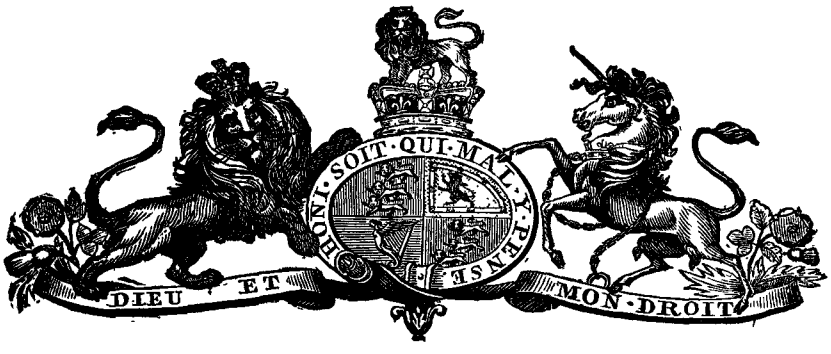
NEW ZEALAND.



TRICESIMO TERTIO ET TRICESIMO QUARTO

VICTORIÆ REGINÆ.

[*Local and Personal.*]

No. I.

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AN ACT to enable the Superintendent of the Province of Canterbury to construct a Railway between the Title.

Addington Station on the Canterbury Great Southern Railway and the Junction of the Roads forming the North-eastern and South-eastern Boundaries of Section No. 1028, near the North-western Boundary of the Native Reserve in the Mandeville District in the said Province.

[*2nd August*, 1870.]

Preamble.

WHEREAS it is expedient to construct a Railway between the Addington Station on the Canterbury Great Southern Railway and the junction of the roads forming the North-eastern and South-eastern boundaries of section number one thousand and twenty-eight, near the North-western boundary of the Native Reserve in the Mandeville District in the Province of Canterbury:

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

Short Title.

1. The Short Title of this Act shall be "The Canterbury Great Northern Railway Act, 1870."

Interpretation.

2. The following words and expressions in this Act and in any Act herein incorporated shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant thereto, 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 of any estate or interest therein.

The term "plan" and the term "book of reference" shall mean respectively the plan and the book of reference of the proposed railway deposited in the Private Bill Office.

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 Canterbury.

The expression "the railway" shall mean the railway and the works connected therewith authorized to be constructed by or under the authority of this Act.

Superintendent may construct and maintain railway.

3. It shall be lawful for the Superintendent to make construct and maintain a railway, with proper works approaches and conveniencies connected therewith, commencing near the City of Christchurch at the place delineated on the plan and described in the book of reference, being the Addington Station, on the Canterbury Great Southern Railway, situate to the south of the south-western corner of the Town Belt of the City of Christchurch, on rural section number nine on the map of the Chief Surveyor of the Province of Canterbury, and extending along the lines set forth in the said plan, passing through the several sections enumerated in the Schedule hereunto annexed, and the several reserves made for the purpose of the said railway, or within a distance of five chains on either side of the said line, and terminating at a point shown in the said plan, situate at the junction of the roads forming the north-eastern and south-eastern boundaries of section number one thousand and twenty-eight, near the north-western boundary of the Native Reserve in the Mandeville District, or at any intermediate point.

4. Whenever the said line of railway shall be shown, specified, delineated, or indicated on such plans and book of reference deposited as aforesaid to cross any highways or roads by level crossings, this Act shall be taken and deemed a sufficient authority for making or constructing such railway, to pass over such highways or roads on the level or otherwise, in the manner specified delineated or indicated on such plans or book of reference or the descriptions in such plans or book of reference, and in such cases the part of the roadway which shall be taken or occupied by such railway shall be duly taken for the purposes of such railway; and this Act shall also be taken and deemed to be sufficient authority for closing up or diverting in the manner specified or delineated or indicated by such plans book of reference or description, any highways or roads which are therein described or shown as to be closed, or diverted as the case may be, and such plans and book of reference shall be deemed to be incorporated in this Act.

This Act to be deemed sufficient authority to construct such railway.

5. It shall be lawful for the Superintendent to construct the said railway over the River Waimakariri, at the places shown on the said plans and book of reference, or within the aforesaid line of deviation therefrom, and for that purpose to build and construct such bridges across the said river for the purposes aforesaid, and according to such plans and specifications as the Superintendent may authorize.

Superintendent may construct railway over the Waimakariri River.

6. Subject to the provisions of this Act and of 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 railway, and may enter upon or cause to be entered upon all lands within the Province of Canterbury for the purpose of making such surveys as may be necessary, and may take and hold all the lands required for the railway along the line set forth and described as aforesaid, or within the limits of deviation described in section three, and may temporarily occupy and use such lands as may be necessary on either side of the railway during the construction thereof.

Superintendent may enter upon lands for the purpose of survey, &c.

7. All persons, being owners of or having any lesser estate or interest in any lands taken occupied or used under the 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 occupation or damage, the amount whereof shall be ascertained in the manner set forth in "The Lands Clauses Consolidation Act, 1863," and "The Lands Clauses Consolidation Act Amendment Act, 1866," which are hereby incorporated in this Act.

Owners of land entitled to compensation.

8. The word "guardian," when used in "The Lands Clauses Consolidation Act, 1863," shall be held to mean the Registrar or Deputy Registrar, at Christchurch, of the Supreme Court, in case any infant whose lands are taken or injuriously affected under this Act has no legal guardian resident in the Colony.

"Guardian" to mean Registrar or Deputy Registrar of the Supreme Court.

9. The Act of the Imperial Parliament called "The Railway Clauses Consolidation Act, 1845," excepting the following sections, that is to say—Numbers seven to fifteen both inclusive, seventeen, twenty-five to twenty-nine both inclusive, thirty-nine, forty-six to fifty-one both inclusive, fifty-four, fifty-seven, fifty-nine, sixty, sixty-three to sixty-seven both inclusive, seventy-six, ninety-one, ninety-two, one hundred and seven, one hundred and nine, one hundred and ten, one hundred and eleven, one hundred and fourteen, one hundred and forty, one hundred and forty-one, one hundred and fifty, one hundred and fifty-nine, one hundred and sixty-one, one hundred and sixty-two, and one hundred and sixty-three, shall also be incorporated with and form part of this Act: Provided that wherever in such Act the

Certain clauses of "Railway Clauses Consolidation Act, 1845," incorporated.

following words are used, they shall mean the words hereinafter set opposite to them, that is to say:—

The words "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," "the Company," shall mean the Superintendent.

"The United Kingdom," "the Kingdom," "the County," shall mean the Province of Canterbury.

"The Bank" shall mean the Bank where the business of the said Province of Canterbury shall for the time being be transacted at Christchurch or Lyttelton.

"Board of Trade" shall mean the Resident Magistrate at Christchurch.

"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 of the Court of Chancery," "Master in Chancery," severally, shall mean the Registrar or Deputy Registrar at Christchurch of the Supreme Court of New Zealand.

"The Lands Clauses Consolidation Act" shall mean "The Lands Clauses Consolidation Act, 1863," and "The Lands Clauses Consolidation Act Amendment Act, 1866."

Copy of clauses of Acts incorporated to be served on owners &c.

10. A copy of the clauses of this Act herein incorporated which relate to the subject of compensation for land shall be served or left at the last usual place of abode of every person whose land shall be required for the purposes of this Act if such person shall be resident in the Colony; or if not, then on the agent of such person; or if there be no such agent or no such agent known to the said Superintendent, by affixing the same on some conspicuous part of the said land.

Superintendent may lease or sell surplus of the land acquired for railway purposes &c.

11. It shall be lawful for the Superintendent to lease from time to time, at such rent, and on such conditions as he may think reasonable, all or any of the lands which he has acquired, or may hereafter acquire by voluntary agreement, for the purpose of the railway, or to sell or convey all or any of such lands, in such manner and on such conditions as he may deem proper, provided that all leases so to be made shall be deemed to take effect in possession.

Superintendent authorized to pay for such land out of the public revenue of the Province of Canterbury.

12. The Superintendent is hereby authorized and required to cause all sums which may be agreed upon or be awarded or otherwise payable under the provisions of this Act, as compensation for land taken or for damage done in the construction of the said railway, to be paid out of the public revenues of the Province of Canterbury.

Copy of plan and book of reference to be kept at Superintendent's Office.

13. At all times after the passing of this Act a copy of the plan 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 at such office.

No interruption to be made or given to Superintendent during the making of railway on account of mistake in plan and book of reference.

14. 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 book of reference 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.

Superintendent may

15. 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 limits of deviation referred to in section three of this Act, without the consent in writing of the owner of such lands.

deviate from line of works.

16. All lands acquired for the purpose 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.

Land acquired to be vested in Superintendent upon trust for public purposes.

17. All contracts and other agreements to be entered into under authority of this Act, or of any Act incorporated herewith, shall be entered into in the name of the Superintendent.

Contracts to be entered into in the name of Superintendent.

18. If any person shall throw any gravel stones or rubbish, or any matter or thing upon any part of the railway, or shall drive or wilfully permit to wander stray or be driven upon the railway or the approach thereto, any horse ass sheep swine or other beast or cattle of any kind, or shall do any other act matter or thing to obstruct the free passage of the railway or any part thereof, every person so offending in any of the cases aforesaid, shall forfeit and pay for every such offence any sum not exceeding fifty pounds, and in default of payment thereof shall be imprisoned, with or without hard labour, for such period not exceeding six months, as the convicting Justice or Justices shall appoint, unless the said penalty shall be sooner paid, and such penalty may be recovered before any two Justices of the Peace, on complaint to them for that purpose exhibited on behalf of the Superintendent.

Penalty on persons obstructing &c. the line of railway.

19. If any person shall wilfully and maliciously put place cast or throw upon or across the railway, any wood stone or other matter or thing, or shall wilfully and maliciously take up remove or displace any rail sleeper or other matter or thing belonging to the railway, or shall wilfully and maliciously make or show hide or remove any signal or light upon or near to the railway, or shall wilfully and maliciously do or cause to be done any other matter or thing with intent in any of the cases aforesaid to obstruct upset or throw or injure or destroy any engine tender carriage or truck, or to endanger the safety of any person travelling or being upon the railway, every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be sentenced to hard labour on the roads or other public works of the Colony for any term not exceeding fifteen years, or to be imprisoned, with or without hard labour, in any gaol or house of correction for any term not exceeding four years.

Penalty on persons removing rails and endangering persons travelling.

20. If any person shall wilfully and maliciously, and to the prejudice of the public, break hinder damage throw down or destroy any part of the railway or other works connected therewith, every such person shall be judged guilty of misdemeanour; and every person so offending, and being thereof lawfully convicted, shall be liable, at the discretion of the Court, to be sentenced to hard labour on the roads or other public works of the Colony, for any term not exceeding ten years, or to be imprisoned, with or without hard labour, in any gaol or house of correction for any period not exceeding three years.

Persons damaging railway to be deemed guilty of a misdemeanour.

21. It shall be lawful for any railway official or agent, or for any special or common constable, and all such persons as they may call to their assistance, to seize and detain any engine-driver waggon-driver guard porter servant or other person employed upon the railway, or in repairing and maintaining the works of the railway, or any other person whomsoever, whether so employed or not, who shall be found drunk whilst so employed or being upon the railway, or who

Railway official or constable may bring before Justices persons offending against this Act, and by-laws to be made.

shall commit any offence against any of the regulations or by-laws made in pursuance of this Act, or who shall wilfully maliciously or negligently do any act, or shall be guilty of any omission of duty whereby the life or limb of any person passing along or being upon the railway or the works thereof respectively, shall be or might be injured or endangered, or whereby the passage of any engine carriage or train shall be or might be obstructed or impeded, and to convey such engine-driver guard porter servant or other person so offending, or any person counselling aiding or assisting in such offence, with all convenient despatch, before any two or more Justices of the Peace, without any other warrant or authority than this Act, to be dealt with according to law; and every person so offending as aforesaid, and every person counselling aiding or assisting therein, shall, upon conviction before such Justices (upon a complaint in writing), in the discretion of such Justices be imprisoned, with or without hard labour, for any term not exceeding six months, or shall in the like discretion forfeit any sum not exceeding fifty pounds, and in default of payment thereof shall be imprisoned, with or without hard labour, for such period not exceeding six months, as such Justices shall appoint, unless the penalty be sooner paid.

Tolls payable to Superintendent.

22. Tolls fares and charges for passengers animals carriages goods merchandise minerals articles matters and things conveyed on the railway, shall be payable to and receivable by the Superintendent at rates not exceeding a maximum to be from time to time fixed by an Ordinance of the Provincial Legislature of Canterbury, and shall be deemed to be tolls fares and charges authorized by this Act.

Nothing herein contained shall be deemed to exempt railway to be constructed under this Act from provisions of any future Act of General Assembly.

23. Nothing herein contained shall be deemed or construed to exempt the railway by this Act authorized to be made from the provisions of any general Act relating to railways now in force or 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 authorized by this Act.

Management of railway may be altered by Ordinance of Provincial Council of Canterbury.

24. This Act, so far as concerns the management of the said railway, and the exercise of the powers hereby or by any Act incorporated herewith vested in the Superintendent, and all matters incidental thereto, may be altered by any Ordinance of the Superintendent and Provincial Council of the Province of Canterbury.

Moneys tolls and property, in upon and about the railway, to be deemed the property of the Superintendent.

25. For the purpose of any proceedings, criminal or otherwise, commenced brought or prosecuted against any person whomsoever, whether employed upon the said railway or not, all tolls or moneys received by any person employed upon the said railway, or payable by any person in respect of tolls for using the said railway or otherwise, and all goods wares merchandise or other chattels while *in transitu* upon the said railway, or being in or upon any station warehouse store truck or other carriage belonging to or used in connection with the said railway, and all engines carriages trucks machinery fuel books papers tools implements or other chattels articles or things used in upon or about the said railway, or in working or in carrying on the business thereof, shall be taken and deemed to be the property of the Superintendent, and may in all pleadings indictments informations or other proceedings be described to be the property of the Superintendent, without any further addition or description.

Superintendent may make by-laws &c.

26. For the better enforcing the observance of all or any of the regulations to be made under the powers by this Act enacted, it shall be lawful for the Superintendent to make by-laws, and from time to time to repeal or alter such by-laws and make others, provided that such

by-laws be not repugnant to the laws of the Colony, and such by-laws shall be reduced into writing, and shall have affixed thereto the Seal of the Province; and any persons offending against such by-laws shall forfeit for every such offence any sum not exceeding five pounds to be imposed by the Superintendent in such by-laws as a penalty for any such offence, and if the infraction or non-observance of any such by-law or other such regulation as aforesaid be attended with damage or annoyance to the public or hindrance to the using of the said railway, it shall be lawful for the Superintendent or any person authorized by him summarily to interfere to obviate or remove such damage annoyance or hindrance, and without prejudice to any penalty incurred by the infraction of any such by-law.

By-laws to be painted on board or printed on paper &c.

27. The substance of such last-mentioned by-laws, when confirmed or allowed, shall be painted on boards, or printed on paper and pasted on boards, and hung up and affixed and continued on the front or other conspicuous part of every station on the railway, according to the nature or subject of such by-laws respectively, and so as to give public notice thereof to the parties interested therein or affected thereby; and such boards shall from to time be renewed as often as the by-laws thereon or any part thereof shall be obliterated or destroyed, and no penalty imposed by any such by-law shall be recoverable unless the same shall have been published and kept published in manner aforesaid.

By-laws when confirmed published and affixed, shall be binding on all parties.

28. Such by-laws, when so confirmed published and affixed, shall be binding upon and be observed by all parties, and shall be sufficient to justify all persons acting under the same, and for proof of the publication of any such by-laws it shall be sufficient to prove that a printed paper or painted board containing a copy of such by-laws was affixed and continued in manner by this Act directed; and in case of its being afterwards displaced or damaged, then that such paper or board was replaced as soon as conveniently might be.

Costs to be paid by Superintendent.

29. In all cases when any damages costs or expenses are by this or any Act incorporated herewith directed to be paid by the Superintendent, the same shall be paid by such Superintendent in the manner provided by section three of "The Provincial Lawsuits Act Amendment Act, 1867."

Portion of penalty to informer.

30. The Justices by whom any penalty or forfeiture shall be imposed under sections one hundred and forty-four and one hundred and forty-five of the said Railway Clauses Consolidation Act may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer.

Employés to be deemed servants of Superintendent.

31. All persons employed upon the working or management of the said railway shall for all purposes, criminal or otherwise, be taken and deemed to be the servants of the Superintendent.

Superintendent may contract for construction of railway.

32. It shall be lawful for the Superintendent to contract with any person or company for the construction of the said railway, and for providing the rolling stock and other things which may be necessary for the efficient working of the same, and to provide for the payment of such person or company by granting a lease of the said railway, and the tolls to arise from the use thereof, to such person or company for such term of years and subject to such conditions as may be agreed upon and sanctioned by the Provincial Council of the said Province: Provided that nothing in this Act contained shall be held deemed or taken to authorize the Superintendent to anticipate the revenues of the said Province to a greater extent than he is now or shall at any time hereafter be authorized to do by any law for the time being in force in New Zealand, or to authorize or empower the Super-

intendent to raise any money by loan or otherwise upon the security of the revenues of the said Province for the purposes of the said railway, except under the authority of an Act of the General Assembly to be previously passed for that purpose.

Schedule.

SCHEDULE OF SECTIONS REFERRED TO IN THIS ACT.

9, 10, 163, 80, 143, 242, 454, 2,382, 135, 151, 64 [in red], 323, 203, 5, 3, 25, 189A, 292, 291, 290, 280, 279, 243, 322, 150, 10,753, 288, 289, 281, 243A, 298, 337, 1,463, 419, 589, 811, 1,527 1,765, 1,788, 9,650, 368A, 7,886, 699, 297, 468, 321, 365, 760, 564, 1,821, 13,738, 338, 403, 929, 912, 387, 358A, 1,645, 1,854, 1,987, 2,604, 1,678, 355, 1,655, 1,028.

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