

#### NORTH GREY RAILWAY COMPANY.

Mr. SCOTT (Grey) moved the third reading of the Bill to incorporate the North Grey Railway Company.

Carried.

#### STREETSVILLE AND PORT CREDIT RAILWAY COMPANY.

The House went into Committee—Mr. Gow in the chair—on Mr. Coyne's Bill to incorporate the Streetsville and Port Credit Railway Company.

The Committee rose and reported the Bill with an amendment.

The Bill, on the motion of Mr. Coyne, was then read a third time and passed.

#### OAKVILLE, MILTON AND GUELPH RAILWAY COMPANY.

The House went into Committee—Mr. Lauder in the chair—on Mr. Barber's Bill to incorporate the Oakville, Milton and Guelph Railway Company.

Mr. BOYD took exception to a clause of the Bill which related to the capital of the company. He said that the capital was authorized to be \$350,000, while the clause, if passed, would allow operations to be commenced on \$10,000. He thought that this sum here no just proportion to the capital of \$350,000.

The clause was passed.

Mr. BOYD said that at another stage he would take the sense of the House on the clause.

The committee rose and reported the Bill without amendment. The Bill was ordered to be read a third time to-morrow.

#### THE GOODHUE ESTATE.

Hon. Mr. CARLING moved the House into committee on the Bill to confirm the Deed for the Distribution and Settlement of the estate of the Honourable George Jervis Goodhue, deceased.

Hon. Mr. RICHARDS moved in amendment that the Speaker do not now leave the chair, but that the Bill be referred to committee of the whole, to be reported on this day three months. He said that there was a large amount involved in the Bill, but there was also the principle involved whether the House should alter the will of a testator. The deceased, Mr. Goodhue, died on the 11th of January, 1870, possessed of about \$600,000; he made his will on the 8th of December previous. The deceased made six settlements, in which he disposed of part of his property, and a will, in which he disposed of the rest of it. The settlements and will were made contemporaneously. In the will \$30,000 was left to the five daughters of the deceased, and \$22,000 to his son. The daughters were all married, and had children; but he (Hon. Mr. Richards) could not say if the son, who was married, had any. This money was left with two trustees, and, invested at seven per cent. would give the daughters some \$2,100 per year each, and the son \$1,540. In case of any of the children dying, the \$30,000 as to go to the other issue of the testator, or their issue. The deceased also left \$6,000 annuity to his widow, and \$400 to his sister-in-law. He (Hon. Mr. Richards) would call the attention of the House to these settlements, and he might also add that the money was invested.

Hon. Mr. CARLING—The will was made for the grandchildren.

Hon. Mr. RICHARDS said that there was substantial provision made for the children. The testator was unwilling to give the children the corpus of the estate, but had made ample provision for them during their lives. He (Hon. Mr. Richards) had no feeling in this matter, but simply wished that all questions of this kind should in future be brought before the regularly constituted tribunals of the land. As regarded the will itself, it only mentioned the children once, and that was in the concluding part of it, where the testator said that the property until the death of his widow should be held in trust, to make good any loss arising out of the investment made for the children and grandchildren. There had been several legal opinions on the will, but he contended that the only tribunal that could pronounce on the matter was one of the tribunals constituted for such purposes. He thought that any of the Superior Courts could decide the matter in ten minutes. It had been said that the children had vested interests in this matter; if so, there was no necessity for coming to the House with this Bill, for the parties interested could come to an understanding amongst themselves. There had been several legal opinions on this subject, but his opinion was,

and he gave it without a fee—(Laughter.)

Hon. J. S. MACDONALD—You don't often do that. (Renewed laughter.)

Hon. Mr. RICHARDS said his opinion was that the interests of the children were not vested but contingent interests; and that the grandchildren had as much right to be considered as the children themselves, and had as much interest in the estate as the children. If the House passed this Bill, it would cut off the rights of the grandchildren in favour of the children, and thus destroy the testator's will. He was of opinion that the House should not interfere in the matter. The testator before his death was in perfect mental condition to make a will, and had frequently stated that his intentions were contained in his will, and that he would not alter it even when it was suggested by the trustees that he should do so.

Mr. CUMBERLAND seconded the motion in fulfilment of a public duty. He would not speak of the question from a legal point, but from the view of common sense. He thought the Bill was subversive of the rights of an individual to dispose of his property according to his will. It was clear that the House was invited to dispose of the property in a different manner to that intended by the testator. The intentions of the will as to the accumulation of the property and the interests of the grandchildren were clearly opposed by the provisions of the Bill. The Bill asked the Legislature to divert the property of a man out of the intended channels. If the intention was to carry out the will, it was not necessary to come to the House at all; but if it was not to do so, then the proper place to go to was the courts of law. He thought that after a life of industry and virtue, a man had a right to dispose of his property according to his desire; but if this Bill was passed it would be better for a man to make his will and bring it before the Legislature during his lifetime and have it decided whether the way in which it was proposed to leave the property was in accordance with public policy, and in a way which would not be altered by future Legislatures. He had not the good fortune to be acquainted with the testator, but he was known to be a man of sound sense, and of honesty and thrift. In his will he provided a fortune for his children, and with a liberality that appealed to all he gave his widow an annuity of \$6,000 a year, and provided that the residue of his estate should be her security. His children being thus provided for when his widow died, the residue was to be divided between those of his issue who were then alive. The course taken was a just and prudent one, and the will was a sound one, though he contended that the House had nothing to do with the question of its soundness. The case of the Theleson will in England was in their view a most unnatural one, but the English House of Parliament refused to alter it, although immediately afterwards it passed a law rendering it impossible to make such a will in the future. He protested against the passage of the Bill. They had no right to cut off the rights of the grand-children. The Bill was an utter usurpation of the power given to a testator.

Mr. BOYD felt some hesitation in offering an opinion on the Bill, not being a member of the bar, but he felt it his duty to give his reasons for voting against the Bill. He believed the Bill to be founded upon a most pernicious principle. The Bill led into a position of danger. Considering the legislation that had already been taken before in this House, he felt in duty bound to record his vote against the Bill becoming law. It seemed that an impression was abroad that the House afforded a means of supplying defects in dead men's wills, to introduce new clauses into them which would have the effect of diverting property from the purposes intended. He thought that it was the duty of the House to erect a barrier in this matter. They had not the legal knowledge and training necessary to qualify them for dealing with such complicated questions as arose on these Bills. If a decision had been rendered in the cause, and the assistance of the House was asked to prevent further litigation, they might step in; but when nothing had been done in this direction, it was unwarranted to call upon the House to decide on the vexed and difficult questions as to which of these legal opinions were correct. What would be the effect of carrying this Bill upon the country? He contended that the effect would be, that contracts and bills, no matter how carefully and shrewdly drawn, would be unsafe. He had yet to be convinced that the late Mr. Goodhue had committed a mistake. The care taken by the testator of his widow, and of the widow

of his deceased son, showed at once that he knew what he was doing. There was no security if the present Bill was carried, and he deprecated the system of lobbying which had been carried on, and the exercise of undue influence upon members of that legislative body.

Mr. LAUDER—Has the hon. member then been unduly influenced?

Mr. BOYD—No, sir. I have not been influenced either by trusteeships or anything else. (Hear.) The undue influence to which he referred was the circulation of pamphlets and other means whereby an attempt had been made to influence the decision of members of a purely legislative chamber. They were sitting in this House as the guardians of the rights of minor children. He was opposed to legislation of this kind on general grounds, and to this Bill on particular grounds. He contended that Mr. Goodhue was well aware of what he was doing. He called the attention of the hon. Attorney-General to the method pursued in England on such questions, where they were referred to the opinion of two judges before they were carried into law.

Mr. RYKERT did not think that the effect of the Bill becoming law would be to induce legislation of this character. After hearing the remarks of the hon. Commissioner of Crown Lands on the legal aspects of the case, he thought all would agree that it was time the question was considered on common sense grounds. The hon. gentleman had asked hon. members to vote against the Bill.

Hon. Mr. RICHARDS—I assert that I have never asked a gentleman to vote against the Bill.

Mr. RYKERT—You have told several members that it is an outrageous Bill, and have argued with them in order to induce them to vote against it.

Mr. RICHARDS—Name.

Mr. RYKERT said he would not name. The advocate style of the Hon. Commissioner suggested the idea that he was retained. (Order.) He supported the Bill chiefly because of the uncertainty of the will, and because he was not violating any vested rights, but was legislating in the direction of doing justice to all parties and in accordance with the views of the testator. It had been alleged that the testator was aware of the effect of the Bill, but it had been shown that six legal gentlemen could not agree as to the effect of it, and it was absurd to say that Mr. Goodhue knew better what was the effect of the wording of the will than these legal gentlemen. Mr. Goodhue could not have thought that his widow would survive his children; and as to injuring the grandchildren, the effect of the Bill was rather to injure the children. He thought if the Legislature could set this matter at rest, they would be doing a good work. Mr. Beecher was equally interested on the one side, as the hairs were on the other. He had at one time expressed his willingness not to oppose the Bill, and when he wrote the letter containing this expression, was he aware of the legal aspects of the will? If hon. gentlemen were satisfied that they were not injuring any one, they were bound to give effect to this Bill. In Sir Henry Smith's case, which was supported by the hon. Commissioner for Crown Lands, by his vote, not only was a new will made, but the House pronounced what was a man's intentions when they had never been expressed.

Mr. SCOTT (Ottawa), thought the Bill was tolerably plain, and did not need any professional knowledge to understand. The provisions of the will first provided for the widow, and then that the property should go to his children who were alive—not to his grandchildren. He did not think that the Legislature would be shocking any moral sense of law by passing the Bill and giving the property to the children, so long as the widow was adequately provided for. If they threw out the Bill, it did not follow that parties would not apply to the Legislature on these questions in the future.

Mr. BEATTY said that he thought that the hon. member for Prescott (Mr. Boyd) was in the habit of looking on measures on the dark side. He considered that the House was not called upon solely to judge of these matters upon legal grounds, but to endeavour to carry out the intentions of the testator. They must consider whether the bill gave effect to the wish of the testator. It appeared to him that it was the intention of the testator to give this residue to the children themselves. It was clear that the testator had no clear idea of the extent of