

New Zealand.



ANALYSIS.

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1882, No. 50.

- Title.** AN ACT to amend "The District Railways Act, 1877," and "The District Railways Act 1877 Amendment Act, 1878."
[15th September, 1882.]
- Preamble.** WHEREAS it is expedient to amend "The District Railways Act, 1877" (hereinafter called "the said Act"), and "The District Railways Act 1877 Amendment Act, 1878" (hereinafter called "the said Amendment Act"):
- BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—
- Short Title.** 1. The Short Title of this Act is "The District Railways Acts Amendment Act, 1882."
- Interpretation.** 2. In this Act, if not inconsistent with the context,—
- (1.) The expression "the said Acts" means the said Act and the said Amendment Act taken collectively:
- (2.) The term "railway" means any railway approved of by the Governor under the said Acts or either of them:
- (3.) The expression "railway district" means a railway district declared to be such under the said Acts or either of them.
- Classification of land in railway district.** 3. The lands comprised in any railway district shall conclusively be deemed to be classified for the purposes of the said Acts and this Act according to the gazetted notice of the classification thereof under section nine of the said Act.

4. Whenever any complete part or section of any railway shall be fit to be used for the purposes of traffic, then and in every such case the Governor may, by notice gazetted, notify that such complete part or section is so fit to be used, and the same may be used accordingly; and the provisions of the said Act with respect to the management of railways shall extend and be made applicable to every complete part or section so notified as fit to be used.

Power to Governor to notify when complete portion of railway fit to be used.

5. A gazetted notification by the Governor that a railway or any complete part or section of a railway, as the case may be, is fit to be used for the purposes of traffic, and of the date on which the same respectively became so fit to be used, shall be conclusive evidence for the purposes of the said Acts and this Act that such railway or such complete part or section of a railway, as the case may be, is so fit to be used, and of the date on which the same respectively became so fit.

Gazetted notification of such completion to be conclusive evidence.

6. The date on which a railway or any complete part or section of a railway was or shall be first opened for traffic, or was or shall be closed or reopened for traffic, may be notified by the Governor by notice gazetted, and such gazetted notification shall be conclusive evidence of the fact and date of such opening, closing, or reopening as aforesaid.

Gazetted notice by Governor of opening or closing of railway to be conclusive evidence.

7. In lieu of the provisions of section seventy-five of the said Act the following provisions shall from the passing of the said Act be deemed to have been and shall hereafter be in force, that is to say: Every company shall be guaranteed interest on the cost of the railway not exceeding seven pounds per centum per annum.

Guarantee of interest on cost of railway by a special rate and a charge on Consolidated Fund.

Provided that in the event of the receipts from such railway not being sufficient to defray the working expenses and charges thereof, such guarantee shall not in any case exceed seven per centum on such cost as aforesaid;

Such interest shall, to the extent of five pounds per centum per annum on such cost, be raised by means of a rate in manner hereinafter provided, and to the extent of the remaining two pounds per centum per annum on such cost shall be a charge upon the Consolidated Fund and payable as provided by the said Act or any amendment thereof.

Every such rate shall be raised upon the direction of the Minister after application for that purpose by or on behalf of the Company; and the Minister may call for and examine such accounts and books as may be necessary to satisfy him that the Company is entitled to raise such rate under this Act.

Such guaranteed interest shall be payable as follows:—

- (1.) On the whole cost of the railway from the date on which the whole railway was or shall be first opened for traffic;
- (2.) In respect only of such period or periods of time as the railway shall remain or be opened for traffic: Provided that no interest shall be payable in respect of any period of time after the expiration of fifteen years from the date when the same first became payable;
- (3.) Whether the railway is or shall for the time being be under the management of the company, or the Governor, or any Receiver appointed under the said Amendment Act.

8. For the purpose of determining the amount of guaranteed interest to be raised or paid in any year, the profits of the company, after paying for the cost of maintenance and the working expenses of the railway, as the case may be, in that year, are to be ascertained as at every thirty-first day of March.

How amount of interest determined.

9. All guaranteed interest shall be raised by rates and paid out of the Consolidated Fund respectively, *pari passu*, in the proportion of five-sevenths raised by rates and two sevenths paid out of the Consolidated Fund.

Proportion in which interest to be paid.

Rate to be levied by the company.

10. The company shall yearly, as and whenever it may be necessary for the purposes of this Act, on the direction of the Minister as aforesaid, forthwith raise, by means of a rate upon all rateable property within the railway district, such sum of money as may be required to make up the whole or the deficiency of interest guaranteed under this Act, and authorized to be raised by means of a rate: Provided that the sum of money to be so raised shall not in any one year exceed five pounds per centum per annum on the estimated cost of the railway.

Powers of company for that purpose.

11. For the purpose of making, levying, and collecting any and every such rate as aforesaid, the company shall be deemed a local body within the meaning of "The Rating Act, 1882," and any Act amending the same or passed in substitution thereof for the purpose of regulating the making and levying of rates; and accordingly the provisions of "The Rating Act, 1882," and of every other such Act as aforesaid, shall extend to and be made applicable and available for the making, levying, and collecting by the company of any and every such rate as aforesaid, but subject to the following express provisions, that is to say,—

- (1.) That it shall not be necessary for the company to make any valuation roll for the purposes of such rate as aforesaid, but it may adopt for those purposes all such valuation rolls of the several local bodies within the railway district as shall be for the time being in force, and the rate may be made on the basis of the valuation rolls so adopted:
- (2.) That a separate rate-book shall be prepared in respect of each of the classes of land into which the railway district shall have been divided for the purposes of this Act:
- (3.) That each rate shall be made payable in two equal instalments, on the thirtieth day of June and the thirty-first day of December respectively, in the year in which it shall be made:
- (4.) That in every case in which the boundary of the jurisdiction of any local body within the railway district is or shall not be coincident with the boundary of the railway district, so that any rateable property within the jurisdiction of such local body shall be intersected by the boundary of the railway district, then the company shall apportion the rateable value of such property, so that such portion thereof as lies within the railway district may be fairly rated for the purposes of the said Acts and this Act; and the company shall insert in each rate-book applicable to such portion of the said property as aforesaid the fact and nature of such apportionment, which shall then be binding to and for all intents and purposes.
- (5.) Every power and authority by this section vested in the company may be exercised by the directors of the company, or such number of them as may be empowered to transact the ordinary business of the company, or such number of directors of the company as may be authorized to do any act or thing necessary to carry out the provisions of this Act.

Amount in pound of rate to vary according to class of rateable property.

12. The amount in the pound of every rate authorized to be levied as before provided shall vary proportionately according to the class in which the rateable property in respect whereof it is made shall be comprised under the classification of lands for the purposes of the railway district, but so that the amount in the pound levied shall not exceed in respect of each class that proposed by the company in respect thereof under the eleventh section of the said Act.

Cost of levying rate to be borne by company.

13. The costs, charges, and expenses of making, levying, and collecting every such rate as aforesaid shall be borne and paid by the company on whose behalf

the same was made; and the amount of such costs, charges, and expenses shall, for the purpose of determining the amount of guaranteed interest to be raised in any year, be deemed part of the working expenses of the railway for the year immediately succeeding that in which the rate was made.

14. Nothing in this Act shall deprive any company formed under the said Act or the Amendment Act of any rights which it may possess immediately before the coming into operation of this Act. Existing rights of companies preserved.

15. All moneys received by the company under any such rate as aforesaid shall be applied, first, in or towards payment of the costs, charges, and expenses of making, levying, and collecting such rate; secondly, in or towards payment of all existing arrears (if any) of principal or interest secured by any mortgage-debenture or coupon issued by the company; and the surplus, if any, shall be retained by such company in order to be applied to any future deficiency. How moneys applied.

16. Sections seventy-six, seventy-seven, seventy-eight, eighty-one, and eighty-four of the said Act, and section nine of the said Amendment Act, are hereby repealed. Repeal.

17. The aforesaid charge on the Consolidated Fund shall be paid thereout from time to time by the Colonial Treasurer upon the application of the company claiming to be entitled thereto, and upon proof to the satisfaction of the Colonial Treasurer that the company is so entitled. Charge on Consolidated Fund, how paid.

18. Section eleven of the said Amendment Act shall be read, construed, and have effect for all intents and purposes therein mentioned as if the words "six pounds per centum" had been originally inserted therein in lieu of the words "five per centum," wherever such last-mentioned words occur in the said section. Amendment of section 11 of Amendment Act.

19. The period within which debentures may be made repayable under the said Amendment Act may be either ten, fifteen, twenty, or thirty years, and any debentures issued or that may hereafter be issued under the said Amendment Act or this Act may be renewed for any term or period, but so that the total currency of any such debenture shall not (including any renewal) exceed thirty years from the original issue hereof. Period within which debentures repayable.

20. For the purpose of computing, under the fifteenth section of the said Amendment Act, the time at which a mortgage-debenture shall be repayable, any day not being later than six calendar months from the day on which the corporate seal of the company is affixed to the debenture may be adopted by the company as the date of issue, and shall be deemed the date of issue accordingly: Provided that the date (if any) so adopted appear on the face of the debenture. How time computed at which debenture repayable.

21. It shall be sufficient if the signatures of any persons to any coupon heretofore or hereafter issued by any company be lithographed on such coupon or impressed thereon by means of a stamp. What considered sufficient signatures to coupon.

22. Any company which has issued debentures under the said Acts or either of them shall, within six calendar months after the passing of this Act, and any company which shall hereafter issue any debentures under the said Acts and this Act, or either or any of them, shall, within six calendar months after so issuing, furnish the Minister with a written statement of the amount, rate of interest, currency, time of payment, and other the particulars of such debentures respectively, and shall within three calendar months after any interest on any such debenture shall become payable satisfy the Minister by evidence that such interest has been paid. Company issuing debentures to furnish Minister with statement of particulars.

23. In lieu of section twenty-four of the said Amendment Act it is enacted that no claim of any mortgagee or of any creditor of any company shall attach to or be paid out of the public revenues of New Zealand, or by the General Provision in lieu of section 24 of Amendment Act.

Government thereof, further or otherwise than is declared by section seven of this Act.

Amendment of section 29 of Amendment Act.

24. The provisions of section twenty-nine of the said Amendment Act shall be read, construed, and have effect to and for all intents and purposes as if, in lieu of the words "money so secured," where the same first occur in the same section, the words "principal moneys or interest secured by any mortgage, or any part thereof respectively," had been originally inserted therein.

Amendment of section 31 of Amendment Act.

25. The provisions of section thirty-one of the said Amendment Act shall be deemed to include all charges or moneys which under this Act may be paid to a company by the Colonial Treasurer out of the Consolidated Fund.

If Governor purchases railway charged with mortgage, interest on same to be paid out of consolidated revenue.

26. If the Governor, in exercise of the power of purchase conferred by section fifty-six of the said Act, purchase the railway-works, plant, rolling-stock, implements, rights, powers, and privileges of any company, and if the premises so purchased or any part thereof shall at the time of such purchase be charged with any principal moneys borrowed by the company and not then due, then and in every such case the interest to accrue on such principal moneys from and after the completion of such purchase shall be borne by and paid out of the consolidated revenue of the colony, and the company shall be indemnified from and against all liability in respect of such principal moneys and interest.

Provisions affecting forms in Schedules to Amendment Act.

27. The following provisions shall apply to the several forms set forth in the Schedules to the said Amendment Act, whenever such forms respectively shall hereafter be used, that is to say,—

- (1.) Debentures and coupons and certificates under the twentieth and twenty-first sections of the said Amendment Act shall be expressed to be under the said Acts and this Act.
- (2.) The guarantee of interest referred to in debentures and coupons may be referred to as such guarantee of interest as is contained in this Act.
- (3.) Debentures and coupons shall be expressed to be made subject to the provisions of this Act as well as those of the said Acts.

Railways approved by Governor.

28. The railways respectively constructed or proposed to be constructed by the following duly-incorporated companies, that is to say,—

The Duntroon and Hakateramea Railway Company (Limited),
 The Rakaia and Ashburton Forks Railway Company (Limited),
 The Waimate Railway Company (Limited),
 The Waimea Plains Railway Company (Limited),

have respectively been duly approved of by the Governor, and are within the meaning of the said Acts and this Act.