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1st Session 5th Parliament, 18 Victoria, 1854.

(PRIVATE BILL.)

BILL.

**An Act to amend the Act incorporating
the Brockville and Ottawa Railway
Company.**

Received and Read, First time, Tuesday, 26th
Sept., 1854.

Second Reading, Thursday, 28th Sept., 1854.

MR. CRAWFORD.

QUEBEC :

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

An Act to amend the Act incorporating "The Brockville and Ottawa Railway Company."

WHEREAS since the passing of the Act of the sixteenth year of Her Majesty's reign intituled "An Act to incorporate the Brockville and Ottawa Railway Company," the said Company have in pursuance of the provisions of the Railway Clauses Consolidation Act, increased the Capital of the said Company to twelve hundred thousand pounds Currency. And whereas it is desirable to have such increase sanctioned by express Legislative Enactment—Be it therefore enacted &c., as follows :

I. The Capital Stock of the said Company shall be, and is hereby declared to be the sum of twelve hundred thousand pounds Currency, divided into shares of Five pounds each, and shall be taken and considered to have been so increased from the time it was so increased by the said Company as aforesaid, 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.

Preamble.
Amount of Capital Stock declared.

II. And be it enacted and declared that the said Company shall have full power and authority to construct a continuation of their Railway to some point on the Georgian Bay or Lake Huron, not further south than the mouth of the Severn, or, if deemed more advisable to construct a Branch of their said Railway from some point on the Main Line or any of its branches to the said Georgian Bay or Lake Huron as aforesaid, also to construct a Branch of their said Railway from some point on their Main Line, south of the Rideau, to Newborough and Westport on the Rideau Canal or some point at or near those places ; also to construct a Branch of their said Railway from the same or some other point on their Main Line south of the Rideau, to the Rideau River or Canal at or near Merrickville, in the Township of Wolford, also to construct a Branch of their said Railway from some point North of the Rideau to some point in the Township of Goulbourn at or near Richmond, also to construct from time to time from the Main Line or any of its Branches as to the said Company shall seem advisable, such other Branches, each not exceeding ten miles in length as the said Company may require. And that for the construction, maintenance, and user of said Branches or continuations as aforesaid, and each and every of them, and every matter and thing connected therewith, the said Company shall have the same rights, powers, and privileges as are already vested in them by the Special Act, and the Clauses of the Railway Clauses Consolidation Act incorporated therewith, in like manner as if the power to construct such continuation and Branches had been embodied in the said Act hereby amended, incorporating the said Company, and that the said Company shall have the right to construct said continuation and branches by sections or in such other manner as they may deem most advisable,

Power to Company to construct continuation of and branches to Railway.

Clauses of Railway, Clauses consolidation Act to apply to such continuation and branches.

Power to own
steamboats
and vessels.

so that the construction of any one or more sections or parts of the same shall not make it compulsory on the said Company to construct the remainder, until in their discretion it shall seem expedient to do so. And that the said Company shall have power to build or purchase, own, hold, use, or otherwise dispose of, as to them shall seem best for the interests of the said Company, one or more Steamboats or other vessels to ferry and ply on the waters of the Ottawa or St. Lawrence, in connection with or for the use of the said Company or their Railway, and in like manner to build, purchase, have, hold, use, or otherwise dispose of, Steamboats and other vessels to ferry and ply upon the waters of the Georgian Bay or Lake Huron, in connection with the terminus thereon, and to use, ply and navigate such Steamboats and other vessels as aforesaid upon all or any of the Lakes or rivers or waters lying between the several termini of their said Railway or of any of its Branches or continuations or connecting therewith or any of them, and to use and navigate such boats and vessels and such others as the said Company shall see fit to employ in the carriage of freight and passengers in connection with the said Railway or any of its Branches or continuations as aforesaid or otherwise, upon any of the waters, Lakes or rivers of this Province, and from or to any Port or Ports of the United States or 20 of the British Provinces in North America.

Company em-
powered to
unite in con-
struction of
Bridge over
the St. Law-
rence.

III. And be it enacted and declared, that it shall and may be lawful for the said Company and they are hereby empowered to unite with any other person, company, or body politic, foreign or otherwise, to construct a Suspension, Tubular or other Bridge across the River St. Lawrence, at or near Brockville, with the necessary approaches thereto with macadamized or other roads, and to connect the same with their said Railway, or any other Railway or road now or hereafter to be made, and shall have the same powers, rights, and privileges as to taking lands and other matters incidental to the construction and maintenance of said Bridge and the approaches thereto, as are now vested in them for the construction of their Railway.

Company may
demand tolls
for use of said
bridge.

IV. And be it enacted and declared that whenever the said bridge shall be completed and its safety fully tested and the fact certified by a resolution of the board of Directors of said Company, the said Company may erect a gate or gates, and determine and establish by By-law in like manner as they are now authorized respecting their railway, the rates of tolls to be demanded and taken for the use of the said bridge, and that if any person or persons shall forcibly pass any gate without having paid the legal toll, such person or persons shall forfeit and pay to the said Company a sum of not less than two pounds and not exceeding twenty pounds Currency to be received in like manner as other penalties or forfeitures under the special Act or the Railway Clauses Consolidation Act.

Company may
make rules as
to manage-
ment of said
bridge.

V. The said Company shall have power to make such rules and pass such By-laws as they shall think reasonable and proper with suitable penalties (not exceeding in any case Twenty Pounds Currency) touching the speed in passing over said bridge, the weight to be admitted thereon at any one time, and such other matters as they may think requisite for the proper management and control of the said bridge, which rules as well as the rates of toll shall be plainly printed or painted and put up on or near each gate in a conspicuous place; and such penalties if incurred shall be recoverable in like manner as hereinbefore provided as to other penalties.

VI. And whereas under the provisions of the Act of this Province Recital. passed in the Sixteenth year of Her Majesty's reign intituled "*An Act to establish a consolidated Municipal Loan Fund for Upper Canada.*" The several Municipalities hereinafter named have passed By-laws, respectively authorizing the loan to the said Company towards the construction of the said railway of the following amounts, that is to say; The Town Council of Brockville, one hundred thousand pounds Currency, the Municipality of the Township of Elizabethtown, fifty thousand pounds Currency, and the Municipal Council of the United Counties of Lanark and Renfrew, two hundred thousand pounds Currency: And whereas such Loans were respectively authorized to be made upon condition that the said Company should assume all the liabilities of the said Municipalities in respect thereof under the said Loan Fund law, and should indemnify and save harmless the said Municipalities respectively in the premises, and that the road, tolls, revenues and other property of the said Company should stand mortgaged and pledged to the said Municipalities respectively in preference to all other creditors; And whereas a mortgage bearing date the seventh day of March one thousand eight hundred and fifty four has been executed by the said Company to the said several Municipalities in common, purporting to give them the security hereinbefore named. And whereas the right of way not having been acquired at the time of the execution of said mortgage, doubts have arisen as to the sufficiency of said security at Law, and it is desirable and the wish of the said Company to have affirmed the validity of said mortgage, and to have such security defined by Legislative enactment with a view of securing the said Municipalities respectively as fully as possible: Be it therefore enacted that the said intended Railway from Brockville to Pembroke including the Branch to Perth, and all the works of the said Company thereon, now or hereafter to be made, together with all stations, buildings, carriages, engines and other property attached or to be attached to or belonging to the said intended Railway, and branch and all the revenues and tolls of the said intended Railway and branch are hereby declared to be mortgaged, and pledged, to the said Municipalities respectively, in preference to all other Creditors (in such manner as that no one Municipality shall have preference or priority over another; but shall all share alike and in proportion to the amounts of their said loans respectively, so authorized to be made as aforesaid and in manner as provided by the said mortgage) for the redemption and repayment of the said loans respectively, according to the terms of the said By-laws, and the provisions of the said consolidated Municipal Loan Fund Act, and in accordance with the terms of the said mortgage; And the said mortgage so made as aforesaid for securing the same is hereby declared to be good, valid and obligatory upon the parties thereto, according to the tenor and purport thereof, and the same and the said mortgage and pledge, hereby made, is hereby declared to be the security named in the said By-laws respectively, which was to be completed in due form of law prior to the granting such loans respectively, and the said several Municipalities are hereby respectively authorized and required by their respective heads, to make and complete said loans to the said Company in accordance with the loans of said By-laws respectively.

Railway works and property belonging thereto, declared mortgaged to certain Municipalities.

Municipalities to share alike according to amounts of their respective loans.

VII. And whereas the Municipality of the Township of Welford has Recital. in like manner passed a By-law under the said Loan Fund Act, authorizing a Loan to the said Company, of twenty five thousand pounds, currency, to aid in the construction of the said Branch to Merrickville; the said Branch and its tolls revenues and other property to be mortgaged to the said Municipality for the repayment of the said Loan, ac-

Branch to
Merrickville
and property
declared mort-
gaged to Mu-
nicipality of
Wolford.

ording to the provisions of the said Loan Fund Act and the terms of said By-law; Be it therefore enacted, That the said Branch to Merrickville and the tolls, revenues and other property thereof, and appertaining thereto, are hereby declared to be mortgaged and pledged to the said last mentioned Municipality in preference to all other creditors for the 5 redemption and repayment of the said Loan, according to the terms of the said By-law, and the provisions of the said Loan Fund Act, and such mortgage hereby made is hereby declared to be the security named in the said By-law, which was to be completed in due form of Law, prior to the granting such Loan, and the said Municipality by its head 10 is hereby authorized and required to make and complete the said Loan to the said Company in accordance with the the terms of their said By-law.

Recital.

VIII. And whereas the said Company have executed under their corporate seal sundry Bonds, bearing date the second day of January, one thousand eight hundred and fifty four, for the sum of one hundred 15 pounds sterling, each, payable twenty years after date. And whereas the said Bonds on their face purport to be Debentures of a certain class, namely, Second Class Debentures, limited in issue to Three Hundred and Fifty Thousand Pounds, sterling, and to be a second charge upon the Road, Tolls, revenue and other property of the said Company, subject 20

Recital.

to the said first charge in favor of the said Municipalities. And whereas it is the intention of the said Company to issue Bonds as aforesaid forming such second charge as aforesaid, to the extent of not exceeding Three Hundred and Fifty Thousand Pounds, sterling; and it is expedient to affirm the validity, negotiability and security of the said Bonds 25 of the said Company, executed or to be hereafter executed, with such second charge as aforesaid; and also, to affirm the validity, negotiability and security of any further Bonds which may be executed by the said Company, not exceeding in the aggregate the amount of their Capital, for the time being: Be it therefore enacted, that the said second 30 class Bonds now or hereafter to be executed and issued by the said Company, shall and are hereby declared to be valid and binding upon the said Company, according to the tenor and purport thereof respectively, and that all Bonds, Debentures and other securities of the said Company may be made payable to bearer, and that the said Bonds which have 35 been so executed as aforesaid, and all future Bonds, Debentures and other securities of the said Company, and all dividend or interest, warrants or coupons thereon respectively, which shall 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 40 being, in their own names.

Second class
bonds declared
valid as such
may be made
payable to
bearer, and be
assigned at
law by deliv-
ery.

Holders of
2nd Class
Bonds to re-
ceive amounts
thereof sub-
ject to first
charge in fa-
vor of Muni-
cipalities.

IX. The respective *bond fide* holders of said second class Bonds so executed, or to be hereafter executed, and issued by the said Company as aforesaid, shall be entitled, one with another, to their respective proportions of the tolls, revenues and other property of the said Company, 45 according to the respective sums in such second class Bonds named, (subject however to said first charge in favor of the said Municipalities as hereinbefore provided,) and to be repaid the principal and interest moneys thereby secured, without any preference one above another, by reason of the priority of the date of any such Bond, and that such second 50 class Bonds shall and are hereby declared to be the second charge upon the said roads, tolls, revenues and other property of the said Company, subject to said first charge, according to the tenor and terms of the said second class Bonds respectively: Provided that this enactment shall not operate either to accelerate or delay the right of the holder of any such 55

Proviso, as to
right of holder

Bond, to demand and enforce payment of the principal moneys thereby secured, on the day or respective days therein mentioned for the payment thereof, and that the registry laws shall not be held to apply to any Bonds, mortgages or securities made or given, or hereafter to be made or given by the said Company, but that the record, entry or register thereof in the minutes or other books of the said Company shall be a sufficient registry thereof.

to enforce payment on day mentioned therein.

X. The respective *bond fide* Bondholders and Mortgagees of the said Company, under any bonds, debentures, mortgages, or other special securities to be hereafter lawfully executed by the said Company, within the limit of their Capital subscribed, shall be entitled one with another to their respective proportions of the tolls and other property of the said 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 the priority of the date of any such security, or of the resolution by which the same was authorized or otherwise howsoever, subject however to such first and second charges as aforesaid, and subject also to any class charges previously created as hereinafter provided; provided that this enactment shall not operate 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: Provided always, that it shall be lawful for the said Company to create class charges or securities, similar to such second class Bonds hereinbefore named, and similarly limited in issue, which, subject to any previous charges created, shall take priority according to the order of their creation, but the holders of which, as among themselves, shall have no priority as aforesaid, except that which their class confers.

Bondholders and mortgagees of Company to rank one with another, as to receipt of tolls, &c. of Company and as to payment of bonds and mortgages.

Provido Company may create class securities similar to second class bonds.

XI. If any interest or principal due on any such security as aforesaid be not paid by the said Company, on the day and at the place appointed for payment thereof, then and 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 Five thousand pounds, or if his debt do not amount to the sum of Five thousand pounds may in conjunction with other creditors of the said Company holding any such securities, whose debts on such securities being so in arrear after such demand as aforesaid, shall, together with his, amount to the sum of Five thousand pounds, 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 moneys 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 Chan-

Holder or jointholder whose arrears of debt amount to £5000 may have a receiver of tolls appointed on their behalf by Court of Chancery.

Moneys received to go to parties by whom such receiver was appointed.

Provido, other creditors may

on application be entitled to the benefit of such receiver.

every from time to time on the application of any creditor or creditors of the said 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 service of the same order on such receiver, and upon such order being so made, and served on such receiver, he being then in power, 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. Provided always that every appointment of a receiver to be made as aforesaid shall be subject to the rights of the said several Municipalities under the said mortgages, to enter upon, take possession of, or otherwise deal with the property thereby charged, in accordance with the terms thereof and the rights and powers hereby conferred.

Provision, appointment of receiver to be subject to hypothecary rights of municipalities.

Directors of Company may issue shares for Stock to be subscribed in England.

XII. 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 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 from time 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, and as to the mode, time, and place of paying the dividends, from time to 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. And that the holders of such shares shall be entitled to vote thereon, according to the number of shares, in currency, as near as may be to which such shares would be equivalent, omitting all fractions.

English shareholders entitled to vote thereon.

Number of Directors to be fifteen.

XIII. Notwithstanding anything in the said special Act of Incorporation of the said Company contained, limiting the number of Directors and their quorum; the number of Directors to be annually elected for the future, shall be Fifteen instead of Twelve, and that the number of Directors which shall form a quorum for the transaction of business, may be regulated by the By-laws of the Company, the present quorum, however, to remain until changed by By-law as herein provided.

Company empowered to construct line of Telegraph.

XIV. The said Company are hereby authorised and empowered to construct a line or lines of Telegraph, Electric or otherwise, along their said intended railway and its continuations and branches, or any of them, or any part or section thereof, from and to any point or points thereon, as to the said Company shall seem advisable, for the more convenient and effectual working of the said railway and carrying on the operations and business thereof, and the said Company shall have power to purchase, receive and hold and convey such real estate as may be necessary for the convenient transaction of the business and for the effectually carrying on the operations of the said Telegraph line or lines, and may appoint such officers and agents and make such prudential rules and regulations and By-Laws as may be necessary, or by them deemed advisable in the transaction of the business thereof, not

inconsistent with the laws of this Province: And the said Company shall generally have and are hereby invested with all the powers, rights and privileges respecting such Telegraph line or lines and the management thereof, as are now vested in Electric Telegraph Companies under
 5 and by virtue of the fifth, sixth and eleventh Sections of a certain Act of this Province, passed in the sixteenth year of Her Majesty's reign, intituled "*An Act to provide by one general law for the incorporation of Electric Telegraph Companies,*" in like manner as if said Company had been an association incorporated under said last mentioned Act. Certain sections of Act 16 Vic. cap 10, to apply to such Telegraph line.

10 XV. Deviations of not more than two miles from the line of the Railway or any of its branches or continuations, or from the places assigned thereto in the maps or plans and books of reference or any of them, required by and filed according to the provisions of the Railway Clauses Consolidation Act, shall be allowable and permissible to and by the
 15 said Company in such special cases as to them shall seem expedient. Deviations of not more than two miles from line of Road permitted.

XVI. This Act shall be deemed a public Act, and shall be judicially taken notice of as such by all Judges, Justices and others, and that all laws and provisions of law inconsistent herewith or repugnant hereto are hereby repealed. Public Act.