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Tramways.

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(Hon. Mr. Vogel.)

Tramways.

A BILL INTITULED

AN ACT to facilitate the Construction and to regulate the Working of Tramways. Title.

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

PRELIMINARY.

1. The Short Title of this Act shall be “The Tramways Act, 1872.” Short Title.

2. For the purposes of this Act the terms hereinafter mentioned shall have the meanings hereinafter assigned to them, that is to say :— Interpretation of terms.

The terms “local authority” and “local rate” shall mean respectively the bodies of persons and rate named in the table in the First Schedule to this Act annexed.

The term “road” shall mean any carriage-way, being a public highway, and the carriage-way of any bridge forming part of or leading to the same.

The term “district,” in relation to a local authority, shall mean the area within the jurisdiction of such local authority.

The term “prescribed” shall mean prescribed by any rules made in pursuance of this Act.

The term “Superintendent” shall mean the Superintendent of the Province within which any district is; and with reference to any district within the County of Westland, shall mean the Chairman of the County Council of Westland.

The term “the Lands Clauses Acts” means “The Lands Clauses Consolidation Act, 1863,” together with “The Lands Clauses Consolidation Act Amendment Act, 1866.”

The term “Minister” means the Minister for Public Works for the time being, and shall include the Minister for the time being acting for the Minister for Public Works.

3. Within any Province in which by any Act or Ordinance it is provided that the Superintendent shall, in the administration of the government thereof, act by and with the advice and consent of an Executive Council, the Superintendent of such Province shall, in the exercise and performance of any powers or duties vested in or conferred on him by this Act, act by and with the advice and consent of such Council; and the proceedings of such Council shall, with reference to powers or duties and acts matters or things to be exercised performed or done under this Act, be regulated by the provisions of any Act or Ordinance for the time being in force in such Province regulating the proceedings of the Executive Council of such Province in the administration of the affairs thereof. Superintendent to act with advice of Executive.

PART I.

ORDERS AUTHORIZING THE CONSTRUCTION OF TRAMWAYS.

By whom orders authorizing the construction of tramways may be obtained.

4. Orders authorizing the construction of tramways in any district may be obtained by—

- (1.) The local authority of such district, or by
- (2.) Any person persons corporation or company, with the consent of the local authority of such district.

And any such local authority person persons corporation or company shall be deemed to be promoters of a tramway, and are in this Act referred to as “ the promoters.”

Application for an order shall not be made by any local authority until such application shall be approved in the manner prescribed in the Second Schedule to this Act annexed.

Agreements between local authority and promoters.

5. The local authority may, in consideration of giving such consent as in the preceding section mentioned, and of the right of user of any road or roads, make such terms and conditions with such person or persons corporation or company as shall be agreed on, and in and by such agreement may stipulate for the payment to the local authority of a fixed annual sum, or a proportionate part of the profits received from the working of the tramway, or for such other consideration as such local authority may think fit. The local authority may also, in and by such agreement, stipulate that such person or persons corporation or company shall give such security as the local authority thinks fit, for the due performance of any such agreement, and for the construction of the tramway and carrying out of the undertaking. Every such agreement shall be made only with and subject to the approval of the Superintendent.

The Superintendent may, in certain cases, dispense with the consent of local authority.

6. Where it is proposed to lay down a tramway in two or more districts, and any local authority having jurisdiction in any of such districts does not consent thereto, the Superintendent may nevertheless make an order authorizing the construction of such tramway if he is satisfied, after inquiry, that two-thirds of the length of such tramway is proposed to be laid in a district or in districts the local authority or the local authorities of which district or districts do consent thereto.

Notices and deposit of documents by promoters as in Schedule.

7. The promoters intending to make an application to the Superintendent for an order shall proceed as follows :—

- (1.) Not more than sixty and not less than thirty days next before their application, they shall publish notice of their intention to make such application by advertisement, and as to such advertisement they shall comply with the provisions contained in Part I. of the Third Schedule to this Act.
- (2.) On or before the fifteenth day next before such application, they shall deposit the documents described in Part II. of the Third Schedule, according to the regulations therein contained.
- (3.) On making such application, they shall deposit the documents described in Part III. of the Third Schedule hereto, according to the regulations therein contained.

Power for Superintendent to determine on application and on objection.

8. The Superintendent shall consider the application, and may if he think fit direct an inquiry in the district to which the same relates, or may otherwise inquire as to the propriety of proceeding upon such application, and he shall consider any objection thereto that may be lodged with him on or before such day as he from time to time appoints, and shall determine whether or not the promoters may proceed with the application.

Power for Superintendent to make order.

9. Where it appears to the Superintendent expedient and proper that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, the Superintendent may settle and make an order accordingly.

The Superintendent shall, before granting any such application, give notice to the Minister of the proposed line of the tramway referred to in such application, and if the Minister, within thirty days after the receipt of such notice, notifies to the Superintendent in writing that he objects to the construction thereof or of any part thereof, the Superintendent shall not grant such application, or shall grant the application only so far as the Minister does not object thereto.

Superintendent to give notice to Minister before granting application.

Every such order shall empower the promoters therein specified to make the tramway upon the gauge and in manner therein described, and shall contain such provisions as (subject to the requirements of this Act) the Superintendent, according to the nature of the application and the facts and circumstances of each case, thinks fit, but so that any such order shall not contain any provision for empowering the promoters or any other person to acquire lands except to an extent therein limited.

Form and contents of order.

10. Every such order shall specify the nature of the traffic for which such tramway is to be used, and the tolls and charges which may be demanded and taken by the promoters in respect of the same, and shall contain such regulations relating to such traffic and such tolls and charges as the Superintendent shall deem necessary and proper.

Nature of traffic on tramway and tolls to be specified in order.

11. The costs of and connected with the preparation and making of each order, and of any inquiry in relation thereto, shall be paid by the promoters, and the Superintendent may require the promoters to give security for such costs before they proceed with the order.

Costs of order.

12. When an order has been made as aforesaid and delivered to the promoters, the promoters shall forthwith publish the same by deposit and advertisement, according to the regulations contained in Part Four of the Third Schedule to this Act.

Publication of order as in Schedule.

13. The provisions of the Lands Clauses Acts shall be incorporated with every order under this Act, save where the same are expressly varied or excepted by any such order, except with respect to the entry upon lands by the promoters of the undertaking.

Incorporation of general Acts in order.

For the purposes of such incorporation an order under this Act shall be deemed the special Act.

14. The Superintendent, on the application of any promoters empowered by an order, may from time to time revoke amend extend or vary such order by a further order.

Power of Superintendent to revoke amend extend or vary order.

Every application for such further order shall be made in like manner and subject to the like conditions as the application for the former order.

Every such further order shall be made in like manner in every respect as the former order.

15. Subject and according to the provisions of this Act the Superintendent may, on a joint application or on two or more separate applications, settle and make an order empowering two or more local authorities respectively jointly to construct the whole or separately to construct parts of a tramway, and jointly or separately to own the whole or parts thereof, and all the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of such tramway as last aforesaid, and the form of the order may be adapted to the circumstances of the case.

Power to authorize joint work.

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Cesser of powers at expiration of prescribed time.

16. If the promoters empowered by any order under this Act to make a tramway are not a local authority, and do not within the period prescribed in the agreement entered into by it with the local authority complete the tramway and open it for public traffic, or

If within from such time as is prescribed in such agreement as aforesaid the works are not substantially commenced, or

If the works having been commenced are suspended without a reason sufficient, in the opinion of the Superintendent, to warrant such suspension

the powers given by the order to the promoters for constructing such tramway, executing such works, or otherwise in relation thereto, shall cease to be exercised except as to so much of the same as is then completed, unless the time be prolonged by the special direction of the local authority, and as to so much of the same as is then completed the local authority may allow the said powers to continue, and to be exercised if it shall think fit, but failing such permission the same shall cease to be exercised, and where such permission is withheld then so much of the said tramway as is then completed shall be deemed to be a tramway to which all the provisions of this Act relating to the discontinuance of tramways after proof of such discontinuance shall apply, and may be dealt with accordingly.

A notice, purporting to be published by the Superintendent acting on the recommendation of the local authority, in the *New Zealand Gazette*, to the effect that a tramway has not been completed and opened for public traffic, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall be conclusive evidence, for the purposes of this section, of such non-completion non-commencement or suspension.

With regard to any part of a tramway authorized to be laid down in two or more districts, and to which part the local authority through whose district such part is authorized to pass shall not have entered into an agreement with the promoters, under section five of this Act, the Superintendent may, with regard to such part, perform and exercise all the acts and powers given by this section to the local authority, and in such case may also, without the recommendation of the local authority, exercise all powers by this section in other cases given to the Superintendent, acting on the recommendation of the local authority.

Local authority may lease or take tolls.

17. When a tramway has been completed under the authority of an order by any local authority, or where any local authority has, under the provisions of this Act, acquired possession of any tramway, such authority may, with the consent of the Superintendent and subject to the provisions of this Act, by lease, to be approved of by the Superintendent, demise to any person persons corporation or company the right of user by such person persons corporation or company of the tramway, and of demanding and taking in respect of the same the tolls and charges authorized, or such authority may leave such tramway open to be used by the public, and may in respect of such user demand and take the tolls and charges authorized; but nothing in this Act contained shall authorize any local authority to place or run carriages upon such tramway, and to demand and take tolls and charges in respect of the use of such carriages.

Notice of the intention to make such lease shall be published by the local authority by advertisement, and a copy of such lease shall be deposited according to the regulations contained in Part I. of the Fourth Schedule to this Act annexed, and unless such notice is given and such copy deposited such lease shall not be approved of by the Superintendent.

Every such lease shall be made for a term or for terms not exceeding in the whole twenty-one-years.

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On the determination of any lease made under this Act the local authority may from time to time, with the consent of the Superintendent, by lease, demise such rights for such further term or terms, not exceeding in any case twenty-one years, as the Superintendent may approve.

Every such lease shall imply a condition of re-entry if at any time after the making of the same the lessees discontinue the working of the tramway leased, or of any part thereof, for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such lessees, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control).

The person persons corporation or company to whom any such lease may be made are in this Act referred to as "lessees."

18. Where the local authority in any district are the promoters of any tramway, they shall pay all expenses incurred by them in applying for and obtaining an order and carrying into effect the purposes of such order out of the local rate, and any such expenses shall be deemed to be purposes for which such local rate may be made and to which the same may be applied.

How expenses to be defrayed.

19. Where the local rate is limited by law to a certain amount, and is by reason of such limitation insufficient for the payment of such expenses, the Superintendent may, if the local authority shall not have been incorporated under "The Municipal Corporations Act, 1867," or if Part XVI. of the said Act shall not have been applied thereto by the order, extend the limit of such local rate to such amount as he shall think fit and prescribe for the payment of such expenses.

Local rate, if limited, may be extended by order of Superintendent.

20. Such local authority, if not incorporated under "The Municipal Corporations Act, 1867," or if Part XVI. shall not have been made applicable to it, may for the purposes of such order borrow and take up at interest on the credit of such local rate any sums of money necessary for defraying any such expenses, and for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, such local authority may mortgage to the persons by or on behalf of whom such sums are advanced, such local rate, but the exercise of the above-mentioned power shall be subject to the following regulations:—

Loans by local authority not incorporated under "Municipal Corporations Act, 1867."

- (1.) The money so borrowed shall not exceed such sum as may be sanctioned by the Superintendent.
- (2.) The money may be borrowed for such time, not exceeding thirty years, as such local authority, with the sanction of the Superintendent, shall determine, and subject as aforesaid to the repayment within thirty years, such local authority may either pay off the moneys so borrowed by equal annual instalments or they may in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of Government securities, such sum as will be sufficient to pay off the moneys so borrowed, or a part thereof, at such times as the local authority may determine.

The provisions contained in the Fifth Schedule to this Act, with respect to loans, shall apply to any mortgage executed under the foregoing provisions of this section.

21. But if such local authority be incorporated under "The Municipal Corporations Act, 1867," or if Part XVI. of the said Act shall have been applied to it, then, in addition to the general and special rates by any Act heretofore passed authorized to be raised, such local authority may, subject to the laws regulations and conditions in the said "Municipal Corporations Act, 1867," mentioned, and with the sanction of the Superintendent and by special order, make and levy on all rateable property within the district subject to its jurisdiction, a

Loans by local authorities incorporated under "Municipal Corporations Act, 1867."

special rate for the purposes of such tramway, or paying the interest on any loan contracted by the Council for such purpose, but such rate shall not exceed in any year such sum of _____ in the pound on the assessment of the rateable property of such district as shall in each case be fixed by the Superintendent.

Such rate shall be within the meaning of the said Act a special rate; and, subject to the provisions of the said Act relating to loans, the local authority may raise moneys on the security of such rates.

Save when it is herein or in the said Act otherwise expressly provided, or there is something in the context repugnant thereto, all the provisions of the said Act relating to loans rates and special rates shall apply to every special rate hereby authorized to be made, and every such special rate shall be deemed, for the purposes of the said last-mentioned provisions, to have been made in each year upon all rateable property as aforesaid at and upon the expiration of each successive period of twelve calendar months from the date of the special order by which such rate shall have been first made.

22. Every such local authority shall keep separate accounts of all moneys paid by them in applying for obtaining and carrying into effect any such order, and in the repayment of moneys borrowed, and of all moneys received by them by way of rent tolls or otherwise in respect of the tramway authorized thereby.

When, after payment of all charges incurred under the authority of this Act and necessary for giving effect to such order, there shall be remaining in the hands of such local authority any of the moneys received by them by way of rent tolls or otherwise in respect of the tramway authorized by such order, such moneys shall be applied by them to the purposes for which the local rate may be by them applied.

PART II.

CONSTRUCTION OF TRAMWAYS.

As to incorporation of Parts II. and III. of this Act with order.

23. Part II. and Part III. of this Act shall apply to every tramway which is hereafter authorized by any order, and shall be incorporated with such order, and all the said provisions of this Act, save so far as they shall be expressly varied or excepted by any such order, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, with the provisions of every other Act or part of any Act by law authorized to be incorporated therewith and which shall be incorporated therewith, form part of the said order, and be construed therewith as forming one order, as the case may be.

Promoters.

24. The term "the promoters" shall mean any person persons corporation company or local authority authorized by order to construct a tramway.

Mode of formation of tramways.

25. Every tramway which is hereafter authorized by order shall be constructed on such gauge as may be prescribed by such order, and shall not be opened for public traffic until the same has been inspected and certified to be fit for such traffic in the prescribed manner.

Power to break up streets &c.

26. The promoters, from time to time, for the purpose of making forming laying down maintaining and renewing any tramway duly authorized, or any part or parts thereof respectively, may open and break up any road, subject to the following regulations:—

- (1.) They shall give to the local authority notice of their intention, specifying the time at which they will begin to do so, and the portion of road proposed to be opened or broken up, such notice to be given seven days at least before the commencement of the work.
- (2.) They shall not open or break up or alter the level of any road except under the superintendence and to the reasonable satisfaction of the local authority, unless that authority

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refuses or neglects to give such superintendence at the time specified in the notice, or discontinues the same during the work.

- (3.) They shall pay all reasonable expenses to which the local authority is put on account of such superintendence.
- (4.) They shall not, without the consent of the local authority, open or break up at any one time a greater length than one hundred yards of any road.

Where the carriage-way in or upon which any tramway is proposed to be formed or laid down is crossed by any railway or tramway on the level, any work which the promoters may be empowered to construct, and which affects or in anywise interferes with such railway or tramway or the traffic thereon, shall be constructed and maintained under the superintendence (at the cost of the promoters) and to the reasonable satisfaction of the person corporation company or authority owning such railway or tramway, unless, after notice to be given by the promoters seven days at least before the commencement of such work, such superintendence is refused or withheld.

27. When the promoters have opened or broken up any portion of any road they shall be under the following further obligations, namely:—

Completion of works and reinstatement of road.

- (1.) They shall with all convenient speed, and in all cases within four weeks at the most (unless the local authority otherwise consents in writing), complete the work on account of which they opened or broke up the same, and (subject to the formation maintenance or renewal of the tramway) fill in the ground and make good the surface and, to the satisfaction of the local authority, restore the portion of the road to as good condition as that in which it was before it was opened or broken up, and clear away all surplus paving or metalling material or rubbish occasioned thereby.
- (2.) They shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night.
- (3.) They shall bear or pay all reasonable expenses of the repair of the road for six months after the same is restored, as far as those expenses are increased by the opening or breaking up.

If the promoters aforesaid fail to comply in any respect with the provisions of the present section, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act or to any other remedy against them) be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for each day during which any such failure continues after the first day on which such penalty is incurred.

28. The promoters shall at their own expense at all times maintain and keep in good condition and repair, with such materials and in such manner as the local authority shall direct, and to their satisfaction, so much of any road whereon any tramway belonging to them is laid as lies between the rails of the tramway, and where two tramways are laid by the same promoters in any road at a distance of not more than four feet from each other, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway.

Repair of part of road where tramway is laid.

If the promoters abandon their undertaking, or any part of the same, and take up any tramway or any part of any tramway belonging to them, they shall with all convenient speed, and in all cases within six weeks at the most (unless the local authority otherwise consents in writing), fill

in the ground and make good the surface, and, to the satisfaction of the local authority, restore the portion of the road upon which such tramway was laid to as good a condition as that in which it was before such tramway was laid thereon, and clear away all surplus paving or metalling material or rubbish occasioned by such work, and they shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night: Provided always that if the promoters fail to comply with the provisions of this section, the local authority, if they think fit, may themselves, at any time after seven days' notice to the promoters, open and break up the road, and do the works necessary for the repair and maintenance or restoration of the road, to the extent in this section above mentioned, and the expense incurred by the local authority in so doing shall be repaid to them by the promoters.

Local authority and promoters may contract for paving roads on which tramways are laid.

29. The local authority on the one hand, and the promoters on the other hand, may from time to time enter into and carry into effect, and from time to time alter renew or vary, contracts agreements or arrangements with respect to the paving and keeping in repair of the whole or any portion of the roadway of any road on which the promoters shall lay any tramway, and the proportion to be paid by either of them of the expense of such paving and keeping in repair.

Provision as to gas and water companies.

30. For the purpose of making forming laying down maintaining repairing or renewing any of their tramways, the promoters may from time to time, where and as far as it is necessary or may appear expedient, for the purpose of preventing frequent interruption of the traffic by repairs or works in connection with the same, alter the position of any mains or pipes for the supply of gas or water, or any wires or apparatus for telegraphic or other purposes, subject to the provisions of this Act, and also subject to the following restrictions (that is to say):

- (1.) Before laying down a tramway in a road in which any mains or pipes wires or apparatus may be laid, the promoters shall, whether they contemplate altering the position of any such main or pipes wires or apparatus or not, give seven days' notice to the company persons or person or authority to whom such mains or pipes wires or apparatus may belong or by whom they are controlled, of their intention to lay down or alter the tramway, and shall at the same time deliver a plan and section of the proposed work. If it should appear to any such company person or authority that the construction of the tramway as proposed would endanger any such main or pipe wire or apparatus, or interfere with or impede the supply of water or gas or the telegraphic or other communication, such company person or authority (as the case may be) may give notice to the promoters to lower or otherwise alter the position of the said mains or pipes wires or apparatus in such manner as may be considered necessary, and any difference as to the necessity of any such lowering or alteration shall be settled in manner provided by this Act for the settlement of differences between the promoters and other companies or persons, and all alterations to be made under this section shall be made with as little detriment and inconvenience to the company person or authority to whom such mains or pipes wires or apparatus may belong, or by whom the same are controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such company person or authority, or of their surveyor or engineer, if they or he think fit to attend after receiving not less than forty-eight hours' notice for that purpose, which notice the promoters are hereby required to give.

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- (2.) The promoters shall not remove or displace any of the mains or pipes valves syphons plugs wires or apparatus or other works belonging to or controlled by any such company person or authority, or do anything to impede the passage of water or gas or the telegraphic or other communication into or through such mains or pipes, without the consent of such company person or authority, or in any other manner than such company person or authority shall approve, until good and sufficient mains pipes valves syphons plugs and other works necessary or proper for continuing the supply of water or gas or telegraphic or other communication as sufficiently as the same was supplied by the mains or pipes wires or apparatus proposed to be removed or displaced shall, at the expense of the promoters, have been first made and laid down in lieu thereof, and ready for use, and to the satisfaction of the surveyor or engineer of such water or gas or other company person or authority, or, in case of disagreement between such surveyor or engineer and the promoters, as an engineer appointed by the Superintendent shall direct.
- (3.) The promoters shall not lay down any such pipes contrary to the regulations of any Act relating to such water or gas or other company or relating to telegraphs.
- (4.) The promoters shall make good all damage done by them to property belonging to or controlled by any such company person or authority, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with such property, or with the private service pipes of any person supplied by any such company person or authority with water or gas.
- (5.) If by any such operations as aforesaid the promoters interrupt the supply of water or gas in or through any main or main pipe, they shall be liable to a penalty not exceeding twenty pounds for every day upon which such supply shall be so interrupted.

31. Where in any district any tramway or any work connected therewith interferes with any sewer drain watercourse subway defence or work in such district, or in any way affects the sewerage or drainage of such district, the promoters shall not commence any tramway or work until they shall have given to the proper authority fourteen days' previous notice in writing of their intention to commence the same, by leaving such notice at the principal office of such authority, with all necessary particulars relating thereto, nor until such authority shall have signified their approval of the same, unless such authority do not signify their approval disapproval or other directions within fourteen days after service of the said notice and particulars as aforesaid; and the promoters shall comply with and conform to all reasonable directions and regulations of the said authority in the execution of the said works, and shall provide, by new altered or substituted works, in such manner as such authority shall reasonably require, for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to by or by reason of the tramways, and shall save harmless the said authority against all and every the expense to be occasioned thereby; and all such works shall be done under the direction superintendence and control of the engineer or other officer or officers of the said authority, at the reasonable costs charges and expenses in all respects of the promoters; and when any new altered or substituted work as aforesaid, or any works or defence connected therewith, shall be completed by or at the costs charges or expenses of the promoters, under the provisions of this Act, the

For protection of sewers, &c.

same shall thereafter be as fully and completely under the direction jurisdiction and control of the said authority, and be maintained by them, as any sewers or works.

Rights of authorities and companies, &c., to open roads.

32. Nothing in this Act shall take away or abridge any power to open or break up any road along or across which any tramway is laid, or any other power vested in any local authority or other authority for any of the purposes for which such authority is respectively constituted, or in any company body or person for the purpose of laying down repairing altering or removing any pipe for the supply of gas or water, or any tubes wires or apparatus for telegraphic or other purposes, but in the exercise of such power every such local or other authority company body or person shall be subject to the following restrictions, that is to say :—

- (1.) They shall cause as little detriment or inconvenience to the promoters and lessees as circumstances admit.
- (2.) Before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters and lessees, if there be any, notice of their intention to commence such work, specifying the time at which they will begin to do so, such notice to be given eighteen hours at least before the commencement of the work.
- (3.) They shall not be liable to pay to the promoters or lessees any compensation for injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid.
- (4.) Whenever, for the purpose of enabling them to execute such work, the local authority shall so require, the promoters or lessees shall either stop traffic on the tramway to which the notice shall refer where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work there: Provided that such work shall always be completed by the local authority with all reasonable expedition.
- (5.) Any company body person or authority shall not execute such work so far as it immediately affects the tramway except under the superintendence of the promoters, unless they refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work, or discontinue the same during the progress of the work; and they shall execute such work at their own expense and to the reasonable satisfaction of the promoters: Provided that any additional expense imposed upon them by reason of the existence of the tramway in any road or place where any such mains pipes tubes wires or apparatus shall have been laid before the construction of such tramway, shall be borne by the promoters.

Difference between promoters and road authority, &c.

33. If any difference arises between the promoters or lessees on the one hand, and any local authority, or any gas or water company, or any company body person or authority to whom any sewer drain wires or apparatus for telegraphic or other purposes may belong, or any other company or authority on the other hand, with respect to any interference or control exercised or claimed to be exercised by them or him, or on their or his behalf, or by the promoters or lessees, by virtue of this Act, in relation to any tramway or work, or in relation to any work or proceeding of the local authority or other authority body company or person, or with respect to the propriety of or the mode of execution of any work relating to any tramway, or with respect

to the amount of any compensation to be made by or to the promoters or lessees, or on the question whether any work is such as ought reasonably to satisfy the local authority or other authority or body company or person concerned, or with respect to any other subject or thing regulated by or comprised in this Act, the matter in difference shall (unless otherwise specially provided by this Act) be settled by an engineer or other fit person nominated as referee by the Superintendent on the application of either party, and the expenses of the reference shall be borne and paid as the referee directs.

PART III.

GENERAL PROVISIONS.

Carriages.

34. The promoters of tramways authorized by order, and their lessees, may use on their tramways carriages with flange wheels or wheels suitable only to run on the rail prescribed by such order; and, subject to the provisions of such order and of this Act, the promoters and their lessees shall have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable only to run on the prescribed rail.

Power for promoters to use tramways with flange-wheeled carriages, &c.

All carriages used on any tramway shall be moved by the power prescribed by the order, and, where no such power is prescribed, by animal power only.

No carriage used on any tramway which is hereafter authorized by order shall extend beyond the outer edge of the wheels of such carriage more than eleven inches on each side.

Security for Maintenance of Traffic.

35. The order authorizing the construction of a tramway may make provision for securing to the public the full benefit of such tramway, and to that end may prescribe what provisions shall from time to time be made by the promoters for the carriage of goods and passengers thereon, and for the use thereof and for traffic thereon, and may prescribe what consequences, whether of forfeiture cesser or determination of powers or otherwise, shall follow any breach by the promoters of the requirements of such order; and such order may prescribe that the Superintendent shall be the sole judge of the fact whether such requirements have been complied with, and the Superintendent in such case may inquire into the matter in such way as he thinks fit, and his decision shall be final.

Maintenance of traffic.

Licenses.

36. The Superintendent may, by the order authorizing the construction of a tramway, make the provisions contained in the sections numbered from thirty-seven to forty-two, both inclusive, apply to any tramway.

Order may make provisions from 37 to 42 applicable to the tramway.

37. If at any time after any tramway or part of any tramway to which the said provision shall have been applied shall have been for three years opened for public traffic in any district, it shall be represented in writing to the Superintendent, by the local authority of such district or by twenty inhabitant ratepayers of such district, that the public are deprived of the full benefit of the tramway, the Superintendent may (if he consider that *prima facie* the case is one for inquiry) direct an inquiry by a referee, under this Act, into the truth of the representation; and if the referee report that the truth of the representation has been proved to his satisfaction, the Superintendent may from time to time grant licenses to any company or person to use such tramway, in addition to the promoters or their lessees, for such traffic as is authorized by the order, with carriages to be approved by the Superintendent, subject to the following provisions conditions and restrictions, that is to say:—

Licenses to use the tramway may in certain events be granted to third parties by the Superintendent.

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- (1.) The license shall be for any period not less than one year nor more than three years from the date of the license, but shall be renewable by the Superintendent if he upon inquiry think fit.
- (2.) The license shall be to use the whole of such tramway for the time being opened for public traffic, or such part or parts of such tramway as the Superintendent, having reference to the cause for granting the license, shall think right.
- (3.) The license shall direct the number of carriages which the licensee or licensees shall run upon such tramway, and the mode in which and times at which such carriages shall be run.
- (4.) The licenses shall specify the tolls to be paid to the promoters, or to their lessees, by the licensee or licensees, for the use of the tramways.
- (5.) The licensee or licensees and their officers and servants shall permit one person, duly authorized for that purpose by the promoters or by their lessees, to ride free of charge in or upon each carriage of the licensee or licensees run upon the tramways for the whole or any part of the journey.
- (6.) The Superintendent may at any time after the granting of any license, revoke alter or modify the same for good cause shown to him.

In default of payment of tolls, licensee's carriages may be detained and sold.

38. If on demand any licensee fail to pay the tolls due in respect of any passengers carried in any carriage, it shall be lawful for the promoters or their lessees to whom the same are payable to detain and sell such carriage, or, if the same shall have been removed from the tramway or premises of such promoters or lessees, to detain and sell any other carriages on such tramway or premises belonging to such licensee, and out of the moneys arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus (if any) of such moneys and such of the carriages as shall remain unsold to the person entitled thereto.

Licensees to give account of passengers carried by them.

39. Every licensee shall, on demand, give to an officer or servant authorized in that behalf by the promoters or their lessees entitled to be paid tolls by such licensee, an exact account in writing, signed by such licensee, of the number of passengers conveyed by any and every carriage used by him on the tramways.

Licensees not giving account of passengers carried liable to penalty.

40. If any such licensee fails to give such account to such officer or servant demanding the same as aforesaid, or if any such licensee, with intent to avoid the payment of any tolls, gives a false account, he shall for every such offence forfeit to the promoters, or to their lessees entitled to be paid tolls by such licensee, a sum not exceeding five pounds, and such penalty shall be in addition to any tolls payable in respect of the passengers carried by any such carriage.

Disputes as to amount of toll to be settled by Justice.

41. If any dispute arise concerning the amount of the tolls due to the promoters or to their lessees from any licensee, or concerning the charges occasioned by any detention or sale of any carriage, under the provisions herein contained, the same shall be settled by any two or more Justices of the Peace, and it shall be lawful for the promoters or their lessees in the meanwhile to detain the carriage or (if the case so require) the proceeds of the sale thereof.

Owners of carriages liable for damage done by their servants.

42. Every licensee shall be answerable for any trespass or damage done by his carriages or horses, or by any of the servants or persons employed him, to or upon the tramway or to or upon the property of any other person; and without prejudice to the right of action against the licensee or any other person, every such servant or other person may lawfully be convicted of such trespass or damage before any two or more Justices, either by the confession of the party offending or by the oath of some credible witness, and upon such con-

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viction every such licensee shall pay to the promoters lessees or persons injured, as the case may be, the damage, to be ascertained by such Justices, so that the same do not exceed fifty pounds.

Discontinuance of Tramways.

43. If at any time after the opening of any tramway in any district for traffic, the promoters discontinue the working of such tramway or of any part thereof for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the Superintendent, the Superintendent, if he think fit, may by order declare that the powers of the promoters in respect of such tramway, or the part thereof so discontinued, shall from the date of such order be at an end, and thereupon the said powers of the promoters shall cease and determine unless the same are purchased by the local authority, in manner by this Act provided. Where any such order has been made, the local authority of such district may, at any time after the expiration of two months from the date of such order, under the authority of a certificate to that effect by the Superintendent, remove the tramway or part of the tramway so discontinued, and the promoters shall pay to the local authority the cost of such removal and of the making good of the road by the local authority, such cost to be certified by the clerk for the time being or by some other authorized officer of the local authority, whose certificate shall be final and conclusive; and if the promoters fail to pay the amount so certified within one calendar month after delivery to them of such certificate, or a copy thereof, the local authority may, without any previous notice to the promoters (but without prejudice to any other remedy which they may have for the recovery of the amount), sell and dispose of the materials of the tramway or part of tramway removed, either by public auction or private sale, and for such sum or sums and to such person or persons as the local authority may think fit, and may out of the proceeds of such sale pay and reimburse themselves the amount of the cost certified as aforesaid, and of the cost of sale, and the balance (if any) of the proceeds of the sale shall be paid over by the local authority to the promoters.

Tramways to be removed in certain cases.

Insolvency of Promoters.

44. If at any time after the opening of any tramway in any district for traffic it appears to the local authority of such district that the promoters of such tramway are insolvent, so that they are unable to maintain such tramway, or work the same with advantage to the public, and such local authority makes a representation to that effect to the Superintendent, the Superintendent may direct an inquiry, by a referee, into the truth of the representation, and if the referee shall find that the promoters are so insolvent as aforesaid, the Superintendent may, by order, declare that the powers of the promoters shall, at the expiration of six calendar months from the making of the order, be at an end, and the powers of the promoters shall cease and determine at the expiration of the said period unless the same are purchased by the local authority in manner by this Act provided, and thereupon such local authority may remove the tramway in like manner, and subject to the same provisions as to the payment of the costs of such removal, and to the same remedy for recovery of such costs, in every respect, as in cases of removal under the next preceding section.

Proceedings in case of insolvency of promoters.

Purchase of Tramways.

45. Where the promoters of a tramway in any district are not the local authority, the local authority, if by resolution passed at a

Future purchase of undertaking by local authority.

special meeting of the members constituting such local authority they so decide, may, within six months after the expiration of a period of twenty-one years from the time when such promoters were empowered to construct such tramway, and within six months after the expiration of every subsequent period of seven years, or within three months after any order made by the Superintendent under either of the two next preceding sections, with the approval of the Superintendent, by notice in writing, require such promoters to sell, and thereupon such promoters shall sell to them their undertaking, or so much of the same as is within such district, upon terms of paying for the tramway and all lands buildings works materials and plant of the promoters suitable to and used by them for the purposes of their undertaking within such district, and the terms of such purchase shall be such as shall be contained in the agreement with the local authority, or, if there be no such agreement or such agreement contain no such terms, then the terms shall be the payment of the value thereof, such value to be, in case of difference, determined by an Engineer or other fit person nominated as referee by the Superintendent on the application of either party, and the expenses of the reference to be borne and paid as the referee directs. And when any such sale has been made, all the rights powers and authorities of such promoters in respect to the undertaking sold, or, where any order has been made by the Superintendent under either of the next preceding sections, all the rights powers and authorities of such promoters previous to the making of such order in respect to the undertaking sold, shall be transferred to, vested in, and may be exercised by, the authority to whom the same has been sold, in like manner as if such tramway was constructed by such authority under the powers conferred upon them by an order under this Act, and in reference to the same they shall be deemed to be the promoters.

No such resolution shall be valid unless a month's previous notice of the meeting, and of the purpose thereof, has been given in manner in which notices of meetings of such local authority are usually given, nor unless two-thirds of the members constituting such local authority are present and vote at the meeting, and a majority of those present and voting concur in the resolution; and it shall be lawful for the chairman of any such meeting, with the consent of a majority of the members present, to adjourn the same from time to time.

The local authority in any district may pay the purchase money, and all expenses incurred by them in the purchase of any undertaking, under the authority of this section, out of the like rate, and shall have the like powers to borrow on the security of the same, as if such expenses were incurred in applying for obtaining and carrying into effect any order obtained by them under this Act.

Where the local rate is limited by law to a certain amount, and is by reason of such limitation insufficient for the payment of such purchase money and expenses, the Superintendent may by order extend the limit of such local rate to such amount as he shall think fit and prescribe for the payment of such purchase money and expenses.

Subject and according to the preceding provisions of this section, two or more local authorities may jointly purchase any undertaking or so much of the same as is within their districts.

46. The promoters of any tramway may, before or after the construction thereof, but if it be so provided in the order, with the consent of the local authority, sell their undertaking to any person persons corporation or company or to the local authority of such district; and when any such sale has been made, all the rights powers authorities obligations and liabilities of such promoters in respect to the undertaking sold shall be transferred to vested in and may be exercised by and shall attach to the person persons corporation company or local authority to

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whom the same has been sold, in like manner as if such person persons corporation company or local authority so purchasing had been authorized by order to construct such tramway, and in reference to the same they shall be deemed to be the promoters.

Provided always that a local authority shall not purchase any undertaking, under the provisions of this section, unless they shall decide to make such purchase by resolution passed at a special meeting of the members constituting such local authority, which resolution shall be made in the same manner, and shall be subject to the same conditions as to validity, as resolutions made in regard to the purchases by the next preceding section authorized.

Where any purchase is made by any local authority under the provisions of this section, such local authority may pay the purchase money, and all expenses incurred by them in making such purchase, out of the like funds, and for such purposes shall have all and the like powers and be subject to all the like conditions as if such purchase were made under the authority of the next preceding section.

Tolls.

47. The promoters or lessees of a tramway authorized by order may demand and take, in respect of such tramway, tolls and charges not exceeding the sums specified in such order, subject and according to the regulations therein specified. A list of all the tolls and charges authorized to be taken shall be exhibited in a conspicuous place inside and outside each of the carriages used upon the tramways. Tolls, &c.

By-laws.

48. Subject to the provisions of the order authorizing any tramway and this Act By-laws by local authority.

The local authority of any district in which the same is laid down may from time to time make regulations as to the following matters:—

The rate of speed to be observed in travelling upon the tramway.

The distances at which carriages using the tramway shall be allowed to follow one after the other.

The stopping of carriages using the tramway.

The traffic on the road in which the tramway is laid.

The promoters of any tramway and their lessees may from time to time make regulations— Promoters may make certain regulations.

For preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them.

For regulating the travelling in or upon any carriage belonging to them.

And for better enforcing the observance of all or any of such regulations, it shall be lawful for such local authority and promoters respectively to make by-laws for all or any of the aforesaid purposes, and from time to time repeal or alter such by-laws and make new by-laws, provided that such by-laws be not repugnant to the laws in force in that part of New Zealand where the same are to have effect.

Notice of the making of any by-law under the provisions of this Act shall be published by the local authority, or the promoters making the same, by advertisement, according to the regulations contained in Part II. of the Fourth Schedule to this Act annexed; and unless such notice is published in manner aforesaid, such by-law shall be disallowed by the Superintendent.

No such by-law shall have any force or effect which shall be disallowed by the Superintendent within two calendar months after a true copy of such by-law shall have been laid before the Superintendent; and a true copy of every such proposed by-law shall, not less than two calendar months before such by-law shall come into operation, be sent

to the Superintendent, and shall be delivered to the promoters of such tramway if the same was made by the local authority, and to such local authority if made by the promoters.

Penalties may be imposed in by-laws.

49. Any such by-law may impose reasonable penalties for offences against the same not exceeding forty shillings for each offence, with or without further penalties for continuing offences, not exceeding for any continuing offence ten shillings for every day during which the offence continues; but all by-laws shall be so framed as to allow, in every case, part only of the maximum penalty being ordered to be paid.

Power to local authority to license drivers, conductors, &c.

50. The local authority shall have the like power of making and enforcing rules and regulations, and of granting licenses with respect to all carriages using the tramways, and to all drivers conductors and other persons having charge of or using the same, and to the standings for the same, as they are for the time being entitled to make enforce and grant with respect to hackney carriages and the drivers and other persons having the charge thereof, and to the standings for the same in the streets and district of or under the control of the local authority: Provided always that in any district in which any of the powers aforesaid in relation to hackney carriages and the matters aforesaid in connection therewith are vested in any authority other than the local authority of such district, such authority shall have and may exercise the powers by this section conferred upon the local authority.

Provided also that with regard to any fees payable for or in respect of such licenses, the agreement between the local authority and the promoters, not being a local authority, may provide for the payment of a commuted sum by the promoters to the local authority in lieu of such fees, and in that case all such license fees shall, in accordance with such agreement, be payable to the promoters.

Offences.

Penalty for obstruction of promoters in laying out tramway.

51. If any person wilfully obstructs any person acting under the authority of any promoters in the lawful exercise of their powers, in setting out or making forming laying down repairing or renewing a tramway, or defaces or destroys any mark made for the purposes of setting out the line of the tramway, or damages or destroys any property of any promoters lessees or licensees, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalties for wilful injury or obstruction to tramways &c.

52. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely:—

Interferes with removes or alters any part of a tramway, or of the works connected therewith:

Places or throws any stones dirt wood refuse or other material on any part of a tramway:

Does or causes to be done anything in such manner as to obstruct any carriage using a tramway, or to endanger the lives of persons therein or thereon:

Or knowingly aids or assists in the doing of any such thing:

he shall for every such offence be liable (in addition to any proceedings, by way of indictment or otherwise, to which he may be subject) to a penalty not exceeding five pounds.

Penalty on passengers practising frauds on the promoters.

53. If any person travelling or having travelled in any carriage on any tramway avoids or attempts to avoid payment of his fare, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage, every such person shall, for every such offence, be liable to a penalty not exceeding forty shillings.

54. It shall be lawful for any officer or servant of the promoters or lessees of any tramway, and all persons called by him to his assistance, to seize and detain any person discovered either in or after committing or attempting to commit any such offence as in the next preceding section is mentioned, and whose name or residence is unknown to such officer or servant, until such person can be conveniently taken before a Justice, or until he be otherwise discharged by due course of law.

Transient offenders.

55. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding twenty pounds for every such offence; and it shall be lawful for such promoters or lessees to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Penalty for bringing dangerous goods on the tramway.

56. If any person (except under a lease from or by agreement with the promoters, or under license from the Superintendent, as by this Act provided) uses a tramway or any part thereof with carriages having flange wheels or other wheels suitable only to run on the rail of such tramway, such person shall, for every such offence, be liable to a penalty not exceeding twenty pounds.

Penalty for persons using tramways with carriages with flange wheels &c.

Miscellaneous.

57. The promoters or lessees, as the case may be, shall be answerable for all accident damages and injuries happening through their act or default, or through the act or default of any person in their employment, by reason or in consequence of any of their works or carriages, and shall save harmless all authorities companies or bodies collectively and individually, and their officers and servants, from all damages and costs in respect of such accidents damages and injuries.

Promoters or lessees to be responsible for all damages.

58. All tolls penalties and charges under this Act, or under any by-law made in pursuance of this Act, may be recovered and enforced before two or more Justices of the Peace, in manner directed by "The Justice of the Peace Act, 1866," with respect to summary convictions and orders, and any Act amending the same or passed for like purpose.

Recovery of tolls penalties &c.

59. Notwithstanding anything in this Act contained, the promoters of any tramway shall not acquire or be deemed to acquire any right other than that of user of any road along or across which they lay any tramway, nor shall anything contained in this Act exempt the promoters of any tramway laid along any turnpike road, or any other person using such tramway, from the payment of such tolls as may be levied in respect of the use of such road by the trustees thereof.

Right of user only.

60. Nothing in this Act shall limit or interfere with the rights of any owner lessee or occupier of any mines or minerals lying under or adjacent to any road along or across which any tramway shall be laid to work such mines and minerals, nor shall any such owner lessee or occupier be liable to make good or pay compensation for any damage which may be occasioned to such tramway by the working, in the usual and ordinary course, of their mines or minerals.

Reservation of rights of owners &c. of mines.

61. Nothing in this Act shall take away or affect any power which any local authority or other authority or the owners commissioners undertakers or lessees of any railway or tramway may have by law to widen alter divert or improve any road railway or tramway.

Reserving powers of street authorities to widen &c. roads.

62. Nothing in this Act shall limit the powers of the local authority or police in any district to regulate the passage of any traffic along or across any road along or across which any tramways

Power for local or police authorities to regulate traffic in roads.

are laid down; and such authority or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the promoters or of lessees as to the traffic of other persons.

Reservation of right
of public to use roads.

63. Nothing in this Act, or in any by-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road, or along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable only to run on the rail of the tramway.

Regulating inquiries
before referee ap-
pointed by the
Superintendent.

64. Every inquiry, except under the _____ section of this Act, which by this Act the Superintendent is empowered to make or direct, and any inquiry, under the said _____ section of this Act, if in the order it is provided that the inquiry shall be made as provided by this section of this Act, shall be made in accordance with the following provisions :—

- (1.) The inquiry shall be held in public, before an officer to be appointed in that behalf by the Superintendent, hereinafter called the referee, and whose appointment shall be by writing, which shall specify all the matters referred to him.
- (2.) Ten days' notice at the least shall be given by the referee to the parties upon whose representation the Superintendent shall have directed the inquiry, of the time and place at which the inquiry is to be commenced.
- (3.) The inquiry shall be commenced at the time and place so appointed, and the referee may adjourn the inquiry from time to time, as may be necessary, to such time and place as he may think fit.
- (4.) The referee by summons shall, on the application of any party interested in the inquiry, require the attendance before himself, at a place and time to be mentioned in the summons, of any person to be examined as a witness before him; and every person summoned shall attend the referee, and answer all questions touching the matter to be inquired into, and any person who wilfully disobeys any such summons, or refuses to answer any question put to him by such referee for the purposes of the said inquiry, shall be liable to a penalty not exceeding five pounds: Provided always that no person shall be required to attend in obedience to any such summons unless the reasonable charges of his attendance shall have been paid or tendered to him, and no person shall be required in any case, in obedience to any such summons, to travel more than ten miles from his place of abode.
- (5.) The referee may and shall administer an oath, or an affirmation where an affirmation in lieu of an oath would be admitted in a court of justice, to any person tendered or summoned as a witness on the inquiry.
- (6.) Any person who, upon oath or affirmation, wilfully gives false evidence before the referee, shall be deemed guilty of perjury.
- (7.) The referee shall make his report to the Superintendent in writing, and shall deliver copies of the report, upon request, to all or any of the parties to the inquiry.

Rules for carrying
Act into effect.

65. The Superintendent of each Province may, as to all matters and things arising within his Province under this Act, from time to time make, and when made may rescind annul or add to, rules with respect to the following matters :—

- (1.) The proceedings to be had before the Superintendent under this Act.

- (2.) The plans and sections of any works to be deposited by promoters under this Act.
- (3.) As to any other matter or thing in respect of which it may be expedient to make rules for the purpose of carrying this Act into execution.

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed.

Copies of any rules made in pursuance of this section shall be transmitted to the Minister within one month after they are made.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

Districts of Local Authorities.	Description of Local Authority.	The Local Rate.
Cities incorporated under "The Municipal Corporations Act, 1867."	City Council.	General rates.
Boroughs incorporated under "The Municipal Corporations Act, 1867."	Borough Council.	General rates.
Any City or Borough Town or District not incorporated under "The Municipal Corporations Act, 1867," but incorporated or the local affairs of which are managed under Act or Ordinance of any Provincial Legislature mentioned in the fourth column of the First Schedule of "The Municipal Corporations Act, 1867."	The Board, Trustees, Commissioners, or other governing body intrusted by law with the making or repairing the roads within the City Borough Town or District.	Any rate leviable by such Board, Trustees, Commissioners, or other governing body, and applicable by them to the purposes of making or repairing the roads within the City Borough Town or District.
Any Place or District not included in the above descriptions, and within the jurisdiction of any Highway District or Road or other District constituted under any Act of the General Assembly, or any Act or Ordinance of any Provincial Legislature, for the purpose of managing making or repairing highways or roads.	The Board, Trustees, Commissioners, or other governing body intrusted by law with the making or repairing the roads within the Place or District.	Any rate leviable by such Board, Trustees, Commissioners, or other governing body, and applicable to the purposes of making or repairing the roads within the Place or District.

SECOND SCHEDULE.

APPROVAL OF APPLICATION BY LOCAL AUTHORITY FOR AN ORDER.

The approval of any intended application for an order by a local authority shall be in manner following, that is to say:—

- A resolution approving of the intention to make such application shall be passed at a special meeting of the members constituting such local authority. Such special meeting shall not be held unless fourteen days' previous notice of the same and of the purposes thereof has been given, in manner in which notices of meetings of such local authority are usually given.
- Such resolution shall not be passed unless two-thirds of the members constituting such local authority are present and vote at such special meeting, and a majority of those present and voting concur in the resolution.

THIRD SCHEDULE.

O R D E R S.

PART I.

ADVERTISEMENT OF INTENDED APPLICATION.

1. Every advertisement is to contain the following particulars:—

- (1.) The objects of the intended application.
- (2.) A general description of the nature of the proposed works, if any.
- (3.) The names of the cities towns districts townships and other places in which the proposed works, if any, will be made.
- (4.) The times and places at which the deposit, under Part II. of this Schedule, will be made.
- (5.) An office at the place to which the intended application relates, at which printed copies of the draft order when deposited, and of the order when made, will be obtainable, as hereinafter provided.

2. The whole notice is to be included in one advertisement, which is to be headed with a short title descriptive of the undertaking.

3. The advertisement is to be inserted once at least in each of two successive weeks in some one and the same newspaper published in the district affected by the proposed undertaking where the proposed works (if any) will be made, or if there be no such newspaper then in some one and the same newspaper published in the Province in which every such district is situate.

4. The advertisement is also in every case to be inserted once at least in the *New Zealand Gazette*.

PART II.

DEPOSIT UNDER SECTION

1. The promoters are to deposit—

- (1.) A copy of the advertisement published by them.
- (2.) A proper plan and section of the proposed works, if any; such plan and section to be prepared according to such regulations as may from time to time be made by the Superintendent in that behalf.

2. The documents aforesaid are to be deposited for public inspection—

In the office of the Registrar or Deputy Registrar of the Supreme Court within the Province in which the undertaking is proposed to be made, and in the office of the local authority of every district in or through which any such undertaking is proposed to be made.

3. The documents aforesaid are also to be deposited at the office of the Superintendent.

PART III.

DEPOSIT UNDER SECTION

1. The promoters are to deposit at the office of the Superintendent—

- (1.) A memorial signed by the promoters, headed with a short title descriptive of the undertaking (corresponding with that at the head of the advertisement), addressed to the Superintendent, and asking for an order.
- (2.) A printed draft of the order as proposed by the promoters, with any schedule referred to therein.
- (3.) An estimate of the expense of the proposed works, if any, signed by the persons making the same.

2. They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement, such copies to be there furnished to all persons applying for them at the price of not more than one shilling each.

3. The memorial of the promoters (to be written on foolscap paper, bookwise, with quarter margin) is to be in the following form, with such variations as circumstances require:—

[*Short Title of Undertaking.*]

To the Superintendent of the Province of—

The Memorial of the Promoters of [*short title of undertaking*]:

Showeth as follows:—

1. The applicants have published, in accordance with the requirements of "The Tramways Act, 1872," the following advertisement:—

[*Here advertisement to be set out verbatim.*]

2. The applicants have also deposited, in accordance with the requirements of the said Act, copies of the said advertisement and [*Here state deposit of the several matters required by Act*].

The applicants therefore request that an order may be made in the terms of the draft proposed by them, or in such other terms as may seem meet.

A.B. }
C.D. } Promoters.

PART IV.

DEPOSIT AND ADVERTISEMENT OF ORDER WHEN MADE.

1. The promoters are to deposit printed copies of the order when settled and made for public inspection in the offices of the Registrar or Deputy Registrar of the Supreme Court, where the documents required to be deposited by them under Part II. of this Schedule were deposited.

2. They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement, such copies to be there furnished to all persons applying for them at the price of not more than each.

3. They are also to publish the order as an advertisement once in the local newspaper in which the original advertisement of the intended application was published; or, in case the same shall no longer be published, in some other newspaper published in the district.

FOURTH SCHEDULE.

PART I.

NOTICE AND DEPOSIT OF LEASE BY LOCAL AUTHORITY.

One month before any lease is submitted to the Superintendent, notice of the intention to make such lease shall be given by advertisement.

1. Every advertisement is to contain—

(1.) The term of the lease.

(2.) The rent reserved.

(3.) A general description of the covenants and conditions contained therein.

(4.) The place where the same is deposited for public inspection.

2. The advertisement is to be inserted once at least in each of two successive weeks in some one and the same newspaper published in the district affected by the proposed lease, or if there be no such newspaper, then in some one and the same newspaper published in the Province in which such district or some part thereof is situate.

3. The advertisement is also in every case to be inserted once at least in the *New Zealand Gazette*.

DEPOSIT.

A copy of such lease shall be deposited, for public inspection during office hours, at the office of the local authority, or at some other convenient place within the district to which such lease relates.

PART II.

NOTICE OF BY-LAWS.

Within one month after the making of any by-law, notice of the making of the same, and a copy of such by-law, shall be published by advertisement in manner following:—

1. The advertisement is to be inserted once at least in each of two successive weeks in some one and the same newspaper published in the district affected by such by-law, or if there be no such newspaper, then in some one and the same newspaper published in the county in which such district or some part thereof is situate, or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

2. The advertisement is also in every case to be inserted once at least in the *New Zealand Gazette*.

FIFTH SCHEDULE.

MORTGAGES BY THE LOCAL AUTHORITY.

1. Every mortgage of rates shall be by deed, in which the consideration shall be truly stated, and every such deed shall be under the seal of the local authority if it be a corporate body, or if not, then under the hands of two members of the local authority, and may be according to the form in the Appendix A to this Schedule, or to the like effect; and the respective mortgagees shall be entitled, one with another, to their respective proportions of the rates and assessments or other property comprised in such mortgages respectively, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of the priority of advancing such moneys, or of the dates of any such mortgages respectively.

2. A register of mortgages shall be kept by the Clerk to the local authority, and within fourteen days after the date of any mortgage, an entry or memorial of the number and date thereof, and of the names of the parties thereto, with their proper additions, shall be made in the proper register, and every such

register may be perused at all reasonable times, by any person interested in any such mortgage, without fee or reward.

3. Any person entitled to any such mortgage may transfer his right and interest therein to any other person; and every such transfer shall be by deed, wherein the consideration shall be truly stated, and every such transfer may be according to the form in the Appendix B, or to the like effect.

4. Within thirty days after the date of every such transfer if executed within the Colony, or otherwise within thirty days after the arrival thereof in the Colony, it shall be produced to the Clerk to the local authority, and thereupon such Clerk shall cause an entry or memorial thereof to be made in the same manner as in the case of the original mortgage, and for such entry the Clerk may demand a sum not exceeding two shillings, and after such entry every such transfer shall entitle the transferee, his executors administrators or assigns, to the full benefit of the original mortgage, and the principal and interest thereby secured, and such transferee may in like manner assign or transfer the same again *toties quoties*, and it shall not be in the power of any person except the person to whom the same shall have been last transferred, his executors administrators or assigns, to make void release or discharge the mortgage so transferred, or any money thereby secured.

5. Unless otherwise provided by any mortgage, the interest of the money borrowed thereupon shall be paid half-yearly to the several parties entitled thereto.

6. If the local authority can at any time borrow or take up any sum of money at a lower rate of interest than any securities given by them and then be in force shall bear, they may borrow such sum at such lower rate as aforesaid in order to pay off and discharge the securities bearing such higher rate of interest, and may charge the rates and other property which they may be authorized to mortgage or assign in security, or any part thereof, with payment of such sum and such lower rate of interest in such manner and subject to such regulations as are herein contained with respect to other moneys borrowed on mortgage.

7. The local authority may, if they think proper, fix a period for the repayment of all principal moneys borrowed, with the interest thereof, and in such case the local authority shall cause such period to be inserted in the mortgage deed, and upon the expiration of such period the principal sum together, with the arrears of interest thereon, shall on demand be paid to the party entitled to receive such principal money and interest; and if no other place of payment be inserted in such deed, such principal and interest shall be payable at the office of the local authority.

8. If no time be fixed in the mortgage deed for the repayment of the money so borrowed, the party entitled to receive such money may, at the expiration or at any time after the expiration of twelve months from the date of such deed, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months' previous notice for that purpose; and in the like case the local authority may at any time pay off the money borrowed on giving the like notice, and every such notice shall be in writing or print or both, and, if given by a mortgagee or creditor, shall be delivered to the Clerk or left at the office of the local authority, and if given by the local authority shall be given either personally to such mortgagee or creditor or left at his residence, or if such mortgagee or creditor be unknown to the local authority, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the *New Zealand Gazette*.

9. If the local authority shall have given notice of their intention to pay off any such mortgage at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable thereon, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the local authority fail to pay the principal and interest due at the expiration of such notice on such mortgage.

10. In order to discharge the principal money borrowed as aforesaid on security of any of the rates, the local authority shall every year appropriate and set apart out of such rates, respectively a sum equal to the prescribed part, and if no part be prescribed, one-twentieth part of the sums so borrowed respectively, as a sinking fund to be applied in paying off the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in Government debentures, or other Government securities, until the same respectively shall be of sufficient amount to pay off the principal debts respectively to which such sinking fund shall be applicable, or some part thereof which the local authority shall think ought then to be paid off, at which time the same shall be so applied in paying off the same in manner hereinafter mentioned.

11. Whenever the local authority shall be enabled to pay off one or more of the mortgages which shall be then payable, and shall not be able to pay off the whole of the same class, they shall decide the order in which they shall be paid off by lot among the class to which such one or more of the mortgages belong, and shall

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cause a notice signed by their Clerk to be given to the persons entitled to the money to be paid off pursuant to such lot, and such notice shall express the principal sum proposed to be paid off, and that the same will be paid, together with the interest due thereon, at a place to be specified, at the expiration of six months from the date of giving such notice.

12. The mortgagees of the local authority shall be empowered to enforce the payment of the arrears of interest, or the arrears of principal and interest, due to them, by the appointment of a Receiver; and if, within thirty days after the interest accruing upon any such mortgage has become payable, and after demand thereof in writing, the same be not paid, the mortgagee may, without prejudice to his right to sue for the interest so in arrear, require the appointment of a Receiver by an application to be made as hereinafter provided; and if, within six months after the principal money owing upon any such mortgage has become payable, and after demand thereof in writing, the same be not paid, together with all interest due in respect thereof, the mortgagee, without prejudice to his right to sue for such principal money, together with all arrears of interest, may, if his debt amount to the prescribed sum alone, or if his debt do not amount to the prescribed sum, he may, in conjunction with other mortgagees whose debts being so in arrear after demand as aforesaid, together with his, amount to the prescribed sum, require the appointment of a Receiver by an application to be made as hereinafter provided.

13. Every application for a Receiver, in the cases aforesaid, shall be made to a Judge of the Supreme Court, and on any such application such Judge may, by order in writing, after hearing the parties, appoint some person to receive the whole or a competent part of the rates or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest or until such principal and interest as the case may be, together with all costs, including the charges of receiving the rates or sums aforesaid, be fully paid; and upon such appointment being made, all such rates and sums of money as aforesaid, or such part thereof as may be ordered by the said Judge, shall be paid to the person so to be appointed, and the money so paid shall be so much money received by or to the use of the party to whom such interest or such principal and interest as the case may be shall be then due and on whose behalf such Receiver shall have been appointed, and after such interest and costs, or such principal interest and costs, have been so received, the power of such Receiver shall cease.

14. The books of account of the local authority shall be open at all reasonable times to the inspection of the respective mortgagees of the local authority, with liberty to take extracts therefrom without fee or reward.

APPENDIX A.

APPENDIX B.
