

New Zealand.



ANALYSIS.

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1882, No. 38.

Title.

AN ACT to afford facilities for Private Tramways.

[13th September, 1882.]

Preamble.

WHEREAS it is expedient to enable local governing bodies to afford facilities for private tramways to cross public streets and roads :

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

Short Title.

1. The Short Title of this Act is "The Private Tramways Act, 1882."

Interpretation.

2. In this Act the words and expressions following shall have the meanings herein respectively assigned thereto, that is to say,—

The words "private tramway" shall mean and include any tramway or railway constructed solely or mainly for the conveyance of the goods, produce, merchandise, or other freight of any private person, persons, firm, partnership, or company, and not intended for the general use of the public ;

The word "promoter" shall mean and include the person, persons, firm, partnership, or company by whom such private tramway is intended to be or is in course of being constructed, or in whom the ownership of the same shall be vested ;

The word "district" shall mean and include any county, road district, borough, or town district ;

The words "local authority" shall mean and include the governing body of any such district ;

The word "subdivision" shall mean and include a riding of any county, a ward of any divided borough, or subdivision of any road district or town district.

Promoter to make application for license to local authority, deposit plan, &c.

3. The promoter of any private tramway intended to cross any public street or streets, road or roads, shall, before laying down such tramway across any such street or streets, road or roads, make application in writing to the local authority of the district in which such street or streets, road

or roads, is or are situated, for a license in that behalf; and shall in such application set forth the gauge of such proposed tramway, the width of the trucks or other rolling-stock to be used thereon, and the mode of traction to be employed; and shall, together with such application, deposit at the office of such local authority a plan showing the point or points at which it is proposed to cross such street or streets, road or roads, and also the sum of five pounds to defray the cost of publishing such application as hereinafter provided.

4. Upon receipt of any such application the local authority shall cause the same to be notified in some newspaper published within the district, or, if there be no such newspaper, then in some newspaper having general circulation therein, and in every issue thereof during not less than four weeks next after the receipt of such application; and such notification shall set forth the name of the promoter, the street or streets, road or roads, proposed to be crossed, the place and times at which the plan of the proposed tramway may be inspected, and the date (not being sooner than thirty days after the date of the first publication of such notification) upon which the said application and any objections thereto will be taken into consideration by such local authority.

Notice of application to be advertised.

5. If, before the date fixed for such consideration, a memorial of objection signed by any ratepayer or ratepayers resident within the district or within such subdivision or subdivisions thereof, if any, as shall be specially affected by the proposal, protesting against the granting of such license, shall be deposited at the office of the local authority, then the local authority shall, on the date appointed for the consideration of the application, hear and consider any evidence tendered in support of such objection; and thereafter, or if no such memorial shall have been so deposited, the local authority may grant or refuse such license at its discretion, and may attach such terms and conditions thereto, if the license be granted, as it shall see fit.

Memorial of objection to granting license.

6. The proprietor or proprietors of any private tramway constructed before the passing of this Act may, in manner hereinbefore provided, apply for a license to cross any street or streets, road or roads; and the proceedings in connection with such application shall be the same in all respects as in the case of an application with respect to any private tramway intended to be constructed or in course of construction.

As to private tramways constructed before passing of Act.

7. No license under this Act shall be for a longer term than five years, and every application for a renewal of any license on the expiry of the term thereof, or thereafter for any further renewal, shall be made and dealt with in the same manner as an original application; and if such application for renewal be refused by the local authority, the licensee shall have no right or claim for compensation in respect of such refusal.

Duration of license, renewal of license, &c.

The local authority may remove the rails and other materials of the crossing, and may recover from the promoter the cost of putting the crossing-place in a proper state of repair as a part of the ordinary street or road.

8. Every license granted under this Act shall be deemed to be so granted upon the express condition that the licensee shall not be entitled to obstruct the ordinary traffic upon any street or road.

Licensee not to obstruct ordinary traffic.

9. If any person not having lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things:—

Penalty for injury to tramway.

- (1.) Interferes with, removes, or alters any part of any tramway-crossing licensed under this Act, or injures or destroys any part thereof;
- (2.) Places or throws any stones, wood, dirt, or other obstacle thereon;
- (3.) Does anything to obstruct any engine, truck, or carriage travelling thereon; or

(4.) Knowingly causes, or aids, or abets in the doing of any such thing ; he shall, for every such offence, in addition to any other proceeding by way of indictment or otherwise to which he may be subject, be liable to a penalty not exceeding five pounds ; and shall further be liable to pay the cost of any injury so done, and of removing any such obstruction.

Conditions of license.

10. Every license granted under this Act shall be deemed to be so granted upon the express conditions,—

- (1.) That the tramway is to consist of a single line of rails of iron or steel of such form as shall be submitted to and approved by the local authority ;
- (2.) That the tops of the rails shall be laid and kept on a level with the surface of the roads or streets which the tramway crosses, so that at all times ordinary vehicles may cross the roads or streets with ease and safety ;
- (3.) That the space within the rails and a space of eighteen inches outside the rails where they cross the roads or streets shall be paved with cubes of stone or wood kept on a level with the surface of the said roads or streets ;
- (4.) That if the tramway is made on an incline falling towards the crossing the gradient of such incline for at least one hundred yards from the street or road shall not exceed one in a hundred ;
- (5.) That if steam is used as a traction-power on such tramway every locomotive engine approaching a crossing over any road or street shall sound a whistle or ring a bell from the time of arriving within a distance of one hundred yards of such crossing and until such locomotive shall be clear of the same ;
- (6.) That if the licensee shall, for seven days after notice served upon him by the local authority to perform all or any of the conditions whereon his license shall have been issued, fail to commence and with all practicable speed to perform any such condition aforesaid, the local authority shall declare such license to be forfeited. Such license shall thereupon become and be void and of no effect ; and the local authority may remove the rails and other materials of the crossing, and may recover from the promoter the cost of putting the crossing-place in a proper state of repair as a part of the ordinary street or road.