

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and having this day passed as now printed is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,  
14th October, 1884.

Hon. Sir J. Vogel.

DISTRICT RAILWAYS LEASING AND PURCHASING.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Governor may contract for lease and purchase of district railways.</p> <p>4. Company owning railway may join in such contract.</p> <p>5. Value of railway, with uncollected rates, to be purchasing price.</p> <p>6. Value of railway to be determined by a Compensation Court.</p> <p>7. Governor may issue debenture lease bonds.</p> <p>8. Form of bonds, &amp;c.</p> <p>9. Interest not to exceed 4 per cent.</p> <p>10. Bonds negotiable by transfer.</p> <p>11. Interest to be advanced out of Consolidated Fund.</p> <p>12. Deficiency of profits of railway to be made up by a rate.</p>	<p>13. Payments out of Consolidated Fund.</p> <p>14. Auditor-General to determine rate required for half deficiency.</p> <p>15. Rate to be levied by the Auditor-General.</p> <p>16. Powers of Auditor-General for levying rate.</p> <p>17. Rate levied under authority of Act valid for all purposes.</p> <p>18. Classification of land.</p> <p>19. Amount in pound of rate to vary according to original amount fixed for rate.</p> <p>20. Application of proceeds of rate.</p> <p>21. Railway leased to be subject to Public Works Acts.</p> <p>22. Powers, &amp;c., of company to vest in Governor.</p> <p>23. On payment of debentures Company to convey and assign railway to the Queen.</p> <p>24. No rates to be levied except under this Act. All former rates to be refunded.</p> <p>25. No new district railway to be authorized.</p>
---	--

A BILL INTITULED

AN ACT to authorize Her Majesty to Lease and Purchase any Railway within the Colony constructed under the District Railways Acts.

Title.

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

1. The Short Title of this Act is "The District Railways Leasing and Purchasing Act, 1884."

Short Title.

2. In this Act, if not inconsistent with the context,—

Interpretation.

10 "The District Railways Acts" means "The District Railways Act, 1877," together with all Acts passed from time to time in amendment thereof:

"The said Acts" means the District Railways Acts as herein defined:

15 "District railway," or "railway," means a railway constructed under the said Acts, and includes the land upon which the railway is constructed, and any land taken, purchased, or acquired and used for the purposes of the railway, and all buildings and erections of every kind thereon, and all

permanent works and buildings, rolling-stock, machinery and plant of every kind used for the purposes of or in connection with such railway :

“ Railway district ” means a railway district declared to be such under the District Railways Acts or either of them : 5

“ Company ” has the same meaning as is given to such word in section three of “ The District Railways Act, 1877. ”

Governor may contract for lease and purchase of district railways.

3. The Governor, in the name and on behalf of the Queen, may, not later than the *first* day of *February*, one thousand eight hundred and eighty-five, enter into a contract with the company owner of any of the district railways mentioned in the Schedule to lease the railway works of the company, together with their plant, rolling-stock, implements, and all their rights, powers, and privileges, for a fixed term of twenty years, paying for the same an annual rental equivalent to a sum calculated after the rate of four pounds per centum on the total value of the railway at the time of the contract, and to purchase such railway at the expiration of the term at such value by paying the amount of the debenture lease bonds hereinafter mentioned. 10 15

Company owning railway may join in such contract.

4. Every company, owner of a railway, may enter into a contract with the Governor under this Act for the lease and purchase of the railway belonging to the company, subject, however, to the consent of the shareholders being obtained to such agreement, if so required by the memorandum and articles of association of the company. 20

Value of railway with uncollected rates to be purchasing price.

5. The total value of a railway shall be an amount equivalent to the value of the railway at the time of entering into the contract, with the addition thereto of the actual amount of rates which have been lawfully levied, or authorized to be levied, or which might have been authorized to be levied in respect to the working of such railway up to the thirty-first day of March, one thousand eight hundred and eighty-four. 25 30

Value of railway to be determined by a Compensation Court.

6. The value of the railway shall be ascertained as at the date of the contract by a Compensation Court, consisting of a Judge of the Supreme Court and two Assessors, which Court shall be constituted and its proceedings conducted in manner provided by Part Three of “ The Public Works Act, 1882, ” the company being the claimant and the Minister being the respondent, and all the provisions of the said Part Three of the said Act shall, *mutatis mutandis*, apply,— 35

(1.) In determining such value, the said Court shall not award any compensation to the company in respect of the lands the use of which shall have been acquired from Her Majesty or the Governor under “ The District Railways Acts, ” but the company shall, in respect of such lands, and of all lands acquired by the company and used for the purposes of the railway, be entitled to the fair value of the improvements, if any, made by them on such lands. No compensation whatever shall be paid for the goodwill of any railway. 40 45

(2.) The said Court, in determining the value, shall take as a basis of the valuation the cost of other similar railway works, plant, and rolling-stock in the colony at the time 50

when the works forming the subject of such valuation were constructed, or the plant or rolling-stock was acquired, as the case may be; and the Court shall also take into consideration the depreciation and deterioration in the permanent-way, plant, and rolling-stock, buildings, and other works of the railway, including therein any onerous or burdensome provisions respecting the use of the said railway or the works thereof, or any easements, rights, or privileges in connection therewith.

(3.) Where a railway is not completed, the Court shall determine as to the cost of the works constructed, or in progress, including the costs of all surveys, plans, maps, and other necessary expenses preliminary to such construction.

(4.) All costs and expenses of the respondent shall be added to the amount of the value ascertained, but no costs or expenses shall be allowed to the claimant.

7. The Governor in Council may authorize the Colonial Treasurer from time to time to issue to the company owner of any railway leased under this Act, debenture-lease bonds, which shall be a charge upon the Consolidated Fund, for any sum not exceeding the total value of the railway, ascertained as hereinbefore mentioned; or may authorize any one or more persons, either within or beyond the colony, to be agents for the issue of such bonds.

8. Every such debenture lease bond—

(1.) Shall be in such form as the Governor in Council or the agents aforesaid may from time to time approve, containing an undertaking to pay the principal sum mentioned in such bond at maturity, and interest thereon every half year until maturity at a rate not exceeding four per centum per annum;

(2.) Shall be numbered consecutively, so that no two bonds shall at any time bear the same number, and shall be for a sum of not less than one hundred pounds each;

(3.) Shall be payable, both as to principal and interest, at a place, within or without the colony, named in the bond, and at a time named therein, being not more than *twenty* years from the issue thereof.

9. The interest on every such bond shall not exceed four per centum on the amount thereof, and shall be paid half-yearly; and separate coupons for each sum so payable, and numbered consecutively for each bond, shall be attached thereto.

10. Bonds and coupons respectively shall be transferable by delivery; and payment to any person in possession of any such bond or coupon of the sum named therein shall discharge Her Majesty from all liability in respect of such bond or coupon.

11. The interest upon the bonds aforesaid shall be paid each half year out of the Consolidated Fund in the first instance, and shall be as far as possible charged against the net profits of the railway, after defraying the working expenses and charges thereof.

12. In the event of the receipts from any railway under this Act not being sufficient in any year, after defraying the working expenses and charges of the railway, to pay the amount of interest to be paid

To the Governor  
and the Treasurer

of the Colony  
and the Treasurer

Governor may issue  
debenture lease  
bonds.

Form of bonds, &c.

Interest not to  
exceed 4 per cent.

Bonds negotiable by  
transfer.

Interest to be  
advanced out of  
Consolidated Fund.

Deficiency of profits  
of railway to be  
made up by a rate.

in such year in respect of the lease bonds aforesaid, then one-half of the deficiency shall be paid out of a rate which is hereby authorized to be made and levied for the purpose on the rateable property in the railway district declared in respect of such railway.

Payments out of Consolidated Fund.

13. The charges upon the Consolidated Fund herein provided for shall be paid thereout from time to time by the Colonial Treasurer.

Auditor-General to determine rate required for half deficiency.

14. For the purpose of determining the amount of rates to be made or levied to make up the deficiency in the receipts of the railway in any year, such receipts, after paying for the cost of maintenance and the working expenses of the railway in that year, shall be ascertained by the Auditor and Controller-General as at every thirty-first day of March. The first computation to be made shall be at the thirty-first day of March, in the year one thousand eight hundred and eighty-six.

Rate to be levied by the Auditor-General.

15. The Auditor and Controller-General shall yearly, as and whenever it may be necessary for the purposes of this Act, raise, by means of a rate upon all rateable property within the railway district, such sum of money as may be required to make up the deficiency of interest under this Act authorized to be raised by means of a rate, and the costs of making, levying, and collecting such rate: Provided that the sum of money to be so raised shall not in any one year exceed two pounds per centum per annum on the total value of the railway.

Powers of Auditor-General for levying rate.

Powers of Auditor-General for levying rate.

16. For the purpose of making, levying, and collecting any and every such rate as aforesaid, the Auditor and Controller-General shall be deemed a local body within the meaning of "The Rating Act, 1882," and any Act amending the same or passed in substitution thereof for the purpose of regulating the making and levying of rates; and accordingly the provisions of "The Rating Act, 1882," and of every other such Act as aforesaid, shall extend to and be made applicable and available for the making, levying, and collecting by the Auditor and Controller-General of any and every such rate as aforesaid, but subject to the following express provisions, that is to say,—

- (1.) That it shall not be necessary for the Auditor and Controller-General to make any valuation roll for the purposes of such rate as aforesaid, but he may adopt for those purposes all such valuation rolls of the several local bodies within the railway district as shall be for the time being in force, and the rate may be made on the basis of the valuation rolls so adopted:
- (2.) That in railway districts where a classification of lands has been made under the said Acts, a separate rate-book shall be prepared in respect of each of the classes of land into which the railway district shall have been divided for the purposes of the said Acts:
- (3.) That each rate shall be made payable in two equal instalments, at such dates respectively, in the year in which it shall be made, as the Governor may from time to time appoint:
- (4.) That in every case in which the boundary of the jurisdiction of any local body within the railway district is or shall not be coincident with the boundary of the railway district, so

that any rateable property within the jurisdiction of such local body shall be intersected by the boundary of the railway district, then the Auditor and Controller-General shall apportion the rateable value of such property, so that such portion thereof as lies within the railway district may be fairly rated for the purposes of this Act; and the Auditor and Controller-General shall insert in each rate-book applicable to such portion of the said property as aforesaid the fact and nature of such apportionment, which shall then be binding to and for all intents and purposes.

The Auditor and Controller-General shall have and may exercise all the powers granted by the foregoing provisions, for the purpose of making and levying a rate within a portion only of a railway district, in any case where a section only of a railway is completed and open for traffic; and the said provisions shall for such purpose be read and construed, *mutatis mutandis*, in reference to that portion only of the district wherein such rate is proposed to be levied.

17. All acts and things necessary to be done by the Auditor and Controller-General for the purpose of giving effect to the provisions of this Act, for levying, making, or collecting a rate, may be done in his name by such officer or person as he may from time to time appoint; and every rate made and levied under the authority of this Act shall be valid for all purposes; and no person shall be entitled to dispute or refuse payment of any such rate on the ground of any informality in the mode of making or levying the same.

Rate levied under authority of Act valid for all purposes.

18. The lands comprised in any railway district shall conclusively be deemed to be classified for the purposes of this Act according to the gazetted notice of the classification thereof, under section nine of "The District Railways Act, 1877," or under subsection four of section two of "The District Railways Acts Amendment Act, 1883," as the case may be.

Classification of land.

Before any rate is levied under this Act in respect of any railway, the Governor, if he shall think fit, upon an application to the Auditor and Controller-General from any ratepayers to be affected by such rate complaining that their land is not fairly classified for the purpose of the said rate, may appoint an assessor or assessors to hear and determine upon the merits of such complaint, and to recommend such revision of the classification of the lands in the railway district as shall seem just.

Upon the report of such assessor or assessors, the Governor may, by notice in the *Gazette*, reclassify any of such land, or any part thereof, or remove the same or any part thereof out of either of the classes in which the same is then classified, and place it in any other of such classes, or in any new class, or altogether omit it from any of the classes.

Every such reclassification of land shall be final, and shall entirely supersede any previous classification of the same land. The separate rate-books in respect of the original classification of lands in the district shall be amended in accordance with such reclassification, and every ratepayer shall be liable in respect of any rate levied upon his land under such reclassification in the same way as he would have been liable for a rate levied upon such land under the previous classification.

Amount in pound of rate to vary according to original amount fixed for rate.

19. The amount in the pound of every rate authorized to be levied as before provided shall, in railway districts where a classification of lands has been made under the said Acts, vary proportionately according to the rate originally fixed for the class in which the rateable property in respect whereof it is made shall be comprised under the classification of lands for the purposes of the railway district, but so that the amount in the pound levied shall not exceed in respect of each class that proposed by the Auditor and Controller-General in respect thereof under section *fifteen* of this Act. 5

Application of proceeds of rate.

20. All moneys received under any such rate as aforesaid shall be applied, first in or towards payment of the costs, charges, and expenses of making, levying, and collecting such rate, and the remainder shall be applied to the repayment of the deficiency of interest required to be provided for out of rate. 10

Railway leased to be subject to Public Works Acts.

21. Every railway leased by the Governor under this Act shall be and become subject to the provisions of any Act for the time being in respect of any railway the property of Her Majesty the Queen, and to all by-laws and regulations from time to time made thereunder. 15

Powers, &c., of company to vest in Governor.

22. All powers and authorities conferred by the said Acts upon a company in respect of the construction, maintenance, and working of a railway, and otherwise in connection with such railway, shall, upon the leasing thereof, cease to be exercised or exercisable by such company, and shall vest in, and be exercisable by, the Governor. 20

On payment of debentures company to convey and assign railway to the Queen.

23. Upon the delivery to the company of the lease debentures issued under this Act in respect of a railway, the company shall convey, assign, and transfer to Her Majesty all their estate, property, and interest in the said railway, and everything appurtenant thereto. 25

If the railway and property of the company shall be subject to any mortgage the mortgagee shall, on being paid his principal and interest, join in and execute such conveyance, assignment, and transfer as may be necessary to give effect to this provision. But in the event of there being any outstanding mortgage, whereof the mortgagee refuses to accept the principal moneys until maturity, then the company, if it desires to enter into such contract, shall deposit with the Governor sufficient securities to provide for the payment of such principal moneys when due. 30

No rates to be levied except under this Act.

24. No rates shall be levied or collected in respect of any railway leased under this Act further than as in this Act is specially provided. 35

All former rates to be refunded.

All proceedings for the recovery of rates under the District Railways Acts by the company owner of any railway shall cease from the date of the Governor contracting to lease such railway, and the parties to such proceedings shall each pay his or their own costs of such proceedings. 40

All rates recovered by the company owner of any railway leased under this Act up to the date of the lease, shall be repaid by the company to the persons who have paid the same immediately after the Governor has contracted to lease such railway, and if not so paid may be recovered from the company at any time in a summary manner by the persons entitled thereto respectively in any Court of competent jurisdiction. 45

25. After the passing of this Act no railway shall be authorized to be constructed under the District Railways Acts.

No new district railway to be authorised.

SCHEDULE.

RAILWAYS CONSTRUCTED UNDER THE DISTRICT RAILWAYS ACTS.

The Duntroon and Hakateramea Railway.  
The Rakaia and Ashburton Forks Railway.  
The Thames Valley and Rotorua Railway.  
The Waimate Railway.  
The Waimea Plains Railway.