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(PRIVATE BILL.)

1st Session, 4th Parliament, 16 Victoria, 1853.

BILL.

An Act to incorporate the "*Bytown and
Pembroke Railway Company.*"

Received and read a first time, Tuesday, 22nd
March, 1853.

Second reading, Wednesday, 23rd March, 1853.

MR. MALLOCH.

QUEBEC:

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

641.

An Act to incorporate *The Bytown and Pembroke Railway Company.*

WHEREAS the construction of a Railway on the south shore of the Ottawa, uniting the Town of Bytown with the Township of Pembroke, must conduce greatly to the welfare of the inhabitants residing on the line of such Railway and in the surrounding Country, and largely contribute to increase the trade and revenue of the Province; And whereas Nicholas Sparks, Thomas McKay, Richard W. Scott, William Stewart, Edmund Heath, James D. Slater, J. Robert Farley, Edward Griffin, Edward McGillivray, John Egan, Roderick Ross, Alexander Workman, Daniel O'Meara, John O'Meara, William Morris, Joseph Aumond, Edward Mâsse, H. J. Friel, James Leamy, James Doyle, R. Cassels, Thomas H. Cumming and B. W. Shepherd, have prayed to be incorporated with the powers requisite for making and maintaining such Railway; Be it therefore enacted, &c.,

That the said Nicholas Sparks, Thomas McKay, Richard, W. Scott, William Stewart, Edmund Heath, James D. Slater, Robert Farley, Edward Griffin, Edward McGillivray, John Egan, Roderick Ross, Alexander Workman, Daniel O'Meara, John O'Meara, William Morris, Joseph Aumond, Edward Mâsse, H. J. Friel, James Leamy, James Doyle, R. Cassels, Thomas H. Cumming and B. W. Shepherd, together with such person or persons, Corporations and Municipalities as shall, under the provisions of this Act, become Shareholders in such Company, as is hereinafter mentioned, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, in fact, by and under the name and style of *The Bytown and Pembroke Railway Company.*

II. And be it enacted, That the several Clauses of "The Railway Clauses Consolidation Act," with respect to the first, second, third and fourth Clauses thereof, and also the several Clauses of the said Act with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands, and their Valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "Directors, their Election and duties," "Shares, and their transfer," "Municipalities," "Shareholders," "Actions for Indemnity, and fines and penalties and their prosecution," "Working of the Railway," and "General Provisions," shall be

incorporated with this Act, save in so far as they are expressly varied by any clause or provision hereinafter contained; subject always to the following modification of the ninth sub-section of the clause of the said "*Railway Clauses Consolidation Act*," headed "Plans and surveys," that is to say, that lands to the extent of 5 twenty acres, may be taken by the said Company without the consent of the owner thereof, but subject to the provisions of the said Act in that behalf, for Stations, Depôts, or other works in any City or Town, and shall be included by the expression, "this Act," whenever used herein. 10

Power to
make Rail-
road and
Branch.

III. And be it enacted, That the said Company and their servants or agents, shall have full power under this Act, to lay out, construct, make or finish a double or single iron Railway or Road at their own cost and charges, on and over any part of the Country lying between the Town of Bytown and the Township of 15 Pembroke; and the said Company shall be authorized, if they deem it expedient, to construct a branch from Pembroke aforesaid, to such point on Georgian Bay as shall be found most desirable.

Form of Deeds

IV. And be it enacted, That deeds and conveyances under this Act, for lands to be conveyed to the said Company for the 20 purposes of this Act, shall and may as far as the title to the said lands or the circumstances of the party making such conveyances will admit, be made in the form given in the Schedule to this Act marked A; and all Registrars are hereby required to enter in their Registry Books such deeds, on the production thereof and 25 proof of execution, without any memorial, and to minute every such entry on the said deed; and the said Company are to pay to the said Registrar for so doing, the sum of *two shillings and six pence* and no more.

Capital Stock.

V. And be it enacted, That the Capital Stock of the Company 30 shall be one hundred and fifty thousand pounds currency, to be divided into six thousand shares of twenty-five pounds each, which amount shall be raised by the persons or parties above named or some of them, together with such other persons and Corporations as may become Subscribers towards such Stock; and the said money 35 so raised shall be applied, in the first place, towards the payment and discharge of all fees, expenses and disbursement for procuring the passing of this Act, and for making the surveys, plans and estimates connected with the said Railway; and all the rest and remainder of such money shall be applied towards 40 making, completing and maintaining the said Railway and other purposes of this Act, and to no other purpose whatsoever: Provided always, that until the said preliminary expenses connected with the said Railway shall be paid out of the Capital Stock

thereof, it shall be lawful for the Municipality of any Town or Township on or near the line of the said Road, to pay out of the general funds of such Municipality their fair proportion of such Railway preliminary expenses, which sum shall be refunded to such Municipality from the Stock of the said Company, or be allowed to them in payment of Stock.

VI. And be it enacted, That in the borrowing of monies by way of loan, the debentures of the said Company shall and may be in the form contained in the Schedule B. annexed to this Act or in any other convenient form similar thereto, and shall have the effect of creating a mortgage upon the said Railway and the lands and property thereof; and the registration at full length of a debenture (without the interest *coupons* thereto attached) in the said form in the Registry office for the County in which the land or real estate thereby specially mortgaged shall lie, which said registration for the purposes of this Act, and of the loan to be made in virtue thereof, shall be held and deemed to be a special registration of the said Railway, and of all the lands and property thereof in each County or locality through which such Railway may pass or lie, shall perfect the mortgage created by such debenture as regards all parties whomsoever, and the debenture and mortgage thereby created shall be to all intents and purposes binding upon the said Company in favor of the holder of the debenture, and have the effect of mortgaging all the lands and property of the said Company without any other more formal or particular description; but the description in the said Schedule B shall be held to comprehend all the lands and tenements of the said Company, all wharves and buildings of every nature thereon, and in short all the immoveable estate belonging to the said Company, including the rails and iron thereto affixed, any law or usage to the contrary notwithstanding.

VII. And be it enacted, That if after the registration in a County Registry Office of a Debenture of the said Company creating a mortgage, such Debenture shall be presented at the Registry Office wherein it was registered, with the word "*cancelled,*" and the signature of the President, or other duly authorized Director of the said Company, or of the Secretary and Treasurer of the said Company, written across its face, the Registrar or his Deputy, on receiving the usual fee on that behalf, and on proof of the cancellation by the oath of one credible witness, (which oath the Registrar or his Deputy is hereby authorized to administer) shall forthwith make an entry in the margin of the Register against the Registry of such Debenture, to the effect that the same has been cancelled, adding to such entry the date thereof and his signature, and thereupon the cancelled

Debenture shall be filed and remain of record in the said Registry Office.

Facilitation
of registration
of Debentures.

VIII. And to facilitate the registration of the Debentures of the said Company creating mortgages and the cancellation thereof, Be it enacted, That the said Company may, if they see fit, at their own expense, deposit in any Registry Office, wherein such their Debentures may require to be registered, any number of their printed or engraved Blank Debentures in the form of the said Schedule annexed to this Act, without its being necessary to add the *coupons* thereto, bound together in a book, and having the pages thereof numbered and signed by the Secretary of the Company, and thereupon the Registrar or his Deputy shall be bound to receive and retain the same as one of the Registry Books of his Office, and to register therein the said Debentures of the Company, instead of registering them in the ordinary Registry Books of the Office ; any ordinance or law to the contrary notwithstanding.

First Directors.

IX. And be it enacted, That the said Nicholas Sparks, Thomas McKay, Richard W. Scott, William Stuart, James D. Salter, Robert Farley, Edward Griffin, Edward McGillivray, John Egan, Roderick Ross, John O'Meara, William Morris, and Joseph Aumond shall be and are hereby constituted and appointed the first Directors of the said Company, and shall hold their office until others shall under the provisions of this Act be elected by the Shareholders, and shall until that time constitute the Board of Directors of the said Company, with power to open Stock Books and make a call on the shares subscribed in such books, and call a meeting of subscribers for the election of Directors in the manner hereinafter provided, and to lay out the Railway with all such other powers as by the said Railway Clauses Consolidation Act are conferred upon the Directors elected under the said Act, or named by this Act.

First Meeting.

X. And be it enacted, That when and so soon as one-fifth of the said Capital Stock shall have been subscribed, it shall be lawful for the said Directors, or a majority of them, to call a meeting of the holders of such shares, at such place and time as they shall think proper, giving at least fifteen days' public notice of the same, in one or more newspapers published in the Town of Bytown, at which said General Meeting, and at the Annual General Meeting in the following section mentioned the private Shareholders present, either in person or by proxy, shall elect eight Directors, in manner as hereinafter mentioned, and one Director shall be chosen by each Municipal Corporation being Shareholders to the amount of five thousand pounds currency,

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which said Director, or shall be the Mayor Warden or Reeve, being the head of such Municipality, or such other person as each such Municipality may by By-law appoint specially for that purpose: the fourth Section of the eighteenth Clause of the said Railway Clauses Consolidation Act in this respect being hereby suspended; which said Directors shall hold office until the first Monday in March following.

XI. And be it enacted, That on the said first Monday in March, and on the first Monday in March in each year thereafter, or on such other day and at such place as shall be appointed by any By-law, there shall be chosen by the Shareholders eight Directors, in manner hereinafter mentioned; and public notice of such Annual Election shall be published one month before the day of election, in the *Canada Gazette*, and also once at least, fifteen days before the election, in one newspaper in each City or Town or County on the line of Road, and all elections for such Directors shall be by ballot, and the persons who have the greatest number of votes at any election, shall be the Directors; and if it shall happen that any two or more shall have an equal number of votes, the Shareholders shall determine the election by another or other votes, until a choice is made; and if any vacancy shall at any time happen among the said eight Directors by death, resignation or otherwise, such vacancy shall be filled for the remainder of the year by a majority of the Directors, and that the said eight Directors, together with the representatives of the Municipal Corporations subscribing as aforesaid shall form the Board of Directors.

Annual Meeting.

XII. And be it enacted, That three Directors shall form a *quorum* for the transaction of business; Provided, that the Directors may employ one or more of their number as paid Director or Directors.

Quorum.

XIII. And be it enacted, That the persons qualified to be Directors of the said Company, under this Act, shall be any Shareholder holding Stock to the amount of one hundred pounds, who shall have paid up all calls on such Stock.

Qualification of Directors.

XIV. And be it enacted, That the Stock to be subscribed for by Municipal Corporations shall be represented by the Mayor, Warden or Reeve, from time to time being of such Municipal Corporation, subscribing to "The Bytown and Pembroke Railway Company," or by such person to be appointed as hereinbefore provided by such Municipal Corporation respectively, and such Mayor, Warden or Reeve, or person deputed as aforesaid shall be entitled to the number of votes proportioned to the number of

Who shall represent Stock of Municipalities.

Shares held by the Municipal Corporation to the same extent as private Shareholders.

Calling of instalments.

XV. And be it enacted, That it shall and may be lawful for the Directors, at any time, to call upon the Shareholders for the second and all subsequent instalments upon each share which they or any of them may subscribe for, payable by such instalments and at such times, and in such proportions as the Directors of the said Company may see fit, so as no such instalment shall exceed ten per cent, on the amount of each Share, giving at least one month's notice for each call, in such manner as they shall appoint.

Proportion of votes to Shares.

XVI. And be it enacted, That each Shareholder shall be entitled to the number of votes proportioned to the number of Shares which he or they shall have had in his or their name at least two weeks prior to the time of voting; And no party or parties shall be entitled to vote at the Meetings of Shareholders who shall not have paid up all the calls due upon his, her or their Stock, or the Stock upon which such party claims to vote, at least eighteen hours before the hour appointed for any such Meeting.

Company may become parties to Promissory Notes.

XVII. And be it enacted, That the said Company shall have power to become parties to Promissory Notes and Bills of Exchange, for sums not less than twenty-five pounds, and any such Promissory Note made or indorsed or any such Bill of Exchange drawn, accepted or indorsed by the President of the Company or Vice President, and countersigned by the Secretary and Treasurer, and under the authority of a majority of a *quorum* of the Directors, is and shall be binding upon the said Company: And every such Promissory Note or Bill of Exchange so made, drawn, accepted or indorsed by the President or Vice President of the said Company, and countersigned by the Secretary and Treasurer as such, shall be presumed to have been properly made, drawn, accepted or indorsed, as the case may be, for the Company until the contrary be shewn; and in no case shall it be necessary to have the seal of the Company affixed to any such Bill of Exchange or Promissory Note, nor shall the President, Vice President or the Secretary and Treasurer of the said Company so making, drawing, accepting or indorsing any such Bill of Exchange or Promissory Note be thereby subjected individually to any liability whatever: Provided always, that nothing in this Clause shall be construed to authorize the said Company to issue any Note or Bill payable to bearer, or any Promissory Note or Bill of Exchange intended to be circulated as money or as the Notes or Bills of a Bank.

Company may take wild lands of the Crown.

XVIII. And be it enacted, That it shall and may be lawful for the said Company to take and appropriate for the use of the said

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Railway, but not to alienate so much of the wild land of the Crown not theretofore granted or sold, lying on the route of the said Railway, as may be necessary for the said Road ; as also so much of the land covered with the waters of any river, stream, lake or canal, or of their respective beds, as may be found necessary for the making and completing or more conveniently using the same, and thereon to erect such wharves, quays, inclined planes, bridges, cranes and other works as to the Company shall seem meet : Provided always, that it shall not be lawful for the said Company to cause any obstruction in or to impede the free navigation of any river, stream or canal to or across which their Railway shall be carried ; and if the said Railway shall be carried across any navigable river or canal, the said Company shall have such openings between the piers of their bridge or viaduct over the same, and shall construct such draw-bridge or swing-bridge, if any such bridge be necessary, over the channel of the river or canal, and shall be subject to such regulations, with regard to the opening of such draw-bridge or swing-bridge, if any such be constructed, for the passage of vessels and rafts, as the Governor in Council shall direct and make from time to time ; nor shall it be lawful for the said Company to construct any wharf, bridge, pier or other work upon the public beach or bed of any navigable river or stream, or upon the lands covered with the waters thereof, until they shall have submitted the plan of such work to the Governor in Council, nor until the same shall have been approved by him in Council as aforesaid.

XIX. And be it enacted, That it shall and may be lawful for the President and Directors of the said Company, from time to time to fix, regulate and receive the tolls and charges to be received for the transmission of property or persons on the said Road, subject always to the approval of the Governor in Council, as is provided by the " Railway Clauses Consolidation Act" : Provided always, that in no case shall the amount charged for toll and charges exceed, for First Class Passengers, two pence currency per mile, and for Second Class Passengers, one penny half penny currency, per mile, and for Third Class Passengers, one penny currency, per mile.

XX. And be it enacted, That in case of neglect or refusal to pay the toll or freight due to the said Company on any goods, they shall have the power to detain the same until payment of such freight be made, and in the meantime, such goods will be at the risk of the owner, as provided in the said " Railway Clauses Consolidation Act," and if such goods be of a perishable nature the said Company shall have the right to sell the same forthwith on the certificate of two competent persons establishing the fact of their

being so perishable; and if such goods be not of a perishable nature and shall remain unclaimed for a period of twelve months it shall be lawful for such Company, after giving one month's notice in two newspapers published at or nearest the locality where such goods may be, to dispose of the same by public auction and to hand over to the owner the produce of such sale if he shall claim the same, after deduction of the said tolls and freight and of the expenses incident to any such sale. 5

Company may purchase other Stock. XXI. And be it enacted, That the said Company shall have the right to purchase, take, hold and subscribe for Stock in any other Railway or Steamboat Company as they may consider conducive to the interests of the said Company, and the Directors of the said Company may authorize one or more person or persons to vote upon such Stock at any meetings of such other Railway or Steamboat Company. 10 15

Aliens entitled to equal rights with Her Majesty's subjects. XXII. And be it enacted, That any Shareholder in the said Company, whether a British subject or alien, or a resident in Canada or elsewhere, has and shall have equal rights to hold Stock in the said Company, to vote on the same, and be eligible to office in the said Company. 20

Government may assume possession of Railway. XXIII. And be it enacted, That the Provincial Government may at any time after the commencement of the said Railway, assume the possession and property thereof, and of all the property which the said Company is empowered to hold and shall then have, and of all the rights and privileges and advantages vested in the said Company; all of which shall, after such assumption, be vested in Her Majesty, on the Government giving to the Company four months' notice of the intention to assume the same. 25

Arbitration in case of difference. XXIV. And be it enacted, That in case of such assumption as aforesaid the Government shall, within four months after the Company shall render an account in writing of the amount of money expended by the said Company, and all their then ascertained liabilities, up to the time of such assumption, pay to the said Company the whole amount of the money so expended and of the liabilities so ascertained, together with interest at the rate of six per cent., and ten per cent. additional thereon after deducting the amount of any dividends before then declared, and the said Government shall also, from time to time, pay and discharge all liabilities of the Company not ascertained at the time of such assumption, as the same shall be established against the said Company; Provided always, that in case of a difference between the Government and the Company as to the amount so to be paid by the Government, such difference shall be referred to two Arbitrators, one to be named by 30 35 40

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the Government, the other by the Company; and, in case of disagreement, such difference shall be referred to an Umpire, to be chosen by the said Arbitrators before entering into the consideration of the said difference, and that the said award so made by the 5 Arbitrators or the Umpire shall be final; and provided also that in case of refusal by the Company to appoint an Arbitrator on their behalf, the same shall be appointed by any two of the Judges of either of the Superior Courts of Common Law on application of the Government, in Upper Canada.

10 XXV. And be it enacted, That it may and shall be lawful for the said Company to cross, intersect, join and unite the said Railroad with any other railroad or Rail-way, at any point on its route, and upon the lands of such other Rail-way or Rail-Road, with the necessary conveniences for the purpose of such connection, and the owners of both Railways may unite in forming 15 such intersection and in granting the facilities therefor; and in case of disagreement upon the amount of compensation to be made therefor, or upon the point or manner of such crossings and connection, the same shall be determined by Arbitrators to be 20 appointed by two Judges of the Superior Court of Common Law in Upper Canada.

Company may unite with other Railroads &c.

XXVI. And be it enacted, That it shall be lawful for the said Company to enter into any agreement with any other Railway Company either in this Province or in any foreign state for leasing 25 the said Railroad or any part thereof, or the use thereof, at any time or times to such other Company, or for leasing or hiring out to such other Company any locomotives, cars, carriages, tenders or other moveable property of the said Company, either altogether or for any time or times, occasion or occasions, or for leasing or 30 hiring from such other Company any Rail-road or part thereof, or the use thereof at any time or times, or for leasing or hiring from such other Company any locomotives, cars, carriages, tenders, or other moveable property, or for using either the whole or any part of the said Railroad or of the moveable property of the said 35 Company, or of the Railroad and moveable property of such other Company in common by the two Companies, or generally to make any agreement or agreements with any such other Company touching the use by one or the other or by both Companies, of the Railroad or moveable property of either, or of both, or any 40 part thereof, or touching any service to be rendered by the one Company to the other, and the compensation therefor; and any such agreement shall be valid and binding, and shall be enforced by all Courts of Justice in this Province according to the terms and tenor thereof; and any locomotive, car, carriage or tender 45 of any foreign Railroad Company brought into this Province in

And make agreement respecting leasing of Railroad, &c

pursuance of any such agreement, but remaining the property of such Foreign Company, and intended to pass regularly along the said Railroad between this Province and a foreign state, shall for all purposes of the laws relative to customs, be considered as carriages of travellers coming into this Province, with the intent of immediately leaving it again. 5

Junction of
the Company
with any
other.

XXVII. And whereas it may conduce to the interests of the said *Bytown and Pembroke Rail-way Company* hereafter to unite and form a junction with any other Rail-way Company, Be it enacted That it shall be lawful for the said *Bytown and Pembroke Rail-way Company* at any time hereafter to form such union and junction upon such terms and conditions as may be agreed upon at a General Meeting of the Stockholders of the said Company specially convoked for that purpose, by a majority of such Stockholders, and thereafter the Companies so united shall form one and the same Company. 10 15

Inconsistent
provisions
repealed.

XXVIII. And be it enacted, That all provisions of law inconsistent with this Act, are and shall be repealed from the passing hereof.

Public Act.

XXIX. And be it enacted, That the Interpretation Act shall apply to this Act, and that this Act shall be a Public Act. 20

SCHEDULE A.

Know all men by these presents : That I, _____ of _____
(*insert the name of the wife also, if she is to release her Dower, or for any other reason to join in the conveyance,*) do hereby, in consideration of _____ paid to me (*or as the case may be*) by *The Bytown and Pembroke Railway Company*, the receipt whereof is hereby acknowledged, grant, bargain, sell, convey and confirm unto the said *Bytown and Pembroke Railway Company*, their successors and assigns for ever, all that certain parcel or tract of land situate (*describe the land*) the same having been selected and laid out by the said Company for the purpose of their Railway, to have and hold the said land and premises, together with the hereditaments and appurtenances thereto to the said *Bytown and Pembroke Railway Company*, their successors and assigns for ever; (*if there be Dower to be released, add,*) "and I (*name of wife*) " hereby release my Dower on the premises."

Witness my (*or our*) hand (*or hands*) and seal (*or seals,*) this day of _____ one thousand eight hundred and _____

Signed, sealed and delivered
in presence of

A. B. [L. s.]

(*And if the wife join*) C. B. [L. s.]

SCHEDULE B.

(Referred to in this Act.)

BYTOWN AND PEMBROKE RAILWAY COMPANY, FIRST MORTGAGE LOAN.

Number £ Sterling (or Currency.)

This Debenture witnesseth that the Bytown and Pembroke Railway Company, under the authority of the Provincial Statute passed in the sixteenth year of Her Majesty's Reign, intituled, "*An Act to incorporate the Bytown and Pembroke Railway Company,*" have received from _____ of _____ currency (or sterling) as a loan, to bear interest from the date hereof, at the rate of _____ per centum per annum, payable half yearly, on the _____ day of _____ and on the _____ day of _____ which sum of _____ currency (or sterling) the said Company bind and oblige themselves to pay on the _____ to the said _____ or to the bearer thereof; and to pay the interest thereon half yearly as aforesaid on the production of the *coupon* therefor, which now forms part of this Debenture.

And for the due payment of the said sum of money and interest, the said Company, under the power given to them by the said Statute and Acts, do hereby mortgage and hypothecate the real estate and appurtenances hereinafter described, that is to say: *The whole of the Railroad from Bytown to Pembroke,* (and when the branch authorized to be made by the 3rd section is completed, add, *and thence to _____* (naming the place where such branch terminates) *including all the Lands at the Termini of the said Road, and all the Lands of the Company within those limits, and all buildings thereon erected, and all and every the appurtenances thereto belonging.*