

# BILL

No. 78 of 1912.

An Act to Incorporate The Medicine Hat Electric Railway Company.

(Assented to 1912.)

WHEREAS a petition has been presented praying for the incorporation of a company to construct and operate a railway as hereinafter set forth, and it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. Albert F. Krapfel, agent; David W. Brown, agent, and Warren Overpack, manufacturer, all of the City of Medicine Hat, in the Province of Alberta, together with such other persons as become shareholders in the company, hereby incorporated, are hereby constituted a body corporate under the name of "The Medicine Hat Electric Railway Company," hereinafter called "the company."

2. The head office of the company shall be in the City of Medicine Hat, in the Province of Alberta, or at such other place as the directors may from time to time determine.

3. The several clauses of *The Railway Act of Alberta* shall be, and the same are hereby, incorporated with and shall be deemed to be part of this Act, and shall apply to the said company and to the railway to be constructed by them, excepting so far as the same may be inconsistent with the express enactments hereof, and the expression "this Act" when used herein shall be understood to include the clauses of the said *Railway Act* as aforesaid.

4. The company may lay out, construct, maintain and operate lines of railway with a gauge of four feet eight and one-half inches, with all necessary switches, side-tracks and turnouts for the passage of cars, carriages and other vehicles upon, along and under roads, road allowances, streets, highways, lanes, alleys and other lands, acquired or permitted to be used for the purpose, from a point within the City of Medicine Hat, starting at the corner of Main St. and 4th Ave.; thence east along Main St. to South Railway St.; thence south along South Railway St. to a point at the edge of the city limits on the dividing line of the north-east and north-west quarters of section 29, township 12, range 5, west of the 4th meridian, and also at the junction of Columbia Ave. and South Railway St.; thence south and south-west along Columbia Ave. to Whiffin St.; thence west along Whiffin St. to the Valley Road; thence south along Valley Road to the edge of the city limits at the south boundary of the south-east quarter of Section 30 in township 12, range 5, west of the 4th meridian, or as near to this route as may be convenient and practicable, so long as it is continuous; and thence through the south half of section 29 in said township 12, that portion of the north-east quarter of section 29 lying south of the line of railway of the

Canadian Pacific Co., that portion of section 28 in said township 12 lying south of the said line of railway, that portion of section 21, in township 12, lying west of said line of railway, that portion of section 16 in said township 12 lying west of the said railway, all of sections 1 to 4 inclusive, and 7 to 12 inclusive, all of section 17 to 20 inclusive, all in said township 12, and all of sections 1 and 2 and 11 to 14, all inclusive, and section 24, all in township 12, in range 6, west of the 4th meridian, and sections 34 to 36, all inclusive, in township 11, range 5, west of the 4th meridian, with the right of projecting a branch line to the works of the Alberta Clay Products Co., Limited, in Medicine Hat aforesaid,—

- (a) From a point within or near the City of Medicine Hat to a point within or near the so-called Village of Dunmore, east of Medicine Hat, with the right to conduct the said railway back to the starting point within the City of Medicine Hat, in order to have a proper return service over a different route;
- (b) From a point within or near the City of Medicine Hat, and being any one of the above mentioned points within the said city, to a point at or near Elk Water Lake, so called, south-east from the said city.

5. Subject to *The Railway Act of Alberta* the company may—

- (a) Carry passengers and freight on the said railway by the power of electricity or by such other motive power, except steam, as the company may from time to time deem expedient;
- (b) And may levy and collect tolls from all persons or freight passing or travelling over the same;
- (c) And may carry on the business of manufacturing, distributing or supplying electricity and gas for lighting, heating, power and other purposes, without the limits of the City of Medicine Hat;
- (d) And may construct, erect and maintain all necessary buildings, machinery, appliances and conveniences for the purposes of such railway and works, including the erection of poles and laying of tracks upon, along or under any and all roads, road allowances, streets, highways, lanes, alleys and other lands upon which the company may deem it expedient to construct its railway for the carrying on of its business;
- (e) And may also construct and operate bridges or ferries across any rivers or streams which may now or hereafter be within the territory over which the company may have the right to operate;
- (f) And may for the purposes of the company, or any of them, have, hold, possess, purchase, take, receive, lease, possess and enjoy any houses, lands, water lots, wharves and tenements whatsoever, in fee simple, leasehold or otherwise howsoever, and all other property, real, personal and mixed, and also give, grant, let, sell, assign, or convey the same, or a part thereof, as shall be thought necessary and proper, for the benefit and advantage of the said company.

6. The cars shall have a right to the tracks as against any persons, carriage, vehicle or encumbrance put, driven, or being thereon, and no person shall obstruct the said tracks, switches, turnouts, and other appliances for the passage of cars and carriages, remain or keep any vehicle on said tracks in the way of any cars if there shall be an opportunity to turn off the

same, under a penalty of a sum not exceeding ten dollars for each offence, to be collected under the provisions of *The Summary Convictions Act* of Canada.

7. The company may further for the purposes aforesaid, from time to time, break up and open the roads, road allowances, streets, highways and other lands so acquired or permitted to be used as aforesaid, and keep them or any of them open for any reasonable length of time, as may be necessary; provided, however, that the company shall properly and completely close up, repair and make good the same and every part thereof so opened at its own cost and charges.

8. The persons named in the first section of this Act, and such persons as they may in writing associate with them, are constituted provisional directors of the company, a majority in number of whom shall constitute a quorum. The provisional directors shall hold office as such until the first annual meeting, which may be called at such time and place and upon such reasonable notice as they may determine, and until such meeting said provisional directors shall have power to open a stock subscription list, and to assign and allot stock of said company, and have and exercise all the powers of ordinary directors of the company under the provision of this Act. Vacancies caused by death or resignation shall be filled by the other directors until the next annual meeting. The number of directors of the company shall not be less than five nor more than eleven.

9. The capital stock of the company shall be \$500,000.00 divided into 5,000 shares of one hundred dollars each, and may be called up by the directors, from time to time, as they deem necessary, but no call shall exceed ten per cent. on the shares subscribed. The directors shall have the power to increase from time to time the capital stock of the company to a sum not exceeding one million dollars.

(a) The company may issue as fully paid-up stock both common and preferred shares of the company, and it may also (but not so as to limit any rights or powers herein otherwise conferred) upon such terms as the directors may deem for the interests of the company pay and allot such shares in payment of real and personal property, right-of-way, plant, rolling stock, or materials of any kind; and also may on such terms as the directors may deem for the interests of the company, pay and allot such fully paid-up shares in payment for services or work done by contractors or engineers, or other persons; and may, upon such terms as the directors may deem for the interests of the company, allot and pay over such fully paid shares in whole or partial payment of the purchase, lease or other acquisition of lands and other property which the company is authorized to acquire, or construct or own. The issue, allotment and payment of such fully paid shares by the directors of said company shall be binding upon the company, and shall make the same fully paid shares; and the same shall not be assessable for or subject to any calls for any purpose whatever, and the holders of said shares, allotted and paid as aforesaid shall not be subject to any personal liability whatsoever in respect thereof.

**10.** The annual general meeting of the shareholders shall be held on the first Tuesday of December of each year, or at such other date as may be fixed by the directors from time to time, due notice of any such change to be given to the shareholders.

**11.** At such meeting the subscribers for the capital stock assembled, who have paid all calls due on their shares, shall choose not less than three nor more than ten persons to be the directors of the company, one or more of whom may be paid directors of the company.

**12.** The directors may from time to time make, alter, amend or repeal such by-laws, rules or regulations, not inconsistent with this Act, or the laws for the time being in force in this province, as they may deem necessary and proper for the management of the affairs of the company generally, and the same when approved by the Governor in Council shall have the force of law.

**13.** The company may issue bonds, debentures or other securities to the extent of \$20,000.00 per mile of the railway, or its branches or sidings, and a sum not exceeding \$100,000.00 for the purpose of acquiring and equipping terminals within the City of Medicine Hat or the Village of Dunmore or at Elk Water Lake, or any of them, and a sum not exceeding one-half the estimated value of property owned or acquired by the company in addition to the said railway terminals; and such bonds, debentures or other securities may be issued only in proportion to the length of railway constructed or under contract to be constructed.

**14.** The company is authorized to transact any business out of the province necessary or incidental to any of the purposes for which the company is incorporated.

**15.** The transfer of shares in the company shall be valid and effectual only from the time such transfer is made and entered in the books of the company.

**16.** The company shall have the power to draw, accept or endorse bills of exchange and promissory notes on behalf of and for the purposes of the company.

**17.** When a street, road or highway upon which a track or tracks of the company has been laid is to be paved by any municipality or any town in a permanent manner the company shall remove its track or tracks and substructure, and replace the same according to the best modern practice of paving, according to the manner adopted on the rest of the road, street or highway, with approved rails, points, and substructures of such description as may be determined on by the said municipality or town as most suitable for the purpose, and under the provision hereof.

**18.** The company shall lay and maintain its tracks in conformity to the grade or grades of the streets as established by any municipal council, and therein at its own expense locate and lay its tracks so as to conform to any change of grade adopted by any such council, on any or all streets in which said tracks may be.

19. In the construction of its work or repairs thereof, and in the operation of the road, the company shall make disposition of the earth, snow and other material removed from the streets, roads and highways of all municipalities, towns and cities respectively as shall be directed by the councils thereof.

20. The company may enter into an agreement with another company or companies for conveying or leasing to such company or companies the railway of the company hereby incorporated in whole or in part, or any rights or powers acquired under this Act, as also the surveys, plans, works, plant, material, machinery, and other property to it belonging, or for an amalgamation with such company or companies, on such terms and conditions as are agreed upon, and subject to such restrictions as to the directors may seem fit; provided that such agreement has been first sanctioned by two-thirds of the votes at a special general meeting of the shareholders duly called for the purpose of considering the same, at which meeting shareholders representing at least two-thirds of the value of the stock are present in person or represented by proxy, and that such agreement has also received the approval of the Lieutenant Governor in Council.

21. The company shall at all stations upon their railway always permit the loading of grain into cars from farmers' vehicles or flat warehouses, subject to reasonable regulations to be made by the said company, and shall at all reasonable times afford proper facilities therefor.

22. The company agrees to afford all reasonable facilities to any other railway company for the receiving and forwarding and delivery of traffic upon and from the line of railway belonging to or worked by such companies respectively, and the company shall not make or give undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic in any respect whatsoever, nor shall the company subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage whatsoever, and the said company shall afford all due and reasonable facilities for receiving and forwarding by its railways all the traffic arriving by such other railway or railways without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, so that no obstruction is presented to the public desirous of using such railway as a continuous line of communication, and so that all reasonable accommodation by means of the railways of the several companies is at all times afforded to the public in that behalf, and any agreement made between the company and any other company or companies contrary to this agreement shall be null and void.

23. The company shall have power for the purposes of its undertaking to construct and operate an electric telegraph line or lines and a telephone line or lines along the said railway, and to construct and maintain such bridges as shall be necessary or convenient for the use of said railway, not being bridges over any navigable river or rivers, unless such bridge or bridges over such navigable river or waters has or have been authorized by the Governor General in Council.

24. The fare for passengers shall be due and payable by every passenger on entering any car of the company, and any person who refuses to pay the fare, when demanded by

the conductor or collector, and refuses to leave the car when requested to do so by said collector or conductor, shall on summary conviction thereof before a justice of the peace be liable to a fine of not less than two dollars and not more than ten dollars and the procedure for the recovery of such penalties shall be that which is provided for by *The Summary Convictions Act* of Canada. The charges for freight to be carried by the company shall be due and payable by every shipper of freight so soon as the freight is loaded on the cars of the company, and if such freight is not paid the company through its conductors or collectors shall have the right to refuse to carry such freight, or may carry it to its destination and hold it until such time as the said charges, with proper demurrage charges, shall have been paid, and if such charges are not paid within thirty days from the time of the receipt by the company of such freight the company may sell the freight for such charges.

25. The construction of the railway hereby authorized shall be commenced within two years, and shall be completed within five years from the date of the coming into force of this Act.

26. The City of Medicine Hat shall have the power at any time, anything in this Act notwithstanding, to acquire and take over the works of the company which may be within the boundaries of the said city, either as such boundaries exist at the time of the passing of this Act or as they may be extended at any time hereafter, upon giving to the company six months' notice of intention so to acquire and take over such works, and the city shall pay to the company the value of such works so acquired and taken over, without regard to franchise rights or earning powers; such value to be computed on the actual cost of construction and maintenance and of acquiring property for the purposes of the company; and if the company and the city shall be unable to agree as to the value of same, then the amount shall be fixed and settled by arbitration of three arbitrators, one to be appointed by the city, and one by the company and a third to be appointed by the first named arbitrators in writing before they enter on the business of the reference; if such two first-named arbitrators are unable to agree on a third, such third shall be the district judge of the judicial district in which Medicine Hat may at the time be situate; and if either party shall refuse or neglect to appoint an arbitrator within ten days after the other party shall have appointed an arbitrator, and shall have served a written notice upon the first mentioned party requiring such party to make such appointment, then the arbitrator first appointed shall, at the request of the party appointing him, proceed to hear and determine the matters in difference as if he were a single arbitrator appointed by both parties for the purpose, and the award or determination which shall be made by the said arbitrator, or a majority of them, or by the said single arbitrator, shall be final and binding upon the said city and the company with respect to the said acquisition and taking over of the said works.

(a) If the city shall acquire and take over the whole or any part of the works of the company within the limits of the said city, the company shall be entitled to have running rights over the line of railway within the city limits, and also necessary rights upon the roads or streets within such limits for the purposes of the company, so that the company may be enabled properly to operate the said line of railway as a complete system. In such case provision shall be made for the

keeping of a proper system of accounts to determine what proportion the company shall pay to the city of fares collected within the city limits by the conductors or collectors on the cars of the company.

27. In the event of the City of Medicine Hat taking over the works of the company, as provided in section 26 hereof, said city shall not allow the said works to become idle or fall into disuse; nor shall the said city sell, let, assign, transfer or otherwise dispose of the same to any person or corporation whatsoever, without having given the said company the first chance to reacquire the said works on the same conditions and at a price to be determined, as provided in said section 26. In the event of the said city allowing said works to become idle or fall into disuse, or not being kept in proper and sufficient state of repair, the said company shall be entitled thereupon forthwith to reacquire the said works, as is provided in section 26 hereof for the acquirement by the city.

28. This Act shall come into force on the date on which it is assented to.

No. 78

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THIRD SESSION  
SECOND LEGISLATURE  
2 GEORGE V  
1912

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BILL

An Act to Incorporate The Medicine  
Hat Electric Railway Company.

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Received and read the

First time .....

Second time .....

Third time .....

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EDMONTON:  
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A.D. 1912