

No. 6.

3rd Session, 8th Parliament, 61 Victoria, 1898

BILL

An Act to confirm an Agreement between
Her Majesty and William Mackenzie
and Donald D. Mann, and to incorporate
the Canadian Yukon Railway
Company.

First reading, February 8, 1898.

Hon. Mr. BLAIR.

OTTAWA

Printed by S. E. DAWSON
Printer to the Queen's most Excellent Majesty
1898

An Act to confirm an Agreement between Her Majesty and William Mackenzie and Donald D Mann, and to incorporate the Canadian Yukon Railway Company.

WHEREAS it is necessary in the public interests of Canada ^{Preamble.} that railway and steamboat communication with the Yukon District should be established without delay; and whereas, subject to the approval of Parliament, Her Majesty, ⁵ therein represented by the Minister of Railways and Canals and the Minister of the Interior, entered into a contract, dated the twenty-fifth day of January, one thousand eight hundred and ninety-eight, with William Mackenzie and Donald D. ¹⁰ Mann, contractors, providing for the construction of a railway from the navigable waters of the Stikine River in British Columbia, to the navigable waters of Teslin Lake, and providing for the incorporation of a company with power to acquire and perform such contract, and with other powers; and whereas it is expedient to approve and confirm the said ¹⁵ contract and to incorporate such a company: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The contract a copy of which is set out in the schedule ^{Contract approved.} to this Act is hereby approved and confirmed and declared to ²⁰ be binding upon the parties thereto, and Her Majesty and the contractors therein named are hereby respectively authorized and empowered to perform and carry it out according to the true intent and meaning thereof, and all franchises and powers necessary or useful to enable them to carry out the said ²⁵ contract and to avail themselves of the rights, privileges and advantages thereof are hereby conferred upon Her Majesty and the contractors.

2. William Mackenzie, Donald D. Mann, and Roderick ^{Company incorporated.} J. Mackenzie, of Toronto, and such other persons as become ³⁰ shareholders in the Company hereby incorporated, are hereby constituted a body corporate under the name of "The Canadian Yukon Railway Company," hereinafter called "the Company."

3. The head office of the Company shall be in the city of ^{Head office.} Toronto, or in such other place in Canada as the directors ³⁵ from time to time by by-law determine.

4. *The Railway Act* and amendments thereto shall, so far ^{1888, c. 29.} as not inconsistent with the provisions of this Act and of the said contract, apply to the railways mentioned in the said contract and to the railways of the Company.

Number of directors.

5. The board of directors of the Company shall be of such number (not less than five) as the directors by by-law, approved at an annual or at a special meeting of shareholders, from time to time determine.

Annual meeting.

6. The annual meeting of the shareholders of the Company shall be held on the fourth Monday in the month of January, or on such other day as the directors from time to time determine. 5

Provisional directors.

7. The said William Mackenzie and Donald D. Mann and Roderick J. Mackenzie shall be the first or provisional directors of the Company; and after the sum of one hundred thousand dollars has been expended, or expenditure to that amount has been *bonâ file* incurred by the contractors upon 10

First meeting of shareholders.

and in connection with the works undertaken to be done by them under the said contract, the provisional directors may call a general meeting of the shareholders of the Company to be held at the head office for the election of the board of directors from among the shareholders duly qualified to act as directors,—at which meeting each shareholder present or represented by proxy shall have one vote for each share subscribed 15

Election of directors.

for by him. 20

Capital stock.

8. The capital stock of the Company shall be ten millions of dollars divided into shares of one hundred dollars each: Provided, however, that if the directors by by-law limit the issue of securities under section seventeen hereof to a sum less 25

Increase.

than twenty-five thousand dollars per mile for the line of railway between the Stikine River and Teslin Lake, the said capital stock may by such by-law be increased by an amount not greater than the difference between twenty-five thousand per mile of the said line and the sum so limited for the said issue. 30

Preference stock.

9. The directors of the Company may, by by-law, create, and issue any part of the capital stock as preference stock, giving it such preference and priority, as respects dividends and otherwise, over ordinary stock as is declared by the by-law. 35

2. No such by-law shall have any force or effect unless at the first general meeting or at a special general meeting of the Company, whereat there are present or represented by proxy shareholders holding at least two-thirds of the whole issued capital stock of the Company, a majority in value of 40 the shareholders so present or represented, vote to sanction such by-law.

3. The by-law may provide that the holders of such preference shares shall have the right to select a certain stated proportion of the board of directors, or may give them such 45 other control over the affairs of the Company as is considered expedient.

4. Holders of such preference stock shall be shareholders and shall in all respects possess the rights and be subject to the liabilities of shareholders; provided, however, that with respect 50 to dividends and otherwise they shall, as against the ordinary shareholders, be entitled to the preference given by any by-law as aforesaid.

5. Nothing in this section shall affect or impair the rights of creditors of the Company.

10. The Company may acquire and carry out the said contract, and all franchises and powers necessary or useful to enable the Company to carry out the said contract and to avail itself of the rights, privileges and advantages thereof are hereby conferred upon it; and upon the said contract being assigned by the contractors to the Company, and upon the Company covenanting with Her Majesty to carry it out, and upon the railway from Stikine River to Teslin Lake mentioned in the said contract being completed and accepted as therein provided, the contractors shall be relieved from personal responsibility under the said contract and the Company shall be thereafter deemed to be the parties of the second part thereto in lieu of the contractors and shall be bound as such and be entitled to their rights thereunder.

Powers of company.

Effect of company taking over contract.

11. The Company may lay out, construct, and operate the lines of railway, and extensions and branch and other lines mentioned in clauses one and two of the said contract; provided that the power to build the line from Lynn Canal to Fort Selkirk and the branch lines and the lines from navigable waters to property owned by the Company shall not be exercised without the consent of the Governor in Council; provided also that section 89 of *The Railway Act* shall not apply to the Company; provided further that it shall not be necessary to make or deposit with the Minister of Railways and Canals or with any registrar a map or plan and book of reference of the line of railway from the Stikine River to Teslin Lake before the completion of the said line.

Lines of railway described.

Time not limited.

Deposit of plan, etc., not necessary.

12. The Company may charter, purchase, or otherwise acquire, and construct and maintain and operate steamers and other vessels for passengers and freight in connection with its railways and property, and may sell and otherwise dispose thereof; it may also lease, construct, purchase or otherwise acquire, and maintain and operate wharfs, docks, landing places, dockyards, elevators, warehouses and other works for promoting and facilitating traffic upon its lines of railway, and may sell or otherwise dispose thereof.

Powers as to steamers, docks, elevators, etc.

13. The Company may—

(a.) lease, purchase or otherwise acquire, and operate mines and minerals and mining rights in British Columbia and the Provisional District of Yukon and the North-West Territories, and may crush, smelt, reduce and amalgamate ores for itself or others;

(b.) with the consent of and subject to the regulation of any municipality affected thereby, construct, or aid in the construction, maintenance and improvement of roads, tramways, docks, piers, wharfs, viaducts, aqueducts, flumes, ditches, quartz mills, ore houses, and other buildings and works necessary or convenient for the purposes of the Company;

(c.) erect, use and manage works, machinery and plant for the generation and transmission of electric light, heat or power;

Further powers.

(d.) carry on in British Columbia, the Provisional District of Yukon and the North-West Territories, the business of carriers, forwarders and transportation agents and other business incident thereto, also of wharfingers, shippers and vessel owners, and may purchase and vend merchandise, ores and mineral products ; 5

(e.) for all or any of the purposes above-mentioned, purchase, lease or otherwise acquire lands, buildings, patent rights, letters-patent, and other property real and personal, and mortgage, sell or otherwise dispose thereof. 10

Telegraph and telephone lines.

14. The Company may construct, acquire and operate, for its own use and that of the public, lines of telegraph and telephone in connection with and along any of its lines of railway and branches, also telegraph and telephone lines beyond the said lines of railway and branches to any point in the Provisional District of Yukon or the North-West Territories or British Columbia, and may lay submarine lines for such telegraph and telephone connections. 15

Expropriation of land.

15. Should the Company require land for wharfs, docks or elevators and not agree for the purchase thereof with the owner of such land, it may cause a map or plan and book of reference to be made of such land, and all the provisions of sections 107 to 111, inclusive, of *The Railway Act* shall apply to the subject-matter of this section and to the obtaining of such land and the determining the compensation therefor. 25

Aid from government, etc.

16. The Company may receive from any government, corporation or person, in aid of any of its undertakings, lands, moneys, guarantees, debentures or other rights or properties real or personal and the Company may mortgage, sell or otherwise dispose of any real or personal property not required for the carrying on of its undertakings. 30

Issue of bonds.

17. The Company may, pursuant to section 93 of *The Railway Act*, issue bonds, debentures, debenture stock and other securities to an amount not exceeding in all twenty-five thousand dollars per mile of its lines of railway and extensions and branch and other lines, but such securities shall be issued only in proportion to the length of railway constructed or under contract to be constructed ; such securities may be issued from time to time separately with respect to any one or more specified lines of railway, extensions, branches or other lines, or as to all combined ; and any franchise, undertaking, tolls, income, rents, revenues, real or personal property excepted by special or general reference from the mortgages, which the Company is hereby authorized to give under section 94 of *The Railway Act*, securing such bonds, debentures, debenture stock or other securities, shall be also excepted out of the preferential claim and charge created by section 95 of the said Act. 45

Borrowing powers.

18. The directors, under the authority of a resolution of the shareholders passed at the first general meeting, or at any special meeting called for the purpose, or at any annual meeting, at which shareholders representing at least two-thirds in value of the issued capital stock of the Company are present in person 50

or by proxy may, from time to time, at their discretion, borrow money for the purposes of the Company and secure repayment thereof in such manner and upon such terms and conditions as they think best, and for this purpose may mortgage, pledge and charge all or any assets and property of the Company, subject, however, to any mortgage mentioned in section 17 hereof.

19. The directors, under such authority from the shareholders as is mentioned in section 18 hereof, may from time to time issue, in addition to those mentioned in section 17 hereof, bonds, debentures, debenture stock, or other securities of the Company, secured by mortgage upon the lands or any parts thereof to be granted by the Government pursuant to clause eleven and subsequent clauses of the said contract, and upon the Company's right therein and thereto, and may sell or pledge them, at the best price and upon the best terms and conditions which they are able to obtain, in order to raise money for the purposes of the Company; but no such security shall be for a less sum than one hundred dollars. The mortgages securing such securities shall be subject to the terms and conditions of the said contract and to the rights and royalties reserved to Her Majesty thereby; but, subject thereto, such mortgages may contain such covenants, powers, rights and remedies, including powers of sale, for the enforcement and realization of the security thereby granted as the directors think proper; and every such mortgage shall be deposited in the office of the Secretary of State of Canada, of which deposit notice shall be given by the Company in the *Canada Gazette*.

Additional issue of bonds secured by mortgage on lands granted by Government.

20. Section 57 of *The Railway Act* shall not apply to the said William Mackenzie or Donald D. Mann or Roderick J. Mackenzie or to their executors or administrators.

1888, c. 20, s. 57.

21. The tolls to be collected upon the said line of railway between the Stikine River and Teslin Lake, whether by the contractors named in the said contract, or by the Company, and whether for passengers or freight, including Her Majesty's forces, police, and others travelling on Government service, and Government stores and freight, shall be first fixed by the Governor in Council, and the tolls so fixed shall not be liable to reduction until the said railway has been in operation for four years; but such tolls shall be reduced by the Governor in Council by twenty-five per cent from and after such four years, and after the said railway has been in operation seven years they shall be reduced twenty-five per cent off the tolls as previously reduced, and after the said railway has been ten years in operation the fixing of tolls shall be subject to the provisions of *The Railway Act*.

Tolls to be fixed by Governor in Council.

Reduction.

How fixed, after ten years.

22. The lands granted to the contractors or to the Company under the said contract, shall be free from taxation for ten years from the granting thereof, except municipal taxation by an incorporated city, town or village within the Provisional District of Yukon.

Taxation of lands.

What lands
may be
granted to
company.

23. The lands referred to in the contract out of which selection may be made shall be such lands only as are at the disposal of the Government at the time of selection.

Opening of
railway.

24. Notwithstanding anything contained in *The Railway Act*, so soon as the said railway, or any portion thereof, has been made fit for regular and efficient operation as mentioned in clause one of the said contract, although the whole work is not fully completed, the said railway or portion thereof may, with the sanction of the Minister of Railways and Canals, be opened for public conveyance of passengers.

Discrimina-
tion forbidden

25. Neither the contractors under the said contract, nor the Company, shall, in operating the said railway, or any railway constructed by the Company, discriminate between customers, or intending customers, whether by discriminating rates or treatment, or by means of steamships or other connections, or otherwise.

SCHEDULE.

THIS contract made the twenty-fifth day of January, A.D. 1898, between Her Majesty the Queen, herein represented by the Honourable A. G. Blair, Minister of Railways and Canals, and the Honourable Clifford Sifton, Minister of the Interior, Canada, hereinafter called the Government of the first part, and William Mackenzie, of Toronto, contractor, and Donald D. Mann, of Montreal, contractor, and hereinafter called the contractors of the second part, witnesseth as follows:—

1. The contractors covenant with the Government to lay out, construct, equip and fully complete a line of railway with proper terminal facilities from the navigable waters of the Stikine River in British Columbia at or near the mouth of Telegraph Creek, Glenora, or the mouth of Clearwater River, thence running northward to the navigable waters of Teslin Lake, a distance of about one hundred and fifty miles more or less, on or before the first day of September, A.D. 1898, the said railway when fully completed, to be of the general standard and gauge of the Kaslo and Slocan Railway in British Columbia and according to the specifications to be approved by the Minister of Railways; provided also, that the said railway shall be the property of the contractors but shall be subject to inspection and approval by an engineer to be named by the Minister of Railways and Canals before being accepted as complete by the Government; provided further, that for the purposes of the season of 1898 and of complying with the requirements of this contract in respect to the completion of the line on or before the said first of September it shall be sufficient if on or before that date the contractors have the rails laid in such manner as will permit of regular and efficient operation of the railway although the whole work be not fully completed, and if the said railway be sufficiently equipped for such operation. Provided also, that the location of said railway between the points mentioned shall be such as the contractors may decide upon without filing plans thereof prior to completion, provided that the grant of land hereby contracted

for shall not be made upon a larger mileage than the Minister of Railways considers reasonably necessary for traversing the distance between the terminal points.

2. The Government shall submit to Parliament at its next ensuing session a measure for the necessary Act confirming this agreement and authorizing the Government and the contractors to perform and carry out the same, also incorporating the contractors and such others as may become shareholders into a company under the name of the Canadian Yukon Railway Company or other name approved by the contractors (hereinafter referred to as the contractors' company) with power to acquire and perform and carry out this agreement and with all necessary provisions in that behalf and with all necessary powers to build and operate the railway above mentioned and an extension thereof northward to Dawson City or thereabouts, and an extension southward to a point in British Columbia to be designated by the Government and capable of being made an ocean port, also a line of railway from the waters of Lynn Canal to Fort Selkirk or thereabouts by way of Chilcat Pass, also branch lines of railway from any points on the Company's railways to any property owned by the Company, also lines of railway from any navigable waters to any property owned by the Company; provided that the power to build said line from Lynn Canal to Fort Selkirk, and said branch lines and said lines from navigable waters shall not be exercised without the consent of the Governor General in Council.

The said Act of incorporation also to give the Company full and sufficient powers to build and otherwise acquire and operate docks, wharfs and lines of steam and other vessels in connection with its railways and property, also telegraph and telephone lines, also to carry on mining and smelting operations and such other powers as may be necessary for the due operating and conduct of all business connected with and incidental to the development and working of the lands (to be granted by the Government as hereinafter provided) and the minerals therein including power to issue land grant bonds, and bonds secured by the Company's undertakings.

3. Upon the incorporation of said Company, and upon the assignment by the contractors to such Company of this agreement, and upon the said Company covenanting with the Government to carry out the same, and upon the said railway from Stikine River to Teslin Lake being completed and accepted as aforesaid, the contractors shall then, but not before, be relieved from personal responsibility hereunder, and the Company shall be thereafter deemed to be the parties of the second part hereto, in lieu of the contractors, and shall be bound as such, and be entitled to their rights hereunder.

4. For five years from the 1st September, 1898, no line of railway shall be authorized by Parliament to be constructed from Lynn Canal or thereabouts, or from any point at or near the International boundary between Canada and Alaska into the Yukon District, and for five years from said date no aid in land or money shall be granted to any person or company other than the contractors and the contractors' company to assist in building any such railway.

5. The contractors and the contractors' company shall be entitled to receive in preference to any other person or company during ten years from the said 1st of September, 1898, such aid or assistance in land or money as the Government may be authorized and may see fit to grant in aid of a line of railway from the Stikine River to an ocean port in British Columbia, provided that the contractors or contractors' company are willing to undertake the construction of the same at once and completion thereof within a reasonable time upon receiving notice thereof from the Government.

6. The tolls to be collected by the contractors or contractors company upon the line of railway hereby contracted for between Stikine River and Teslin Lake shall be first fixed by the Governor General in Council, and the tolls so fixed shall not be liable to reduction until the said railway has been in operation for four years, but such tolls shall be reduced by the Governor in Council by twenty-five per cent from and after such four years, and after the said railway has been in operation seven years they shall be reduced by twenty-five per cent off the tolls as previously reduced, but after the said railway has been ten years in operation the tolls shall be subject to the general railway laws of Canada in that behalf.

7. The land granted to the contractors or contractors' company hereunder shall be free from taxation for ten years from the granting thereof, except municipal taxation by an incorporated city, town or village within the Yukon Provisional District.

8. The contractors shall immediately construct a practicable sleigh road from the mouth of Stikine River to Teslin Lake and shall provide suitable shelters or stopping places for travelers at intervals of not more than twenty-five miles along such road, such road and stopping places to be available for use at the earliest possible moment and in any event not later than six weeks from the execution of this agreement.

9. The contractors or the contractors' company shall provide or arrange with others to provide steamboat transport of freight and passengers between the terminus of said railway on Teslin Lake or other terminus northerly thereof and Dawson City to and fro.

10. The contractors shall within ten days after the execution hereof deposit with the Government in cash or approved cash security the sum of two hundred and fifty thousand dollars as security that the railway from Stikine River to Teslin Lake hereby contracted for will be completed and equipped in accordance with the terms hereof, and on such railway being completed and equipped and accepted as hereinbefore specified the said sum or security shall be returned to the contractors or to whom they may appoint, and if the same be deposited in cash, interest at the rate of three per cent per annum thereon shall be paid for the time such cash has been so deposited.

11. In aid of the construction of said line of railway from Stikine River to Teslin Lake the Government shall grant to the contractors for each mile of said railway twenty-five thousand acres of land to be selected as hereinafter mentioned from the Yukon Provisional District and from that part of the Northwest Territories of Canada lying west of the Mackenzie River and Liard River and north of the 60th parallel of lati-

tude, such land to be and become vested in the contractors upon the said railway being completed and accepted as complete by the Government and upon the said land being selected as hereinafter set forth.

12. The lands shall be selected by the contractors along base lines and the base lines may be of two kinds :

First. The contractors may take as a base line a line which will correspond with the general course of any lake, river, stream or watercourse, such line to be determined by survey or approximate survey to the satisfaction of the authorized agent of the Minister of the Interior, and to follow the general course of the lake, river, stream or watercourse for the required distance ; and

Second. The contractors may take as a base line a line commencing at any point located by them and running from such point due north, east, south or west. The land along a base line shall be divided into blocks, each block to extend three miles along the base line and to extend three miles backwards on each side of the base line. On each base line there shall be at least eight of such blocks, but there may be more at the option of the contractors. These blocks shall be numbered from one up consecutively ; the odd-numbered blocks shall be the property of the contractors : the even-numbered shall remain the property of the Government. The contractors shall take at least four blocks on each base line established by them for the purpose of selection, but shall not be bound to take more but they may take as many more as they desire and as circumstances permit. Thus upon each base line so established there shall be laid out a tract not less than twenty-four miles along the course of said base line by three miles on each side thereof in width making eight blocks of three miles by six miles. Provided that if in the selection of lands along any base line the courses thereof prevent rectangular blocks being laid out, such blocks shall be adjusted to the required angles preserving as far as practicable blocks of an area of three miles by six. Any shortage or surplus of such area shall be adjusted by the prolongation or shortening of such base line.

The contractors may also at their option select additional blocks lying on either end of any odd-numbered block along a base line, but such additional blocks must be three miles square each and they shall not exceed three in number on each end of each such odd-numbered block.

13. The contractors shall make selection of one-half of the lands to which they become entitled under this contract within three years from the first day of September, 1898, and of the remainder within six years from that date.

14. No portions of the beds of the rivers Yukon, Lewes or Hootalingua or of the lakes Teslin, Bennett, Tagish, Labarge or Marsh (said lakes and rivers forming continuous water-courses) or of the banks thereof for twenty-five feet on each side from ordinary high water mark, shall pass to the contractors under any selection of lands made under the agreement.

15. The free rights of passage and use along navigable or floatable streams within the lands selected by the contractors shall not be impeded by them and if any stream be diverted

by them from its natural channel an equally convenient navigable or floatable channel shall be provided in lieu, and the Gold Commissioner of the district shall decide any dispute which may arise as to whether such equally convenient channel has been provided and from his decision there shall be an appeal to the Governor General in Council.

16. Any and all mining claims actually held and recorded pursuant to Government regulations by a free miner or free miners and being within a block of land taken or selected by the contractors hereunder shall be excepted from the grant and shall not pass to the contractors provided that such claims have been so actually held and recorded prior to the base line, along or with reference to which such block is taken being actually run and marked on the ground by the contractors.

17. There shall be payable to and reserved by the Government a royalty of one per cent upon all gold mined by placer or alluvial or hydraulic mining upon the lands selected hereunder and if and so long as any royalty up to one per cent is levied by the Government upon all gold got by quartz mining in Government land in the Yukon District, a royalty of an equal amount up to one per cent but no more shall be payable to and reserved by the Government upon all gold got by quartz mining in the lands selected hereunder.

18. So soon as any ten continuous miles of said railway between Stikine River and Teslin Lake have been completed and in running order, and certified so to be by an officer named by the Minister of Railways in that behalf, the contractors may select ninety-two thousand one hundred and sixty acres, or two blocks of land, hereunder and thereupon such blocks shall be reserved by the Government from sale, or location, or free miners' claims, and upon the completion from time to time, in a similar way, of any other ten miles, the contractors shall have a similar right to select ninety-two thousand one hundred and sixty acres, or two blocks, which shall thereupon be similarly reserved, and upon the completion of the said railway, and acceptance thereof by the Government as completed, the blocks so reserved shall be granted to the contractors. All free miners' claims being excepted, as provided by clause 16 hereof.

19. In case any land is excepted out of blocks taken by contractors on account of free miners' claims or otherwise the quantity so excepted shall not be counted in the acreage of lands to which the contractors are entitled hereunder.

20. The contractors shall upon application sell to actual settlers for farming purposes at prices to be fixed by the Governor in Council any arable lands forming part of those selected hereunder. Provided, however, that upon such sale all minerals and the right to mine same shall be reserved, and this clause shall not extend to lands suitable for village or town sites.

21. So soon as the contractors notify the Minister of Railways and Canals to send an engineer to inspect and approve of any ten miles of the line of railway hereby contracted for, such engineer shall be sent without delay to make such inspection and shall thereafter remain ready to inspect each ten miles until the whole line is completed.

22. The grants of lands selected by the contractors hereunder shall be in fee-simple and shall include all precious metals and all minerals whatever, reserving only the royalties above provided for.

23. Provision shall be made in the Act incorporating the contractors company against any discrimination by such company in operating its railways between customers, whether by discriminating rates or treatment or otherwise, or by means of its steamships or other connections or otherwise.

24. Water available for hydraulic or placer mining on the contractors' lands, or on Government lands, shall be used by those mining on such lands under such regulations as may be established by or under the authority of the Governor General in Council for the purpose of securing an equitable and fair division and use thereof.

25. This contract shall be subject to the approval of Parliament.

In witness whereof this contract has been duly executed.

In presence of—

Z. A. LASH.	{	WM. MACKENZIE.	[L.S.]
		D. D. MANN.	[L.S.]

RODOLPHE BOUDREAU.	{	H. JOLY DE LOTBINIÈRE,
		<i>For Minister of Railways and Canals.</i>
		CLIFFORD SIFTON,
		<i>Minister of the Interior.</i>