

VICTORIÆ REGINÆ.

No. 2.

Local and Personal.

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AN ACT to enable the Superintendent of the Province of Auckland to construct a Railway between the Towns of Auckland and Drury with a Branch to Onehunga in the said Province. Title.

[14th December 1863.]

WHEREAS it is expedient to construct a Railway between the Towns of Auckland and Drury with a Branch to Onehunga in the Province of Auckland Preamble.

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

I. The Short Title of this Act shall be "The Auckland and Drury Railway Act 1863." Short Title.

II. The following words and expressions in this Act and any Act wholly or partially incorporated herewith shall have the Interpretation.

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meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction (that is to say)

The word "person" shall include a Corporation aggregate or sole.

The word "lands" shall include messuages lands tenements and hereditaments of any tenure and any estate or interest therein.

The terms "plan" "section" and "Book of Reference" shall mean the plan section and book of reference respectively of the proposed Railway deposited in the Private Bill Office.

The expression "the Railway" shall mean the Railway and Branch Railway and the works connected therewith authorised to be constructed by this Act.

The expression "two Justices" shall mean two or more Justices met and acting together or a Resident Magistrate.

The word "Superintendent" shall mean the Superintendent for the time being of the Province of Auckland aforesaid.

Imperial Act incorporated.

III. Subject as hereinafter provided the Sections of the Imperial Act incorporated with this Act wherever the words of the same would from their being framed with reference to the Kingdom of England be inapplicable to the circumstances of the Colony of New Zealand are to be read and interpreted so as to make them applicable to the circumstances of this Colony and so as to ensure that the operation of the said Imperial Act shall be secured by this Act for the benefit of the said Railway and also for the controlling of the same to the full extent and meaning of this Act.

Superintendent may make of Railway.

IV. It shall be lawful for the Superintendent to make and maintain a Railway commencing on the Sea Beach at or near the Easterly end of Customhouse-street in the City of Auckland and passing from in through or into the several townships places or other territorial divisions following that is to say Auckland Waitemata Parnell Epsom Newmarket Remuera Manurewa Otahuhu Opaheke Papakura and Drury and terminating in an allotment in the occupation of George Graham at or near the North Eastern corner of the town of Drury as laid down in the official plan thereof with a Branch Railway from the same terminating in the Public Reserve near Geddes' Basin at or near to the Town of Onehunga all in the said Province as the same is more particularly delineated and described in the said plan and section or within the limits of deviation set forth on the said plan and for that purpose and for the other purposes of this Act the Superintendent shall be a Corporation by the name and style of the Superintendent of Auckland and by that name shall have perpetual succession and a Common Seal Provided always that

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it shall be lawful for the Superintendent to extend the said Railway to and terminate it in an allotment of land adjoining the said allotment in the occupation of the said George Graham now in the occupation of William John Young.

V. Subject to the provisions of this Act and the Acts incorporated herewith the Superintendent may exercise all or any of the powers by this Act or the said incorporated Acts conferred upon him for the construction of the said Railway and may enter upon and cause to be entered upon all Lands within the said Province for the purpose of making such surveys as may be necessary and may take and hold all the Lands required for the said Railway along the Line so set forth and described or within the said limits of deviation and may temporarily occupy and use such Lands as may be necessary on either side of the said Railway during the construction thereof.

Power to enter upon lands.

VI. All persons being owners of or having any lesser Estate or interest in any Lands so taken under authority of this Act or which may be damaged by the construction of the said Railway shall be entitled to receive compensation for such Land or damage the amount whereof shall be ascertained in the manner set forth in an Act of the General Assembly called "The Lands Clauses Consolidation Act 1863" which said Act for that and other purposes shall be incorporated with this Act.

Persons entitled to compensation.

VII. Subject to the provisions of this Act the Act of the Imperial Parliament called the "Railways Clauses Consolidation Act 1845" shall be incorporated with this Act excepting the following sections that is to say 7 8 9 17 25 to 29 both inclusive 107 114 159 and 161.

Railways Clauses Consolidation Act 1845 of the Imperial Parliament incorporated.

VIII. Provided that wherever in the said Imperial Act the following words are used they shall have the meanings hereinafter severally set opposite to them that is to say the words

Further interpretation.

"Commissioners of Her Majesty's Treasury" shall mean "The Governor of New Zealand" "Superior Courts" "The Court of Chancery" "The Court of Queen's Bench" "The Court of Exchequer," "General Quarter Sessions," "Quarter Sessions" shall mean severally "The Supreme Court of New Zealand" "The Promoters of the Undertaking" shall mean "The Superintendent" "The United Kingdom" "The Kingdom" shall mean "The Colony" "The County" shall mean "The said Province" "The Bank" shall mean "The Savings' Bank at Auckland or other Bank to be appointed by the Governor" "The Board of Trade" shall mean "The Superintendent acting with the advice and consent of the Executive Council of the Province" "Clerk of the Peace" "One of the Masters of the Court of Queen's Bench" "Accountant General of the Court of Chancery in England" "Accountant General of the Court of Exchequer in Ireland" "Taxing Master

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of the Court of Chancery" "Master in Chancery" shall mean severally "The Registrar in Auckland of the Supreme Court of the Northern District of New Zealand.

Plans &c. to be kept at Superintendent's office.

IX. At all times after the passing of this Act a copy of the Plan Section and Book of reference shall be kept in the office of the Superintendent and be at all convenient times open for public inspection and all persons may at all convenient times examine the same gratis at such office.

Superintendent not responsible for error or omission.

X. No advantage shall be taken of or against the Superintendent or any interruption be given during or after the making of the Railway on account of any error or omission in such plan or section in any case in which it shall appear to two Justices and be certified by writing under their hands that such error or omission proceeded from mistake.

Power to deviate.

XI. The Superintendent in constructing the Railway may deviate from the line of works laid down in the plan but may not take or use for the purpose of such deviation any lands not comprised within the said limits of deviation before referred to without the consent in writing of the owner of such lands.

Lands taken for the purposes of this Act vested in Superintendent.

XII. All Lands acquired for the purposes of the Railway and all property Real or Personal of what description soever belonging or appertaining to the said Railway shall be and are hereby declared to be vested in and shall be deemed to be the property of the Superintendent and shall be held by him in trust for the Public service of the said Province and shall be managed dealt with and administered by him for the purposes of this Act.

Superintendent to regulate charges.

XIII. It shall be lawful for the Superintendent to make such charges for the carriage and conveyance of passengers produce animals and merchandise as he may from time to time determine upon.

Power to sue and detain goods by way of lien.

XIV. In case default shall be made in payment of any money due and payable to the Superintendent under the authority of this Act the same may be recovered by the Superintendent upon the suit of the person from time to time authorised by him to receive the same and it shall be lawful for the Superintendent to detain the goods and merchandise in respect of which such money shall be payable until the money payable in respect thereof shall have been fully paid and satisfied.

Superintendent to take securities from receivers of Toll.

XV. Security shall be taken by the Superintendent in such amount and in such manner as he shall deem necessary from any Collector or Receiver of any tolls or charges collected under the authority of this Act or any Provincial Act respecting the Railway for the faithful execution of his office.

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XVI. Full and accurate accounts shall be kept of all monies received and expended under the provisions or for the purposes of this Act and such accounts shall be balanced once in each year at the least.

Accounts to be kept.

XVII. Such accounts shall be duly audited once in each year at the least and for this purpose an Auditor or Auditors shall be appointed by the Governor.

Accounts to be audited.

XVIII. For the purpose of auditing such accounts the Superintendent shall cause the accounts together with all his books and vouchers relating to the Railway to be produced to the Auditor.

Books to be produced before Auditor.

XIX. The remuneration of the Auditor and his expenses shall be defrayed out of the funds levied under this Act.

Auditor to be paid out of the funds of the Railway.

XX. An Annual Abstract shall be prepared of the total receipts and expenditure of all funds levied under this Act or received for the purposes hereof during the past year under the several distinct heads of receipts and expenditure with a statement of the balance of the said accounts duly audited and certified by the Superintendent and also by the Auditor thereof and a copy of such annual account shall be lodged in the office of the Superintendent on or before the 31st day of January in each year and such accounts shall be open at all reasonable hours to the inspection of the public upon payment of a fee of Two Shillings and Sixpence.

Annual abstract to be prepared.

Accounts to be open to the public upon payment of a fee.

XXI. The powers conferred by this Act or any Act incorporated herewith shall not be exercised nor shall the Railway be commenced until a *bona fide* provision to the satisfaction of the Governor in Council shall have been made by the Superintendent or by the Provincial Legislature for obtaining the money necessary for the completion of the Railway and the efficient working thereof.

Powers of this Act not to be exercised until provision to the satisfaction of the Governor in Council be first made.

XXII. This Act shall cease to have force and shall expire at the expiration of three years from the passing hereof unless the Railway hereby authorised to be made shall have been *bona fide* commenced within such period of three years.

Act to cease to have force after the expiration of three years.

XXIII. Nothing herein contained shall be deemed or construed to exempt the Railway by this Act authorised to be made from the provisions of any General Act relating to Railways which may hereafter pass during this or any future session of Parliament or from any future revision and alteration under the authority of the General Assembly of the maximum rates of fares and charges authorised by this Act.

Railway not exempt from any general Act relating to Railways.