

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES and having this day passed as now printed is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
2nd October, 1877.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

(Hon. Mr. Ormond.)

District Railways.

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A BILL INTITULED

AN ACT to provide for the Construction of District Railways by Joint-Stock Companies formed for the purpose of constructing such Railways. Title.

WHEREAS it would facilitate the opening of railway communication in parts of the colony where railways do not now exist, and would conduce to the more speedy settlement of the colony, if provision were made enabling joint-stock companies to construct and maintain railways in accordance with the provisions of this Act: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "The District Railways Act, 1877," and it shall come into operation on the first day of January, one thousand eight hundred and seventy-eight. Short Title.

2. Upon the coming into operation of this Act "The Railway Companies Act, 1875," shall be and the same is hereby repealed; but this repeal shall not affect anything done by any company under the said Act for or in respect of any railway or other works constructed or in process of construction under the said Act, and with respect to all such railways the provisions of the said Act shall be and remain in full force and operation. Repeal of "The Railway Companies Act, 1875."

3. The following words and expressions used in this Act, and any Act wholly or partially incorporated herewith, shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction, that is to say,— Interpretation.

"The company" means any company formed and duly incorporated under "The Joint-Stock Companies Act, 1860," or any other Act for the time being in force providing for the incorporation of joint-stock companies, for the purpose of constructing a railway under this Act; and if the company, under the powers herein contained, assign the railway to any person, then the expression "the company" shall mean the person to whom such company shall, under the powers herein contained, assign the railway, and shall then and thereupon cease to mean the said company.

"Minister" means the Minister for Public Works appointed under "The Public Works Act, 1876," as therein defined.

"District" means a district declared a railway district for the purposes of this Act.

"Land" includes messuages, lands, tenements, and hereditaments of any tenure, and any estate or interest therein.

"Plan," "section," and "book of reference," mean the plan, section, and book of reference respectively of the proposed railway to be deposited as hereinafter provided.

"Railway" means any railway, including all works connected therewith, which may be proposed to be or may be constructed by or under the provisions of this Act from a given point or place to another given point or place in a district, and includes the right to construct and maintain the same, and, where not inconsistent with the context, all the powers and privileges belonging and appertaining thereto.

"Local governing body" includes the Councils of a borough or county as herein defined, and includes any Road Board,

trustees, persons, or body (howsoever designated), having the control or management of roads or highways in a road or highway district constituted under any Act or Ordinance.

“Ratepayers” mean the persons for the time being entitled to vote at any election of the members of a local governing body as herein defined. 5

“Borough” means a borough constituted under “The Municipal Corporations Act, 1876,” and includes a corporation constituted under any other Act or Ordinance providing for the constitution of Municipal Corporations, and also any Town Board, trustees, or persons (howsoever designated) having the management and control of the local affairs of any town under any Act or Ordinance. 10

“County” means a county established under “The Counties Act, 1876,” and “County Council” means the Council of any such county. 15

“Gazette” means the New Zealand Government Gazette and “Gazetted” means published in such Gazette.

When a thing is required to be “publicly notified,” or when “public notice” of anything is to be given, it is meant that a notice thereof shall be published in some newspaper circulating in the railway district in which such thing arises or to which it relates. 20

Clause 4 erased.

4. Every company formed for the purpose of constructing a railway or railways under the Act hereby repealed may, by a resolution to be passed at a special meeting of the shareholders of the company, held in such manner as by any law in force and by the articles of association of the company is provided, declare that such company shall be a company under the provisions of this Act. 25

Upon such resolution taking effect, and upon compliance with the provisions hereinafter contained, such company shall be entitled to all benefits and privileges conferred by this Act, and shall be in all respects subject to the provisions hereof, in as full and ample a manner as if it had been formed subsequently to the passing of this Act, and for the objects herein mentioned; and all contracts and liabilities of every kind entered into in respect of such railway and in force at the time of such resolution taking effect shall continue to subsist, and may be enforced and carried out under the provisions of this Act. 30 35

AUTHORITY TO CONSTRUCT RAILWAYS. 40

(1.) *Plans to be Deposited and Notices given.*

§ 4. Whenever any company proposes to construct a railway under this Act, it shall cause the middle line and direction thereof to be set forth on a plan and described in a book of reference, showing the lands required to be taken for the same, and the names of the owners and occupiers of such lands so far as they can be ascertained. 45

Every such plan shall be made on a scale of ten chains to an inch, and shall show the limits of deviation, being a distance of not exceeding one hundred yards on either side of the said line, and passing through, over, or under the several lands, streets, roads, and places enumerated in the said plan and book of reference. 50

§ 5. Copies of every plan and book of reference mentioned in the last preceding section shall be deposited in some public place in each borough (if any) in the district within which the railway is intended to be constructed, and at such other public places as the Governor may determine. 55

Every such plan and book of reference shall be open to public inspection at each such place without any fee, at all reasonable hours,

Company to cause plan of railway and book of reference to be made.

Copies to be deposited.

and, if any person having custody thereof refuses or obstructs inspection thereof, he shall be liable to a penalty not exceeding five pounds.

5 7 6. The company shall, within seven days after the deposit of the plan and book of reference as aforesaid, cause notice thereof to be gazetted, and published in at least two newspapers circulating in the district in addition to any local newspaper printed in such district through which the railway is proposed to be constructed; and every such notice shall be gazetted at least four times, and shall be published at intervals of not more than three days, for four consecutive weeks from the date of such deposit.

Notice of deposit to be gazetted and published.

10 8 7. Copies of every such notice shall be given to each owner or occupier of any land whose name is set forth in the book of reference in the manner hereinafter prescribed by this Act.

Copies of notice to be given to owners and occupiers of land

15 9 8. A notice required by this Act to be sent to any person may be sent to the last-known place of abode or business of such person by messenger or by post.

How notices may be given.

- (1.) If such person is absent from the colony, the notice may be sent to his agent.
- 20 (2.) If such person is not known, or has no known agent in the colony, and the notice relates to any land or buildings, the notice shall be deemed to be sent, if it is affixed in a conspicuous place on or to such land or building.
- 25 (3.) Where a notice is sent by post it must be sent so as to arrive in the due course of post on or before the last day on which such notice is required to be served.

(2.) Railway Districts and Classification of Lands.

30 10 9. In such notice of deposit, or in a separate notice to be published therewith, the company shall state the area it is proposed to constitute a railway district for the purposes of this Act, and shall describe the boundaries of such proposed district.

Area of railway district to be set out in notice.

The company shall also set forth generally in such notice the particulars required by the twelfth section of this Act, and shall state the manner in which it is proposed the lands included in such district shall be classified for the purposes of this Act.

35 11 10. The classification of lands for the purposes of this Act shall be in some one or more of the following classes:—

Classification of lands to be made for rating purposes.

- (1.) Lands receiving or supposed to receive immediate and direct benefit from the construction of the railway.
- 40 (2.) Lands receiving or supposed to receive less direct benefit.
- (3.) Lands receiving only the benefit incidental to or derived generally from the construction of such railway.
- (4.) All other lands (if any) affected.

45 12 11. Within thirty days after such deposit the company shall transmit to the Council of each county, wholly or partly comprised in the proposed district, a notice containing or accompanied by the following particulars:—

Company to apply to County Councils for approval of proposals.

- 50 (1.) A copy of the plan and book of reference and an estimate of the cost of the proposed railway and of the equipment thereof;
- (2.) A statement of the maximum rate of tolls and charges for the carriage of animals, goods, merchandise and passengers, proposed to be charged on such railway;
- 55 (3.) A statement of the maximum rent or charge to be made for the storage of goods, produce, or merchandise;
- (4.) A statement of the minimum number of trains to be run daily;
- (5.) A specification of the rate it is proposed to levy in respect of the various classes of land hereinbefore mentioned

(3.) *Votes of Ratepayers.*

If within sixty days ratepayers in district object to railway, Governor to declare his disapproval of construction.

13 12. Within sixty days from the deposit of the plan and book of reference the votes of the ratepayers resident and owners of property within the proposed district at the time the votes shall be taken, as hereinafter provided, and if one-half the whole body of such ratepayers shall object to the construction of the proposed railway, then the Governor shall declare his disapproval of the construction of such railway a majority of the whole body of ratepayers and owners of property representing more than one-half of the value of the rateable property shall consent to the construction of the proposed railway, then the Governor may, if he shall think fit, declare his approval of the construction of such railway.

Who entitled to vote.

14 13. The votes of the ratepayers and owners of property shall be ascertained in accordance with the provisions of this Act, and such votes shall be calculated on the scale provided by any Act or Ordinance for the time being in force in the district, regulating the manner in which votes may be given by the ratepayers in the election of the local governing bodies wholly or partly included in such district and any regulations made under its authority.

Mode of ascertaining votes.

15 14. For the purposes of this Act the whole of the ratepayers resident and owners of property in the proposed district at the time the votes are taken shall be deemed to be one body, so that the question to be decided under this Act shall be decided by the majority of the votes of such ratepayers and owners of property; but in ascertaining such votes the following provisions shall have effect:—

- (1.) The ratepayers and owners of property in any borough comprised within the proposed district shall vote only within such borough;
- (2.) The ratepayers and owners of property in a road or highway district comprised as aforesaid shall vote only within such road or highway district;
- (3.) Where any part of the proposed district is not included within a borough, or a road or highway district, the ratepayers and owners of property in the county in such part of the proposed district shall vote therein;

New subsections 4 and 5.

- (4.) No ratepayer who is such ratepayer by virtue of his being a tenant or occupier of any land or premises in respect of which he claims to vote under this Act shall be entitled so to vote unless such land or premises is held upon a lease which shall at the time of the vote being taken have not less than three years to run, or of which he has been in possession for three years or upwards next before the date of voting;
- (5.) The Governor may from time to time, by warrant duly gazetted, make general regulations providing for the formation of lists of persons entitled to vote under this Act, and for ascertaining the names and qualifications of persons so entitled, and for the authentication and use of the lists so to be made, and for the appointment, conduct, and duties of persons before whom votes shall be taken, and generally for carrying out and giving effect to the provisions of this Act.

How votes to be taken.

16 15. Subject as aforesaid, the Governor may from time to time, by warrant duly gazetted, order and direct at what times and places, and in what manner and form, the ratepayers and owners of property shall vote within the proposed railway district.

If from any cause it shall not be practicable to take the votes within the period of sixty days hereinbefore mentioned, the Governor

may extend the time for such period as he thinks fit, not exceeding twenty-one days from the expiration of such period of sixty days.

All the costs charges and expenses of and incidental to the taking of such votes shall be paid and payable by the company.

5 The Governor shall be the sole judge whether the provisions of this section have been duly complied with, and may from time to time appoint such person or persons as he thinks fit to ascertain the result of the voting under this Act.

(4.) Application for approval of the Governor.

10 17 16. Within ninety days after the deposit of such plan and book of reference, the company shall make application to the Governor for his approval of the construction of the railway, and shall transmit to the Minister for the information of the Governor a true copy of the plan and book of reference so deposited, accompanied with such documents as may be necessary to explain the same, including an estimate of the cost of the railway and the equipment thereof, signed by some engineer or other competent authority, together with all such particulars as are required by the *twelfth* section hereof.

Application to be made to Governor within ninety days after deposit of plan, &c.

20 The Governor may require from the company such further information as he shall deem necessary to enable him to judge of the necessity for the proposed work and the ability of the company to carry it out; and may require information as to the capital and liabilities of the company, the plant and rolling stock available for the proposed railway, the time when it is proposed to commence and finish the same, and all such further particulars as he may deem necessary.

Governor may require explanatory information.

30 18 17. If, within the period of four months from such deposit as aforesaid, it shall be signified to the company as hereinafter provided that the proposed railway is objected to by the Governor, whether upon taking the votes of the ratepayers and owners as aforesaid, or for any other cause which under this Act the Governor shall think sufficient, the company shall not proceed with the construction of the said railway specified on such plan or book of reference; but if the construction of such railway is approved of, and such approval is signified as hereinafter provided, then the company may proceed with the construction of such railway in accordance with this Act.

If within four months from deposit of plans, &c., the company is informed railway is objected to, it shall not be constructed.

40 19 18. Whenever the Governor shall approve of or object to any proposed railway, he shall, by notice gazetted, declare his assent to or disapproval of the construction of the railway, and such notice, when so published, shall be sufficient notice to the company of such approval or dissent, as the case may be.

How notice of approval or objection to be given to company.

45 20 19. In and by any notice of approval the Governor shall declare the area and boundaries proposed by the company to be a Railway District for the purposes of this Act; and such declaration shall be sufficient evidence of the constitution of such district for the purposes of this Act.

Evidence of the constitution of the railway district.

50 21 20. Notwithstanding anything hereinbefore contained, any company formed for the purposes hereinbefore mentioned may apply to the Governor for leave to construct a railway under this Act as herein-after mentioned, and in any such case the following provisions shall have effect:—

Provisions having effect when a company applies to Governor for leave to construct a railway.

(1.) The company shall comply with the provisions of this Act with respect to the deposit of plans and giving of notice to owners or occupiers of land.

55 (2.) The company need not comply with the provisions of sections of this Act numbered *ten, eleven, thirteen to seventeen* both inclusive, nor with such other parts of this Act as have reference to approval by a County Council of the proposals of a company, or as to the constitution of a

railway-district; but the company shall, upon depositing such plans as aforesaid, transmit in writing to the Council of each county, through which it is proposed to construct the railway, the particulars required by section *twelve*, so far as the same is applicable to the cases herein provided for. 5

- (3.) The Council of each such county, and the ratepayers resident therein, may at any time within thirty days after notice published under section *seven*, present a petition to the Governor praying him not to grant the application of the company. 10
- (4.) Application for approval of a proposal to construct a railway may be made at the expiration of forty days from the date of the publication of notice under section *seven*. 15
- (5.) Before any application is granted, the Governor shall require from the company such security as he shall think sufficient for the due carrying out of all the works mentioned in the proposal of the company, including the cost of compensation payable to owners or occupiers of land proposed to be taken or that may be injuriously affected by the construction of the railway. 20
- (6.) The directors of every such company, with consent of a majority of the ratepayers or shareholders, given at a special meeting, are hereby authorized to give any such security, and to pledge or mortgage the capital and credit of the company and the property thereof, and to make and execute on behalf of the company any deed or contract for that purpose, although the same may not be authorized by the articles of association or other instrument setting forth and declaring the powers of such directors. 25 30

Upon compliance with this Act and the foregoing provisions, the Governor may approve of the proposed railway in the manner hereinbefore required; *but it shall not be necessary to constitute it a railway district for the purposes of this Act.* 35

TAKING LANDS FOR RAILWAYS.

(1.) *Surveys.*

Surveyor may enter upon land for the purpose of making survey.

21. It shall be lawful for any surveyor appointed by the company to enter from time to time upon any land (whether before or after the deposit of a plan and book of reference as before provided), with such assistance as he thinks fit, for the purpose of making any survey of any line or intended line of railway, and to fix or set up thereon survey pegs, marks, or poles, and to dig or bore into such land so as to ascertain the nature of the soil, and to set out the lines of any works thereon. 40 45

Notice to be given to owner or occupier.

22. In all cases notice shall be given to the owner or occupier of the land to be entered upon before such entry is made, and the surveyor shall, when required to do so, produce, to the owner or occupier of any land on which he is authorized to enter, the written authority of the secretary or manager of the company under whose authority he is making the survey. 50

Damage caused by such entry to be made good.

23. In case any damage shall be done by any surveyor in exercise of the powers hereby conferred upon him, the company shall be liable to make good the same, and the amount thereof shall be ascertained in the mode hereinafter provided as to the assessment of compensation for land taken or affected by the works of the railway. 55

(2.) Powers of Entry upon and Taking Land.

25 **24.** Subject to the provisions of this Act, the company may exercise all or any of the powers hereby conferred by this Act for the construction of the railway, and may enter upon or cause to be entered upon all lands which they are authorized to use or acquire under this Act for the purpose of making such surveys as may be necessary, and may take and use all such lands as the company shall have permission to use as hereinafter provided, and subject as aforesaid may take and hold all the lands specified in the plan and book of reference and required for the railway along the line to be so set forth and described as aforesaid, or within the limits of deviation, and may temporarily occupy and use such lands as may be necessary on either side of the railway during the construction thereof.

5 **25.** Nothing in this Act shall authorize the commencement of any work, or the removal of any fencing upon any lands, until fences have been first made, so that all lands adjacent to land taken or works executed under this Act shall be as effectually protected against damage by trespass as before the commencement of such works.

15 **26.** Nothing in this Act contained shall authorize the entry upon any land occupied by any building, yard, garden, orchard, vineyard, plantation, or ornamental park or pleasure-ground, or the cutting or injuring of any ornamental tree or shrub, or the taking of any stone or other material from any quarry, brick-field, or like place commonly used for the taking material therefrom for sale, without the consent in writing of the owner first obtained.

Company may enter upon and take lands.

Fences to be erected in certain cases before entry.

Certain lands not to be entered on without consent.

(3.) Compensation.

28 **27.** All persons being owners of or having any less estate or interest in any lands taken under authority of this Act, or which may be damaged by the construction of the railway, shall be entitled to receive compensation for such land or damage, the amount whereof shall be ascertained in the manner set forth in Part III. of "The Public Works Act, 1876," which said Part, as amended by any other Act, and so far as applicable and subject to the provisions of this Act, is incorporated with and shall form part of this Act: Provided that in respect of land taken under this Act, the words "mortgage debt" in the sixty-ninth section of "The Public Works Act, 1876," shall not include the interest payable on such mortgage up to six months beyond the day on which notice was received by the mortgagee, but it shall include the capitalized value of the difference between five per centum and the rate of interest payable on the mortgage, to be calculated up to the time when the principal due on the mortgage can be paid off.

35 **28.** In the application of Part III. of "The Public Works Act, 1876," the company shall be the respondent to any claim made for compensation under this Act.

45 **29.** The Court awarding the compensation may, after payment thereof in accordance with this Act and on application by the company for that purpose, make an order in the form or to the effect set forth in the Schedule hereto; and such order shall have the effect following:—

50 (1.) It shall vest the land in respect of which the same is made in the company in fee simple, and free from all mortgages, charges, claims, estates, or interests of any kind whatsoever.

(2.) If the property mentioned in the order is not subject to the provisions of "The Land Transfer Act, 1870," the order, with a map or plan of the land taken, may be registered with the Registrar of Deeds for the registration district in which such land is situated, and such Registrar shall cause an entry of the order and map to be made under the proper head or title of the Deeds Registry Office, and shall cause the same to be duly recorded.

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Compensation to be given for land taken or affected.

Proviso.

Construction of Part III. of "The Public Works Act, 1876."

Upon ascertaining amount of compensation, and on payment thereof, Court may grant an order. Effect of order of Court.

In the case herein provided for, the order shall operate as a conveyance to the company.

- (3.) If the property is subject to the provisions of "The Land Transfer Act, 1870," the order and map shall be filed with the District Land Registrar of the district in which the property is, and such Registrar shall register the order and map against the land. 5

(a.) In the case herein provided for, the District Land Registrar shall issue a certificate of title to the company.

(b.) Any person in possession of the Crown grant, certificate of title, or other instrument evidencing the title to such land, shall, upon receiving notice from the District Land Registrar in that behalf, deliver up to him such grant, certificate of title, or other instrument, to be wholly or partially cancelled as the case may require; and any person refusing or neglecting so to deliver up any such instrument shall be liable to a penalty of not more than fifty pounds. 10 15

(c.) The District Land Registrar shall retain every such instrument, and shall, when required by the registered proprietor of the land not taken, issue to him free of charge a certificate of title for such land unless the same is not Crown-granted. 20

- (4.) No person having in his possession such Crown grant, certificate of title, or other instrument, shall be entitled to claim or receive any compensation under this Act until such certificate is delivered up to the District Land Registrar. 25

When title doubtful or owner absent, compensation to be paid to Public Trustee.

31 30. If any doubt or dispute arise as to the right or title of any person to receive any compensation, or in case the person entitled thereto shall be absent from the colony, the moneys payable as such compensation shall be paid into the Public Trust Office by the company as provided in the said Part III., and may be dealt with thereunder. 30

Out of what funds compensation to be paid.

32 31. Moneys payable as compensation or as costs under the preceding provisions of this Act shall be paid out of the capital funds of the company. 35

POWERS OF CONSTRUCTION.

(1.) *Permission to Occupy Crown Lands.*

Governor may give permission to occupy waste lands.

33 32. If the Governor approves of the construction of a railway under this Act, he may, by warrant duly gazetted, give to the company exclusive permission to use such portions of the land required for the purposes of such railway, within the limits of deviation shown on the plan, as may then be vested in the Crown, or as may be subject to any Waste Lands Act in force in that part of the colony where the railway is to be constructed. 40 45

Governor may permit a public reserve to be used.

34 33. The Governor may in like manner permit any part of a railway to be constructed on or through any public reserve vested in Her Majesty the Queen. 45

Permission not to be given in respect of certain lands.

35 34. No permission to be given as aforesaid in respect of any Crown lands or lands subject to any Waste Lands Act shall be deemed to authorize the taking and using of such lands if the same or any of them shall have been granted or agreed to be granted under any law now or hereafter in force relating to such lands, or which under any such Acts or law shall be held upon lease or license; but any such lands so granted or agreed to be granted or held upon lease or license as aforesaid shall and may be taken by the company under the powers conferred by this Act, and upon and subject to the terms hereof with respect to compensation. 50 55

Nothing herein contained shall be deemed to prohibit the Governor from giving any such permission in respect of any lands held under lease or license of such lands for pastoral purposes ; but the holder of any such lease or license shall not be entitled to receive or claim any compensation by reason of any such permission as aforesaid.

Any lands taken under "The New Zealand Settlements Act, 1863," and the Acts amending the same, or any lands which by "The East Coast Act, 1868," it is provided shall be deemed to be Crown lands, shall be deemed to be lands vested in the Crown for the purposes of this Act, and may be dealt with accordingly.

Lands held under "The New Zealand Settlements Act" to be deemed to be Crown lands.

(2.) *Company's Powers of Construction.*

36 35. Subject to the restrictions herein specified, the company may do the following things in respect of any railway authorized under this Act :—

Company's powers of construction.

- 15 (1.) May make the railway upon, over, or under any land necessary for the construction thereof, lying along the middle line defined in any plans deposited as before provided, or within a distance of one hundred yards on either side thereof ; and for this purpose may construct works of every description and of every material necessary to the working thereof ;
- 20 (2.) May make the railway upon, over, or under any road or tramway, or public reserve along such line, and may alter the level of any road or tramway for such purpose ;
- 25 (3.) May make the railway across any river or stream, but so as not to impede the navigation upon any navigable river except as provided by a special Act ;
- 30 (4.) May alter the course or the level of any river not navigable, or of any stream, watercourse, ditch, or drain ;
- 35 (5.) May make drains or conduits on or under any land adjacent to and for the purpose of carrying water from off the railway, and may at all times maintain the same in good repair ;
- 40 (6.) May remove or alter any drain or sewer, or any pipes or other material for the supply of water or of gas belonging to any company or person within or beyond the limits of the railway ;
- 45 (7.) May make all such buildings, stations, engines, machinery, piers, wharves, roads, approaches, and other works in connection with the railway, as may be thought necessary ;
- 50 (8.) May do all acts necessary for making, maintaining, altering, repairing, and using the railway.

37 36. The gauge of every railway to be constructed under this Act shall be of the width of three feet six inches.

Gauge of railways.

38 37. Where any part of a road, except where it crosses a railway on a level, is taken for a railway, such part of the road shall thereafter cease to be a highway ; and where a road crosses a railway on a level, the public right of way at such crossing shall cease whenever any engine or carriages on the railway are approaching and within a distance of a mile from such crossing ; and shall at all other times extend only to the right of crossing the line of railway with all convenient speed, but not to stopping or continuing thereon.

Right of way at railway crossings.

39 38. Where it is found necessary for the construction of a railway to alter any road, tramway, watercourse, or drain, or any other public work, or any water-pipe or gas-pipe for the supply of water or gas belonging to a private person or company, such alterations shall be made in such manner as to interfere as little as possible with the work so altered, and so as to afford to the public and to every person

Alterations of roads, &c., to be made without detriment to the public or to owners.

entitled to use the same an equal use and convenience as before such alteration.

Plans of such alterations to be agreed upon with owners.

40 39. Before commencing any such alteration, the company shall cause a plan thereof to be prepared, and to be submitted to the County Council or Road Board under whose control the work proposed to be altered is, or to the owner of such sewer, water or gas pipe, or other work as the case may be; and if such Council, Board, or owner object to the proposed alteration, the company shall appoint a competent engineer to confer with such Council, Board, or owner, and to agree with them or him as to the manner in which such alteration shall be made. 5 10

If no agreement, two Justices to settle disputes.

If no agreement can be come to between the parties, the matter shall be referred to two Justices of the Peace, who shall make such order therein as they think fit; and the alteration shall be made in accordance with such order. 15

Land may be occupied temporarily.

(3.) *Temporary Occupation of Land.*

41 40. Except as and subject to the conditions hereinafter provided, the company may temporarily occupy and use any land for the purpose of constructing or repairing a railway, and may do the following things thereon:— 20

- (1.) May take therefrom stone, gravel, earth, and other materials;
- (2.) May deposit thereon any such material;
- (3.) May form and use temporary roads thereon;
- (4.) May manufacture bricks or other materials thereon; 25
- (5.) May erect workshops, sheds, and other buildings of a temporary nature thereon.

Previous notice of occupation to be given.

42 41. The engineer or other person having the charge of the railway shall, before occupying or using any land as herein provided, and except in the case of accident to the railway requiring immediate repair, give to the owner or occupier thereof not less than twenty-one days' notice in writing, and shall state in such notice the use proposed to be made of such land. 30

Justices to decide if occupation necessary, and settle conditions.

43 42. The said owner or occupier may, within ten days after receiving such notice, and after giving notice to the said engineer or other person of his intention so to do, apply to any Justice of the Peace, who may thereupon summon such engineer or other person to appear before two Justices of the Peace at a time and place to be named in such summons; and if it appears to the said Justices that the use proposed to be made of the said lands is unreasonable and unnecessary, or that other neighbouring lands are more fitting to be used for the purpose proposed, the said Justices may, by writing under their hands, order that the lands in question shall not be occupied or used in the manner proposed; or the said Justices may in such order direct that the said lands may be occupied and used, or material taken therefrom, in such manner, and to such extent only, and subject to such limitations and restrictions, as they think fit; and all persons concerned shall be bound by any such order. 35 40 45

Company may make deviations.

44 43. The company in constructing the railway may deviate from the line of works laid down in the plan, but may not take or use for the purpose of such deviation any land not comprised within the limits of deviation set forth in the plan and book of reference without the consent in writing of the owner of such land. 50

No advantage to be taken of errors in plan or book of reference in certain cases.

45 44. No advantage shall be taken of or against the company, or any interruption be given during or after the making of the railway, on account of any error or omission in such plan or book of reference, 55

in any case in which it shall appear to two Justices, to be certified in writing under their hands, that such error or omission proceeded from mistake.

(5.) *Miscellaneous Provisions.*

5 46 45. If any land, not situate in a town or built upon, is so divided by the land taken for any work as to leave on either side thereof a less quantity of land than half a statute acre, the company shall, if so required by the owners of such small parcel of land, and except as hereafter provided, take such parcel together with the other land taken
10 for such work. But if such owner has other land adjoining into which such small parcel may be conveniently thrown, the company may, instead of taking such small parcel of land, throw the same into such adjoining land, by removing the fences and levelling and soiling the sites in a sufficient and workmanlike manner.

Owner may require small parcel of land severed to be taken.

15 47 46. The owner of any land temporarily occupied as provided by the *forty-first* section may, at any time during such occupation, give notice in writing to the company that he requires the said land to be taken for the purpose of the railway; and such lands shall thereupon be taken for the railway in the manner herein provided; and upon the
20 filing of the said notice by such owner in the Supreme Court, the said owner and all persons having any interest in such land may recover compensation as if the same were taken in the manner provided by this Part of this Act.

Owner may require land temporarily occupied to be taken.

25 48 47. If it is found that any land taken under this Act is not required for the purposes of the railway, the company may, with the consent of the Minister publicly notified and gazetted, cause the same to be sold by public auction, or with the like consent may cause such lands to be leased for any term not exceeding twenty-one years, at such rent and upon such terms and conditions as the company thinks fit.

Land not wanted may be sold by company.

30 49 The proceeds of any sale, and all rents or moneys derived from any such lease shall be paid to and form part of the capital funds of the company.

Proceeds of sale to form part of capital.

35 48. Any company may, in the manner prescribed by its articles of association, borrow and take up at interest such sum or sums of money as may thereby or in any other manner be lawfully authorized, and for the purpose of securing repayment thereof, with interest in the meantime, may convey, assign, or otherwise charge the railway, and the works thereof, and all plant, rolling stock, material, and property of the company, or such part thereof as may be agreed upon, by way of
40 mortgage, with all usual and necessary powers and remedies to the mortgagee, including a power of sale in case of default in payment of such principal or interest, or any part thereof:

Borrowing power of company.

45 But every such mortgage shall be made subject to the power of purchase hereinafter reserved to the Governor, and shall contain a provision to the effect that if such power shall be exercised by the Governor, the compensation payable to the company, or such part thereof as may be necessary, shall be applied in payment of such mortgage debt, and the interest then due thereon, or so much of such debt and
50 interest as may then be payable under the security.

CONTROLLING POWERS OVER RAILWAYS.

(1.) *Possession of Crown Lands.*

50 49. Within six months after the publication of notice by the Governor declaring his assent to the proposed branch railway the
55 Governor shall deliver to the company, or any contractor, engineer, servants, or workmen authorized by it, possession of all lands the

Governor to give possession of land to company.

use of which the said Governor is hereinbefore empowered to give to the company, their successors and assigns, for the purposes of the railway.

Company only to acquire a right to use Crown lands.

51 50. With respect to Crown lands or waste lands, or public reserves, of which possession may be so given to the company, the company shall acquire no more than a right to use or an easement in and upon the said lands for the purposes and to the extent hereby enacted and declared, but revocable only in the event of the Governor exercising the power of pre-emption hereinafter contained, or taking possession of the railway as hereinafter provided.

5

Company to proceed forthwith with construction of works.

52 51. The company shall without any inexcusable delay, immediately after possession shall be given by the Governor as aforesaid, commence or resume the construction of the railway works, in accordance with the plans approved by the Governor under the provisions of this Act, and shall prosecute the same to completion without delay or intermission, unless hindered or prevented by some unforeseen cause or impediment; and the company shall also in like manner, and as the state of the said railway works shall permit and require, proceed with the erection of all buildings, and supply the necessary accommodation for the safe, proper, and convenient conduct of passengers and goods traffic on the said railway.

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(2.) Governor's Powers of Inspection.

Powers of Governor as to inspection of railway, &c.

53 52. During the construction of the said railway and the execution of the works connected therewith, and after the completion thereof, the Governor shall be at liberty at all reasonable times to direct any Engineer or other proper officer of the General Government to inspect the works, the rolling stock, and buildings of the company.

25

Company to carry out requisition of the Governor.

54 53. Any requisition which the Governor shall make, upon the recommendation of the said Engineer or other officer as aforesaid, requiring the company to effect any necessary alteration or repair in, to, or upon the works, rolling stock, or buildings of the company, shall be immediately thereafter obeyed and carried out; and if the same be not so obeyed and carried out the company shall be liable to a penalty not exceeding *twenty* pounds for each day that they shall refuse or neglect to obey such requisition or direction.

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But no alteration shall be so required unless the same be in accordance with the original plans proposed by the Company and approved by the Governor under the foregoing provisions of this Act.

(3.) Agreements with Companies.

Governor may agree with companies for running powers over lines, &c.

55 54. The Governor may from time to time enter, on behalf of Her Majesty the Queen, into an agreement with any company, upon such terms and conditions as may be agreed, providing that any trains or rolling stock the property of Her Majesty or the General Government of the colony may be run upon the railway after the completion thereof, and that any trains or rolling stock the property of the company may be run upon any line or lines of railway the property of Her Majesty or the General Government of the colony.

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In any such agreement provision may be made as to stoppage at the terminal and other stations on any line of railway, as may be specified in any such agreement.

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And also as to payments to be made under such agreements, &c.

56 55. The Governor and the company may also, from time to time in manner aforesaid, agree as to the payments to be made by the one to the other of them of such rates of charges as may be fixed in that behalf, and as to the time and mode of payment of such charges, and the keeping of accounts between the Governor and the company in respect of any such agreement, and generally may enter into and agree upon such terms and conditions as may be necessary to give effect to this section of this Act.

55

(4.) *Power of Purchase.*

57 **56.** The Governor shall be entitled at any time after the expiration of seven years from the date the railway is opened for traffic, upon giving six months' notice in writing to the company, to purchase the
 5 railway works of the company, together with their plant, rolling stock, implements, and all their rights, powers, and privileges, at a price to be determined by arbitration, the award being that of three arbitrators, or any two of them, one arbitrator being chosen by the Governor, another by the company, and the third arbitrator by the
 10 two other arbitrators.

Power to Governor to purchase railways on giving notice.

58 **57.** In determining the price to be paid to the company, the said arbitrators shall not award any compensation to the company in respect of the lands the use of which shall have been acquired from the Governor under the provisions of this Act, but the company shall
 15 require, in respect of such lands, and be entitled to, the fair value of all improvements made by them on such lands, to be ascertained as hereinafter provided.

Price to be determined by arbitration.

59 **58.** Upon payment of the compensation to be awarded under the provisions hereof, the company shall convey, assign, and transfer
 20 to Her Majesty all their estate, property, and interest in the said railway works, plant, rolling stock, and everything appurtenant thereto. If the railway and property of the company shall be subject to any mortgage under the powers hereinbefore contained, the mortgagee shall, on being paid his principal and interest, join in and
 25 execute such conveyance, assignment, and transfer as may be necessary to give effect to this provision.

Company to convey and assign upon payment of agreed price.

60 **59.** No compensation whatever shall be paid for the goodwill of any railway; but the arbitrators, in determining the price to be paid to the company aforesaid, shall take as a basis of the valuation
 30 the cost of other similar railway works, plant, and rolling stock at the time when the works forming the subject of such arbitration were constructed, or the plant or rolling stock was acquired, as the case may be; and the arbitrators shall also take into consideration the depreciation in the permanent way, plant, and rolling stock, buildings, and
 35 other works of the railway, including therein any onerous or burdensome provisions respecting the use of the said railway or the works thereof, or any easements, rights, or privileges in connection therewith.

How value of railway to be ascertained.

If such power shall be exercised by the Governor as aforesaid between the periods hereinafter respectively mentioned after the
 40 railway has been open for traffic, there shall be added to the amount of compensation to be ascertained as before provided the percentage hereinafter mentioned, that is to say,—

Seven years and not exceeding fourteen years, ten per centum :

Fourteen years and not exceeding twenty-one years, seven per
 45 centum.

The amount of such percentage, as the case may require, shall be ascertained by the arbitrators, and shall be deemed to be and shall be paid as part of such compensation.

61 **60.** The compensation so ascertained as aforesaid shall be accepted
 50 by the company in full of all claims and demands in respect of the purchase of the railway works, plant, rolling stock, implements, and all the rights, powers, and privileges of the company in respect thereof.

Compensation as ascertained to be accepted by company.

Every railway purchased by the Governor under the provisions of this Act shall be and become subject to all laws, by-laws, and
 55 regulations, in force at the time of such purchase in respect of any railway the property of the Crown or the Government of the colony.

(5.) *Miscellaneous Powers.*

62 **61.** The company shall not voluntarily mortgage, sell, lease, assign, or part with the railway, or in any manner dispose of, encumber, or
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Company not to sell or assign without consent.

charge their beneficial interest in such railway without the consent in writing of the Governor first had and obtained.

But this provision shall not interfere with the special powers of sale or lease conferred under section *forty-eight* of this Act.

Power to Governor to take possession of railways in case of delay in works or neglect to run trains.

63 62. In the event of any unreasonable or inexcusable delay by the company in the prosecution of the works connected with any railway, or in the event of the company, after the completion of the said works in whole or in part, so that the whole or any complete part or section of such railway may be used for the purposes of traffic, failing or neglecting, for the space of three clear days, without reasonable excuse, to run trains at the times and in manner fixed and determined by or in any regulation to be made by the Governor under this Act, or if the company shall in the opinion of the Governor commit or suffer a wilful breach of any agreement to be made under the *fifty-fifth* section of this Act, it shall be lawful for the Governor to take possession and assume the management of such railway, and complete the same and conduct the traffic thereon, charging the company with all outlay and expenditure which may be entailed, and crediting the company with all earnings and receipts; and, in such event, there shall be paid by the company to the Governor, and by the Governor to the company, the balance which shall thereafter be found to be due from the one to the other of them from time to time, the accounts being computed and rendered at intervals of not less than six calendar months.

Governor may construct telegraphs on railways.

64 63. It shall be lawful for the Governor to cause telegraph poles to be erected and an electric telegraph to be established along any railway, whether constructed under this Act or by any person or company whatever, without any compensation or payment for the same; but so nevertheless as not to cause any injury to such railway, or to impede or obstruct the working thereof.

Company to carry mails, &c.

65 64. Every company shall be required to carry free of charge all mails (including in that term all boxes, bags, or other receptacles), sent or transmitted by or under the authority of the Postmaster-General, and all constables or police officers travelling on duty, and their arms and baggage (if any); and in the event of war or civil commotion shall, on the requisition of the Governor or any two Justices of the Peace, place the whole of the resources of the railway at his or their disposal at the charges actually incurred.

MANAGEMENT OF RAILWAYS.

(1.) *Regulations.*

Company may make regulations and prescribe tolls, &c.

66 65. The company may from time to time make, alter, and revoke, bylaws and regulations in respect of a railway open for traffic, upon the following subjects:—

- (1.) Fixing the tolls, rates, fares, and rent to be charged, for the carriage by the railway of passengers, produce, animals, goods, merchandise, articles, matters, and things, and for the storage of goods in any of the company's sheds or warehouses.

But such tolls, rates, fares, and rents shall not in any case exceed the maximum of the tolls, rates, fares, rents, or charges proposed by the company, and approved by the Governor, as hereinbefore required.

- (2.) Regulating the number of trains to run each day, such number not being less than the number stated in the company's proposals and approved as aforesaid, and the time of their arrival and departure from the terminal and intermediate stations.

- (3.) For regulating the loading and unloading of carriages and wagons, and the receipt and delivery of goods, and the storing and delivering of the same.
- (4.) For the use of cranes, hoists, or other machinery for the loading or unloading of goods, and all fees to be paid for the same.
- (5.) For preventing the smoking of tobacco and committing nuisances on railways.
- (6.) Generally for regulating the traffic on railways, and the conduct of all persons employed on or about the same, or travelling thereon.

All tolls, rates, fares, fees, and rent, fixed as aforesaid, shall be deemed to be authorized by this Act.

67 66. If it shall be made to appear to the Governor that the railway is earning a clear profit exceeding ten per centum he may, by warrant duly gazetted, reduce the maximum of such tolls, rates, fares, and rents as aforesaid in such manner and to such extent as shall provide that the said clear profit shall be not less than ten pounds per centum per annum, and thereupon the company shall alter their by-laws and regulations as may be necessary; but no such reduction shall be made till after one month's notice in writing has been given to the company by the Minister for Public Works.

Governor may reduce maximum of fares, &c., under certain conditions.

68 67. The following provisions of "The Public Works Act, 1876," shall, so far as applicable, be deemed to be incorporated with this Act, that is to say,—

Certain provisions of "The Public Works Act, 1876," incorporated.

Sections one hundred and forty-six to one hundred and fifty, both inclusive.

Sections one hundred and fifty-five to one hundred and sixty-two, both inclusive.

Wherever in such sections any power, duty, or function is given to or imposed upon the Minister, such power, duty, or function shall be given to, imposed upon, and may be exercised by the company.

(2.) Carriage of Goods, &c.

68 68. In respect to the receiving, custody and delivery of goods upon or from a railway, the following provisions shall apply:—

Provisions as to the custody, carriage, and delivery of goods.

(1.) All goods received upon any railway shall, subject to any by-laws in that behalf, be deemed to be in the custody of the company until delivered to the consignee thereof.

The word "goods" means goods and chattels of every description, including live animals.

(2.) The Governor in Council may, by any regulations, from time to time declare certain kinds of goods, of a nature liable to injury, or goods over and above a certain value, to be special goods; all other goods shall be deemed to be ordinary goods.

(3.) Every person, before delivering any special goods at any railway station, shall first give to the person in charge of such station a statement in writing declaring the nature and value of such special goods, and the person so in charge shall give a receipt for the same, specifying the nature and value so declared.

(4.) No person, unless he has first delivered such statement and obtained such receipt, shall be entitled to recover, in respect to any loss or damage of or to any such special goods, any greater sum than ten pounds in respect of any such parcel in which any such special goods are packed, fifteen pounds per head in respect of any horses, eight pounds per head in respect of any neat cattle, and fifteen shillings per head in respect of any sheep or swine.

- (5.) The Governor may, by any regulations, from time to time declare what additional sum over and above the charges payable in respect of ordinary goods shall be payable in respect of special goods in proportion to the value thereof.
- (6.) In respect of all ordinary goods, and, to the extent of the value declared as above provided, in respect of all special goods, and in respect of all passengers carried upon any railway, the company shall be subject to the same liabilities and obligations, and shall be entitled to the same rights and protection, as common carriers are subject or entitled to by any laws for the time being in force in New Zealand.
- (7.) Nothing herein shall be interpreted to subject the company to any liability in respect of any goods which, by any by-law made under this Act, are left on the premises of a railway at the risk of the person leaving the same.
- (8.) No action shall be brought against the company for any loss or damage of or to any goods in his custody on a railway unless the same is brought within three months after such loss or damage occurs.
- (9.) No such action shall be commenced until one calendar month after a notice in writing is given to the company stating the cause of action, the Court in which such action is intended to be brought, and the name and residence of the parties about to sue.
- (10.) In any such action the company may plead a general denial of the allegations contained in the declaration or complaint, and at the time of settling the issues may propose any special matter of defence for issue upon such plea, or in any inferior Court may give any special matter of defence in evidence at the trial without notice.

Penalty for giving false way-bill.

70 69. If any person knowingly and wilfully makes a false statement as to the nature quantity and value of any goods delivered upon a railway, in any way-bill or other document which by this Act, or by any regulation made thereunder, he is required to deliver in respect to such goods, he shall be liable to a penalty not exceeding fifty pounds.

(3.) Security and Accounts.

Security to be taken by company from collectors of tolls, &c.

71 70. Security shall be taken by the company, in such amount and in such manner as they shall deem necessary, from any collector or receiver of any tolls or charges collected under the authority of this Act, for the faithful execution of his office.

Accounts to be kept, and Governor may prescribe mode of keeping same.

72 71. Full and accurate accounts shall be kept by the company of all moneys received and expended under the provisions and for the purposes of this Act, and such accounts shall be balanced once in each year at the least, and it shall be lawful for the Governor from time to time to prescribe the mode and form in which such accounts shall be kept, and either to prescribe in manner aforesaid generally or for any company in particular.

(4.) Audit.

Accounts to be audited yearly.

73 72. Such accounts shall be audited once in each year at the least, and for this purpose an auditor or auditor shall be appointed by the Governor.

For the purpose of auditing such accounts, the company shall cause the accounts, together with all books and vouchers relating to the railway, to be produced to the auditor or auditors.

Remuneration of auditors, how defrayed.

74 73. The remuneration of the auditor or auditors, and his or their expenses, shall be defrayed out of the funds levied under this Act, and if the company shall at any time fail to make sufficient provision for such remuneration and expenses it shall be lawful for the Governor to

fix the amount thereof, and, if the company shall fail duly to pay and discharge the amount so fixed, the same may be paid to the auditor by the Colonial Treasurer for the time being, and be recovered by him in his own name from the company.

5 75 74. An annual abstract shall be prepared of the total receipts and expenditure of all funds levied under this Act, or received for the purposes hereof, during the past year, under the several distinct heads of receipts and expenditure, with a statement of the balance of the said accounts duly audited and certified by the company, and also by
10 the auditor or auditors thereof.

Annual abstract of receipts and expenditure to be prepared and certified.

A copy of such annual account shall be deposited in the office of the Minister, at Wellington, on or before the thirty-first day of January in each year.

Copy to be sent to Minister.

15 A copy of such accounts shall be also deposited by the company at the chief office of the company in the railway district, and shall, for one month after such deposit, be open at all reasonable times to the inspection of the public without payment of any fee.

Copy to be open to inspection at office of company.

The fact of such deposit shall be publicly notified by the company.

20 GUARANTEE OF INTEREST ON COST.

(1.) *Special Rate.*

76 75. Every company constructing a railway under the provisions of this Act shall be guaranteed interest on the cost of the railway not exceeding seven per centum per annum, and such interest shall be raised in manner hereafter provided :—

Guarantee of interest on cost of railway by a special rate and a charge on revenue of colony.

25 (1.) Each Borough Council and County Council in the district in which the railway is constructed, shall yearly, upon being directed as hereinafter provided, levy and raise, by means of a special rate, such a sum as will produce not exceeding five per centum per annum on such cost.

30 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 it is necessary such rate should be raised under this Act.

Rate to be raised by direction of the Minister.

35 (2.) The remaining two per centum shall be a charge upon the consolidated revenue of the colony, and payable as hereinafter provided.

(3.) ~~No~~ Such guarantee shall *only* attach ~~until~~ *when and so long as* the railway is open for traffic.

40 (4.) *The guarantee created by this Act shall only subsist for a period of fifteen years from the date when the railway is opened for traffic, and shall only so subsist so long as the company complies with the provisions of this Act.*

77 76. Every rate hereby authorized to be raised shall be made, 45 levied, raised, and collected by the Councils of such boroughs and counties *in the district in which the same is authorized to be levied*, in like manner and upon the same terms and conditions in all respects as such Councils are by law authorized to make and levy special rates, and, subject to this Act, all provisions of the Acts applicable thereto
50 shall apply to special rates raised under this Act.

How rates to be levied and collected.

78 77. Such rates may be of varying amounts, according to the classification of the lands in the district which has been approved by the Governor under the provisions of this Act; and in directing a Council to levy the rate the Minister shall specify the amount required
55 in respect of each such class, and the Councils shall make the rate accordingly. The direction to be given by the Minister shall be renewed from year to year as occasion shall require: *Provided that for the purposes of this Act the rateable value of waste lands or Crown lands held under lease or license for pastoral purposes shall be deemed*
60 *to be the annual rent or license payable to the Crown in respect of such lands, and the rate hereby authorized shall be levied thereon accordingly.*

Rates to be based upon classification of lands in the district.

How rates to be paid to company.

79 78. All rates levied and received by a Borough Council or County Council under this Act shall be paid to a separate account in the Borough or County Fund, as the case may be, to be called the "Railway Rate Account," and shall be paid thereout to the company entitled to receive the same.

Charge upon Consolidated Revenue to be paid by the Colonial Treasurer.

80 79. The charge upon the Consolidated Revenue herein provided for shall be paid thereout from time to time by the Colonial Treasurer upon the application of the company, and upon proof to the satisfaction of the Colonial Treasurer that the company is entitled thereto, under the provisions of this Act.

No rate to be levied in certain cases.

81 80. If the profits of the company, after paying for the yearly cost of maintenance and the working expenses of the railway, amount to seven per centum per annum, then no rate shall be levied.

But after the expiration of five years from the opening of the railway for traffic, not less than ~~twenty~~ *thirty* per centum of the gross receipts derived from the railway shall be deemed to be profits derived from the working thereof; the meaning of this provision being that not more than ~~eighty~~ *seventy* per centum of such receipts shall be expended in the working and maintenance of the railway.

Provision for proportionate payments

82 81. If it becomes necessary to levy such rate in any year, then two and one-half per centum thereof shall be first raised by a rate to be imposed as hereinbefore provided, and one per centum shall be contributed out of the Consolidated Fund, and in that proportion so far as may be necessary up to the full amount of seven per centum.

Company may be guaranteed interest on cost of railway.

83 82. Where a railway has been constructed upon an application under the *twenty-first* section, the company may, subject to the provisions hereinafter contained, be guaranteed interest on the cost of the railway not exceeding two pounds per centum per annum thereon; but no such guarantee shall attach until the railway is open for traffic, nor until a resolution declaring that the guarantee shall so attach has been passed by each House of the General Assembly at the Session thereof held next after the approval of the application of the company by the Governor.

But after the expiration of five years from the opening of the railway for traffic, not less than thirty per centum of the gross receipts derived from the railway shall be deemed to be profits derived from the working thereof; the meaning of this provision being that not more than seventy per centum of such receipts shall be expended in the working and maintenance of the railway.

No railway constructed under section twenty-one shall be entitled to a guarantee of interest under a special rate.

Amount of such guarantee a charge on Consolidated Fund.

84 83. If the General Assembly affirm the guarantee in the manner aforesaid, then the amount of such guarantee shall be a charge upon and paid out of the Consolidated Fund in the manner hereinbefore provided in the case of other companies under this Act.

Clause 85 erased.

(2.) *Rate upon Waste Lands.*

85. Waste lands of the Crown (not being in a borough) shall be rateable under the powers hereby given to County Councils, and such rates shall be allowed to accumulate upon such lands until the sale thereof under any Waste Lands Act or other authority authorizing such sale, when the amount of such rates shall be added to the purchase money and paid as part thereof.

The amount of such rates when received or collected from any such purchaser shall be deducted from the purchase money by the Receiver of Land Revenue, or other person receiving the same, and shall be by him paid over to the company.

86 84. No rate shall be levied in respect of any railway until ~~until~~ *except* while the same shall be open for traffic.

Rate not to be levied till line open for traffic.

3 (2.) Construction of certain Provisions.

87 85. In the construction of the foregoing provisions, the expression "cost of the railway" shall include the original cost of acquiring the land on which the railway is constructed, and the erection of the railway works of every kind.

Meaning of term "cost of railway."

If any dispute shall arise as to the actual cost of any railway, or as to the annual expenses for the maintenance and working of such railway, the same shall be ascertained by a Commissioner to be appointed by the Governor, who shall have power to make such inquiry, and call for, examine, and receive such evidence upon oath or otherwise, and to call for, examine, and inspect such books, papers, and accounts as may be necessary to determine the matters so in dispute. The decision of such Commissioner shall be absolute and final.

Provision for settling dispute as to such cost.

MISCELLANEOUS PROVISIONS.

88 86. Nothing in this Act contained shall be deemed to give any company any further or more extensive powers than shall be necessary to carry out the purposes for which such company shall have been incorporated.

Act not to give company greater powers than those for which it is incorporated.

89 87. All contracts and other agreements to be entered into under authority of this Act, or of any Act incorporated wholly or partially herewith, shall be entered into in the name of the company.

Contracts to be entered into in name of company.

90 88. If the company is of opinion that any tree on land adjacent to a railway is likely by falling or otherwise to obstruct the traffic or endanger the travellers thereon, the company may cause notice to be given to the owner or occupier of such land to remove such tree; and in default of such removal the company may cause the tree to be removed; but such owner or occupier may recover the amount of any cost or damage incurred or suffered by such removal.

Tree dangerous to railway may be removed.

91 89. Any person trespassing upon any railway after the same has been constructed, or while it is in the course of construction, or upon any land occupied or temporarily occupied for the purpose of such construction under the powers hereby given, shall be liable to a penalty not exceeding two pounds.

Penalties for trespassing on railways in course of construction.

Any person riding or driving any animal or vehicle upon any such railway or land without lawful authority shall be liable to a penalty not exceeding five pounds.

Any such person refusing to leave such railway or land, or to remove such animal or vehicle therefrom, when warned so to do by the overseer, contractor, or any other person in charge of or employed upon such railway, may be seized and detained by such overseer or other person until he can be conveniently taken before some Justice of the Peace to be dealt with according to law.

92 90. Subject to the provisions herein contained, all lands purchased or acquired by the company from any person for the purposes of the railway, and all property, real or personal, of what description soever, belonging or appertaining to the said railway, shall be and are hereby declared to be vested in, and shall be deemed to be the property of, the company.

Lands purchased to be the property of the company.

But if the company shall sell or assign the railway to any person after they shall have purchased or acquired any lands or property under the powers herein contained, it shall be lawful for the company to convey any lands or real property so purchased or acquired by or vested in them, and to assign or transfer any personal property so acquired by or vested in them, to the person to whom the undertaking shall be so sold.

Penalty for obstructing person in discharge of his duty.

93 91. Any person who wilfully obstructs any engineer, surveyor, overseer, workman, or other person in the performance of any duty, or in doing any work which he has lawful authority to do under the provisions of this Act, shall be liable to a penalty of not more than fifty pounds for every such offence.

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Clause 94 to 98 erased.

94. Any county or two or more counties may, with the consent of the ratepayers in the county, or respective counties, obtained in manner provided in sections thirteen, fourteen, fifteen, and sixteen of this Act, undertake the construction of any railway in or leading to the county or counties.

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95. Any county or counties undertaking the construction of railways shall have all the rights, powers, and privileges granted to, and shall be subject to all the liabilities and conditions imposed upon, any company by this Act; and wherever the word "the company" occurs in this Act, it shall be held to mean and include a county or counties.

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96. The county or counties undertaking the construction of any railway or railways shall have no power to pledge the ordinary income of the county or counties for the construction of such railway or railways, nor for moneys borrowed for such construction.

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97. The county or counties undertaking the construction of any railways shall have all the powers of a joint stock company incorporated under "The Joint Stock Companies Act, 1860," or any other Act for the time being in force providing for the incorporation of joint stock companies, and may issue debentures and raise moneys for such a purpose on the security of any lands granted to such county or counties as an endowment for railway construction, or on the security of the railway or railways constructed.

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98. The Governor may set apart and reserve contiguous to any proposed railway line blocks of land as an endowment to County Councils for the construction of railways: Provided always that such blocks of land shall absolutely cease to be endowments for such a purpose, unless both Houses of Parliament, in the next session after such endowments have been set apart, pass a resolution approving of the same: Provided also that on such land ceasing to be reserves under this Act, it shall only be disposed of by public auction, notwithstanding anything in the Waste Land laws to the contrary.

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Penalties recoverable summarily.

99 92. All penalties recoverable under the provisions of this Act, or any by-laws or regulations made thereunder, may be recovered before any two Justices of the Peace in a summary way.

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Saving of provisions of "The Railways Regulation and Inspection Act, 1873."

100 93. Nothing herein contained shall be deemed to affect or abridge the provisions of "The Railways Regulation and Inspection Act, 1873," which said Act shall apply to all railways constructed under this Act.

SCHEDULE.

Schedule.

ORDER BY COMPENSATION COURT.

WHEREAS, under the provisions of "The District Railways Act, 1877," the land described in the plan drawn in the margin of this order [or indorsed upon the order, or attached thereto] was taken by the [*Name of Company*] for the purposes of a railway from to : And whereas the compensation payable in respect of the interest of [*Owner of land*] in the said land has been assessed at £ , and such compensation has been paid by the company [*State mode of payment*]: In exercise of the authority conferred upon it by the said Act, this Court doth therefore order that the parcel of land described in the said plan shall be vested in the said company for the purposes of the said Act.

Dated this day of 18 .

(Plan.)

A. B.,
President of the Compensation Court.