

Mr. Pirani.

LIGHT-LINE RAILWAYS.

ANALYSIS.

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A BILL INTITULED

AN ACT to facilitate the Construction of Light-line Railways.

BE IT 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 is “The Light-line Railways Act, 1901.”

2. For the purposes of this Act, districts may be constituted consisting of a borough or boroughs, or county or counties, or town district or districts, or any part or parts of the same, as hereinafter appears.

3. Upon the petition of one-fourth of the ratepayers of any particular area specified by the petitioners comprising a district constituted as aforesaid, the Governor may, by Order in Council, declare the same to be a light-line railway district within the meaning of this Act, and the same shall thereupon be constituted such a district.

4. (1.) The ratepayers of such a district shall thereupon proceed to elect a Board of Control, consisting of the Mayors of all boroughs and the Chairmen of all the Councils of all counties within the district, or of any borough or county partially within the district, holding office *ex officio*, and their successors in office, and an equal number of elective members to be elected annually by the ratepayers of such district at an annual meeting which shall be convened by the said Board of Control after the first annual meeting, which shall be convened by the Order in Council constituting the light-line railway district.

(2.) If the *ex officio* members of such Board do not number four at least, then the elective members of such Board shall be such a number as shall make the total members of such Board not less than seven nor more than eleven, as the Governor may by Order in Council prescribe.

(3.) The definition "ratepayer" in the foregoing section shall be the same as the definition of elector in the district electors list under section thirteen of "The Municipal Corporations Act, 1900"; and Part IV. of the said Act, as to the district electors list and roll, elections and polls, and disputed elections, is hereby incorporated into this Act as if the Board of Control were a Municipal Corporation under the Act aforesaid, and the secretary thereof were the Clerk to a Municipal Corporation thereunder.

(4.) The ratepayers of every such district as aforesaid shall, under the name of "The Chairman, Controllors, and Electors" of such district, be a body corporate with perpetual succession and a common seal, with power by special order to alter and change such seal, and shall, for the purposes of and subject to the provisions of this Act, be capable of purchasing, holding, and disposing of and alienating real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

(5.) The provisions of "The Counties Act, 1901," as to the qualification, disqualification, election, tenure of office, and resignation of a Chairman of a county shall be incorporated in this Act as if the Board of Control were a County Council under the said Act, and the secretary of the said Board a County Clerk thereunder.

(6.) The remuneration of the Chairman of the Board of Control so elected shall be fixed annually as provided for the fixing of a remuneration for a County Chairman under "The Counties Act, 1901," but so that the same shall not exceed four hundred pounds per annum, nor shall such remuneration be altered during the currency of the term of office of any Chairman of such Board of Control.

(7.) The qualification and disqualification, election, and tenure of office of the members of the said Board of Control shall be the same as is provided for Municipal Councillors by sections fifty and fifty-one of "The Municipal Corporations Act, 1900," and any resignation or vacancy in the office of a member of the Board of Control shall be filled as provided by the said Act.

(8.) Every member of the Board of Control shall be entitled to receive from the body corporate his actual expenses incurred in travelling to and from the meetings of the Board.

(9.) The proceedings of the Board of Control, the ordinary and special meetings thereof, and the convening thereof, and the power to make special orders, shall be the same as are provided in regard to and given to County Councils by "The Counties Act, 1901."

(10.) The Governor may, by Order in Council, provide for the effectual bringing of this Act into operation and for the first election; make the temporary appointments of officers; fix dates, places, and times on, at, or within which nominations, election poll or polls, meeting or meetings, or other matter or thing shall or may be made, held, or done; direct the preparation and completion of any electors or other lists or rolls and other documents, and retain in force any such documents for any time; and generally shall take all steps to facilitate the first election of the Board of Control under this Act.

(11.) The provisions of "The Counties Act, 1901," as to the filling of extraordinary vacancies in the offices of Chairman or Councillors of a county, and the tenure of office of persons filling such extraordinary vacancies, shall be applied herein to extraordinary vacancies as therein defined in the offices of Chairman or member of the Board of Control under this Act.

5. The said Board of Control may thereupon within such district cause to be promoted a light line of railway of such gauge and at such cost as to the said Board of Control may seem fit.

6. For this purpose the said Board of Control shall define,—

(a.) A rating area containing the whole or any part of such light-line railway district:

(b.) The estimated amount required to be borrowed for the construction of the said light line of railway.

7. The said Board of Control shall define such rating area by special order under the provisions of "The Counties Act, 1901," as if the said Board of Control were a county duly constituted under such Act, and upon such special order being so made the area defined thereby shall be the area for rating purposes under this Act.

8. The Board of Control, with the consent of the ratepayers of the area so defined,—

(1.) May raise a special loan, not exceeding the amount of the estimated cost of the said light line of railway so fixed by such Board as aforesaid, for the purpose of constructing or extending a light line of railway, or the purchase of rolling-stock or other appliances under this Act:

(2.) May, by special order in the same manner as aforesaid, as if the Board of Control were a County Council so constituted as aforesaid, make and levy a special rate on all property within the special area so defined to secure and pay the interest on and provide a fund for the repayment of such loan:

(3.) May raise a temporary overdraft to anticipate a current year's revenue in manner provided by "The Counties Act, 1901."

9. The consent of the ratepayers to the raising of such loan shall be ascertained as provided in regard to loans under "The Counties Act, 1901."

10. Such rate may be made, levied, collected, and recovered from time to time by the said Board under the provisions of "The Counties Act, 1901," and "The Rating Act, 1894," as if the said Board were a County Council as aforesaid, but so that such rate shall be cast and levied as upon the unimproved value of the land contained within such rating area so defined as aforesaid.

11. Upon the consent of the ratepayers to the raising of such loan being so ascertained as aforesaid, the Board of Control may proceed to borrow such loan ; and for this purpose the provisions of "The Loans to Local Bodies Act, 1886," and the various amendments thereof, shall apply, and the said Board of Control shall be deemed to be a local body within the meaning and interpretation of such statutes, and shall have all the powers, rights, and authorities conferred upon a local body thereunder, subject, however, to the special provisions of sections *eight* and *nine* hereof.

12. The Board of Control may thereupon proceed to construct such light line of railway as aforesaid, and for that purpose shall have all the powers of entering upon land, causing surveys, removing fences, crossing roads, and taking land for the purposes of such work, and generally such other powers and authorities in respect of the construction of public works as are conferred upon local authorities by "The Public Works Act, 1894," and the amendments thereof.

13. All the provisions of and procedure prescribed by the said "Public Works Act, 1894," and the amendments thereof, as to the taking of land for public works, and the payment of compensation therefor, shall apply to the construction of the said light line of railway and to the said Board of Control, as if the said Board were a local authority within the meaning of the said statutes.

14. The said Board of Control may from time to time dispose of any of the land so taken adjoining the said light line of railway in such manner and upon such terms as to the said Board may seem meet.

15. Upon and during the construction of the said light line of railway the said Board may manage the said railway over such part of the said line as may be constructed from time to time, and may charge such fares and rates for freight and passage as the said Board may from time to time prescribe.

16. The said Board may appoint and remove Commissioners or Managers to manage and conduct such light line of railway, and all other officers or servants as are necessary, in the opinion of the Board, to that end, or may delegate such latter powers to such Commissioners or Managers.

17. The said Board may make by-laws for the management of the said railway from time to time (with the approval, however, from time to time of the Minister for Public Works for the Colony of New Zealand) in the same manner as by-laws may be made under the provisions of the said Public Works Act in respect to railways constructed thereunder.

18. The Board may apply all profits to arise from the working of the said railway from time to time towards the repayment of the said loan, or in such other manner as the Board shall think fit,

subject to audit as to the disposal of the said profits in the same manner as if the same were the accounts of a county or Municipal Corporation.

19. Upon and after the extinction of the said loan the Board of Control may sell and dispose of the said railway and all land and assets thereof to a limited company, or such other person or persons, firm or firms, or corporation as the Minister for Public Works as aforesaid may approve.

20. The said light line of railway shall be constructed from such point in the said light-line railway district to such other point as the said Board of Control may from time to time decide.

21. In addition to the powers of entry upon land given as aforesaid under "The Public Works Act, 1894," the Board of Control or its officers so appointed as aforesaid may enter upon land for the purpose of temporary work in connection with the said railway, and in such case the provisions for compensation prescribed by "The Public Works Act, 1894," shall apply to compensation for such temporary occupation only.

22. Upon the disposal of the said light line of railway as aforesaid, the proceeds of such disposal, after payment of all liabilities in connection with such light line of railway, may be used and appropriated as the ratepayers of the said district shall decide, either by proportionate division among themselves, or in such other manner as they shall think fit; and for the purpose the Board of Control shall call a general meeting of such ratepayers as soon after such proposal as possible, and at such meeting a resolution passed by the majority of the ratepayers present shall be deemed to express the wish of such ratepayers.

23. Before entering upon the construction of the said railway the Board of Control shall cause the middle line and directors of such railway to be set forth in 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. 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.

24. Copies of such plan and book of reference shall be deposited in some public place in each borough (if any) in the said district, and at such other public places as the Governor may determine.

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

26. The Board of Control shall, within seven days after the deposit of the plan and book of reference as aforesaid, cause notice thereof to be published in a newspaper or newspapers in the district, and every such notice shall be published at intervals of not more than three days for four consecutive weeks from the date of such deposit.

27. Copies of every such notice shall be given to each owner and occupier of any land whose name is set forth in the book of reference as aforesaid.

28. (1.) 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 post.

(2.) If such person is absent from the colony the notice may be sent to his agent.

(3.) 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 to a conspicuous place on or to such land or building.

(4.) 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.

29. Any surveyor appointed by the Board of Control may from time to time enter 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 the light line of railway or such intended light line, 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.

30. 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 so to do, produce to the owner or occupier of any land on which he is authorised to enter the written authority of the Chairman of the Board of Control or the secretary thereof.

31. In case any damage shall be done by any surveyor in exercise of the powers hereby conferred upon him, the Board of Control shall be liable to make good the same, and the amount thereof shall be ascertained in the same manner as the amount of compensation for land taken for the purpose of such railway.

32. Subject to the provisions of this Act, the Board of Control 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 authorised to use or acquire under this Act, and 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 set forth and described as aforesaid or within the limits of deviation, and may temporarily occupy and use such land as may be necessary on either side of the railway during the construction thereof.

33. The Board of Control shall be the respondent in any claim for compensation under this Act.

34. The Board of Control may enter into any contracts for and complete the purchase of all or any part of the lands mentioned in the said plan and book of reference or within the limits of deviation.

35. The Court awarding the compensation may, after payment thereof in accordance with this Act, and on application by the Board of Control for that purpose, make an order in the form or to the

effect set forth in the *Second* Schedule hereto, and such order shall have the effect following:—

- (1.) It shall vest the land in respect of which the same is made in the Board of Control 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 registry office, and shall cause the same to be duly recorded. In the case herein provided for the order shall operate as a conveyance to the Board of Control.
- (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 such property is, and such Registrar shall register the order and map against the land.

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

(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 partly cancelled as the case may require; and any person refusing or neglecting to so deliver up any such instrument shall be liable to a penalty of not more than *fifty* pounds.

(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.

- (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.

36. If any doubt or dispute arises 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 Board of Control, as provided in Part III. of "The Public Works Act, 1876," and may be dealt with thereunder.

37. Moneys payable as compensation or as costs under the preceding provisions of this Act shall be paid out of the capital funds of the Board of Control.

38. Subject to the restrictions herein specified, the Board of Control may do the following things in respect of any railway authorised under this Act :—

- (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 every material necessary to the working thereof :
- (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 :
- (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 :
- (4.) May alter the course or level of any river not navigable, or of any stream, watercourse, ditch, or drain :
- (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 :
- (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 :
- (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 :
- (8.) May do all acts necessary for the making, maintaining, altering, repairing, and using the railway.

39. 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.

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

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

41. The Board of Control, 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 reference, without the consent in writing of the owner of such land.

42. No advantage shall be taken of or against the Board of Control, or any interruption given, during or after the making of the railway, on account of any error or omission in such plan or book of reference 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.

43. For the purposes of borrowing under this Act the Board of Control may issue mortgage debentures and coupons in such form as the Board may prescribe, and repayable in such manner and carrying such interest as the Board may fix.

44. The Board shall have a common seal, under which all contracts of the Board may be executed.

45. If the Board of Control 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 Board 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 Board 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.

46. Subject to the provisions herein contained, all lands purchased or acquired by the Board of Control 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 Board of Control. But, if the Board 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 Board to convey any lands or real property so purchased 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.

47. 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 or by virtue of the provisions of this Act, shall be liable to a penalty of not more than *fifty* pounds.

48. In respect to the receiving, custody, and delivery of goods upon or from a light-line railway constituted under this Act the following provisions shall apply:—

- (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 value and nature 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 to 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 Board shall be liable to the same liabilities and obligations, and shall be entitled to the same rights and privileges, 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 Board of Control 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 Board of Control for any loss or damage of or to any goods in their 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 Board of Control 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 plaint, and at the time of settling the issue may propose any special matter of defence for issue on such plea, or in any inferior Court may give any special matter of defence in evidence at the trial without notice.

49. 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 waybill 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.

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

SCHEDULES.