the date on which the government assumed the payment of interest on the company's bonds, the intervening time being 339 days, and interest on the same amounting to \$3849. Dated December 15, 1894. A. Campbell Reddie, deputy clerk executive council.

Attorney-General's office, Victoria, December 15th, 1894. To His Honor the Lieutenant-Governor-in-Council: The undersigned has had under consideration the question referred to him as to the interpretation of the agreement of the 9th of August, 1893, between the Nakusp & Slocan railway company and the late Chief Commissioner of Lands and Works, and as to the right claimed by the said Nakusp & Slocan railway company to be repaid the sum which they paid out for interest upon an overdraft at the bank arranged in accordance with section 6 thereof, which accrued during the time that the bonds were held in escrow, and also to be paid interest on the sum of \$118,000 deposited by the company, upon such overdraft as may from time to time be on hand after payment of interest on the bonds. In connection with the claim for interest paid by the company on the overdraft the undersigned remarks that the company under their subsidy act were entitled to receive the bonds from time to time as the work progressed, and had this provision been carried out they would have been enabled by the sale of the same to pay the contractors the sums to which they were entitled upon the engineer's estimates. The result, moreover, of the plan adopted was that a year's interest on the bonds was saved to the government, and under the terms of section 6 of the agreement, dated 9th of August, 1893, the company is entitled to the ordinary bank interest.

The undersigned is, therefore, of the opinion that the company are entitled, both under the terms of the agreement and in equity to be refunded this amount. In relation to the second subject above mentioned, the undersigned is of opinion that the company are correct in their contention that the interest earned under section 16 of the agreement upon the sum from time to time standing upon deposit with the government should be paid out in cash to the company and not be allowed to accumulate. The above opinion is based particularly upon the wording of section 16 itself, which makes no provision for the accumulation of interest and the crediting thereof to the company as capital, although, later on in the same section, it is provided that, in case of the extinction of the principal, any advance to the company shall bear interest with half-yearly compounding. (Signed) Theodore Davie, attorney-general.

Employer—So you want a fortnight's salary in advance? But suppose you should die to-night?—Sir, I may be poor, but I'm a gentleman.

ON A BICYCLE TOUR.

A OLDERMAN'S EXPERIENCE WITH LONG, HARD RIDING. Has Traveled Fully 3,000 Miles on His Wheel—He Makes Some Reflections on the Benefits of the Sport, and Tells of the Dangers.

From the Utica, N. Y., Press. The Hon. William F. Ferguson, Presbyterian minister at Whitesboro, whose picture we give below, will not be unfamiliar by sight to many readers. A young man, he has still had an extended experience as foreign missionary, teacher, editor, lecturer and pastor that has given him a wide acquaintance in many parts of the country.

In an interview a few days ago, he said: "In the early summer of '94 I went on a tour through part of Ontario on my wheel. My route was from Utica to Cape Vincent, thence by steamer to Kingston, and from there along the north shore of the lake to Toronto and around Niagara Falls, where I reached Cape Vincent at 5 o'clock, having ridden against a strong head wind all day.

"The Nelson electric light company bill and the New Westminster and Burrard street railway company bill, and the B. C. Southern railway bill were committed and reported complete for third reading. There was a long discussion over the Columbia & Western railway bill in committee, which resulted in the committee rising and reporting complete. The bill provides that the company shall complete the first section from the mouth of Trail creek, on the Columbia river, to the town of Rossland within two years; the second from the mouth of Trail creek in an easterly or southeasterly direction, not more than 20 miles in a direct line, within two years; the third from the town of Rossland to Christina lake, within three years; the fourth from Christina lake to the town of Midway, within four years; the fifth from the town of Midway to a point half-way or more to the town of Penton, within five years; and the sixth from Penton to the town of Penton, within six years.

Both Mr. Semlin and Mr. Williams contended that there was nothing in the bill to compel the company to build to Penton. Mr. Williams was in favor of having the building of the road commenced at Penton and let the work continue from there, and Mr. Semlin, while not insisting upon such a condition, thought there should be some precaution taken whereby the company would be obliged, within a reasonable time, to build into the point named. Mr. Hume, Mr. Kitchen and Mr. Kellie and others thought it would be unfair and severe on the company to compel them to build the Penton section first when the primary object of the road was the development of the Trail creek country.

Without accomplishing anything the committee rose and reported progress. The house then adjourned.

MISCHIEVOUS ANIMALS. The mischievous animals act was re-committed. Mr. Kellie in the chair. Hon. Mr. Eberts moved an amendment section 9, which reads as follows: 9. The owner or owners of any swine shall be liable for the actual damage committed by his or their swine when running at large, such damage to be recovered in an action at law by the person or persons sustaining the same, or by the arrest and sale of such swine, as hereinafter mentioned, by applying to "animals unlawfully at large," instead of "swine."

The attorney-general also moved to insert as section 11 the following: "11. It shall be lawful for any provincial police officer or constable, or for any bona fide settler or resident in the province who is the owner of land, or on the public lands of the province, to arrest and detain, under authority of this act, any stallion or bull which he may find running at large, or being in a state of estrus, on his or her land, or on the public lands of the province, and if detained under authority of this act, to supply any such stallion or bull with fit and sufficient food and water, and safely keep the same at the expense of the owner of said stallion or bull." This, the attorney-general explained, was identical with the provisions of the Stock Breeding Act.

The amendment was passed and the following sections re-numbered to agree with the new act: "16. The mischievous animals act, the mischievous animals amendment act, 1890, the breeding stock act, and the breeding stock act amendment act, 1893, are hereby repealed. The committee rose and reported the bill complete with amendments, to be read a third time at the next sitting of the house.

Hon. Mr. Martin presented a return showing (a) the total area of lands at present under reservation in East Kootenay district; (b) date reserved, area and location and the reason why of such reserve. June 27, 1874, 160 acres, Hayden creek, near Kootenay City, government reserve. August 29, 1884, 10,520 acres, Tobacco Plains, Indian reserve. August 28, 1884, 1831 acres, Lower Kootenay river, Indian reserve. August 14, 1884,

known. So plentiful are they, indeed, that they are to be bought in Vancouver at the rate of somewhere about 3d. per lb. Hitherto we have had Canadian salmon in this only; but it was thought that advantage might be taken of the cold chambers on board ocean-going steamers to send the whole salmon to Great Britain in a frozen condition. The distance to be traversed was, of course, enormous. Dispatched from Vancouver in the steamships of the new Canadian-Australian line, the fish was to be first taken in Sydney, New South Wales, and there transferred to other steamers, which would bring it to London, the total distance thus covered being no less than 18,000 miles. Some trial shipments were so encouraging that 413 boxes, representing the 140 tons of fish in question, were dispatched in order to inaugurate the project on a business footing. Unfortunately, however, insufficient precautions had been taken in the transshipment at Sydney, the boxes being exposed to the ordinary atmosphere for a longer time than should have been the case, and the result was that a certain proportion of the fish did not arrive in a perfectly satisfactory condition. Hence, when the broker, Mr. W. E. Aylwin, offered the salmon for sale at Hay's Wharf, Tooley street, on Tuesday, he did so with the condition that the fish should be sold without reserve, and sold with all faults as "fish in question." The fish dealers present were not slow to take advantage of the "without reserve" clause, and the prices realized ranged from 1d. to 3d. per pound, though the greater part of the stock believed to be thoroughly sound. Some of the fish was resold in Billingsgate market at 4d. per pound. It is believed that when better arrangements are made at Sydney the fish will come through in such condition as to realize on the wholesale market from 3d. to 4d. per pound, and at this figure, it is declared, a considerable business could be done from Vancouver, leaving the exporters a profit which would amply repay the cost well satisfied. It is believed that Canadian frozen salmon, to be sold retail at from 6d. to 8d. per pound, will soon enter almost as largely into the British housewife's domestic economy as New Zealand frozen mutton does already.

On Saturday, at Billingsgate (wholesale), frozen salmon was in request, and sold at 2 1/2d. to 4d. British salmon was selling at 1s. 6d. to 2s. At the General Fish Market (retail) the prices were: British salmon, 2s. to 2s. 6d.; frozen, 6d. per pound.—Canadian Gazette, Feb. 12.

NAKUSP & SLOCAN RAILWAY