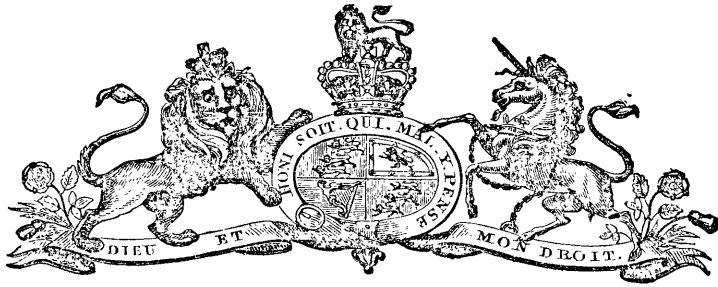


OTAGO, N. Z.



OUTRAM AND GREYTOWN RAILWAY ORDINANCE, 1875.

IN THE THIRTY-EIGHTH YEAR OF THE REIGN OF HER MAJESTY
QUEEN VICTORIA.

SESSION XXXIV. No. 483.

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An Ordinance intituled the "Outram and Greytown Railway Ordinance, 1875." Title.

[RESERVED FOR THE SIGNIFICATION OF THE GOVERNOR'S PLEASURE THEREON, 19TH JUNE, 1875.]

WHEREAS certain persons have formed themselves into a Limited Liability Company under the Joint Stock Company's Act 1860 for the purpose of making a Railway from Greytown in the Province of Otago to the West Taieri Bridge at Outram in the said Province for the purpose of carrying passengers cattle and merchandise : And whereas the said Company is called "The Outram and Greytown Branch Railway Company (Limited)" : And whereas the said Company have acquired or agreed to acquire by purchase or otherwise from the owners thereof the lands over which the said Railway is intended to pass with the exception of portions of several District Road Lines over which it is intended to carry the said Railway : And whereas the said intended Railway is a work of great utility and will be highly beneficial to the said Province of Otago : And whereas it is necessary for the due carrying out of the said intended Railway that the said Company shall have power to lay down and maintain lines of Rails across the several District Roads shown on the plan deposited with the Clerk of the Provincial Council of Otago as relative to this Ordinance and to run locomotives thereon ;

BE IT THEREFORE ENACTED by the Superintendent of the Province of Otago by and with the advice and consent of the Provincial Council thereof as follows :—

Short Title.

1. The short title of this Ordinance shall be the “Outram and Greytown Railway Ordinance, 1875.”

Interpretation.

2. The following words and expressions used in this Ordinance and so far as lawfully may be in any Act or Ordinance hereinafter mentioned or referred to shall have the meanings hereby assigned to them unless there be something in the context repugnant to such construction that is to say :—

The words “person” or “persons” shall include the Superintendent for the time being of the Province of Otago and a Corporation aggregate or sole and any person or body of persons whether incorporated or unincorporated.

The word “Railway” shall mean the Railway and Works connected therewith in this Ordinance specified and authorised to be constructed and made by or under the provisions of this Ordinance.

The expression “the undertaking” shall mean the Railway and Works hereby authorised to be constructed and executed and the right to construct and maintain the same and where not inconsistent with the context all the powers and privileges belonging and appertaining thereto.

The words “the said Company” shall mean the Outram and Greytown Branch Railway Company (Limited).

Power of promoters of undertaking to construct Railway and works.

3. It shall be lawful for the said Company to make construct and maintain in through over or upon any lands which already have been or hereafter may be acquired by the said Company and in through over and across any district or other roads set forth on the said plan so deposited as aforesaid a Railway with wharfs jetties and approaches and other necessary erections and conveniences connected therewith such Railway to commence at a point at or near the township of Greytown and terminate at the township of Outram as the line of the said Railway is set forth in the said plan so deposited as aforesaid or within the limits of deviation set forth in the said plan.

Provision of Lands Clauses Consolidation Act 1863 to apply to this Ordinance.

4. The “Lands Clauses Consolidation Act 1863” and all the clauses and provisions thereof shall so far as the same shall be applicable form part of this Ordinance.

Power to deviate.

5. The said Company in constructing the Railway may deviate from the line laid down in the plan but may not take or use for the purpose of such deviation any land not comprised within the limits of deviation referred to in Section 3 of this Ordinance without the consent in writing of the owner of such land.

Works to be executed.

6. Subject to the provisions and restrictions in this Ordinance and the said “Lands Clauses Consolidation Act 1863” it shall be lawful for the said Company for the purpose of constructing the said Railway or the accommodation works connected therewith respectively hereinafter mentioned to execute any of the following works (that is to say)—

They may make or construct in upon across under or over any lands or any streets hills valleys roads tramroads rivers brooks streams or other waters within the lands described in the said plan such temporary or permanent inclined planes tunnels embankments aqueducts bridges roads ways passages conduits drains piers arches cuttings and fences as they think proper.

They may alter the course of any rivers brooks streams or watercourses and of any branches of navigable waters within such lands for the purpose of constructing and maintaining tunnels bridges passages or other works over or under the same and divert or alter as well temporarily as permanently the course of any such rivers or streams of water roads streets or ways or raise or sink the level of any such rivers or streams roads streets or ways in order the more conveniently to carry the same over or under or by the side of the Railway as they may think proper.

They may make drains or conduits into through or under any lands adjoining the Railway for the purpose of conveying water from or to the Railway.

They may erect and construct such houses warehouses offices and other buildings yards stations wharfs engines machinery apparatus and other works and conveniences as they think proper.

They may from time to time alter repair or discontinue the before-mentioned works or any part of them and substitute others in stead and

They may do all other acts necessary for making maintaining altering or repairing and using the Railway.

7. Provided always that in the exercise of the powers by this Ordinance Proviso as to damages. granted the said Company shall do as little damage as can be.

8. Subject to the provisions herein contained it shall be lawful for the said Company at any time to enter upon any lands with the consent of the owners thereof and to occupy the said lands so long as may be necessary for the construction or repair of that portion of the Railway or of the accommodation works connected therewith hereinafter mentioned and to use the same for any of the following purposes (that is to say)—

Power to take temporary possession of land, with the consent of the owners thereof.

For the purpose of taking earth or soil by side cuttings therefrom.

For the purpose of depositing soil thereon.

For the purpose of obtaining materials therefrom for the construction or repair of the Railway or such accommodation works as aforesaid or

For the purpose of forming roads thereon to or from or by the side of the Railway or erecting

thereon workshops sheds and other buildings of a temporary nature: Provided always that nothing in this Ordinance contained shall exempt the said Company from an action for nuisance or other injury if any done in the exercise of the powers hereinbefore given to the lands or habitations of any party other than the party whose lands shall be taken or used for any of the purposes of this Ordinance: Provided also that no stone or slate quarry brickfield or other like place which at the time of the passing of this Ordinance shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the said Company either wholly or in part for any of the purposes lastly hereinbefore mentioned.

9. Whenever the Railway shall cross any public road or highway on a level the said Company shall erect and at all times maintain good and sufficient gates across such road or highway on each side of the railway where the same shall communicate therewith and shall employ proper persons to open and shut such gates and such gates shall be kept constantly closed across such road or highway on both sides of the Railway except during the time when

Provisions in cases where roads are crossed on a level.

horses cattle carts or carriages passing along the same shall have to cross such Railway and such gates shall be of such dimensions and so constructed as when closed to fence in the Railway and prevent cattle or horses passing along the road or highway from entering upon the Railway and the person entrusted with the care of such gates shall cause the same to be closed as soon as such horses cattle carts or carriages shall have passed through the same under a penalty of forty shillings for every default therein: Provided always in any case that the gates on any level crossing over any such road may be kept closed across the Railway instead of across the road and in such case such gates shall be kept constantly closed across the Railway except when engines or carriages passing along the Railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

Construction of
bridges over roads and
over Railways.

10. Every bridge to be erected for the purpose of carrying the Railway over any road and every bridge erected for carrying any road over the Railway shall respectively be built in conformity with such regulations as may be approved of by the Superintendent or his appointee.

Before roads inter-
fered with others to
be substituted.

11. If in the exercise of the powers by this Ordinance granted it be found necessary to cross cut through raise sink or use any part of any road whether carriage road horse road or tram road either public or private so as to render it impassable for or dangerous or extraordinarily inconvenient to passengers or carriages or to the persons entitled to the use thereof the said Company shall before the commencement of any such operation cause a sufficient road to be made instead of the road to be interfered with and shall for twelve months from the time of the completion of such substituted road at their own expense maintain the same in a state as convenient for passengers and carriages as the road so interfered with or as nearly so as may be: Provided always that in any case in which it shall be made to appear to the Superintendent before the commencement of any such operations as before mentioned to be impossible or extraordinarily inconvenient to cause such substituted road to be made before the commencement of the operations interfering with such existing road it shall be lawful for the Superintendent by writing under his hand to dispense with compliance with the provisions of this clause for such period as shall be named in such writing not exceeding one month from the time of commencement of such operations.

Penalty for not sub-
stituting a road.

12. If the said Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid or within the time which may be so limited by the Superintendent as aforesaid they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted.

Promoters to repair
roads used by them.

13. If in the course of making the Railway the said Company shall use or interfere with any road they shall from time to time make good all damage done by them to such road under a penalty not exceeding fifty pounds.

Superintendent to
have power to order
repair of bridges &c.

14. Where under the provisions of this Ordinance the said Company are required to maintain or keep in repair any bridge fence approach gates or other work executed by them it shall be lawful for the Superintendent on the application of the Corporation Trustees of the Local Road Board or other the governing body of the district where such work may be situate complaining that any such work is out of repair after not less than ten days' notice to the said Company to put such work into complete repair within a period to be limited for that purpose by such Superintendent and if the said Company fail to comply with such order they shall forfeit and pay the sum of five pounds for every day they shall fail so to do.

15. The said Superintendent acting by and with the advice and consent of his Executive Council may should he think it expedient so to do from time to time by proclamation to be published in the Provincial *Gazette* make alter and revoke regulations fixing rates fares and rent to be charged by the Company for the carriage of goods and passengers and the storage of goods in any of the Company's sheds or warehouses the number of trains to run each day the time of their arrival and departure from the terminal and intermediate stations and generally imposing such restrictions upon the conduct of the business and traffic of the Company as may in the opinion of the said Superintendent be most conducive to the public interest and welfare and may affix a penalty of not exceeding £100 to the breach of any of the regulations so to be proclaimed as aforesaid and the said Superintendent may also from time to time with the consent and advice aforesaid by proclamation to be published as aforesaid authorise and empower any trains or rolling stock the property of the Province to be run upon the said Railway after the completion thereof and to stop at the terminal and other stations aforesaid and may also from time to time by any such proclamation authorise and empower any Company or persons upon payment to "the Company" of such rates of charges as may be fixed in that behalf in and by any such proclamation to run trains or rolling stock upon the said Railway and to stop at the said terminal and other stations: Provided always that a copy of all regulations to be made by the said Superintendent as aforesaid shall be laid on the table of the Provincial Council within fourteen days after the commencement of each Session and any alteration or amendment in such regulations which the said Provincial Council shall by address to be forwarded to the said Superintendent recommend the said Superintendent shall immediately thereafter carry into effect if he shall approve of the same.

Superintendent may regulate Company's tariff of fares and charges.

16. The said Superintendent shall be entitled upon giving six calendar months' notice in writing to the Company to purchase the Railway works of the said Company together with its rolling stock plant implements and all its rights powers and privileges at a price to be determined by arbitration the award being that of three arbitrators or any two of them one arbitrator being chosen by the said Superintendent another by the said Company and the third arbitrator by the two other arbitrators: Provided always that no such notice as aforesaid shall be given by the Superintendent upon the previous recommendation of the Provincial Council. In determining the price to be paid to the said Company the said arbitrators shall not award any compensation to the said Company in respect of any lands tenements and hereditaments the use of which shall have been acquired from the Superintendent but the said Company shall receive in respect of such lands tenements and hereditaments the fair value of all improvements made on such lands and an equivalent for the expenditure laid out thereon: Upon payment of the compensation so to be awarded the said Company shall assign and transfer to the said Superintendent all its estate property and interest in the said Railway plant rolling-stock and everything appurtenant thereto: Provided always that no compensation whatever shall be paid for any goodwill of the said Railway nor for anything save and except the actual value of the land owned by the said Company and the improvements effected thereon and for the improvements effected on land belonging to the Superintendent as stated in this section.

Superintendent entitled to purchase on giving six months' notice.

17. The said Company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the Railway (that is to say)—

Accommodation works.

Such and so many convenient gates bridges arches culverts and passages over under or by the sides of or leading to or from the Railway as shall be necessary for the purpose of making good any interruptions caused by the Railway to the use of the lands through which the railway shall be made and such work shall be

made forthwith after the part of the Railway passing over such lands shall have been laid out or formed or during the formation thereof.

Also sufficient posts rails hedges ditches mounds or other fences for separating the land taken for the use of the Railway from the adjoining lands not taken and protecting such lands from trespass or the cattle of the owners or the occupiers thereof from straying thereout by reason of the Railway together with all necessary gates made to open towards such adjoining lands and not towards the Railway and all necessary stiles and such posts rails and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require and the said other works as soon as conveniently may be :

Also all necessary arches tunnels culverts drains or other passages either over or under or by the sides of the Railway of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the Railway as before the making of the Railway or as nearly so as may be and such works shall be made from time to time as the Railway works proceed :

Provided always that the said Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the Railway nor to make any accommodation works with respect to which the owners or occupiers of the lands shall have agreed to receive and shall have been paid compensation instead of the making them.

Penalty on persons omitting to fasten gates.

18. If any person omit to shut and fasten any gate set up at either side of the Railway for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriage cattle or other animals under his care have passed through the same he shall forfeit for every such offence any sum not exceeding forty shillings.

Title to soil of roads &c. not to be affected.

19. Nothing herein contained shall be held to give to the said Company any title to the soil of any District or other Road or in any way to affect the title to any lands or hereditaments.

Ordinance to expire if railway not completed in three years.

20. This Ordinance shall cease to have force and shall expire at the expiration of three years from the time the same shall receive the Governor's assent unless the Railway shall be completed within such period of three years.

Interpretation Ordinance 1865 incorporated.

21. The Ordinance of the Superintendent and Provincial Council of the Province of Otago shortly intituled the " Interpretation Ordinance 1865 " so far as the same shall not be varied by or be inconsistent with the provisions of this Ordinance or any Act herein mentioned or referred to shall be and the same is incorporated with this Ordinance and shall save as aforesaid form part of this Ordinance.

Penalties to be recovered in a summary way.

22. All proceedings for offences against the provisions of this Ordinance shall be had and taken in a summary way and all penalties hereby imposed shall be recovered in a manner provided by the Act of the General Assembly of New Zealand intituled " The Justices of the Peace Act 1866."

Maximum penalty.

23. No penalty to be imposed on any one conviction under the provisions of this Ordinance shall exceed the sum of one hundred pounds.