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No. 129.
(PRIVATE BILL.)

1st Session, 4th Parliament, 16 Victoria, 1862.

BILL.

An Act to amend the Act incorporating
*"The Toronto and Guelph Railway
Company."*

Received and read a first time, Thursday, 30th
September, 1862.

Second reading, Wednesday, 6th October, 1862.

Mr. RIDOUT.

QUEBEC:
PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

B I L L .

An Act to amend the Act incorporating "*The Toronto and Guelph Railway Company.*"

WHEREAS since the passing of an Act in the Session held in the Preamble.
 14th and 15th years of Her Majesty's Reign, intituled, "*An Act to incorporate the Toronto and Guelph Railway Company,*" the Mayor, Aldermen and Commonalty of the City of Toronto, have in pursuance of
 5 the provisions of the Railway Clauses Consolidation Act, subscribed for Stock in the said "*Toronto and Guelph Railway Company;*" And whereas the Municipal Corporations of the Town and Township of Guelph, and of the Township of Chinguacousy, have in like manner respectively subscribed for Stock in the said Company, and the calls hitherto made by the said
 10 Company, in respect of the shares subscribed for by the said Municipal Corporations have been paid in Debentures of the said Corporations respectively; And whereas shares exceeding the sum of £150,000 as prescribed by the 7th Clause of the Act to incorporate the said Railway have been taken, and £10 per cent thereon hath been paid in; And whereas by the
 15 3rd Clause of the said Act incorporating the said "*Toronto and Guelph Railway Company,*" the Capital Stock of the said Company is expressed to be limited to the sum of £250,000 of Provincial currency, and doubts have been raised whether the said Clause does not limit the powers contained in the said Railway Clauses Consolidation Act, of increasing the
 20 capital of the said Company; And whereas the said sum of £250,000 has been found to be insufficient for the proper and efficient construction of the Railway by the said Act authorized to be constructed, and it is desired to increase the same to the sum of £325,000 like currency, with such powers to increase the same as are contained in the said Railway
 25 Clauses Consolidation Act; And whereas the said "*Toronto and Guelph Railway Company*" have executed under their corporate seal, bonds to the amount of £275,000 sterling money of Great Britain, payable to bearer, which bonds are secured by a Mortgage Deed bearing date the
 30 day of executed under the corporate seal of the said Company, whereby the said intended Railway and all the works of the said Company, together with all stations, buildings, carriages, engines and other property attached or to be attached to or belonging to the said Railway, and all the Revenues and Tolls to be derived from the said works, are mortgaged and pledged to the Canada Company, in trust as a security for the payment
 35 of the said entire sum of £275,000 sterling, on the 1st day of July, 1873, and of the payment of the half yearly interest thereon at the rate of £6 per centum per annum in the meantime, and whereby the Municipal debentures which have already been and which hereafter shall be issued for the Stock already subscribed, and which hereafter shall be subscribed
 40 by Municipal Corporations of the Province of Canada, under the provisions of the Railway Clauses Consolidation Act are also mortgaged and pledged to the said Canada Company, in trust as a collateral security for the due payment of the principal and interest on the said bonds; And

whereas doubts have arisen whether the said 3rd Clause of the said Act incorporating the said "*Toronto and Guelph Railway Company*" does not limit and restrict the powers contained in the Railway Clauses Consolidation Act, of borrowing money, and other doubts have arisen as to the validity, negotiability and security of the said bonds, and the validity of 5 the said mortgage; And whereas it is expedient to remove such doubts, and to affirm the validity, negotiability and security of the said bonds of the said Company so as aforesaid executed to the amount of £275,000 sterling money of Great Britain, and of any further bonds which may be executed by the said Railway Company, to an aggregate amount (with 10 the said sum of £275,000) not exceeding the amount of capital for the time being authorized to be raised by the said Company, and the validity of the said mortgage and of any mortgage or mortgages to be hereafter executed as a security for any moneys to be borrowed by the said Company, within the limit of their prescribed capital for the time being; 15 And whereas the said "*Toronto and Guelph Railway Company*" have by their petition prayed that the said Act incorporating the said "*Toronto and Guelph Railway Company*" may be amended; Be it therefore enacted, &c.,

Amount of
Capital Stock.

And it is hereby enacted and declared, That the Capital Stock of the said 20 Company shall be, and is hereby declared to be the sum of £325,000 Provincial currency, divided into 65,000 shares of £5 each, and that the said Capital Stock may, if necessary, from time to time be increased in the manner provided for by the Railway Clauses Consolidation Act.

Bonds executed by Toronto and Guelph Railway Company are and shall be valid.

II. And be it enacted and declared, That the said bonds of the said 25 "*Toronto and Guelph Railway Company*" so as aforesaid executed to the said amount of £275,000 sterling money of Great Britain, and the said mortgage for securing the same are, and shall be continue to be, and subsist as good and valid and obligatory upon the said "*Toronto and Guelph Railway Company*" according to the tenor and purport thereof 30 respectively, and that all bonds, debentures or other securities of the said Railway Company, may be made payable to bearer, and that the said bonds which have been so executed, as aforesaid, and all future bonds, debentures and other securities of the said Railway Company, and all dividends or interest warrants thereon respectively, which shall 35 purport to be payable to bearer, shall be assignable at law by delivery, and may be sued on and enforced by the respective bearers and owners thereof for the time being in their own names.

Bondholders &c., entitled to receive the tolls in proportion to amount in such Bonds mentioned.

III. And be it enacted and declared, That the respective *bona fide* 40 Bondholders and Mortgagees of the said Railway Company, as well under any bonds, debentures, mortgages or other special securities to be hereafter lawfully executed by the said Railway Company within the limit of their capital for the time being prescribed, as under the said bonds already executed, shall be entitled, one with another to their respective proportions of the Tolls and other property of the said Railway 45 Company, according to the respective sums in such securities mentioned, and to be repaid the principal and interest monies thereby secured, without any preference one above another by reason of priority of the date of any such security or of the resolution by which the same was authorized or otherwise howsoever; provided that this enactment shall not operate 50 either to accelerate or to delay the right of the holder of any such security to demand and enforce payment of the principal monies thereby secured on the day or respective days therein mentioned for payment thereof.

Proviso.

IV. And be it enacted and declared, That if any interest or principal due on any such security as aforesaid, be not paid by the said Railway Company, on the day, and at the place appointed for payment thereof, and if the Canada Company shall neglect for sixty days after notice in writing by the holder of any such security, to enter into possession of the said Railway, or appoint a Receiver of the Rates and Tolls and other profits of the said Railway, and works under and by virtue of the aforesaid mortgage, then in such case the holder of such security (without prejudice to his right to sue for the interest or principal so in arrear, in any of the Superior Courts of Law or Equity may, if his debt amount to the sum of £5000 alone, or if his debt do not amount to the sum of £5000, may in conjunction with other creditors of the said Railway Company holding any such securities as aforesaid, whose debts on such securities being so in arrear after such demand as aforesaid, shall, together with his amount to the sum of £5000, require the appointment of a Receiver by an application to be made to the Court of Chancery at Toronto, in a summary manner without suit, and on any such application, it shall be lawful for such Court, after hearing the parties, or giving them an opportunity to be heard, to appoint some person to receive the whole or a competent part of the Tolls or sums liable to the payment of such interest, or principal and interest, until the same, together with all costs, including the charges of receiving the Tolls or sums aforesaid, shall be fully paid; and upon such appointment being made, all such Tolls and sums of money as aforesaid, shall be paid to, and received by the person so to be appointed, and the monies so to be received shall be so much money received by, or to the use of the party or parties to whom such interest or principal and interest shall be then due, and on whose behalf such Receiver shall be appointed, and after such interest or principal and interest and costs shall have been so received, the power of such Receiver shall cease; Provided always, that during the possession of any such Receiver, it shall be lawful for the said Court of Chancery from time to time, on the application of any creditor or creditors of the said Railway Company under any such security as aforesaid, whose interest or principal, or both shall be in arrear by order to direct that such last mentioned creditor or creditors shall be entitled to the benefit of such Receivership from the time of the service of the same order on such Receiver, and upon such order being so made, and served on such Receiver, the creditor or creditors mentioned therein, shall thenceforth be entitled to the benefit of such Receivership in the same manner, as if he or they had joined in the original application for the appointment of the Receiver.

Receiver of Rates and Tolls to be appointed in certain cases.

How appointment may be enforced.

Proviso.

V. Provided always, and it is hereby enacted and declared, That every appointment of a Receiver to be made as aforesaid, and also every mortgage or other specific lien or charge on all or any part of the present or future property, Tolls or credits of the said Railway Company shall be subject to the right of the said Canada Company under the said Mortgage Deed to enter upon, take possession of, or otherwise deal with the property included in or charged by the said Mortgage, or expressed or intended so to be, and if the said Canada Company shall think fit to have a Receiver of the Tolls and profits of the said undertaking appointed on their behalf, as such Mortgages, the said Canada Company may apply to the Court of Chancery and procure the dismissal of any Receiver appointed by the said Court as aforesaid, in a summary manner and without suit; Provided, nevertheless, that the said Mortgage Security to

Rights of Canada Company with respect to such Receiver, &c.

Proviso.

the said Canada Company shall be held and enforced by the said Canada Company, in trust for the benefit not only of the said Bondholders, to the amount of £275,000 sterling, but also of the holders of all other bonds, debentures or securities of the said Railway Company, which shall be lawfully issued by the said Railway Company, and shall 5 be expressed to be issued or made on the security of the said Mortgage rateably and in proportion to the sums, which for the time being shall have become actually due and payable thereon for interest, or principal, or both.

Certain privileges enforced by virtue of Railway Clauses Consolidation Act not affected by Toronto and Guelph Railway Act of 1851.

VI. And be it declared and enacted, That the third Clause of the Toronto and Guelph Railway Act, 1851, or any thing in that Clause or in this Act expressed, does not in any respect take away, lessen, restrict prejudice, or otherwise affect any of the powers, authorities, indemnities, rights and privileges which are granted and conferred by and may be had exercised and enjoyed by virtue of the Incorporation with that Act, of such of 15 the Clauses of the Railway Clauses Consolidation Act, as in and by the 4th Clause of the "*Toronto and Guelph Railway Act*," 1851, are expressed to be and are incorporated with that Act.

Six Directors to retire annually.

VII. And be it enacted and declared, That at the next annual general meeting of the said Company, and at every annual general meeting 20 thereafter, six of the thirteen elected Directors of the said Company shall annually retire in rotation, the selection of the first six to retire being decided by lot, or in such other manner as shall be provided by the Directors of the said Company by a rule or regulation in that behalf to be passed, but the Directors so from time to time retiring shall be eligible for 25 re-election; and all votes hereafter to be given at annual or general or special meetings of Proprietors in respect of the stock subscribed, or hereafter to be subscribed, by Municipal Corporations, shall be given by the Mayor or Reeve of such Municipal Corporations respectively, under and subject to such resolutions as shall from time to time in that behalf 30 be made by such Municipal Corporations respectively; And be it and it is hereby further enacted, That it shall and may be lawful for the Directors of the said Company for the time being; to issue shares for stock to be subscribed in England, or elsewhere, in such amounts respectively of sterling money of Great Britain as to such Directors shall from time to 35 time seem fit, and to make the dividends thereon payable in like sterling money in England, or elsewhere, at such place or places as to such Directors shall from time to time seem fit, and to regulate from time to time the number of votes which the holders for the time being of such shares to be issued in England, or elsewhere, shall have respectively relatively 40 to the amount of stock held by the respective Proprietors for the time being of such shares to be issued in England, or elsewhere, and in the proportion which the amounts of a share issued in Canada shall bear to the amount of a share issued in England, or as near as possible thereto as the difference between currency and sterling will permit; and from time 45 to time to appoint agents of the said Company in England, or elsewhere, and to delegate to such agents such powers as to the Directors of the said Company shall from time to time seem fit, and to make such rules and regulations as to the Directors of the said Company shall from time to time seem fit, as to the issuing of such shares in England, or elsewhere, 50 and as to the mode, time, and place or places of transfer of such shares, and as to the mode, time and place of paying the dividends from time

Directors may issue shares to be subscribed in England or elsewhere.

May appoint agents.

ro time to accrue thereon, and otherwise, as shall be deemed requisite or beneficial for giving full effect to the power hereby vested in the Directors of the said Company in respect of issuing such shares in England or elsewhere.

5

VIII. And be it enacted and declared, That all calls upon the Capital Stock of the "*Toronto and Guelph Railway Company*," already made, or which hereafter shall be made, the amount of which respectively has been prescribed, or which hereafter shall be prescribed by any By-law passed or to be passed at a general meeting of the Shareholders of the said Company, and of which due notice shall have been given in accordance with the provisions of the Railway Clauses Consolidation Act shall be, and the same are hereby declared to be good and valid calls in the same manner as if the maximum limit of the amount of such calls respectively had been prescribed in the said Act, intituled "*An Act to incorporate the Toronto and Guelph Railway Company*," or in this Act.

All calls upon Stock of Toronto and Guelph Railway Company to be valid.

IX. And be it enacted, That this Act shall be construed as if the same formed part of the said Act intituled "*An Act to incorporate the Toronto and Guelph Railway Company*," and that the several Clauses of the Railway Clauses Consolidation Act, mentioned in the 4th Clause of the said Act to incorporate the "*Toronto and Guelph Railway Company*," shall be, and the same are hereby declared to be incorporated with this Act, and that in reciting for any purpose the said Act to incorporate the "*Toronto and Guelph Railway Company*," it shall be sufficient to use the expression, "*the Toronto and Guelph Railway Act*." And in reciting this Act it shall be sufficient to use the expression, "*the Toronto and Guelph Railway Amendment Act, 1852*."

Construction of this Act.

XI. And be it enacted and declared, That it shall and may be lawful for the said "*Toronto and Guelph Railway Company*," to extend their said Railway from the Town of Guelph, and to construct a single, double, or other line of Railway westerly, from the said Town of Guelph through the Village of Stratford to the waters of Lake Huron at the Port of Goderich, and also from the said Village of Stratford to the waters of the river St. Clair, at the Port of Sarnia, and to make and erect all necessary erection, works and buildings for the proper use and enjoyment of such extensions, and for that purpose to raise in such manner by loan, subscription of stock, issuing of shares or otherwise as to the Directors of the said Company for the time being, shall seem fit a further sum of £ Provincial currency, or such further amount of Capital as shall from time to time be deemed to be necessary for the proper and efficient construction, maintenance and working of such extensions respectively; and that all Clauses of the Railway Clauses Consolidation Act which are incorporated with, or made part of the said Act Incorporating the "*Toronto and Guelph Railway Company*," and which are incorporated with or made part of this Act for the purpose of or in relation to the said Railway from the City of Toronto to the Town of Guelph shall be, and the same are hereby declared to be incorporated with this Act for the purpose of the constructing, maintaining and working the extensions by this Clause, authorized to be constructed westerly as aforesaid from the Town of Guelph, and that all the powers, authorities, indemnities, rights and privileges which from and after the passing of this Act, shall and may be had, exercised and enjoyed by the said

Company may extend their Railway.

En. powered to raise a further sum.

"*Toronto and Guelph Railway Company*," and the Directors thereof respectively in respect of the Railway authorized to be constructed by the said Company, from the City of Toronto to the Town of Guelph, shall be had, held, exercised and enjoyed by the said Company, and by the Directors thereof respectively, for the better and more effectual constructing, 5 maintaining and working the extensions by this Clause authorized to be constructed westerly from the said Town of Guelph, in the same manner, and to the same extent as if such several and respective powers, authorities, indemnities, rights and privileges were herein separately, severally, distinctly and at large re-enacted or declared in respect of or 10 for the purpose of or in relation to the constructing, maintaining and working the said respective extensions by this Clause authorized to be constructed or intended so to be.

Public Act.

XI. And be it enacted, that this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges 15 Justices and others.